

## **The Constitution and Bylaws of Masters Swimming Ontario**

### **CONSTITUTION**

1. The name of the Association is: Masters Swimming Ontario.
2. The goal of the Association is to promote Masters Swimming in Ontario.
3. The objectives of the Association are:
  - (a) to promote, foster, teach, and perpetuate life-long adult fitness through the sport of swimming, and to encourage training for self-development and sportsmanship in the field of competitive Masters Swimming;
  - (b) to promote swimming as a means of healthful exercise for a broad cross-section of the community and as a means of improving the physical fitness of the general population;
  - (c) to outline safe training programmes directed to both former competitors and non-competitors; and
  - (d) to determine, publish, update, administer, and enforce rules and regulations governing Masters Swimming and the conduct of Masters Swimming competition under its jurisdiction, and to deal with any infringement thereof.
4. The Association may be a Member of Masters Swimming Canada, which is comprised of the provincial Masters Swimming associations.
5. The Association may be an affiliate member of Swim Ontario.
6. Individual members shall enjoy the same rights as those set forth in the Canadian Charter of Rights and Freedoms.
7. The operations of the Association are chiefly carried on in the Province of Ontario.
8. The Association shall be a non-profit incorporated organization.

### **BY-LAW NO. 1**

#### **DEFINITIONS**

Wherever they appear in these by-laws, the following words and phrases shall have the meanings and definitions set out opposite them below:

“M.S.O.” shall mean Masters Swimming Ontario

“M.S.C.” shall mean Masters Swimming Canada

“M.S.I.” shall mean Masters Swimming International

“S.O.” shall mean Swim Ontario

“S.N.C.” shall mean Swimming/Natation Canada

“F.I.N.A.” shall mean the Federation Internationale De Natation Amateur

“Masters Swimming” shall mean a fitness programme for adults, emphasizing participation and friendship, and recognizing competition as one means of self-evaluation.

“Association” shall refer to Masters Swimming Ontario

“Member Club” shall mean an organization, registered with and formed for the purpose of promoting the objectives of M.S.O. All its Members shall be registered with the Association, and may include without limiting: private aquatic or swimming clubs, swimming clubs or swim teams associated with schools, colleges, and universities, playground or recreational organizations such as YM/YWCA and YM/YWHA, Armed Forces of Canada, special organizations and businesses, or business groups.

“Member” shall mean a person registered with the Association, aged 18 years and over.

“Single Event Registrant” shall mean a person registered with the Association for the duration of single-day or multi-day event, sanctioned by the Association, and having paid the prescribed Single Event Registration fee.

“Unattached Member” shall mean a registered person not registered through a Member Club.

“Honourary Life Member” shall mean a person who has, by resolution of the M.S.O. Board of Directors, been awarded the title for outstanding work on behalf of Masters Swimming in Ontario.

“Board of Directors” shall refer to and be elected or appointed Directors of M.S.O.

“Executive” shall include the Officers and, at the discretion of the Board of Directors, two other members of the Board of Directors.

“Officers” shall include: the President, Vice-President, Secretary and Treasurer or Secretary-Treasurer.

“Director” shall refer to those Members elected by Delegates to the Board of Directors pursuant to these by-laws.

“Annual General Meeting” or

“AGM” shall mean the yearly meeting at which all Members in good standing are entitled to attend.

“Special General Meeting” or “SGM” shall mean a meeting, called from time to time, and being other than the AGM, at which all Members in good standing are entitled to attend.

“Delegate” shall be a duly authorized representative of a Member Club or an Unattached Member, and entitled to vote at AGMs and SGMs.

## INTERPRETATION

1. In all by-laws and special resolutions of the Association, unless the context otherwise requires, words importing the singular shall include the plural and vice versa; words importing the masculine gender shall include the feminine and neuter; and words importing persons shall include firms and corporations. Whenever reference is made in any by-law or special resolution of the Association to any statute or section thereof, such reference shall be deemed to extend and apply to any amendment or re-enactment of such statute or section thereof.
2. Interpretation of the Association by-laws, swimming rules, regulations or any other matters not provided herein shall be referred to the Board of Directors whose decision shall be final, subject only to a “Notice of Motion” as described in Paragraph 5, of the section headed “Annual General and Special General Meetings”. 3. The interpretation will be made in light of the objectives set forth for Masters Swimming Ontario.

## HEAD OFFICE

1. The Head Office of the Association shall be in the Province of Ontario, and at such place therein as the Board of Directors may from time to time by resolution determine.

## SEAL

1. The corporate seal of the Association shall be such as the Board of Directors may by resolution from time to time adopt, and shall be entrusted to the Secretary of the Association for its use and safe keeping.

## DIRECTORS

1. The affairs of the Association shall be managed by a Board of Directors consisting of nine (9) Directors, who may exercise all such powers and do all such acts and things as may be exercised or done by the Association and are by the by-laws or any resolution of the Association or by statute expressly directed to be done by the Association at an AGM or SGM.
2. The term and manner of election of Directors shall be in accordance with the following provisions:
  - a) Directors shall be elected by the Delegates at an AGM or SGM on a show of hands unless a poll is demanded and if a poll is demanded such election shall be by ballot. Subject to the provisions of this by-law, Directors shall be eligible for re-election.
  - b) The term of office of the Directors shall be two (2) years.

- c) Five (5) Directors in numerically odd years and four (4) Directors in even years shall be elected by duly authorized Delegates at the AGM of the Association, provided that, whenever this formula must be waived for any reason, the candidate(s) receiving the largest number of votes will fill vacancies for 2 and/or 1 year terms as necessary to enable the use of the formula the following year.
  - d) There shall be no more than two (2) Directors from the same Member Club at the same time, provided that, in the event that there are insufficient nominations, this provision shall be waived.
  - e) Employees of the Association shall not be eligible to sit on the Board of Directors.
  - f) A majority of the Board of Directors shall constitute a quorum for all meetings of the Board of Directors unless stated otherwise in these by-laws.
  - g) As long as there is a quorum of Directors in office, vacancies shall be filled by appointment by the remaining Directors, to hold office until the next AGM.
  - h) When a quorum of Directors is not in office, the Director or Directors then in office shall call a SGM of the Association to fill the vacancies by the vote of a majority of those present. In default, or if there are no Directors in office, the meeting may be called by any ten (10) Members of the Association.
  - i) When a Director fails to attend or notify the Board of Directors of his intended absence from any three (3) meetings in a twelve (12) month period, or fails without cause to perform any of the duties allocated to him as a Director, he may be removed by a two-thirds consenting vote of the remaining members of the Board of Directors. Any vacancy so created shall be filled as provided in these by-laws.
  - j) A person ceases to be a Director of the Association:
    - i. if he becomes bankrupt;
    - ii. if he is found by a court to be mentally incompetent or of unsound mind; or
    - iii. if by notice in writing to the Secretary of the Association he resigns his office;
3. The Directors of the Association shall receive no remuneration for acting as such and no Director shall directly or indirectly receive any profit from his position as such; provided that a Director may be paid reasonable expenses incurred by him in the performance of his duties.
4. Meetings of the Board of Directors maybe held either at the Head Office of the Association of at any place within Ontario. All such meetings shall be convened by the Secretary of the Association at the direction of the President or any two Directors of the Association. Notice of any meeting of the Board of Directors shall be communicated to each of the Directors at least three (3) days before the meeting is to take place; provided that such meetings may be held at any time without notice if all the Directors are present or if those absent have waived notice in writing to such meeting being held in their absence.

#### DUTIES OF THE BOARD OF DIRECTORS AND OFFICERS

1. All Directors, Officers, and Delegates to the AGM and/or any SGM of the Association shall be Members in good standing of the Association except where specifically provided to the contrary in these by-laws.
2. The Board of Directors shall, within thirty (30) days of the AGM, appoint from their own number the Officers of the Association. All such Officers shall hold office until their successors are appointed, provided that, during the absence or disability of any Officer, the Board of Directors may appoint another member of the Board of Directors to act temporarily in his stead.
3. Every Director and Officer of the Association shall exercise the powers and discharge the duties of his office honestly, in good faith and in the best interests of the Association, and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.
4. Acts done by Directors and Officers are not valid by reason only of any defect that is thereafter discovered in his appointment, election or qualification.
5. The President shall preside at meetings of the Association, and at meetings of the Board of Directors, and shall represent M.S.O. at Swim Ontario. He shall perform such other duties as the Board of Directors may, by resolution, designate
6. The Vice-President shall perform the duties of the President in the absence or disability of the President, and such other duties as the Board of Directors may, by resolution, designate.
7. The Treasurer shall perform the following duties:
  - a) Monitor the financial affairs of the Association, prepare or have prepared financial statements of the Association as directed by the Board of Directors.
  - b) Prepare or have prepared a budget for the next operating year as directed by the Board of Directors.
  - c) Deposit all funds received within seven (7) days after receiving same in the depositories prescribed by the Board of Directors, and initiate all payments and withdrawals in the manner prescribed by resolution of the Board of Directors.
8. The Secretary shall, when present, act as secretary of all meetings of Directors and Members, shall have charge of the minute book of the Association and the documents and registers required by the Corporations Act. The Secretary shall sign such contracts, documents or other instruments in writing as require his signature and shall have such other powers and duties as the Board of Directors may, by resolution, designate.
9. Standing committees of the Association may be designated by the Board of Directors from time to time as deemed necessary to assist it in carrying on the affairs of the Association.

10. It shall be the duty of the Secretary to maintain the books, seal, and records of the Association, and to keep a correct record of the meetings of Members of the Association and of the Board of Directors, and to give proper notice to Members in the manner prescribed in these by-laws.

#### LIABILITIES OF DIRECTORS AND OFFICERS

1. Directors and Officers of the Association or any other person who has undertaken or is about to undertake any applicable legislation are jointly and severally liable to the Association and to its creditors for any actual loss to the Association arising out of the contravention, together with interest per annum charged at the prime rate of interest plus one (1%) per cent charged by the association **â€™s** bankers to its most credit worthy customers.

#### INDEMNITIES TO DIRECTORS, OFFICERS AND OTHERS

1. Every Director or Officer of the Association or any other person who has undertaken or is about to undertake any liability on behalf of the Association and his heirs, executors and administrators, and estate and effects, respectively, shall from time to time and at all times, be indemnified and saved harmless out of the funds of the Association, from and against,
  - a) all costs, charges and expenses whatsoever which such Director, Officer or other person sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing whatsoever made, done or permitted by him, in or about the execution of the duties of his office; and
  - b) all other costs, charges and expenses that he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges and expenses as are occasioned by his own wilful neglect or default.

#### FOR THE PROTECTION OF DIRECTORS AND OFFICERS

1. No Director or Officer for the time being of the Association shall be liable for the acts, receipts, neglects or defaults of any other Director or Officer or employee, or for joining in any receipt or other act for conformity, or for any loss, damage or expense happening to the Association, or for the insufficiency or deficiency of any security in or upon which any of the monies of the Association shall be invested or for any loss or damage arising from the bankruptcy, insolvency or tortious acts of any person with whom any of the monies, securities or effects of the Association shall be deposited, or for any loss occasioned by any error of judgment or oversight on his part, or for any other loss, damage or misfortune whatever which shall happen in the execution of the duties of his office or in relation thereto, unless the same are occasioned by his own wilful neglect or default, provided that nothing herein shall relieve any Director or Officer from the duty to act in accordance with the Corporations Act and the regulations thereunder or from liability for any breach thereof.
2. The Directors for the time being of the Association shall not be under any duty or responsibility in respect of any contract, act or transaction whether or not made, done or

entered into in the name of or on behalf of the Association, except as shall have been submitted to and authorized or approved by the Board of Directors. If any Director or Officer of the Association shall be employed by or shall perform services for the Association otherwise than as a Director or Officer or shall be a member of a firm or a shareholder, director or officer of a company which is employed by or performs services for the Association, the fact of his being a Director or Officer of the Association shall not disentitle such Director or Officer or such firm or company, as the case may be, from receiving proper remuneration for such services.

#### INSURANCE

1. Subject to any limitations contained in any applicable legislation, the Association may purchase and maintain such insurance for the benefit of its Directors and Officers as such, as the Board of Directors may from time to time determine.

#### REGISTRATION/MEMBERSHIP

1. The membership in the Association shall be limited to Member Clubs and their swimmers, all of whom must be registered, and to Unattached Swimmers.
2. All procedures with respect to registration of swimmers and clubs, including but not limiting, qualifications, fees, and application forms, shall be determined by resolution of the Board of Directors.
3. Application for membership shall be made to the Association at such time and in such form as the Board of Directors determines.
4. The Board of Directors may approve such application, and applicants for membership in the Association shall be notified of acceptance or rejection within sixty (60) days of receipt of the application. A club or individual so approved shall become a Member of the Association when and only when the fee, as prescribed by the Association, is paid.
5. Registration fees shall be determined by the Board of Directors from time to time and shall be the property of the Association.
6. There shall be only one registration per Member with the Association, although the Member may belong to more than one Member Club at the same time.
7. No swimmer shall be permitted to compete in meets sanctioned by the Association unless that swimmer is duly registered with his official local Masters Swimming organization.
8. Member Clubs and Members will be expected to submit periodically to the Head Office specific data required by the Board of Directors.

#### ANNUAL GENERAL AND SPECIAL GENERAL MEETINGS

1. There shall be an AGM of the Association which shall be held at such time and place as the Board of Directors may determine.

2. There shall be a SGM of the Association, when called by the Board of Directors, or by ten (10) individual Members in good standing.
3. No public advertisement or notice of meetings shall be required. A written, printed, or otherwise mechanically reproduced notice stating the day, hour, place of the meeting, and general nature of business to be transacted shall be delivered by posting in a prepaid envelope to the official contact of Member Clubs and Unattached Members at the address reported at the Head Office of the Association. The accidental omission to give notice by any Member or Unattached Member shall not invalidate any resolution passed by any proceedings taken at any AGM or SGM.
4. Notice of the AGM shall be mailed to the official contact of the Member Clubs and to Unattached Members at least thirty (30) days prior to the date of the meeting for which notice has been given. Such notice shall include:
  - a) an Agenda;
  - b) the Annual Report;
  - c) any Notices of Motion; and
  - d) any other material deemed pertinent to the meeting.
5. Motions to amend the Constitution and by-laws of the Association shall be received by the Secretary of the Association at least thirty (30) days prior to the date of the meeting at which the motion is to be presented. Notices of motion so received shall then immediately be circulated to all Member Clubs and Unattached Members at least fourteen (14) days prior to the meeting. If a motion is not received within the said thirty (30) day period prior to the meeting, it shall not be placed on the agenda or entertained by the said meeting unless a two-thirds vote of the Delegates present grant permission to place the motion on the agenda. Amendments to the Constitution and by-laws shall require a two-thirds majority vote of the Delegates present.
6. Delegates are as follows:
  - a) For Member Clubs having two (2) or more Members in good standing, a voting right attuned to the democratic philosophy of “representation by population”, as follows:
    - 2-24 members have 1 vote
    - 25-49 members have 2 votes
    - 50-74 members have 3 votes
    - 75+ members have 4 votes
    - unattached swimmers have 1 vote as a group
    - as few as 1 delegate may represent all the vote of the club
  - b) Representation at Association meetings: that as few as one Delegate may represent all the votes of that Member Club.



- c) The number of Members credited to a Member Club for establishment of its voting privileges shall be that number of paid-up Members registered with the Head Office thirty (30) days prior to the date of the AGM or SGM where this voting privilege can next be exercised. This time period coincides with the minimum notice required to be given to Member Clubs by the Association for such meetings.
7. An individual may act as a Delegate only for the Member Club with which he is registered.
8. Delegates may cast their votes by special delivery, registered mail, or proxy to the maximum of their allotted votes.
9. Directors shall not vote at AGMs or SGMs except as a Delegate.
10. The Board of Directors may, by resolution, appoint a nominating committee for the purpose of receiving recommendations as to those persons suitable for filling vacancies on the Board of Directors. The report of this committee, if adopted by the Board of Directors, shall be mailed to all Member Clubs thirty (30) days prior to the date stipulated for the AGM. Additional nominations may be received in accordance with these by-laws, either prior to or at the AGM or SGM. The Secretary of the Association shall be responsible for insuring that all those persons nominated file "Consent-to-Serve" declarations in such form as may from time to time be approved by the Board of Directors. Election to the Board of Directors shall require a two-thirds majority vote of the Delegates present, either in person or by proxy, at the meeting.
11. The Chair at any AGM or SGM of the Association shall have no vote on questions proposed for consideration of the Members except as a Delegate. In the event of a tie vote, the question shall be put to the Delegates a second time. In the event of a second tie vote on a resolution, the Chair shall have a casting vote on the second such resolution.
12. One Delegate from each of six (6) Member Clubs shall constitute a quorum for all AGMs and SGMs.
13. All resolutions proposed for consideration of the Delegates at an AGM or SGM shall be determined by majority of the votes cast.
14. At all AGMs and SGMs, Delegates shall, for all purposes, be deemed to be and to have all the powers of all of the Members of the Association.

## POWERS

1. The Board of Directors of the Association shall administer the affairs of the Association in all things and make or cause to be made for the Association in its name, any kind of contract which the Association may lawfully enter into and, save as hereinafter provided, shall generally exercise all such other powers and do all such other acts and things as the Association, by its charter or otherwise, is authorized to exercise and do.

2. Without in any way derogating from the foregoing, the Board of Directors are expressly empowered from time to time, to purchase, lease or otherwise acquire, alienate, sell, exchange or otherwise dispose of stocks, shares, rights, warrants, options and other securities, lands, buildings and property, movable or immovable, real or personal, or any right or interest therein owned by the Association, for such consideration and upon such terms and conditions as they may deem advisable.

#### EXECUTION OF DOCUMENTS

1. Deeds, transfers, licenses, contracts and engagements on behalf of the Association shall be signed by either the President or Vice-President, and by the Treasurer or Secretary, and they shall have affixed the seal of the Association to such instruments as require the same.
2. Contracts in the ordinary course of the Association's operations may be entered into on behalf of the Association by the President or any other person authorized by the Board of Directors.
3. The President, Vice-President, Treasurer, Secretary and the Directors, or any two of them, or any person or persons from time to time designated by the Board of Directors may transfer any and all shares, bonds, or other securities from time to time standing in the name of the Association in its individual or any other capacity or as trustee or otherwise and may accept in the name and on behalf of the Association transfers of shares, bonds, or other securities from time to time transferred to the Association, and may affix the corporate seal to any such transfers or acceptances of transfers, and may make, execute and deliver under the corporate seal any and all instruments in writing necessary or proper for such purposes, including the appointment of an attorney or attorneys to make or accept transfers of shares, bonds, or other securities on the books of any company or corporation.
4. Notwithstanding any provisions to the contrary contained in the by-laws of the Association, the Board of Directors may at any time by resolution direct the manner in which, and the person or persons by whom any particular instrument, contract or obligation of the Association may or shall be executed.

#### BOOKS AND RECORDS

1. The Board of Directors shall see that all necessary books and records of the Association required by the by-laws of the Association or by any applicable statute or law are regularly and properly kept by the Secretary or Treasurer, as may be appropriate.

#### DUES

1. There shall be no dues or fees payable by Members except such, if any, as shall from time to time be fixed by resolution of the Board of Directors.
2. The Secretary shall notify the Members of the dues or fees at any time payable by them and, if any are not paid within thirty (30) days of date of such notice the Members in default shall

thereupon automatically cease to be Members of the Association, but any such Members may upon payment of all unpaid dues or fees be reinstated.

## BORROWING

1. The Board of Directors may from time to time:
  - a) borrow money on the credit of the Association; or
  - b) issue, sell or pledge securities of the Association; or
  - c) charge, mortgage, hypothecate or pledge all or any of the real or personal property of the Association, including book debts, rights, powers, franchises and undertakings, to secure any securities or any money borrowed, or other debt or any other obligation or liability of the Association.
2. From time to time the Board of Directors may authorize any Director, Officer, or employee of the Association or any other person to make arrangements with respect to the monies borrowed or to be borrowed as aforesaid and as to the terms and conditions of the loan thereof, and as to the securities to be given thereof, with power to vary or modify such arrangements, terms and conditions and to give such additional securities for any monies borrowed or remaining due by the Association as the Board of Directors may authorize and generally to manage, transact and settle the borrowing of money by the Association.
3. All cheques, bills of exchange or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such Officer or Officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors and any one of such Officers or agents may alone endorse notes and drafts for collection on account of the Association through its bankers and endorse notes and cheques for deposit with the Association's bankers for the credit of the Association or the same may be endorsed "for collection" or "for deposit" with the bankers of the Association by using the Association's rubber stamp for the purpose. Any one of such Officers or agents so appointed may arrange, settle, balance and certify all books and accounts between the Association and the bankers of the Association and may receive all paid cheques and vouchers and sign all the bank forms or settlement of balances and release or verification slips



## AUDIT / EXTERNAL REVIEW

1. The Delegates shall at each AGM appoint either an auditor or, subject to the requirements of the *Corporations Act*, external accountants to conduct a review engagement of the accounts of the Association, and to hold office until the next AGM, provided that the Board of Directors may fill any casual vacancy in the office of the auditor or external accountants. The remuneration of the auditor or external accountants shall be fixed from time to time by the Board of Directors.

MISCELLANEOUS

1. The fiscal year of the Association shall be September 1 to August 31 each year, provided that the Board of Directors may from time to time by resolution change the fiscal year of the association.
2. The Board of Directors shall be responsible for decisions regarding disciplinary procedures and measures, as well as recourse procedures, for the membership.

**Signatures and Approvals**

<p><b>President:</b> Brigitte Zirger</p> 	<p><b>Vice-president or Secretary</b> Rod Beauprie, Secretary</p> 
<p><b>Date:</b> March 27, 2021</p>	<p><b>Date:</b> 24 / May / 2021</p>

Recent By-law Changes

- 2011-11-13 Change AGM notice period from 60 to 30 days
- 2012-11-11 Change Constitution Clause 5 from “shall” to “may”
- 2017-11-19 Change Constitution Clause 4 from “shall” to “may”
- 2017-11-19 Delete “not” in Directors Clause 1 “...Directors, who may exercise all such powers and do all such acts and things as may be exercised or done by the Association and are ~~not~~ by the by-laws or any resolution of the Association or...”
- 2018-12-09 Add definition - “Single Event Registrant” shall mean a person registered with the Association for the duration of single-day or multi-day event, sanctioned by the Association, and having paid the prescribed Single Event Registration fee.
- 2021-03-27 Additional text in Audit / External Review Clause 1 - The Delegates shall at each AGM appoint either an auditor or, subject to the requirements of the *Corporations Act*, external accountants to conduct a review engagement of the accounts of the Association, and to hold office until the next AGM, provided that the Board of Directors may fill any casual vacancy in the office of the auditor or external

**accountants.** The remuneration of the auditor **or external accountants** shall be fixed from time to time by the Board of Directors.

2021-03-27 Remove the reference to “Toronto” in Head Office Clause 1 - The Head Office of the Association shall be ~~in the Municipality of Metropolitan Toronto~~ in the Province of Ontario, and at such place therein as the Board of Directors may from time to time by resolution determine.