

## Steps to Incorporation for a Not-for-Profit Organization in Ontario

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posted February 4, 2005

Background: All non-profit Ontario corporations are subject to the Corporations Act of Ontario. In order to apply for incorporation, an organization must have a name, a minimum of three adult directors and a statement of its objectives/constitution. By-laws do not have to be in existence at the time of application and they do not have to be submitted to, or approved by the Ministry of Consumer and Business Services (MCBS).

The Corporations Act of Ontario may be found at the following web address.

[http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_90c38\\_e.htm#p1682\\_179512](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90c38_e.htm#p1682_179512)

Choosing a corporate name: Sometimes the hardest part of the process of incorporation is choosing a corporate name. The name that an organization currently has may not be suitable according to the rules as set down by the Corporations Act. Remember, even if the current name is suitable, it may already be in use. Therefore, it is a good idea to have two or three possible names ready before paying for a private Search House to find a name for your corporation.

A corporate name has three parts:

Distinctive Element   Descriptive Element   Legal Element (Opt.)

For example:

Lake Manitou Area Association Inc.

Big Lake Community Association Corp.

Frank's Flock Cottagers' Association Incorporated

Long Point Balsam Lake Property Owners' Corporation

Point Abino Road Association Inc.

A new corporate name must be such that it will not be confused with EXISTING names of corporations, trademarks or unincorporated organizations and will not MISLEAD or CONFUSE the public as to the undertaking or nature of the corporation or its relationship to other

corporations. For more detail see the following web site.

<http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/nfpinc/corpname.asp>

The name search: Once a corporate name(s) has been chosen, go to the Yellow Pages or the web site below, and choose a search company. They are found under the heading "Searchers of Records". Prices for searches vary so do a little "shopping". Cost can be from \$30-\$50. The search company you hire will provide you with a NUANS Name Search Report which reserves your corporate name for 90 days. They do their original Ontario-biased search of the (federal) New Updated Automatic Name Search (NUANS) computer data-base of corporate names in use in Canada to find that name for you.

[http://www.nuans.com/nuansinfo\\_en/home-accueil\\_en.htm](http://www.nuans.com/nuansinfo_en/home-accueil_en.htm)

The application for incorporation: Application forms for Incorporation of a Corporation without Share Capital (Form 2) can be obtained from the MCBS, Companies Branch.

Ministry of Consumer and Business Services, Companies Branch  
375 University Ave., 2nd Fl., Toronto ON M5G 2M2  
Tel: (416) 314-8880 / 1-800-361-3223 / Fax: (416) 314-4852

Complete your application before your corporate name reservation runs out – ie. before 90 days have passed after receiving your name search report. You will attach that report to your application. Within the application, you will have to provide the Ontario address of your corporation (eg. Big Lake, Township of Central Manitoulin); the name and address of the person to contact and mail information to; the full names of the applicants/directors, including their postal address and occupation (teacher, carpenter, retired etc.); the objectives/constitution of the intended corporation and any special provisions of that corporation. Mail your application to the MCBS, Companies Branch along with a cheque for \$155 (for Standard Service – 6-8 weeks) or \$255 (for expedited service – 7 business days). Money is payable to the Minister of Finance Ontario.

Letters Patent and beyond: The MCBS will send your contact person your Corporate Charter, otherwise known as your Letters Patent. Your new corporation must, within 60 of receiving its charter, file an Initial Notice with the Corporation Notice Section of the Companies Branch. The

Initial Notice comes with the Letters Patent.

A corporation must:

1. Keep the following records:

- proper books of account and accounting records;
- minutes of meetings of members and directors
- maintain copies of Letters Patent, Supplementary Letters Patent (if any), By-laws and Special Resolutions
- an up-to-date register of members and directors

2. Appoint an auditor to hold office until the first annual meeting and at each subsequent annual meeting, There is no requirement for professional auditors.

3. Hold an annual members meeting no later that 18 months after incorporation and subsequently no more than 15 months after the holding of the last annual meeting,

4. File an Annual Information Return,

5. File with the Corporation Notice Section, every change in its board of directors, officers or their residence addresses, as well as every change in the corporation's address, within 15 days of when the change occurred.

6. Apply for Supplementary Letters Patent to change the corporate name, objectives or other provisions set out in the Letters Patent of the corporation.

7. Use a special resolution to change the fixed number of directors set out in its by-laws, or to change the location of the head office and file such special resolution with the Companies Branch within 14 days after the 2/3 majority resolution has been passed.

What to do: If you don't want to do all the work shown above, you can hire a lawyer, paralegal or private incorporation company to do the work for you. Do a search on the Internet to find them. Possibly you could use the search string "non-profit incorporation Ontario". If you elect do the work yourself, be sure to look at the following web address for the "Not-for Profit Incorporator's Handbook". You can purchase the booklet of the same name from Publications Ontario 416-326-

5300 or 1-800-668-9938. Cost is about \$5.00. It is well worth the money as a reference.

<http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/nfpinc/>