

**FEDERATION OF ONTARIO COTTAGERS' ASSOCIATIONS (FOCA)
2019 AGM & SPRING SEMINAR
ASSOCIATION GOVERNANCE / ORGANIZATIONAL PLANNING
MARCH 2, 2019**

GOVERNING LEGISLATION (SELECTED)	PROVINCIAL CORPORATION	FEDERAL CORPORATION	UNINCORPORATED
<i>Corporate</i>	<ul style="list-style-type: none"> • <i>Corporations Act</i> (Ontario) • <i>Not-for-Profit Corporations Act</i> (Ontario) (ONCA) – not yet in force 	<ul style="list-style-type: none"> • <i>Canada Not-for-profit Corporations Act</i> (CNCA) 	<ul style="list-style-type: none"> • No formal requirements
<i>Corporate Information</i>	<ul style="list-style-type: none"> • <i>Corporations Information Act</i> (Ontario) 	<ul style="list-style-type: none"> • <i>Canada Not-for-profit Corporations Act</i> • <i>Corporations Information Act</i> (Ontario) 	<ul style="list-style-type: none"> • None
<i>Income Tax</i>	<ul style="list-style-type: none"> • <i>Income Tax Act</i> (Canada) 	<ul style="list-style-type: none"> • <i>Income Tax Act</i> (Canada) 	<ul style="list-style-type: none"> • <i>Income Tax Act</i> (Canada)
<i>Operating Name</i>	<ul style="list-style-type: none"> • <i>Business Names Act</i> (Ontario) 	<ul style="list-style-type: none"> • <i>Business Names Act</i> (Ontario) 	<ul style="list-style-type: none"> • <i>Business Names Act</i> (Ontario)
KEY DOCUMENTS	PROVINCIAL CORPORATION	FEDERAL CORPORATION	UNINCORPORATED
<i>To determine what the association may do</i>	<ul style="list-style-type: none"> • Letter patent (supplementary letters patent) • Articles of incorporation (articles of amendment) 	<ul style="list-style-type: none"> • Articles of incorporation (articles of amendment) • Articles of continuance 	<ul style="list-style-type: none"> • No requirements, but generally constitution or rules agreed to be members
<i>Fundamental Governance</i>	<ul style="list-style-type: none"> • By-laws 	<ul style="list-style-type: none"> • By-laws 	<ul style="list-style-type: none"> • Constitution / rules
<i>Internal Governance</i>	<ul style="list-style-type: none"> • Policies 	<ul style="list-style-type: none"> • Policies 	<ul style="list-style-type: none"> • Policies
GOVERNANCE STRUCTURE	PROVINCIAL CORPORATION	FEDERAL CORPORATION	UNINCORPORATED
<i>Membership</i>	<ul style="list-style-type: none"> • By-laws <ul style="list-style-type: none"> – Classes of members – Conditions of becoming, continuing and ceasing to be members • Role <ul style="list-style-type: none"> – Election of directors – Appointment of auditor 	<ul style="list-style-type: none"> • Articles of incorporation <ul style="list-style-type: none"> -- Classes of members • By-laws <ul style="list-style-type: none"> – Conditions of becoming, continuing and ceasing to be members • Role <ul style="list-style-type: none"> -- Election of directors -- Appointment of auditor 	<ul style="list-style-type: none"> • Constitution • By-laws
<i>Directors (Role and Term)</i>	<ul style="list-style-type: none"> • Manage the affairs of the corporation • Unless by-laws provide otherwise, elected for one year terms • Multi-year terms possible (not more than five years) 	<ul style="list-style-type: none"> • Subject to the CNCA Act, the articles and any unanimous member agreement, the directors shall manage or supervise the management of the activities and affairs of a corporation 	<ul style="list-style-type: none"> • Constitution or By-laws

		<ul style="list-style-type: none"> • Multi-year terms possible (not more than four years) 	
<i>Officers</i>	<ul style="list-style-type: none"> • President and Secretary (required) • Other officers optional, and set out in by-laws • Appointed by the board 	<ul style="list-style-type: none"> • Which officers there are set out in articles or by-laws • Appointed by the board 	<ul style="list-style-type: none"> • No legislated requirements
MEMBER MEETINGS	PROVINCIAL CORPORATION	FEDERAL CORPORATION	UNINCORPORATED
<i>AGM</i>	<ul style="list-style-type: none"> • At least every 15 months • Present financial statements and auditor's report • Elect directors, if there are to be elections 	<ul style="list-style-type: none"> • At least every 15 months, and not later than 6 months after end of financial year • Present financial statements and auditor's report • Elect directors, if there are to be elections 	<ul style="list-style-type: none"> • No requirements – will depend on constitution or by-laws
<i>General members meetings</i>	<ul style="list-style-type: none"> • Calling of members' meetings prerogative of the board, unless by-laws state otherwise • Members can requisition a meeting (at least 10% members entitled to vote must request the meeting in writing) 	<ul style="list-style-type: none"> • Calling of members' meetings prerogative of the board, unless by-laws state otherwise • Members can requisition a meeting (at least 5% members entitled to vote must request the meeting in writing) 	<ul style="list-style-type: none"> • No requirements – will depend on constitution or by-laws
<i>Notice requirements</i>	<ul style="list-style-type: none"> • Notice in writing to each member, given individually • Minimum notice is 10 days • By-laws can provide for the methods of delivering notice 	<ul style="list-style-type: none"> • Must be set out in the by-laws • Notice must be in writing and, depending on by-law, may be delivered by mail, courier, personally or by electronic means or telephone or by posting a notice in a place frequented by members (the by-laws must provide for at least one non-electronic method for delivering notices) • Notice must be delivered no later than 21 days before the meeting and not earlier than 60 days before the meeting 	<ul style="list-style-type: none"> • No requirements – will depend on constitution or by-laws
<i>Method for holding meetings</i>	<ul style="list-style-type: none"> • In person • Members can also meet by electronic means or by telephone, unless the by-laws stipulate otherwise 	<ul style="list-style-type: none"> • Default is in person meetings, except that a member can participate electronically • By-laws can allow for meetings to occur by electronic means exclusively 	<ul style="list-style-type: none"> • No requirements – will depend on constitution or by-laws
<i>Voting</i>	<ul style="list-style-type: none"> • Majority of votes carries question, except for limited questions, which require a super 	<ul style="list-style-type: none"> • Majority of votes carries question, except for limited questions, which require a super 	<ul style="list-style-type: none"> • No requirements – will depend on constitution or by-laws

	<p>majority</p> <ul style="list-style-type: none"> • Show of hands, but can call for a vote • Proxy voting is permitted, as of right 	<p>majority</p> <ul style="list-style-type: none"> • Electronic voting is permitted, unless the by-laws prohibit it • Proxy voting permitted if by-laws allow it 	
CORPORATE RECORDS REQUIREMENTS	PROVINCIAL CORPORATION	FEDERAL CORPORATION	UNINCORPORATED
<i>Minutes</i>	<ul style="list-style-type: none"> • Minutes of meetings of the members, directors and, if any, the executive committee 	<ul style="list-style-type: none"> • Minutes of meetings of the members and committees of the members • Written resolutions of the members and committees of the members • Minutes of meetings of the board and committees of the board • Written resolutions of the directors and committees of the directors 	<ul style="list-style-type: none"> • No requirements – will depend on constitution or by-laws
<i>List of Members</i>	<ul style="list-style-type: none"> • Name, address of each current members and all former members in the immediate past 10 years • Names to be set out on the list in alphabetical order 	<ul style="list-style-type: none"> • Name, current residential or business address, email address (if consent received from member), date became and, if applicable, ceased to be a member, and class of membership 	<ul style="list-style-type: none"> • No requirements – will depend on constitution or by-laws
<i>List of Directors</i>	<ul style="list-style-type: none"> • Name, address of each director, with the date each became and ceased to be a director 	<ul style="list-style-type: none"> • Name, current residential address, email address (if consent received from director) of each director, with the date each became and ceased to be a director 	<ul style="list-style-type: none"> • No requirements – will depend on constitution or by-laws
<i>List of Officers</i>	<ul style="list-style-type: none"> • No requirement 	<ul style="list-style-type: none"> • Name, current residential address, email address (if consent received from officer) of each director, with the date each became and ceased to be an officer 	<ul style="list-style-type: none"> • No requirements – will depend on constitution or by-laws
<i>Accounting Records</i>	<ul style="list-style-type: none"> • Records of all funds received and spent by the corporation, including the purpose • Records of all purchases and sales by the corporation • Assets and liabilities • Other transactions affecting the financial 	<ul style="list-style-type: none"> • Maintain “adequate” accounting records • Accounting records to be kept for at least 6 years after the end of the financial year to which they relate, or longer if required by other federal or any provincial law 	<ul style="list-style-type: none"> • Required under <i>Income Tax Act</i> (Canada)

	position of corporation		
Record of Land Ownership Interest	<ul style="list-style-type: none"> List must identify each property and show date of acquisition and date of disposition List must contain the municipal address of each property, legal description, the property identifier, the land registry office in which land located and, if any, assessment roll number Must have copies of deeds 	<ul style="list-style-type: none"> No requirement 	<ul style="list-style-type: none"> No requirement
Other Records	<ul style="list-style-type: none"> Letters patent (supplementary letters patent) By-laws 	<ul style="list-style-type: none"> Articles of incorporation (and amending articles) By-laws Unanimous member agreement, if any 	<ul style="list-style-type: none"> No requirement
Location of Records	<ul style="list-style-type: none"> Required to be maintained at the head office of the corporation, but can be kept elsewhere if also available for inspection during regular office hours at the head office by means of a computer terminal or other electronic technology (except for records related to ownership interests in land) 	<ul style="list-style-type: none"> Required to be maintained at the registered (head) office of the corporation, or where the board may determine 	<ul style="list-style-type: none"> No requirement (except accounting records, which are required by the <i>Income Tax Act</i> to be kept at place of business)
AUDIT REQUIREMENTS	PROVINCIAL CORPORATION	FEDERAL CORPORATION	UNINCORPORATED
Requirements	<ul style="list-style-type: none"> Audit required 	<ul style="list-style-type: none"> If a soliciting corporation and gross revenue for year is \$50,000 or less, <ul style="list-style-type: none"> Members must appoint public accountant, unless they waive appointment by unanimous resolution, and Public accountant conducts review engagement of financial statements, except if members vote to require an audit, and If appointment of public accountant waived, then only a notice to reader required 	<ul style="list-style-type: none"> No requirement

		<ul style="list-style-type: none"> • If a soliciting corporation and gross revenue for year is > \$50,000 and up to \$250,000, <ul style="list-style-type: none"> - Members must appoint public accountant - Public accountant conducts audit of financial statements, except if members vote by special resolution to require a review engagement of financial statements • If a soliciting corporation and gross revenue for year is > \$250,000, <ul style="list-style-type: none"> - Members must appoint public accountant, and - Public accountant conducts audit of financial statements • If a not a soliciting corporation and gross revenue for year is \$1 million or less, <ul style="list-style-type: none"> - Members must appoint public accountant, unless they waive appointment by unanimous resolution, and - Public accountant conducts review engagement of financial statements, except if members vote to require an audit, and - If appointment of public accountant waived, then only a notice to reader review of financial statements required • If a not a soliciting corporation and gross revenue for year is > \$1 million, <ul style="list-style-type: none"> - Members must appoint public accountant, and - Public accountant conducts audit of financial statements 	
Exemptions	<ul style="list-style-type: none"> • Exemption from audit <i>if</i> <ul style="list-style-type: none"> - Annual income is < \$100,000 	<i>See above</i>	Not applicable

	- Consent in writing of all members to exemption for the year in question		
INCOME TAX REQUIREMENTS	PROVINCIAL CORPORATION	FEDERAL CORPORATION	UNINCORPORATED
<i>Filing</i>	<ul style="list-style-type: none"> • If the corporation (unincorporated association) has assets exceeding \$200,000, then it must file, annually, T1044 Non-Profit Organization (NPO) Information Return to the Canada Revenue Agency • If a corporation, must file T2 Corporation Income Tax Return within six months following financial year end 		
<i>Income Tax</i>	<ul style="list-style-type: none"> • Tax exempt for income taxes, provided that the corporation, or, if applicable, the unincorporated association, satisfies the requirements of the <i>Income Tax Act</i> to qualify as a non-profit organization. If the corporation (unincorporated association) does not satisfy the requirements to qualify as a non-profit organization, then the corporation is responsible for the tax on its income 		
<i>HST</i>	<ul style="list-style-type: none"> • If applicable to the activities of the corporation (unincorporated association), HST must be paid and collected and the HST that is collected by the corporation (unincorporated association) must be remitted to CRA 		
REPORTING REQUIREMENTS	PROVINCIAL CORPORATION	FEDERAL CORPORATION	UNINCORPORATED
<i>Annual</i>	<ul style="list-style-type: none"> • Annual filing to the Canada Revenue Agency Ontario government (Schedule 546 to T2 Corporation Income Tax Return), containing the names and addresses of the directors and senior officers of the corporation 	<ul style="list-style-type: none"> • Annual filing to Corporations Canada and filing fee (between \$20 and \$40, depending on method of filing) 	<ul style="list-style-type: none"> • No annual filing required
<i>Changes</i>	<ul style="list-style-type: none"> • Notice of changes to the directors and officers of the corporation must be filed with the Ontario government regulator within 15 days following each occurrence of the change • Change to the address of the registered (head) office 	<ul style="list-style-type: none"> • Notice of changes to the directors or their addresses must be filed with Corporations Canada within 15 days following each occurrence of the change • Change to the address of the registered (head) office – to be filed immediately with Corporations Canada 	<ul style="list-style-type: none"> • No filing required if there is a change in the directors and officers of the organization • No filing required if there is a change in the address of the organization’s head office
<i>By-laws</i>	<ul style="list-style-type: none"> • No requirement to file 	<ul style="list-style-type: none"> • File by-laws and amendments to by-laws with Corporations Canada within 12 months of approval by members 	<ul style="list-style-type: none"> • No requirement

Financial Statements	<ul style="list-style-type: none"> • No requirement to file 	<ul style="list-style-type: none"> • File financial statements and auditor's report with Corporations Canada (at least 21 days before the AGM) –soliciting corporations only 	<ul style="list-style-type: none"> • No requirement
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RESOURCES

Audit requirements for CNCA Corporations: <http://www.strategis.gc.ca/eic/site/cd-dgc.nsf/eng/cs05010.html#toc2>

Financial Statements for CNCA Corporations: <http://www.strategis.gc.ca/eic/site/cd-dgc.nsf/eng/cs05010.html#toc1>

Not-for-Profit Corporations Handbook: https://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/nfpinc/Not_for_Profit_Incorporators_Handbook_EN.html (Ontario)

Ontario's New Not-for-profit corporation legislation: <https://www.ontario.ca/page/rules-not-profit-and-charitable-corporations>

Corporations Information Act Annual Return: Questions & Answers: <https://www.ontario.ca/page/corporations-information-act-annual-return-questions-and-answers>

Corporations Information Act Annual Filings: <https://www.ontario.ca/page/annual-return-filing-corporations-information-act>

Record Keeping Requirements under the *Income Tax Act* (Canada): <https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/keeping-records.html>

NOTICE / DISCLAIMER: *The contents of the chart above are intended to provide information only. This chart is not intended to provide, and should not be relied upon as the giving of, legal advice, and is not exhaustive.*