



CONSTITUTION & CODE OF ETHICS

Revised and updated November 29, 2012

**BRITISH COLUMBIA
YACHT BROKERS ASSOCIATION**

CONSTITUTION
Revised 11/09

NAME

ARTICLE I

The name of this organization shall be the BRITISH COLUMBIA YACHT BROKERS ASSOCIATION (hereinafter referred to as the "Association").

PURPOSES

ARTICLE II

1. The purposes of the Association are:
 - 1) To unite those engaged in the yacht brokerage business for the purpose of promoting cooperation and professionalism among its members.
 - 2) To promote and maintain a high standard of conduct in the transacting of the yacht brokerage business.
 - 3) To instill into the boating public a greater confidence in yacht brokers.
 - 4) To encourage a greater interest in the welfare and safety of the boating public.

BYLAWS**INTERPRETATIONS****ARTICLE I**

1. 1) In these Bylaws, unless the context otherwise requires:
 - a) “Directors” means the directors of the Society for the time being
 - b) “Act” means the Society Act of the Province of British Columbia from time to time in force and all amendments to it;
- 2) The definitions in the Act on the date these Bylaws become effective apply to these Bylaws.
2. Words importing the singular include the plural and vice versa; and words importing a male person include a female person and a corporation, unless the context otherwise requires.

MEMBERSHIP AND MEETINGS**ARTICLE II**

1. There shall be eligible for membership herein any individual, partnership or corporation legitimately engaged and established in the full-time practice of selling yachts on a brokerage basis so long as the candidate has been in business continuously for one year. The definition of “full-time practice” shall include those yacht brokerage businesses accessible by the public on a regular daily basis and who can accommodate the public’s needs in broker transactions. Every member of this Association shall hold Canadian and/or Provincial License required by law.
2. 1) Application shall be made in writing stating the address of the applicant and endorsed by two Members in good standing. Said application will include a copy of the applicant’s business licence and shall contain a pledge of the applicant to abide by the Yacht Brokers Code of Ethics and the Bylaws of this Association and any amendments thereto. Names of applicants will be published in the minutes of the meeting which the application was introduced and will be distributed to the members. Any member who has an objection to the applicant shall notify the Board of Directors in writing. He shall then appear at the meeting of the Board of Directors and state his reasons for objecting to the applicant’s becoming a member. Should there be no complaints noted, the application will be considered for membership at the following meeting.
 - 2) The Board of Directors, after the objections are heard, shall pass upon the application for membership in the Association by a 2/3 majority vote.
3. 1) There shall be three classifications of membership in this Association: Individual, Company and Honourary. There shall be an Individual membership for each eligible broker. A broker eligible for Individual status is one who has been employed with a BCYBA brokerage firm for a period of one year with the submission of his application to the YBA office upon hiring and registered as “pending Individual broker”. The application fee for the one-year waiting period shall be equal to that of the regular Individual membership fee.

There shall be a company membership where all eligible individual brokers in a company or partnership have joined the Association, the company or partnership has a current membership in the Marine Trades Association of British Columbia, and the corporate representative is or has been a full-time yacht broker for a minimum of a year.

There shall be an Honourary membership that may be accorded to former officers and members of the Association by action of the Board of Directors.

- 2) Should the individual member cease to be associated with the company or partnership that holds the corporate membership and the individual member wishes to continue in the full-time business of yacht brokering, then the individual member may remain a member in good standing for an interim period of one year as long as the individual meets the same criteria as a company or partnership member and applies for corporate membership one year after the new company's establishment.

All new applicants to be required to complete and pass the Broker 101 exam within the first three months of application acceptance. If an applicant does not write the exam within the timeline stated, the applicant will be required to re-apply, including payment of the application fee.

4. The current annual dues for membership in the Association shall be established by the Board of Directors by majority vote, payable as the Board of Directors may determine, and said Directors may levy such additional assessments as they may from time to time deem necessary, not in excess of the amount of the annual dues in any one year.
5. Membership in the Association shall not be transferable and a member's membership is not in good standing if membership ceases upon:
 - 1) by delivering a resignation in writing to the address of the Association,
 - 2) on the death of the member, or in the case of a corporation or partnership on its dissolution,
 - 3) on the suspension or expulsion of the Board of Directors or the membership of the Association, or
 - 4) on a member's dues and/or assessments as may be levied not being paid within 30 days of billing.
6. A member may be suspended from this Association, after having been given the opportunity for a hearing, upon the affirmative vote of a majority of the members of the Association. It shall be sufficient if the aforesaid requisite members of the Board of Directors or members of the Association deem the suspension or expulsion to be for the best interest of the Association.
7. The annual meeting of the Association will be held at a time and place selected by the Board of Directors. Notice of said meeting stating the time and place thereof shall be given by electronic notification or mail at least 20 days prior to the meeting to each member to the contact details last furnished by him to the Association. Twenty-five percent of the members of the Association shall constitute a quorum but never less than three (3) persons.
*(** as updated under special resolution at November 29, 2012 AGM and certified by Ministry on February 20, 2013)*
8. "Robert's Rules of Order" shall be the manual of procedures at all meetings for the members and of the Board of Directors.
9. Meetings of the Association shall be confined to members. Voting shall be by members present at the meeting. Each Company and Individual member in good standing shall have one vote at the meetings of this Association. Honourary members shall not have any voting privileges at meetings of the Association.
10. The Board of Directors shall call a special meeting of members within ten days when requested in writing to do so by ten percent (10%) or more members of the Association.
11. Complaint/Dispute Resolution Process: When a dispute arises, the following procedure should be adhered to:
 - 1) Any complaint or issue in dispute may only be brought to the attention of the YBA in writing to its administration office.
 - 2) Full details must be supplied to the YBA containing names, addresses and phone numbers of all parties involved with the complaint or dispute. All documents pertaining to the dispute must also be submitted.
 - 3) Alleged offending parties, and those connected to the complaint, will be advised of the nature of the complaint in a timely manner.

- a) Responses from each party will be made easily available to the other party upon request.
- 4) When responses have been received from all parties, the matter will be brought before a sub-committee at a meeting convened by the Ethics Committee Chairperson.
- 5) In the event that the offending party does not respond, the sub-committee acknowledges that all parties may not be represented equally, and that other means of recourse may have to be exploited.
- 6) The sub-committee's mandate will be to propose an action or series of actions that could, without recourse to law, bring about a fair resolution. This resolution would be based upon YBA practices and procedures as mentioned above, and established ethics and rules of conduct as outlined in the YBA constitution.
- 7) The sub-committee may elect to decline comment on any issue that does not involve the most current BCYBA documents.

OFFICERS, BOARD OF DIRECTORS AND STANDING COMMITTEES

ARTICLE III

1. The Officers of the Association include a President, a Vice President and a Secretary-Treasurer.
2. The affairs of the Association shall be managed by a Board of Directors, nine in number, to include the President, the Vice President, the Secretary-Treasurer, the immediate past President, and five others to be elected from the individual members of Company members representatives. No firm or corporation shall have more than one representative on the Board of Directors. Where the Board of Directors sees fit, additional representation from Vancouver Island will be sought to participate in a minimum of three meetings per year.
3. Each member of the Board of Directors shall have one vote.
4. At all meetings of the Board of Directors, twenty-five percent thereof shall constitute a quorum.
5. The Board of Directors shall meet at least semi-annually and at other such times as the President may call a meeting when requested to do so by a majority of the Directors.
6. The Officers, including the Board of Directors, shall be elected for a term of one year at the Annual Meeting of the Association.
7. The members may, by Special Resolution, remove any member of the Board of Directors before the expiration of his term of office, and may elect a successor to complete the term of office.
8. The Board of Directors shall have made an annual accounting of all records and books of account of the Association by a certified accountant.
9. The Directors may exercise all the powers and do all the acts and things that the Association may exercise and do, and which are not by these Bylaws or by statute or otherwise lawfully directed or required to be exercised or done by the members in general meeting but subject to:
 - 1) all laws affecting the Association;
 - 2) these Bylaws;
 - 3) rules made by the members in general meeting.
10. The President shall
 - 1) preside at all meetings of the Association and of the Directors;
 - 2) act as the chief executive officer of the Association and shall supervise the other officers in the execution of their duties.

11. The Vice President shall carry out the duties of the President during his absence.
12. The Board-appointed administrator shall assure that the following actions are carried out on behalf of the Association,
 - 1) conduct the correspondence of the Association;
 - 2) issue notices of meetings of the Association and directors;
 - 3) keep minutes of all meetings of the Association and directors;
 - 4) have custody of all records and documents of the Association;
 - 5) maintain the registry of members;
 - 6) keep the financial records, including books of account, necessary to comply with the Act; and
 - 7) render financial statements to the directors, members and others when required.
13. The President, or in his absence, the Vice President shall act as chairman of all Board Meetings. In the absence of both, the Directors present may elect one of their number to act as chairman.
14.
 - 1) In order to carry out the purposes of the Association the Directors may, on behalf of and in the name of the Association, raise or secure the payment or repayment of money in the manner they decide, and, in particular but without limiting the foregoing, by the issue of debentures.
 - 2) No debenture shall be issued without the sanction of a Special Resolution.
 - 3) The members may, by Special Resolution, restrict the borrowing powers of the Directors, but a restriction imposed expires at the next Annual General Meeting.
15. Every Director shall be deemed to have assumed office on the express understanding and agreement and condition that every Director, his heirs, executors and administrators, and estate, and effects, shall from time to time and at all times, be indemnified and saved harmless out of the funds of Association from and against all costs, charges and expenses whatsoever which such Director sustains or incurs in or about any prosecution against all costs, charges and expenses whatsoever which such Director sustains or incurs in or about any prosecution against him or in respect of any act, deed, matter or transaction whatsoever made, done or permitted by him in or about the execution of the duties of his office, and also from and against all other costs, charges or expenses as are occasioned by his own neglect or default by virtue of his office, unless such neglect or default is willful; subject to the Society Act.
16. There shall be the following Standing Committees: By-Laws Committee, Ethics Committee, and Nominating Committee. All Standing Committees shall report, as needed, from time to time to the Board of Directors. Membership of Standing Committees shall be by appointment by the Board of Directors.
 - 1) By-Laws Committee – The By-Laws Committee shall consist of at least three members, not more than one of whom shall be a member of the Board of Directors. Committee Chairs should make every effort to recruit more members from the Association to sit on their committees. If, after considerable effort, the positions are still unfilled, additional board members may be appointed. Duties shall be as follows:
 - a) To review continually the By-Laws of the Association.
 - b) To recommend appropriate changes to the Board of Directors.
 - 2) Ethics Committee – The Ethics Committee shall consist of at least five members, not more than one of whom shall be a member of the Board of Directors. Committee Chairs should make every effort to recruit more members from the Association to sit on their committees. If, after considerable effort, the positions are still unfilled, additional board members may be appointed. Duties shall be as follows:
 - a) To hear disputes from members and the public, informally, in order to arrive at an equitable solution for all concerned. The Association is not able to enforce a solution but can only make recommendations based upon the established good practices of licensed, certified brokers utilizing YBA common documents and procedures. Members shall be free to contact individual members of the Board of Directors to discuss problems.

- b) To assist in administering the YBA complaint/dispute resolution process when appropriate. In the event that the issue is receiving legal consideration, the YBA can only monitor the situation and maintain a position of observer.
- c) To review continually the Yacht Brokers' Code of Ethics and to recommend appropriate changes to the Board of Directors.
- d) To consider other such matters as bear on the ethics of the yacht brokerage profession, including review of complaints against brokers generally.

- 3) Nominating Committee – The Nominating Committee shall consist of three members, not more than one of whom shall be a member of the Board of Directors. Committee Chairs should make every effort to recruit more members from the Association to sit on their committees. If, after considerable effort, the positions are still unfilled, additional board members may be appointed. Duties shall be as follows:
- a) Not more than one month prior to the annual meeting of each year, the committee shall report to the Secretary-Treasurer the names of members to be nominated for office at the forthcoming annual meeting and the offices for which they are to be nominated. The Secretary-Treasurer shall cause the names of those nominated to be mailed to the entire membership at least fifteen days prior to the annual meeting.
 - b) No member whose name shall not have been reported as a candidate by the Nominating Committee shall be eligible for the election unless notice of intention to nominate that member at the annual meeting, stating the office for which the member is to be nominated and signed by not less than five members entitled to vote shall be given to the Secretary-Treasurer at least fifteen days prior to the annual meeting.
 - c) At the discretion of the Board of Directors, nominations for officers for the current year may be made from the floor at the annual meeting, with elections carried by a majority vote of members in good standing.

LIMITATIONS

ARTICLE IV

The association is a non-profit organization. No part of any income of the Association is payable to, or available for the personal benefit of any member.

RECORDS

ARTICLE V

1. The books and record of the Association shall be in the custody of the Secretary-Treasurer and shall be kept at the registered office of the Association or at such place designated by the Board of Directors.
2. The books and record of the Association may be inspected by any member at reasonable times on reasonable notice.

AMENDMENTS

ARTICLE VI

These By-Laws may be amended at any regular or special meeting of the Association by three-fourths vote of those present, provided such amendment does not conflict with any provision of the Constitution and provided also that the subject to the amendment has been circulated by electronic notification or mail to every member of the Association at least fourteen days prior to the meeting.

*(** as updated under special resolution at November 29, 2012 AGM and certified by Ministry on February 20, 2013)*

These By-Laws may also be amended by polling the total membership by mail ballot and would require a three-fourths vote of those ballots returned within a given time period.

CODE OF ETHICS

ARTICLE VII

The word "Broker" in this Article refers to a member of the Association. The Association expects the use of all printed Association approved forms and the symbol of the Association as an assurance of a qualified yacht broker. However, the use of the forms and symbol is restricted to member firms in good standing only.

The Broker shall make every effort at the time of listing a vessel to assure that the vessel is not listed with another Broker and/or that any existing listing has been formally cancelled.

All shared commission agreements shall be negotiated and confirmed in writing prior to the submission of any offer to purchase.

RELATIONS WITH THE PUBLIC

1. The Broker has the duty to protect the public against fraud, misinterpretation, coercion or offensive or unethical practices in the brokering of yachts. The Broker shall endeavor to eliminate any practices that could be damaging to the public or to the dignity and integrity of the yacht brokerage business, and shall assist the Association in regulating the practices of Brokers and Salespersons.
2. The Broker pledges to be well informed on current market conditions in order to be in a position to advise clients as to the fair market value of vessels.
3. The Broker shall endeavor to be informed regarding laws, proposed legislation, governmental orders and other essential information and public policies that affect the interests of his client.
4. The Broker shall keep himself informed as to movements affecting yachting in his community, province and nation so that he shall be better able to contribute to public thinking on matters of taxation, legislation, marine use, waterfront planning and other issues affecting yachting interests.
5. The Broker shall maintain a trust account for the purpose of holding money in respect of a brokerage transaction separate from the Broker's own funds or those of his company and shall pay into such trust account all money received in respect of such transaction subject to written instructions from the persons on behalf of whom such money is being held.
6. The Broker shall be careful to present a true presentation in the Broker's advertising and shall not advertise without identifying the firm or, where applicable, the Broker.
7. The Broker shall encourage written contractual relationships in all matters relating to a brokerage transaction in order to avoid misunderstanding between parties.
8. The Broker shall ensure that all terms, conditions and financial obligations in respect of a brokerage transaction are in writing and that such writing expresses the true agreement between the parties. The Broker shall deliver a copy of such agreement to each of the parties at the time of execution or as soon thereafter as practicable.
9. The Broker shall not be a party to the naming of false consideration in any document and shall not submit an offer to an owner or co-operating broker unless the offer is in writing with an adequate deposit from the offeror.

10. Notwithstanding that the Broker may represent more than one party to a transaction, the Broker shall not accept compensation from more than one party without full disclosure to all parties to the transaction.
11. The Broker shall not acquire an interest in either directly or indirectly for himself, or for any corporation in which he is a shareholder, director or officer, a vessel without making the true position as known to him known to the owner in writing; and in selling a vessel owned by him, or in which he has an interest, his interest as known to him shall be revealed to the purchaser in writing.
12. The Broker shall always recommend the timely employment of an independent marine surveyor, a mechanical inspector and sea trials as a condition precedent to the completion of a brokerage transaction.
13. The Broker shall inform all parties to a transaction that it is not the practice of a member Broker to engage in activities (i.e., conveyancing and clearing of title) that might be construed as constituting the practice of law and shall recommend legal counsel. If either party declines to seek legal counsel, then the Broker should have the declining party or parties sign a waiver which limits the responsibility and liability of the Broker in the transaction.

RELATIONS WITH THE CLIENT

14. If the Broker accepts employment, then the Broker is pledged to protect and promote the interests of his client, but notwithstanding such pledge, is obliged to deal fairly with all parties to the transaction. If the Broker himself or with the aid of his fellow Broker is unable to render a skilled and conscientious service in such employment, he shall not accept the listing.
15. The Broker shall use his best efforts to ascertain all pertinent facts concerning any vessel for which the Broker accepts a listing so that he may fulfill the obligation to avoid error, exaggeration, misrepresentation or concealment of pertinent facts.
16. The Broker shall not advertise a vessel without the owner's authority and in any offering the price quoted shall not be other than that agreed upon with the owner.
17. If before the owner has accepted any offer on a vessel, another offer is made on that vessel, then, whether or not such other offer is made by a prospective purchaser or a co-operating broker, such offer shall be presented to the owner for consideration.
18. The Broker shall not undertake to make an appraisal or opinion of value that is outside the Broker's field of experience or where the Broker has an interest or contemplated interest unless the facts are fully disclosed to the client or he obtains the assistance of an authority on such type of vessel and the identity of such authority is disclosed to the client. In no circumstances shall any charge be made which is contingent upon the amount of value reported.

RELATIONS WITH HIS FELLOW BROKERS

19. The Broker shall respect the rights of a broker who holds an exclusive listing. A Broker co-operating with the listing broker shall not invite the participation of a third broker without the express consent of the listing broker.
20. Negotiations concerning a vessel listed exclusively with one Broker shall be carried on with the listing broker, not the owner, except with the express consent of the listing broker. All shared commission agreements shall be negotiated prior to the submission of any offer to purchase.
21. Signs giving notice of any vessel for sale shall not be placed on any vessel by more than one broker unless authorized by the owner. The Broker shall not interfere with another broker's sign.

22. The Broker shall seek no unfair advantage over his fellow brokers and shall willingly share with them the lessons of his experience and study.
23. A Broker shall not seek information about a competitor's transaction to be used for the purpose of closing the transaction himself or for the purpose of interfering with any contractual undertaking.
24. The Broker shall not voluntarily disparage the business practice of a competitor, nor volunteer an opinion of a competitor's transaction. If such an opinion is sought, it shall be rendered with strict professional integrity and courtesy.
25. If a Broker is charged with practices which are deemed to be not in the best interests of the Association he shall place all pertinent facts before the proper tribunal of the Association for investigation and judgement.
26. In the best interests of the public, his associates, and his own business, the Broker shall be loyal to the Association and active in its work.