

STEPS TO INCORPORATING A COMPANY IN BRITISH COLUMBIA

INTRODUCTION

There are different ways to form a business in B.C., each with its own advantages and disadvantages. Companies can officially incorporate, or they can register as a sole proprietorship or a partnership. The decision to incorporate depends on the specific needs of the persons involved and the goals of the company.

Companies are incorporated in B.C. according to the provisions of the *Business Corporations Act*. Corporate Registry staff are pleased to provide information and help you to file documents, but cannot give business or legal advice. Remember, there is no substitute for sound, independent and professional advice.

The provincial government, in partnership with business development groups, provides a wealth of information on starting up or expanding a business. For more information, visit the Web site www.smallbusinessbc.ca. There is also information available on incorporating a company at OneStop Kiosks, local Chambers of Commerce, stationery stores and on various related Web sites.

When a company is incorporated, it acquires all of the powers of an individual, as well as an independent existence – separate and distinct from its shareholders – and an unlimited life expectancy. In other words, the act of incorporation gives life to a legal entity known as the corporation, commonly referred to as a “company”. A company can acquire assets, go into debt, enter into contracts, sue or be sued.

Compared to registering a sole proprietorship or a partnership, incorporating a company includes higher start-up costs related to professional fees for legal and accounting services. Carrying on business as a company will increase the number of filings you are required to make with the Corporate Registry. For instance, the *Business Corporations Act* requires all companies to file an annual report and also to file any changes to the location of the company offices and its directors. The company is also required to maintain certain corporate records.

STEPS TO INCORPORATING A COMPANY

To incorporate a company in B.C., one or more persons (called “the incorporators”) may form a company by completing the following steps:

1. reserve the company’s name with the Corporate Registry;
2. enter into an incorporation agreement;
3. establish the company’s articles; and
4. file an Incorporation Application with the Corporate Registry.

This information package covers only the four basic steps to incorporating a company and is not intended to be a complete guide.

There are many other steps that must be considered when incorporating, for example setting up minute or records books, establishing a central securities register, issuing share certificates, getting consents from directors, etc.

Again, Corporate Registry staff are pleased to help you file the incorporation application, but cannot provide you with guidance or advice on these other essential steps.

STEP ONE RESERVING THE COMPANY’S NAME

If the company intends to use a specific name, that name must be approved and reserved by the Corporate Registry. This is to ensure the company’s name can be distinguished from the names of other incorporated companies and that the name meets specific guidelines established by the registrar of companies.

Note: Approval of a name by the registrar for the incorporation of a business does not provide a proprietary right or interest in the name. The approval is solely intended to prevent names of incorporated businesses from being so similar as to confuse or mislead the public.

This means another business operating in B.C. or elsewhere, that is not incorporated or registered with the Corporate Registry could use the same or similar name as your business.

If it is important that you protect your name outside B.C. or from any other unregistered or unincorporated business in B.C., then you should contact Industry Canada for information on trademarks. Their Web site address is www.strategis.ic.gc.ca.

The name reservation is for a period of 56 days. The other steps in the incorporation process must be completed and the Incorporation Application must be electronically filed before the 56 day period ends.

A company can also choose to use as its name, the incorporation number of the company followed by "B.C. Ltd." (example, 0123456 B.C. Ltd.) If you choose to use the incorporation number as the company's name, you do not need a name approval and reservation. The incorporation number is assigned by the Corporate Registry at the time the Incorporation Application is electronically filed with the Corporate Registry.

The Name Approval Request form attached allows you to make a maximum of three choices of names, in descending order of preference. Please read the Name Approval Request Instructions sheet carefully before making your three choices. The filing fee for this form is \$30.

You can apply for the company's name in the following ways:

BY GOVERNMENT AGENT

Visit your local Government Agent's office. Upon payment of the specified fee, they can provide you with the Name Approval Request form and will submit your request to the Name Reservation Unit for examination, at the Corporate Registry. For a location near you, go to www.governmentagents.gov.bc.ca

BY ONESTOP KIOSK

Visit your local OneStop Kiosk. Upon payment of the specified fee, they can provide you with the Name Approval Request form and will submit your request to the Name Reservation Unit for examination, at the Corporate Registry. User fees may apply. For a location near you, go to www.bcbusinessregistry.ca

BY BC ONLINE

If you have a BC OnLine account you can submit your request electronically.

BY MAIL

Submit your Name Approval Request form, with fee by cheque or money order payable to the Minister of Finance, to the Corporate Registry, PO Box 9431 Stn Prov Govt, Victoria BC V8W 9V3.

Note: you should allow for an additional 5 to 7 working days for your name approval to be processed if you choose to submit by mail.

For information regarding completion of your Name Approval Request form, contact the Corporate Registry at **250 356-2893**. If calling from the Greater Vancouver area, the direct dial free line is **604 775-1044**. Corporate Registry staff **cannot** provide legal or business advice.

STEP TWO

ENTER INTO AN INCORPORATION AGREEMENT

Before a company can be formed there must be an incorporation agreement signed by each incorporator. This is required even if there is only one incorporator. Usually the incorporator(s) will also be the shareholder(s) and director(s) once the company is incorporated. The *Business Corporations Act* specifies that this incorporation agreement must contain:

- the agreement of each incorporator to take one or more shares of the company;
- the signature of each incorporator opposite their full name, along with the date each incorporator signed the agreement; and
- the number of shares of each class being taken by each incorporator.

Refer to Appendix A for a sample incorporation agreement.

The incorporation agreement must be kept by the company as part of the company's records.

STEP THREE

ESTABLISH THE COMPANY'S ARTICLES

Every company must have a set of articles. The company's articles are the rules that govern the conduct of the company and its shareholders, directors and officers.

For small companies, namely those that have only one shareholder or where the officers are all family members, the standard set of Table 1 Articles prescribed in the Business Corporations Regulation is usually a suitable set of articles.

Refer to Appendix A for a sample of the Table 1 standard set of articles from the Business Corporations Regulation.

Important Information: The Table 1 Articles are meant to be adopted without amending the document. If you want to customize the articles for the company, it is recommended you seek legal advice.

The articles must be kept by the company as part of the company's records.

STEP FOUR FILE AN INCORPORATION APPLICATION

The next step in the process of incorporating company is to file an Incorporation Application with the Corporate Registry.

The Incorporation Application must be submitted electronically over the Internet by visiting Corporate Online at www.corporateonline.gov.bc.ca. The Corporate Online site includes a video demonstration on how to file the Incorporation Application and online help information to assist you with completing and filing the online application form. When the filing is completed, the company is incorporated and you will be assigned an incorporation number at that time.

At the end of the electronic filing, you will be asked to set a password for the company that will let you file other forms for the company using Corporate Online. You should also set a password "hint" that can be displayed back to you if you forget your password. It is also recommended you enter an email address. That way if you forget the password, it can be emailed to you. Otherwise, the only way to retrieve the password for the company is to have it mailed to the company's registered office mailing address.

It is recommended that you complete the paper version of the Incorporation Application first and use it for reference when you electronically file the Incorporation Application. Refer to Appendix B for the form and instructions on completing the paper version of the Incorporation Application.

If you do not want to file electronically but prefer to file by mail, Dye & Durham can file on your behalf. You can send a completed and signed copy of the paper version of the Incorporation Application and a cheque to Dye & Durham who will electronically file the information for you. A \$38.68 service fee will be charged in addition to the incorporation fee.

The mailing address for Dye & Durham is:

Dye & Durham
734 Broughton Street
Victoria BC V8W 1E1

For more information call toll free at 1 800 665-6211 or visit their Web site at www.dyedurhambc.com

STEP FIVE REVIEW AND KEEP THE INCORPORATION DOCUMENTS

After you have filed the Incorporation Application electronically and the company is incorporated, the Corporate Registry will send you the original Certificate of Incorporation, a certified copy of the Incorporation Application and a certified copy of the Notice of Articles within three to five working days.

These documents must be kept by the company as part of the company's records.

An incorporation number for the company is displayed in the upper right hand corner of the Certificate of Incorporation and on the cover sheet accompanying the documents. You will need the incorporation number of the company when filing other documents with the Corporate Registry. You will also be prompted for the company password when filing any changes to the company on Corporate Online.

The cover sheet also includes the **Business Number** issued by Canada Revenue Agency. This is a nine-digit number followed by a six-digit number. It is the first nine digits that are important to other government agencies and you may be asked for this number if you deal with the Workers' Compensation Board, Ministry of Revenue, or when applying for a GST number or conducting other business activities with Canada Revenue Agency.

FEES

The fee to incorporate a company by filing an Incorporation Application using Corporate Online is \$351.59. You will need a valid credit card and you will be asked to enter the credit card information at the end of the transaction.

The fee for Dye & Durham to file on your behalf is \$388.68 (\$350.00 + \$38.68).

ADDITIONAL INFORMATION

For information regarding completion of your documentation, contact the Corporate Registry at **250 356-8626**. If calling from the Greater Vancouver area, the direct dial free line is **604 775-1047**. Corporate Registry staff cannot provide legal or business advice.

NAME APPROVAL REQUEST INSTRUCTIONS

IMPORTANT – READ CAREFULLY

RESEARCH YOUR CHOICES!

The Names Examiner searches the Corporate Register only. This register includes the names of corporations incorporated or registered extraprovincially in British Columbia. It does not include names of British Columbia firms, trademarks or corporations registered outside British Columbia. If you want to ensure your name is not used outside of British Columbia, you could also access the Trademarks database at www.strategis.ic.gc.ca, or you may wish to search other jurisdictions in Canada. Most public business and trademark registers in Canada are reflected in the NUANS database, which may be searched for a fee through private search firms.

The approval of any name is at the discretion of the Registrar. You are paying for three choices. **Do not commit to any name before it is approved.** Provide three choices for each company you wish to name, in descending order of preference. Check them out for potential conflicts through telephone listings, business directories and other publications.

Occasionally this office will reject all three of your choices. If that happens, it will be necessary for you to complete another Name Approval form with three more choices and submit it to this office with another reservation fee.

GENERAL

This form is used for the approval of all corporate and business names in British Columbia.

The first step in incorporation (company, society, cooperative association, financial institution) or registration of firms (partnership, proprietorship) or extraprovincial companies, is the approval of the name through the Names Unit of the Corporate Registry.

Once your name is approved, it is reserved for you for a period of 56 calendar days. Any renewals of the reservation period will require payment of another reservation fee.

If you need assistance call our help telephone number at 250 356-2893.

Once your name is reserved, the next step is to submit the necessary information to incorporate a company or society, register a proprietorship, partnership or limited partnership or register a foreign entity as an extraprovincial company.

Please go to the Corporate Registry's Web site for information on how to incorporate or register, as well as information on other services provided by the Corporate Registry.

The Web site address is: www.fin.gov.bc.ca/registries.

Approval of a name by the Registrar for either a corporation or a firm does not provide a proprietary right or interest in the name under any circumstances. It is intended solely to protect the public interest by:

- preventing names of corporations which are so similar as to confuse or mislead; and
- providing a record which allows the public to determine which individuals are associated with a corporation or firm name.

A corporation or a firm name may be registered under the same name as another firm. As a result there are many duplications of firms names, however, a firm or a corporation name will **not** be accepted if it can be confused with another corporate name.

FIRM NAMES (partnership, proprietorship, limited partnership)

Registration of a firm does not provide any protection for that name and does not mean that the name will be available if you decide to incorporate a company using this name.

FEES

The payment of fees in advance is a mandatory requirement of doing all business with the Corporate Registry office. The fee to submit a Name Request to the Corporate Registry **by mail** is \$30.00

Applicants are urged to consult the current Fee Schedule.

Payment of the wrong amount is a common cause for the rejection of name requests. Cheques and money orders are to be made payable to the Minister of Finance.

PRIORITY SERVICE

Names are processed in the order of time of receipt. Upon request and on payment of an additional fee, an application will be processed in priority to others, normally within 24 hours of receipt.

PROCESS

This form allows you to make a maximum of three choices, **in order of preference**, for each name approval. If you wish to have more than one name approved, you must complete an additional form and pay another fee. Your first choice for a name may be approved, if available, and held for a period of **56 calendar days**. Any renewals of the reservation period will require payment of another reservation fee. **Your 2nd and 3rd choices are not examined unless the initial choice of name is not available.** Regardless of whether your three choices are all examined or not, the full fee is charged.

A name approval request may be made on this form, or in writing with the same information as is required on this form.

You can apply for your name in the following ways:

BY GOVERNMENT AGENT: Visit any Government Agent who will transmit the request to the Registrar. For locations go to www.governmentagents.gov.bc.ca

BY ONESTOP KIOSK: Visit your local OneStop kiosk location. They will transmit the request to the Registries. User fees may apply. For locations go to www.bcbusinessregistry.ca

BY MAIL: Names Reservation Section, Corporate Registry
PO Box 9431 Stn Prov Govt
Victoria BC V8W 9V3

You can also apply for your name by visiting the Names Unit in Victoria, located on the 2nd Floor of 940 Blanshard Street.

Results will be confirmed in the same manner as the application was made.

NAME COMPONENTS

In assessing names, the Registrar's staff analyze them according to their constituent components. The form of name acceptable in principle consists of a distinctive element, followed by a descriptive element and ending with a corporate designation (if applicable).

e.g. ABC Manufacturing Ltd.



DISTINCTIVE ELEMENT

The distinctive element serves to differentiate names having identical or similar descriptive elements, and for that reason, is the **most important** element to be examined in the name.

Names such as “**Tire** Shop Ltd.” and “**Shoe** Store Ltd.” lack an appropriate distinctive element and would be rejected for that reason.

They would be acceptable, if prefixed with an additional distinctive element (e.g. coined word, geographical location or personal name) that would distinguish them from all the other tire shops and shoe stores.

e.g. **Vancouver Tire** Shop Ltd. **Sandell's Shoe** Store Ltd.

Coined and made-up words are acceptable distinctive elements, provided they do not conflict with others already registered.

e.g. **Intertex** Enterprises Ltd. **Fabuform** Diet Centre Ltd.

A uniquely coined word, used in addition to a geographical location (e.g. **Altrex** Canada Ltd.), is normally considered sufficiently distinctive by itself that a descriptive element is not usually required.

DESCRIPTIVE ELEMENT

The descriptive element is useful in describing the nature of the business as well as expanding the options available. It allows for use of identical or similar distinctive elements, which might be desirable in developing a particular presence in the marketplace.

e.g. Victoria **Brake Shop** Ltd. Victoria **Stationery** Ltd.

CORPORATE DESIGNATION

Incorporating companies **must have as the last word in the name**, the corporate designation, "Limited", "Limitee", "Incorporated", "Incorporee" or "Corporation".

For all purposes, using the abbreviations of these words (e.g. "Ltd.", "Ltee.", "Inc." or "Corp.") is acceptable.

Extrajurisdictional companies may have "Limited Liability Company" or "LLC." as the last word in their name.

The corporate designation is **not** applicable to a firm name, society or cooperative name.

Firm names for partnerships and proprietorships **cannot** use "Ltd.", "Inc." or "Corp." in their names, but they may use "Company" or "Co."

Firm names for limited partnerships **must** use "Limited Partnership" at the end of the name.

Firm names for limited liability partnerships **must** use "Limited Liability Partnership" or "LLP." at the end of the name.

Societies should have the designation "Society" or "Association" as the last word in their name. Companies are precluded from the use of these words in their names.

Cooperatives should use the word "Cooperative" in their name and may also use "Association", "Society", "Union" and "Exchange".

A specially limited company must use the bracketed words "(Non-Personal Liability)" or "(N.P.L.)", following the corporate designation.

SINGLE WORD NAMES

Single word names (such as International Limited) are normally not sufficiently distinct from other names containing the same word and generally will not be approved.

An exception may be allowed if the proposed, single-word name contains a coined word that has been trademarked and evidence of the trademark is presented with the name request. Each case will be determined on its merits.

Obvious contractions of common words (e.g. Petrochem, being a contraction of petroleum and chemical) are not considered to be coined words for the purposes of single-word names.

NUMBER NAMES

Numerals may be used in company names as the distinctive element. A year may be used in a name provided that it is the year of incorporation, amalgamation or registration.

e.g. 123456 Enterprises Ltd. Pacific Enterprises (1997) Ltd.

The incorporation number may be used as the name of a British Columbia company. The accepted format is "345678 B.C. Ltd."

A name reservation or fee is not required for B.C. companies using just their incorporation number. The name will be given according to the next available number at the time of incorporation.

Numbered companies from other jurisdictions, continuing into British Columbia and wishing to retain their numbered names, will be required to conform with the name requirements of this province.

PERSONAL NAMES

In most cases, a natural person's full name will be considered to be sufficiently distinctive and therefore acceptable.

e.g. Bill Brown Ltd. John Smith Inc.

Two surnames, or initials with a surname, are normally accepted.

e.g. Brown, Green Inc. J.R. Black Corp.

WELL KNOWN NAMES

Names, which include well known trade names and trademarks, will not be allowed without the advance written consent of the holder.

e.g. Exxon, Xerox, Coke

EXTRAJURISDICTIONAL NAMES

Special consideration will be given to established extrajurisdictional companies applying for registration in the province, provided there is not a direct conflict in names.

SPECIAL CHARACTERS

The use of special characters (such as % or *) should be avoided in corporate and business names.

Some special characters may not be recognized by computer, will not print accurately and may not be allowed.

The "ç" symbol will not be approved in a name under any circumstances.

NO SUGGESTION OF GOVERNMENT CONNECTION

The word "government" (in either its English or French form) will not be allowed. Other words which might imply connection with, or endorsement by, any government require written consent of that government. Examples of other words which imply government connection are "ministry", "bureau", "secretariat", "commission" and "certified".

The use of "British Columbia" or "BC" as the distinctive element in any name is considered to imply connection with the Government of the Province of British Columbia. Use will be accepted only on the written consent of that government, usually obtained from the Protocol Office, Intergovernmental Relations Secretariat, after the name has been approved by the Registrar.

Use of the words "British Columbia" and "BC" will be accepted without consent, if they are placed at the end of a name and before the corporate designation.

e.g. Pacific Warehouse Storage BC Ltd.

NO SUGGESTION OF CONNECTION WITH CROWN OR ROYAL FAMILY

A name which suggests or implies a connection with the Crown, any living member of the Royal family, or endorsement by the Crown or Royal family will not be accepted without the written consent from the appropriate authority after the name has been approved by the Registrar.

e.g. Prince Charles Tea Room Ltd.

This does not apply to references in a name to geographical locations such as Prince George, Prince Rupert and references to New Westminster as the Royal City.

The use of the words "Crown" or "Royal" in combination with another word(s) that does not imply connection with the Crown or Royal family may be allowed.

e.g. Triple Crown Painting Ltd. Royal Star Holdings Ltd.

OBJECTIONABLE NAMES

Names that are considered to be objectionable on public grounds will not be accepted.

A name will not be approved if it includes a vulgar expression, obscene word or connotation, racial, physical or sexual slur.

The use of names of public figures will not be accepted without the advance written consent of the person named.

GUIDELINES

This abbreviated information is provided for convenience only. Corporate and business law is complicated, and there can be no substitute for sound professional advice. Neither the Corporate Registry nor the Ministry of Finance can accept responsibility for any errors or omissions in this information.

HELP IS AVAILABLE

For assistance or further information, please call 250 356-2893.

Please retain this sheet for your information

NAME REQUEST

NAME APPROVAL NUMBER

NR

Important: Use this number on all documents and in the electronic submission of documents.

Phone: 250 356-2893 or
604 775-1044 (Greater Vancouver only)

INSTRUCTIONS:

- Please retain the yellow copy for your records. If the request is mailed, the Name Reservaton section will notify you by letter once your request is completed.
- **Please type or print clearly.**
- **SHADED AREAS ARE FOR OFFICE USE ONLY.**

Freedom of Information and Protection of Privacy Act (FOIPPA): The personal information requested on this form is made available to the public under the authority of the *Company Act*. Questions about how the *FOIPPA* applies to this personal information can be directed to the Executive Coordinator of the BC Registry Services at 250 356-1198, PO Box 9431 Stn Prov Govt, Victoria BC V8W 9V3.

PRIORITY REQUEST – Additional fee required	
<input type="checkbox"/> YES – This is a priority request and I have enclosed an additional fee for this service.	
ROUTING SLIP NO.	DEBIT BCOL ACCOUNT NO.
FOLIO NO.	DEPOSIT ACCOUNT TRANSACTION NO.
GOVT. AGENT TRANSACTION DATE YYYY MM DD	DATE RECEIVED YYYY MM DD
GOVT. AGENT TRANSACTION NO.	GOVT. AGENT AMOUNT COLLECTED \$

APPLICANT SURNAME		FIRST NAME AND INITIALS	
ADDRESS			
CITY		PROVINCE	POSTAL CODE
APPLICANT PHONE NO. () ()	APPLICANT FAX NO. () ()	CONTACT PERSON NAME	

Indicate what the name request is for: (In order for this request to be completed, one box must be (✓) ticked)

CORPORATION (INCLUDES A FOREIGN CORPORATION)
 PROPRIETORSHIP/PARTNERSHIP
 SOCIETY
 FINANCIAL INSTITUTION
 COOPERATIVE ASSOCIATION

Is this request for a foreign corporation incorporated in another province or country? <input type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, ENTER THE JURISDICTION	NATURE OF BUSINESS
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ADDITIONAL INFORMATION

Name Request (*first choice*) PLEASE TYPE OR PRINT CLEARLY

Name Request (*second choice*) PLEASE TYPE OR PRINT CLEARLY

Name Request (*third choice*) PLEASE TYPE OR PRINT CLEARLY