

SECTION C: Creating Your Procedural By-law

Introduction and Background

At its meeting on June 11, 2007, Council adopted the new City of Toronto Municipal Code, Chapter 19, Business Improvement Areas. The new Chapter, made necessary by the enactment of the City of Toronto Act, contains many of the BIA-related provisions of the Municipal Act, 2001, as well as new provisions related to financial management, the activities that BIAs are allowed to undertake, and clarifications and refinements with respect to procedures for establishing or amending the boundaries of BIAs.

Under the new City of Toronto Act, Business Improvement Areas (BIAs) are considered a Board of the City of Toronto, and are therefore required to adopt a Procedural By-law for the governing and calling of all meetings.

This new Procedural By-law is a requirement for all BIAs whether they were approved prior or since the new Toronto Act has come into effect. BIAs must adopt this new Procedural By-law within 18 months from the date a BIA is established or from the date of the New Toronto Act. This includes BIAs that may already have a constitution or procedural By-law in place.

The sample template provided has been approved by the City of Toronto's Legal staff, the Toronto Association of BIAs (TABIA) and the BIA Office. Every effort has been made to ensure that this document encompasses the necessary procedures and guidelines to assist the Boards of Management in their everyday operation and to assist BIAs in conducting their affairs.

For BIAs that want to adapt and/or change this template in any way, we recommend that a lawyer and the BIA Office review the document prior to it being adopted by the general membership.

Once a BIA adopts its Procedural By-law by way of approval from the general membership, please ensure that the BIA Office receives a copy signed by the appropriate officers. Subsequent amendments must also be approved by the general membership.

June 5, 2009

Rules of Procedure

Board of Management of the _____ Business Improvement Area

BY-LAW No. 1

PREAMBLE

In accordance with the City of Toronto Act, 2006, and the City of Toronto Municipal Code, Chapter 19, Business Improvement Areas, the Board of Management for the _____ is continued as a city board for the purposes and with the authority set out by the City of Toronto Municipal Code Chapter 19.

GENERAL

1. Definitions

AGM – The Annual General Meeting of the Business Improvement Area to which all members of the BIA shall be invited.

BIA – The _____ Business Improvement Area.

Board – The Board of Management for the _____ Business Improvement Area.

Chair – The person presiding at a meeting.

City – The City of Toronto.

Council – The Council of the City of Toronto.

Deputation – An oral submission made by a member of the BIA or a member of the public to the board of management, committee of the board of management, or to the general membership at an AGM or general meeting.

General Membership – the members of a business improvement area, which shall consist of: all persons who are assessed, on the last returned assessment roll, with respect to rateable property in the area that is in a business property class and tenants of the property; and recent purchasers of property in the area that is in a business property class, but not assessed on the last returned assessment roll, and tenants of the property, if the recent purchasers produce evidence of property ownership satisfactory to the Chief Financial Officer for the City of Toronto.

Meeting – A meeting of the Board or of a committee, as the case may be.

Membership – The general membership of the _____ Business Improvement Area.

Motion – A formal proposal put forward by a board member for consideration by the Board, for example, by stating “I move that...” which may then be seconded and voted on.

Motion to postpone - a motion to postpone consideration of an item:

- (a) indefinitely; or
- (b) until a certain time or the happening of a specified event.

Motion to receive - a motion to acknowledge a particular item for information with no additional action being taken

Motion to refer - a motion made to request more information from another body or from staff.

Quorum – The minimum number of members required to be present at a meeting in order to conduct business.

2. Rules of Procedure

- (1) The rules in this by-law are to be observed in all meetings of the general membership, the Board and committees of the Board.
- (2) The rules of procedure are to be interpreted in a manner that promotes the following fundamental principles:
 - (a) the protection of basic rights by recognising the right of the majority to decide, the minority to be heard, and individuals to have the opportunity to participate;
 - (b) the maintenance of decorum, with all participants being treated with courtesy and respect; and
 - (c) all members have the right to information to help make decisions;
 - (d) members have a right to an efficient meeting;
 - (e) all members have equal rights, privileges and obligations; and

- (f) in the event of conflict, facilitating a reasonable compromise.
- (3) A motion to amend or repeal the procedures by-law requires a vote of two-thirds of the entire Board to pass.
- (4) Unless this by-law specifies otherwise, a matter passes when a majority of members present vote for it.
- (5) The BIA general membership has the right to participate in the decision-making process of the Board by writing to the Board or committee, by submitting a public petition, or by making a public presentation.

BOARD OF MANAGEMENT OFFICERS

3. Election

The Board of Management, at its first meeting following appointment by Council or as soon as possible thereafter, shall elect a Chair, Vice-Chair, Secretary and Treasurer who shall serve for the term of the Board or until he or she resigns from the position or is removed from office by resolution and majority vote of the Board. Additional officer positions (for example 2nd Vice Chair, Co-Chair) may be appointed by the Board if deemed desirable.

4. Duties of Officers

- (1) The Chair shall:
 - (a) chair all meetings of the BIA and of the Board, follow the agenda, and decide on whether motions are in order;
 - (b) rule on all procedural matters and maintain decorum;
 - (c) ensure motions and amendments are clearly expressed and, if there is no motion under consideration, summarize the discussion for the purpose of the minutes;
 - (d) have general supervision of the affairs of the BIA;
 - (e) along with the Secretary or Treasurer, sign all by-laws and execute any documents, contracts or agreements;
 - (f) perform any other duties, which the Board may, from time to time, assign;
 - (g) sit, ex officio, on all committees;
 - (h) ensure that all past records of the Board are transferred to the succeeding Treasurer when there is a change of Treasurer; and
 - (i) be the public representative of, and spokesperson for, the Board.

- (2) The Vice-Chair shall:
- (a) exercise any or all of the duties of the Chair in the absence of the Chair or if the Chair is unable for any reason to perform those duties; and
 - (b) perform any other duties that the Board may, from time to time, assign.
- (3) The Secretary shall:
- (a) give notice of each regular and special meeting of the Board together with an agenda of the matters to be considered so that notice and agenda will reach members at least five business days, where feasible, in advance of the meeting;
 - (b) take minutes of each regular and special meeting of the Board and shall record in the minutes: the place, time and date of meeting; the name of the Chair, the Members present and the Members absent; any correction to, and the adoption of, the minutes of the previous meeting; and, all resolutions;
 - (c) keep or cause to be kept: the BIA's records and books of the BIA, including BIA by-laws, policies and resolutions; the registry of Officers and Board members; the minutes of the AGM, General Meetings, meetings of the Board or any committees thereof; and any committee reports;
 - (d) certify copies of any record, registry, by-law, resolution or minute;
 - (e) give notice of the AGM and General Meetings; and
 - (f) perform any other duties that the Board may, from time to time, assign.
- (4) The Treasurer shall:
- (a) keep and maintain the financial records and books of the BIA;
 - (b) assist the auditor in the preparation of the financial statements of the BIA;
 - (c) perform any other duties that the Board may from time to time assign;
 - (d) maintain an inventory of all physical assets owned or leased by the BIA;
 - (e) prepare and distribute the proposed annual budget in accordance with the requirements of the City;
 - (f) co-sign all cheques;
 - (g) co-sign all contracts and agreements which have a direct financial impact upon the BIA; and

- (h) prepare and present written financial updates for the Board's review and consideration at each regular meeting.

BOARD MEETINGS

5. Calling and Notice of Meetings

- (1) Notice of AGMs and meetings of the Board shall be posted on the BIA's website and in a conspicuous place at the BIA's office, if applicable.
- (2) The Board shall hold at least four meetings per year, including the AGM.
- (3) Meetings of the Board may be called by the Chair, the Vice-Chair, the Secretary or any two members of the Board. The Board may hold its meetings at any place in the City of Toronto as it may from time to time determine.
- (4) All board members must be notified of Board meetings at least five business days in advance of the meeting date. The Board may establish a select day or days in any month or months for regular meetings at an hour to be named.
- (5) The Chair may cancel or postpone a scheduled meeting of the Board if it appears certain that quorum will not be reached or if there is insufficient BIA business to warrant a meeting.
- (6) No error or omission with respect to notice for a meeting of the Board shall invalidate the meeting or invalidate or make void any proceedings taken or had at the meeting.
- (7) Except as provided in section 190 of the *City of Toronto Act, 2006*, all meetings shall be open to the public.

6. Quorum

- (1) A majority of the members of a Board constitutes a quorum of the Board, unless City Council approves an alternate quorum figure which shall not be less than one-half the Board membership less one.
- (2) A member of City Council appointed to a Board shall not be included for the purpose of determining what constitutes a quorum of the Board, but a member of City Council attending a meeting of a Board may be counted in order to achieve quorum.
- (3) In the event quorum is not present 15 minutes after the time appointed for a meeting, the members present may ask the Secretary to call the roll and

record the names of the members present and the meeting will then stand adjourned until the next scheduled meeting, or at the call of the Chair.

- (4) If quorum is lost during a meeting for a period of 15 minutes, members present may ask the Secretary to record the names of those members present and the meeting will stand adjourned until the next scheduled meeting, or at the call of the Chair.
- (5) The members present may agree to proceed informally with the agenda and the Secretary shall report to the next meeting of the Board on any proposals made at the informal gathering.
- (6) Any proposals made at the informal gathering shall be submitted to the Board for consideration at the next regular meeting.

7. Absence of Chair

- (1) If neither the Chair nor the Vice-Chair has arrived 15 minutes after the time the meeting is to start and, if a quorum is present, one of the other members of the Board may be appointed Acting Chair.
- (2) The Acting Chair shall preside and discharge the duties of the Chair during the meeting, or until the arrival of the Chair or Vice-Chair.

8. Agenda and Minutes

- (1) The Chair, in consultation with the Secretary, and other members of the Board as required, shall establish the agenda for each meeting, based on matters submitted prior to the agenda deadline.
- (2) Board members are entitled to submit agenda items for consideration by forwarding them to the Secretary prior to the agenda distribution deadline.
- (3) The Secretary shall distribute the agenda and previous meeting minutes to all Board members a minimum of three business days prior to the subject Board meeting.
- (4) The Secretary shall make the agenda available to the public after delivery of the agenda to the Board members.
- (5) The Secretary shall record the minutes of each meeting and present the minutes at the following meeting for adoption.
- (6) The minutes shall record:
 - (a) the place, date and time of meeting;

- (b) the names of all those present at the meeting;
- (c) the correction and adoption of the minutes of the prior meeting;
and
- (d) all motions, decisions and other proceedings of the Board.

9. Additional Agenda items

Any communication or agenda item received before the meeting, but not in sufficient time to be included with the agenda, will be reviewed by the Chair and:

- (1) if the communication is considered by the Chair to pertain to a matter listed on the agenda, it may be submitted as a supplementary item for that meeting;
- (2) if the communication is considered by the Chair to not pertain to a matter listed on the agenda, it will be included on the agenda for the next subsequent meeting; and
- (3) if a communication or agenda item is considered by the Chair to be urgent, the Chair may direct that it be submitted as a supplementary item at the meeting for which it was submitted.

10. Votes

- (1) With the exception of the Chair, who shall vote only to make a tie or break a tie, every member has a vote on all motions, unless prohibited by law (for example, a declared conflict of interest) in which case the Secretary shall record the name of the member who does not vote and reason for not voting.
- (2) The members of the Board shall vote on any motion arising at any meeting of the Board. All motions must be seconded prior to proceeding to a vote.
- (3) Motions may include:
 - (a) motion to approve or adopt an item;
 - (b) motion to receive an item;
 - (c) motion to postpone or refer an item; and
 - (d) motion to adjourn the meeting, provided the motion to adjourn is not made when another member is speaking, a vote has been called, the members are voting, or a member has indicated to the Chair his or her desire to speak on the matter under consideration.
- (4) A majority of votes shall decide each motion.
- (5) A tie vote means a motion does not carry.

- (6) A declaration by the Chair that a motion has been carried and an entry to that effect in the minutes shall be admissible in evidence as prima facie proof of the fact, without proof of the number or proportion of the votes recorded in favour or against any motion.

11. Deputations

The Board may hear deputations from the public at its discretion and may set limits for speaking time.

12. Special Meetings

- (1) Special meetings of the Board may be called by the Chair on 24-hours' notice, whenever he or she considers it necessary to do so.
- (2) If a written request is made by a majority of the Board members to call a special meeting, it is the duty of the Chair, or in case of his or her absence, the Secretary, to summon a special meeting of the Board within the timeframe set out in the written request.

13. Notification of Absence

- (1) Members will notify the Secretary if they:
 - (a) will not be attending;
 - (b) will be arriving late for; or
 - (c) will be leaving early from;

any meeting of the Board or a Committee.
- (2) The Board may request the City's BIA Office to recommend that Council, or Community Council as the case may be, consider removing a Member if he or she is absent from the meetings of the Board for three consecutive months, if the absence is not authorized by a Board resolution.

MEMBERSHIP MEETINGS

14. Date and Location

- (1) The AGM of the BIA, to which all members of the BIA shall be invited, shall be held at a location in Toronto and on a date determined by the Board of Management.

- (2) The Board of Management may, from time to time, call a General Meeting of the Members of the BIA for any date and time to be held at a location in Toronto, as specified in the notice.

15. Agenda

The AGM agenda shall include, but not be limited to:

- (1) minutes of the last annual general meeting;
- (2) annual activity and financial report of the board of management;
- (3) audited financial statement;
- (4) appointment of auditor for following year;
- (5) proposed annual budget for the following year;
- (6) election of board of management (if a municipal election year); and
- (7) any other business that may properly be brought before the meeting.

16. Public Access

All membership meetings shall be open to the public, except as provided in section 190 of the *City of Toronto Act, 2006*, whereby meetings may be closed if the subject matter being considered includes, for example, employee negotiations, litigation or potential litigation, and advice that is subject to solicitor-client privilege. Comments and questions from non-BIA members of the public attending such meetings shall be permitted at the discretion of the meeting Chair.

17. Notice of Membership Meetings

- (1) The Board shall distribute notices of the AGM or General Meeting at least 10 business days before the date of the meeting to all BIA business tenant members and Council members sitting on the Board.
- (2) The City shall send the notice of the AGM by prepaid mail at least 10 business days before the date of the meeting to BIA property owner members.
- (3) Notice of the AGM must include the meeting agenda and a summary of the proposed budget for the following year.

- (4) The accidental omission to give notice of any meeting or the non-receipt of any notice by any BIA member shall not invalidate any resolution passed or any proceedings taken at any meeting.

18. Quorum

A quorum for the AGM or for a general meeting of the BIA shall equal the quorum for the Board. No business shall be transacted at any meeting unless quorum is present at the commencement of business.

19. Determination of Motions

All motions arising at any meeting of the BIA membership, other than those arising under new business, shall relate to an item on the agenda for that meeting and the Chair shall have the right to determine whether a motion is in order. All questions shall be decided by a majority vote unless otherwise stated in this by-law or as required by law. At all meetings, every motion shall be decided by a show of hands unless a ballot on the motion is required by the Chair or requested by a BIA member. The Chair shall declare that a motion has been carried or not carried. The motion shall be entered into the minutes of the BIA. It is not necessary to record the number or the proportion of votes.

COMMITTEES OF THE BOARD

20. Standing and Ad hoc Committees

- (1) The Board of Management may establish standing committees.
- (2) The Board may appoint ad hoc committees as may be deemed necessary to carry out the objectives of the BIA or to advise the Board. The Board shall prescribe the duties of all such committees.
- (3) The Board shall elect from among its members the chair of each committee. Committee members must be Board members. Members of the BIA and/or non-Members of the BIA may be appointed as ex-officio members of any committee.
- (4) All committees and committee members are required to comply with this by-law.

21. Report to Board

- (1) All committees shall be directly responsible to the Board and shall report to the Board on their activities and make recommendations to the Board at such times and in such manner as the Board directs, and no committee

shall have the power to act on behalf of or to commit or take any course of action affecting the BIA.

- (2) The Board may allocate funding to one or more standing and/or ad hoc committees to undertake approved, specific tasks on behalf of the Board, provided an account of all planned expenditures is presented at each Board meeting for review and approval.
- (3) Standing committees of the Board may include, but are not limited to, an Executive & Finance Committee, a Marketing & Promotion Committee and a Streetscape & Safety Committee.
- (4) Unless otherwise stated in this by-law, the terms of reference for each committee shall be determined by the Board, from time to time.

CONFLICT OF INTEREST

22. Every Board member who has any direct or indirect conflict of interest concerning any matter to be considered by the Board, or any direct or indirect interest in any contract or arrangement, or proposed contract or arrangement with the BIA shall disclose his or her interest in the manner required by the Municipal Conflict of Interest Act, R.S.O. 1190 c M-50 (http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90m50_e.htm) as the same may be amended and shall:
 - (1) declare his or her interest at the first meeting of the Board after which he or she became interested or aware of any such interest;
 - (2) request that his or her declaration be recorded in the minutes of the meeting; and
 - (3) not vote on any resolution or participate in any discussion with respect to the resolution concerning the contract or proposed contract.

CODE OF CONDUCT

23. The Board shall comply with the provisions of the City of Toronto Code of Conduct for Members of Local Boards (<http://www.toronto.ca/integrity/pdf/code-conduct-local-boards.pdf>).

CONFIDENTIALITY AND PRIVACY OF INFORMATION

24. The Board shall abide by and act in accordance with the laws, policies, and practices governing all matters related to confidentiality, privacy, and access to information. In this regard, every Board member shall:
- (1) respect the confidentiality of all matters discussed at Board meetings and any other information and documentation to which one may have access in the capacity as Board member of the BIA;
 - (2) respect and act in accordance with the BIA policies governing the privacy and access to information to which one may acquire in the capacity of Board member of the BIA; and
 - (3) bring forward requests for information received to the next meeting of the Board for consideration.

STANDARD OF CARE

25. Every Board member of the BIA shall:
- (1) exercise the powers and discharge the duties of the office honestly, in good faith, and in the best interests of the BIA; and
 - (2) exercise the degree of care, diligence, and skill that a reasonable and prudent person would exercise in comparable circumstances.