



# Amendments to Chapter 19 of Municipal Code

## Business Improvement Areas

# Background

- COTA (2006) allows the City to set out procedures for the establishment and operations of BIAs and their Boards of Management
- New Chapter 19 adopted in 2007 which put in procedures governing BIAs
- Minor amendments made to Chapter 19 in 2009
- Additional amendments are being recommended as a result of issues raised by staff, TABIA, BIAs, and individual members over the past few years

# Purpose of Amendments

- To recognize the unique nature of BIAs and to balance the autonomy of BIAs and the need for oversight
- To provide greater clarity for BIAs with respect to the City's expectations and requirements and ensure consistent application of rules
- To provide for a more democratic polling process
- To improve governance, accountability, and transparency

# Areas of Change

- BIA Start-up
- Notification and Polling for New BIAs
- Notification and Polling for BIA Expansions
- Notification and Polling for Repealing a BIA
- Proxy Voting
- Board Eligibility and Composition
- Board Governance and Accountability

# BIA Start-up

| Current Code  | Proposed Amendments  |
|---|--|
| <ul style="list-style-type: none"> <li>• Responsibility for gauging interest and determining boundaries with undefined “Steering Committee”</li> </ul>      | <ul style="list-style-type: none"> <li>• “Steering Committee” defined as minimum of 5 persons comprised of potential members</li> </ul>                                    |
| <ul style="list-style-type: none"> <li>• Loosely defined role to gauge interest and define boundaries through informal and formal meetings</li> </ul>       | <ul style="list-style-type: none"> <li>• Roles and responsibilities with respect to providing notice defined</li> <li>• Notice to be posted on City’s web page</li> </ul>  |
| <ul style="list-style-type: none"> <li>• Formal meeting to be conducted by Steering Committee with assistance from City to mail notice to owners</li> </ul> | <ul style="list-style-type: none"> <li>• Formal meeting to be convened and chaired by the City to ensure objectivity</li> </ul>  |
| <ul style="list-style-type: none"> <li>• No written definition of “sufficient interest”</li> </ul>  | <ul style="list-style-type: none"> <li>• Secret ballot at public meeting convened by City</li> <li>• Requires 50% plus one in favour to move to polling process</li> </ul> |
| <ul style="list-style-type: none"> <li>• No process if competing views</li> </ul>   | <ul style="list-style-type: none"> <li>• City required to conduct meeting to consider all options</li> </ul>   |

# Notification and Polling (new BIAs)

| Current Code   | Proposed Amendments  |
|--|--|
| <ul style="list-style-type: none"> <li>• Clerk mails notice to owners</li> <li>• Owners required to notify tenants and submit tenant list to clerk</li> <li>• Tenants shut out of process if owner does not submit tenant list to clerk</li> </ul> | <ul style="list-style-type: none"> <li>• Tenants able to obtain ballot at any time</li> <li>• Information on how to obtain ballot on notice</li> </ul>   |
| <ul style="list-style-type: none"> <li>• No minimum response required – even with zero responses, City could approve BIA</li> </ul>  | <ul style="list-style-type: none"> <li>• Minimum number of returned ballots required to validate poll</li> <li>• Lesser of 30% of total number of property owners or 100 ballots</li> <li>• Owners and tenant ballots both count to satisfying this requirement</li> </ul> |
| <ul style="list-style-type: none"> <li>• Poll fails if one-third of those entitled to notice <u>and</u> representing one-third of the taxes object</li> <li>• Assumed support if no response received (“negative billing”)</li> </ul>              | <ul style="list-style-type: none"> <li>• Must vote for <u>or</u> against</li> <li>• Poll fails if 50% or more vote against</li> <li>• One vote per member regardless of number of properties or businesses</li> </ul>  |

# Notification and Polling (BIA Expansions)

| Current Code   | Proposed Amendments  |
|--|--|
| <ul style="list-style-type: none"><li>• Polling of both existing BIA and expansion area</li><li>• Poll fails if one-third of those entitled to notice <u>and</u> representing one-third of the taxes object (in either area)</li></ul> | <ul style="list-style-type: none"><li>• Polling of expansion area only</li><li>• Existing BIA required to agree by way of general membership meeting</li><li>• Must vote for <u>or</u> against</li><li>• Poll fails if 50% or more vote against</li><li>• One vote per member regardless of number of properties or businesses</li></ul> |

# Notification and Polling (repealing BIA)

| Current Code   | Proposed Amendments   |
|--|---|
| <ul style="list-style-type: none"> <li>• Contains process for reducing boundaries, splitting, and repealing a BIA</li> </ul>   | <ul style="list-style-type: none"> <li>• Options to reduce boundaries or split BIA removed</li> <li>• Original BIA must be repealed before consideration of smaller BIA</li> </ul>  |
| <ul style="list-style-type: none"> <li>• Poll to repeal by resolution of Board <u>or</u> request signed by persons who represent one-third of tax base</li> </ul>      | <ul style="list-style-type: none"> <li>• Poll to repeal by resolution of the membership at public consultation meeting called for that purpose <u>or</u> individual requests from members representing 50% of number of properties</li> </ul>   |
| <ul style="list-style-type: none"> <li>• Poll to repeal BIA passes if more than 50% of those entitled to notice <u>and</u> representing 50% of taxes agree.</li> </ul> | <ul style="list-style-type: none"> <li>• Minimum number of ballots required to validate poll</li> <li>• Lesser of 66% of total number of property owners or 200 ballots</li> <li>• Poll fails if 40% or more respond “no” to repealing the BIA</li> <li>• One vote per member regardless of number of properties or businesses</li> </ul> |
|  |   |

# Proxy Voting

## Current Code

- Members permitted to nominate in writing a non-BIA member to vote on their behalf at an AGM (voting by proxy)
- Currently no requirements or guidelines for use of proxies

## Proposed Amendments

- Proxies required to be submitted to BIA Office 5 days in advance with proof of BIA membership
- BIA Office to forward proxies to BIA 3 days prior to meeting
- Proxy required to submit ID before receiving voting card

# Board Eligibility and Composition

| Current Code  | Proposed Amendments   |
|---|---|
| <ul style="list-style-type: none"> <li>• Up to 20% of Board may be non-members</li> </ul>   | <ul style="list-style-type: none"> <li>• Non-members may serve on Committees but not on Board</li> <li>• Employee may represent Corporation</li> <li>• Existing non-members allowed to finish their term</li> </ul> |
| <ul style="list-style-type: none"> <li>• City of Toronto residency required (Public Appointments Policy)</li> </ul>   | <ul style="list-style-type: none"> <li>• Residency is not a requirement</li> </ul>  |
| <ul style="list-style-type: none"> <li>• 11 members including 3 Councillors and Mayor or designate (standard composition established by Council under item 2011.EX4.7)</li> </ul> | <ul style="list-style-type: none"> <li>• Membership sets size of Board</li> </ul>   |
| <ul style="list-style-type: none"> <li>• Board can expand at anytime</li> </ul>   | <ul style="list-style-type: none"> <li>• Board can only expand by resolution approved at AGM</li> </ul>   |

# Board Governance & Accountability

| Current Code   | Proposed Amendments   |
|--|---|
| <ul style="list-style-type: none"><li>• All BIAs required to adopt procedural by-law (58/71 have done so)</li><li>• Council required to approve procedural by-laws for all 71 BIAs</li></ul> | <ul style="list-style-type: none"><li>• Procedural by-law appended to Code and will serve as a minimum requirement, which BIAs must adopt.</li><li>• BIAs may add to it but may not conflict with it.</li><li>• Council not required to approve all 71 but will approve procedural by-law appended to Code.</li></ul> |
| <ul style="list-style-type: none"><li>• BIAs required to adopt HR and procurement policies</li></ul>   | <ul style="list-style-type: none"><li>• BIAs have six months to comply</li><li>• BIA Office to provide template to BIAs</li></ul>   |

# Board Governance & Accountability

| Current Code  | Proposed Amendments  |
|---|--|
| <ul style="list-style-type: none"><li>• BIAs required to adopt and maintain banking arrangements and sound business practices acceptable to CFO</li></ul> | <ul style="list-style-type: none"><li>• Board Treasurer required to prepare and present monthly financials to Board and submit to BIA Office</li><li>• BIAs required to submit financial statements, minutes and procedural by-law prior to City levying funds</li></ul>                         |
| <ul style="list-style-type: none"><li>• No explicit requirement for BIAs to operate in accordance with applicable laws and other City policies</li></ul>  | <ul style="list-style-type: none"><li>• Code explicit that BIAs must operate in accordance with all applicable law (COTA, MFIPPA, Municipal Conflict of Interest Act, and Code of Conduct for Members of Local Boards</li><li>• City staff to prepare user friendly summaries for BIAs</li></ul> |
| <ul style="list-style-type: none"><li>• Board restricted to appearing before OMB or similar tribunal without authorization from membership</li></ul>      | <ul style="list-style-type: none"><li>• BIA can not take position contrary to Council</li></ul>  |