



## STAFF REPORT ACTION REQUIRED

### New Municipal Code Chapter 19 – Business Improvement Areas

<b>Date:</b>	March 19, 2007
<b>To:</b>	Economic Development Committee
<b>From:</b>	Donald G. Eastwood, General Manager Economic Development, Culture and Tourism
<b>Wards:</b>	All
<b>Reference Number:</b>	P:\2007\Cluster A\EDCT\ECON DEV\ed0704-009

#### SUMMARY

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This report recommends the adoption of a new City of Toronto Municipal Code, Chapter 19 (“Chapter 19”) – “Business Improvement Areas” (“BIAs”), made necessary by the enactment of the City of Toronto Act, 2006 (the “Act”).

The new Chapter 19 will provide within one document a clear set of guidelines governing the establishment of BIAs and BIA activities, and will help ensure improved BIA administration, financial management, and accountability.

The new Chapter 19 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 a BIA.

It is intended that the new Code Chapter 19 shall apply to new BIAs to be created after the enactment of the Act, and to all existing BIAs previously established under the Municipal Act, 2001. To this end, it is recommended that Council dissolve all existing Boards of Management (“Boards”) and re-establish them as City Boards.

This report also recommends that Council delegate to the community councils the authority to establish new BIA Boards in order to streamline the appointment procedure for BIA Board members.

## RECOMMENDATIONS

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The General Manager of Economic Development, Culture and Tourism recommends that:

1. Council adopt a new City of Toronto Municipal Code, Chapter 19, “Business Improvement Areas” generally in accordance with Attachment No. 1; ← - - - - Formatted: Bullets and Numbering
2. Council dissolve all existing Business Improvement Area Boards, as listed in Attachment No. 2, and re-establish them as City boards under section 141 of the Act; ← - - - - Formatted: Bullets and Numbering
3. Council delegate to the appropriate community councils the authority to establish new BIA Boards following the designation of the BIA, unless the BIA is located within the boundaries of more than one community council, in which case new BIA Boards shall continue to be established by Council; ← - - - - Formatted: Bullets and Numbering
4. Municipal Code Chapter 27, Council Procedures, be amended to delegate to the community councils the authority to establish new BIA Boards unless the BIA is located within the boundaries of more than one community council; and ← - - - - Formatted: Bullets and Numbering
5. authority be granted to the City Solicitor to submit any bills required to enact the new Municipal Code Chapters 19 and to amend Municipal Code Chapter 27, generally in accordance with the report recommendations and Attachment No. 1 of this report, subject to any necessary refinements, including stylistic, format and organization, as may be identified by the City Solicitor and City Clerk, and any other bills required to give effect to these recommendations. ← - - - - Formatted: Bullets and Numbering

## FINANCIAL IMPACT

These recommendations will have no financial impact on the City.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

## ISSUE BACKGROUND

Prior to the enactment of the City of Toronto Act, the authority to establish BIAs and the regulations under which BIAs operate, were set out in Sections 204 – 215 of the Municipal Act, 2001. Additional processes and procedures respecting BIA operations currently exist in Municipal Code Chapter 19, “Business Improvement Areas.”

The Act allows the City to establish new BIA Boards as City boards, but does not include any provisions relating to how BIAs are to be designated or operated. Existing BIAs are

still governed by the Municipal Act until they are dissolved and re-established as City boards under the Act. It is necessary for Council to approve a new Chapter 19 as there is currently no process for establishing a new BIA or how they should operate.

An inter-divisional staff team, with representation from Finance, Legal and City Clerk's, was established to assist in the development of the proposed new Chapter 19. In addition, a focus group consisting of several BIA representatives and the Toronto Association of Business Improvement Areas (TABIA) was organized to provide comments on the proposed new Chapter 19.

## **COMMENTS**

### **Municipal Code Changes**

The City now has sixty-one BIAs, with several new BIAs and BIA expansions currently being considered. As BIAs are almost entirely funded through a special charge on commercial property owners and tenants in the area, it is important to ensure that BIAs are established and operated in an accountable, transparent, and responsible manner.

This report recommends adoption of a new Municipal Code Chapter 19, "Business Improvement Areas," which 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 a BIA. The result is a complete set of practices and procedures for BIAs within one document (Attachment No. 1).

This report also recommends that Council pass a by-law to dissolve all existing BIA Boards, as listed in Attachment No. 2, and re-create them as City Boards under the Act. Once dissolved and re-established as City Boards, they will be subject to the new Municipal Code Chapter 19.

Some of the more substantive changes proposed in the new Chapter 19 are discussed below.

Currently, BIA activities are restricted to improving municipally owned land and promoting the area as a business or shopping area. However, many BIAs would like to offer a broader range of services to its members, notably graffiti and poster removal from buildings. As this is technically considered an improvement to private property, the new Chapter 19 would need to expressly identify this as a BIA activity. Staff support this change as such a service can be deemed a public benefit as graffiti and postering detract from the beauty and liveability of the City. This activity will only be permitted to building facades visible from the street and provided the building owner consents.

Unlike the Municipal Act, 2001, the proposed new Chapter 19 does not permit proxy voting at BIA annual general meetings. Both City staff and many of the City's BIAs consider proxy voting, whereby a person could potentially collect many proxy votes from

BIA members and exert significant control at an annual general meeting, a destabilizing influence and a threat to the one-person-one-vote spirit under which BIAs operate.

The proposed new Chapter 19 also provides clarification with respect to the notification process to create new BIAs or alter the boundaries of existing BIAs. Unlike the Municipal Act, 2001, the provisions allow for a proposed BIA expansion to be rejected based solely upon objections received from either the existing BIA membership or from property owners and tenants within the proposed expansion area.

Further, the proposed Chapter 19 allows Council to approve minor BIA boundary alterations without undertaking the notification process. This provision only applies to very limited expansions, representing less than 5% of the commercial/industrial assessment value of the existing BIA, in cases where the property owner(s) and business tenant(s) in the proposed expansion area provide written consent, and the BIA's Board passes a motion to accept the expansion. The provision also applies to boundary alterations necessary to address errors in the original establishment of the BIA boundary, and to minor boundary alterations that involve the merging or subdivision of properties.

The proposed Chapter 19 allows for some flexibility with respect to Board quorum, while avoiding situations whereby large BIA Boards adopt unsuitably low quorum figures. Quorum will be permitted to be no fewer than one-half the number of Board members less one.

In addition, the proposed Chapter 19 prohibits BIA Boards from participating in or seeking party status at Ontario Municipal Board and other hearings. As "agents" of the City, BIA Boards act on the City's behalf, and accordingly, cannot take a position that may be contrary to or inconsistent with the City's interests. Individual members of BIAs or BIA Boards can participate in OMB and other hearings as private citizens or as members of other organizations or associations, provided they do not claim to represent the BIA or its membership and expend no BIA funds in the process.

### **Delegation of Board Establishment to Community Council**

In addition to these Municipal Code changes, this report recommends that where a BIA is located within just one community council, Council delegate to the appropriate community council the authority to establish new BIA Boards. The establishment of new BIA Boards is currently a responsibility of Council, and the appointment of individuals to serve on these Boards, is a responsibility recently delegated to the Community Councils for BIAs located within the boundaries of only one community council.

Under this regime, staff must prepare two separate reports: one to Council to establish the Board and another to the appropriate Community Council to appoint the Board members, representing a duplication of effort for staff and creating an unnecessary delay for BIAs. This proposed delegation will streamline the establishment of BIA Boards.

Council shall retain the authority to approve the designation of new BIAs, and to appoint Board members and establish Boards when a BIA is located within the boundaries of more than one community council.

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## **SIGNATURE**

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Donald G. Eastwood, General Manager  
Economic Development, Culture and Tourism

## **ATTACHMENTS**

- Attachment No. 1 - Proposed Amended Municipal Code Chapter 19 - Business Improvement Areas
- Attachment No. 2 - List of Existing BIA Boards of Management

## **DRAFT MUNICIPAL CODE – CHAPTER 19**

### **19-1 Definitions**

ACT – The *City of Toronto Act, 2006*.

BOARD – A Board of Management for a business improvement area.

BUSINESS IMPROVEMENT AREA – An area designated as an improvement area by a by-law passed under the *City of Toronto Act, 2006*.

BUSINESS PROPERTY CLASS – The commercial property classes and the industrial property classes within the meaning of subsection 275 (1) of the *City of Toronto Act, 2006*.

CHIEF FINANCIAL OFFICER – The Deputy City Manager & Chief Financial Officer for the City.

CLERK – The Clerk of the City.

COMMUNITY COUNCIL – A Council Committee whose members represent the wards from a particular geographic area. The community councils are set out in Chapter 27, Council Procedures, of the Municipal Code.

GENERAL MANAGER – The General Manager of the Economic Development, Culture and Tourism Division for the City or his or her designate.

HOLIDAY – New Years Day, Good Friday, Easter Monday, Victoria Day, Canada Day, August Civic Holiday, Labour Day, Thanksgiving Day (Canada), Christmas Day, Boxing Day, or any other day designated by City Council as a designated holiday.

MANAGEMENT LETTER – Written notification from the Auditor of the BIA identifying internal control and other financial issues that need to be addressed by the Board.

POLITICAL PUBLICATION – Any newspaper, newsletter, booklet, electronic publication, or material published by or on behalf of a politician, political group or party but does not include any weekly, monthly or community newspaper that is not published by or on behalf of a political group or party, but which may publish a political advertisement or political opinion.

QUORUM – The number of Board members to be present at a meeting to legally conduct business at the meeting.

## 19-2 Application

This chapter applies to a Board established under 19-5 or set out in the following list:

Albion/Islington BIA	Long Branch BIA
Bloor Annex BIA	Mimico by the Lake BIA
Bloor by the Park	Mimico Village BIA
Bloor Street BIA	Mirvish Village BIA
Bloor West Village BIA	Mount Dennis BIA
Bloorcourt Village BIA	Old Cabbagetown BIA
Bloordale Village BIA	Old Queen Street
Bloor-Yorkville BIA	Pape Village BIA
Chinatown BIA	Parkdale Village BIA
Church-Wellesley Village BIA	Queens Quay Harbourfront
College Promenade BIA	Riverside District BIA
Corso Italia BIA	Roncesvalles Village BIA
Danforth Village BIA	Rosedale Main Street BIA
Dovercourt Village BIA	Shepard East Village BIA
Downtown Yonge BIA	St. Clair Avenue West BIA
Dundas West	St. Clair Gardens BIA
Eglinton Hill BIA	St. Lawrence Market Neighbourhood BIA
Emery Village BIA	The Beach BIA
Fairbank Village BIA	The Danforth BIA
Forest Hill Village BIA	The Eglinton Way
Gerrard India Bazaar BIA	The Kingsway
Greektown on the Danforth BIA	Upper Village BIA
Harbord Street BIA	Uptown Yonge BIA
Hillcrest Village	Village of Islington BIA
Junction Gardens BIA	West Queen West BIA
Kennedy Road BIA	Weston Village BIA
Knob Hill Plaza BIA	Wexford Heights BIA
Korea Town	Wychwood Heights BIA
Lakeshore Village BIA	Yonge Lawrence Village BIA
Liberty Village BIA	York Eglinton BIA
Little Italy BIA	

## 19-3 Designation of a business improvement area

Council may pass a by-law to designate an area as a business improvement area and, unless a business improvement area is located within the geographic area of more than one community council, community council, under delegated authority, may establish a Board:

- A. to oversee the improvement, beautification and maintenance of municipally-owned land, buildings and structures in the area beyond City standard levels provided at the expense of the municipality generally;
- B. to maintain business improvement area-initiated streetscaping capital assets within the business improvement area;
- C. to promote the business improvement area as a business, employment, tourist or shopping area;
- D. to offer graffiti and poster removal services, respecting building facades visible from the street, to member property owners who provide written consent; and
- E. to undertake safety and security initiatives within the business improvement area.

**19-4 Limitations**

A Board shall not:

- A. spend any money unless it is included in the budget approved by Council or in a reserve fund, except that the Board may spend unexpected revenues received subsequent to the approval of the annual budget by Council provided the Board reports on such revenue and expenditure variances at the annual general meeting and through the audited financial statement;
- B. incur any indebtedness extending beyond the current year without the prior approval of Council;
- C. borrow or lend money;
- D. offer or provide support to political candidates or political parties;
- E. advertise or pay for advertisements in any Political Publication;
- F. participate in or seek party status in any board, tribunal, committee, hearing or other matter, including, without limitation, those of the Ontario Municipal Board, the Committee of Adjustment or the Alcohol and Gaming Commission of Ontario unless required by law; and
- G. make or fund improvements to private property, with the exception of graffiti and poster removal initiatives as per 19-3 D.



### **19-5 Board of Management Established**

- A. A Board shall be established for each business improvement area designated by a by-law, and the name of each Board shall be “Board of Management for the (inserting the name set out opposite the by-law) Business Improvement Area.”
- B. A Board is a city board and is an agent of the City only for the purposes set out in this chapter.

### **19-6 Appointment of Directors**

- A. (1) The directors of a Board shall be appointed under delegated authority by the community council within whose geographic area the business improvement area is located.  
  
(2) If a business improvement area is located in the geographic area of more than one community council, Council shall appoint the directors.
- B. A Board shall be composed of,
  - (1) one or more members of City Council; and
  - (2) the remaining directors selected by a vote of the membership of the business improvement area. A maximum of 20% of the Board may be non-members of the business improvement area, provided such non-members are nominated by a member of the business improvement area.
- C. Each Board shall consist of the number of directors as set out opposite the name of its business improvement area in Schedule A at the end of this chapter.
- D. The term of the directors of a Board is the same as the term of the Council in office at the time of their appointment.
- E. Each director shall hold office from the time of his appointment until a successor is appointed, as long as the director continues to be qualified.
- F. Each director is eligible for reappointment on the expiration of the term of his office.

### **19-7 Elections of nominees; voter eligibility**

- A. Nominees for appointment to a Board for existing business improvement areas are to be elected at annual general meetings of the business improvement area membership held in Council election years.
- B. The members of newly formed business improvement areas shall nominate Board

members at their annual general meetings following the adoption by Council of the business improvement area designating by-law.

- C. A maximum of one Board nomination per assessed property and one Board nomination per business is allowed, unless alternate provisions are established by the by-law appointing the Board members.
- D. Subject to the qualification requirements in 19-5, all commercial or industrial property owners and commercial or industrial business tenants, or the designates of the owners or tenants, may stand for Board nomination.
- E. Each member of the business improvement area is entitled to a single vote per question or motion at business improvement area general membership meetings, regardless of the number of properties that the member may own or lease in the business improvement area.
- F. Ownership of properties.
  - (1) Where a person is the sole owner of more than one property within the business improvement area, or is the sole owner of more than one corporation that owns property within the business improvement area, the person and the corporations solely owned by that person shall have a total of only one vote, regardless of the number of properties owned by that person and the different corporations solely owned by that person.
  - (2) Where a person is the sole owner of a property and joint owner of one or more additional properties within the business improvement area, one vote is given for the property owned by that person alone and one vote is given for each jointly-owned property, provided the co-owners in each case are different persons and they or their representatives attend the meeting where the vote is held.
  - (3) Where a person is the sole owner of a corporation and part owner of different corporations that own property within the business improvement area, one vote is given for the corporation solely owned by that person and one for each jointly-owned corporation, provided the co-owners of each corporation are different persons and they or their representatives attend the meeting where the vote is held.
- G. A member of a business improvement area may nominate in writing one individual to vote on behalf of the member. The person nominated must not be a member of the business improvement area.

### **19-8 Officers**

Each Board shall elect a Chair and Vice-Chair, Secretary and Treasurer and other officers from its Board members as it may deem necessary to properly conduct the business of the Board, as soon as possible after its members are appointed.

### **19-9 Refusal to appoint**

Council may refuse to appoint a person selected by the members of a business improvement area, in which case Council may leave the position vacant or direct that a meeting of the members of the business improvement area or the Board be held to elect or select another candidate for Council's consideration.

### **19-10 Board Vacancies, Replacements, Additions**

- A. If a Board vacancy occurs for any cause, a person may be appointed to fill the vacancy for the unexpired portion of the term and the appointed person is not required to be a member of the business improvement area.
- B. If a Board resolves to seek the removal of a member from the Board or the appointment of a replacement or additional member to the Board, it shall give to the General Manager, signed minutes of the meeting at which the vote was held on this matter, and the General Manager shall report to the appropriate community council or Council, as the case may be.

### **19-11 Meetings; records**

- A. A Board shall hold at least four meetings each year, including the annual general meeting to which all members of the business improvement area shall be invited.
- B. A Board shall keep proper minutes and records of every meeting of the Board and shall forward signed, original copies of the minutes and records to all members of the Board and the City's Business Improvement Area Office.

### **19-12 Quorum**

- A. A majority of the members of a Board constitutes a quorum of the Board, unless the appropriate community council or Council, as the case may be, approves an alternate quorum figure which shall not be less than one-half the Board membership less one.
- B. A member of Council appointed to a Board shall not be included for the purpose of determining what constitutes a quorum of the Board.
- C. A member of Council attending a meeting of a Board may be counted in order to achieve quorum.

### **19-13 Annual general meeting; notice**

- A. Notice of the annual general meeting must include the meeting agenda and proposed budget.
- B. A Board's complete audited financial statements, with balance sheet and revenue and expenditure statements, must be available at the annual general meeting.
- C. The general membership, at the annual general meeting, shall recommend an auditor for Council's consideration, to prepare the audited financial statement for the following year.
- D. A Board shall supply the Business Improvement Area Office with the notice of the annual general meeting and any accompanying materials, at least 15 business days before the date of the annual general meeting.
- E. The City shall send the notice of the annual general meeting by prepaid mail at least 10 business days before the date of the meeting to business improvement area property owner members.
- F. A Board shall distribute notices at least 10 business days before the date of the meeting to business improvement area tenant members and Council members sitting on the Board.

### **19-14 Start-up process**

The following process shall be undertaken, with the assistance of City staff, in all areas considering the establishment of a new business improvement area or a change in the boundaries of an existing business improvement area, provided the change in boundary is not considered minor as per 19-16 B and C, or before the processing of a notice of the intention of Council to pass a by-law designating a business improvement area:

- A. Local businesses and commercial or industrial property owners shall form a steering committee to define the desired boundary of the proposed business improvement area or the boundary extension of a proposed business improvement area expansion; develop and implement a strategy to communicate its intentions to establish a new business improvement area or expand an existing business improvement area; and set the date for one or more formal public information meetings.
- B. The steering committee shall hold informal sessions with area businesses and property owners before any formal public information meeting in order to confirm

the proposed business improvement area boundaries or boundary expansion, provide clarification and confirm preliminary interest in taking the next steps to establish a new business improvement area or expand the boundaries of an existing business improvement area.

- C. The General Manager shall send notification of the formal public meeting(s) to commercial and/or industrial property owners 10 business days in advance of the meeting, and the steering committee shall distribute notices to all commercial and/or industrial tenants 10 business days in advance of the meeting(s).
- D. After holding one or more formal public meetings and determining interest in proceeding with a change in the boundaries of an existing business improvement area or the establishment of a new business improvement area, the steering committee shall submit a letter, signed by at least two steering committee members, to the General Manager requesting that Council enact a by-law to change the boundaries of an existing business improvement area or to establish a new business improvement area.
- E. The letter shall confirm that the work and consultation required under Subsections A and B have been carried out and shall identify the boundaries of the proposed business improvement area.

#### **19-15 Business Improvement Area Membership**

Members of a business improvement area consist of:

- A. 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 such property; and
- B. 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 such property, provided that the recent purchasers produce evidence of property ownership satisfactory to the Chief Financial Officer.

#### **19-16 Changes to boundary**

- A. Council may alter the boundaries of a business improvement area and the Board for that business improvement area is continued as the Board for the altered area.
- B. Notwithstanding 19-17, the City is not required to give notice of minor boundary expansions that represent an increase of total commercial/industrial property assessment value of less than 5% of the existing assessment value of properties within the existing business improvement area boundary. Council must receive a written request for such boundary expansion from the business improvement area

Board and written consent from all property owners and business tenants within the expansion area.

- C. Notwithstanding 19-17, the City is not required to give notice of minor boundary alterations that involve properties that have been included or excluded from a business improvement area as a result of error, or for minor boundary alterations that involve a merging of formerly separate properties or subdivision of single properties that result in a portion of such lands being included in a business improvement area and a portion excluded.

**19-17 Notice**

Before passing a by-law under subsection 19-3, 19-16, 19-32 B, or 19-33, notice of the proposed by-law shall be sent by prepaid mail to the Board of the business improvement area, if any, and to every person who, on the last returned assessment roll, and any update from the Municipal Property Assessment Corporation or identified within the Municipal Connect system, and/or evidence of ownership changes received from taxpayers or taxpayer's representatives, is assessed for rateable property that is in a business property class which is located,

- A. where the business improvement area already exists, in the business improvement area and in any geographic area the proposed by-law would add to the business improvement area; and
- B. where a new business improvement area would be created by the proposed by-law, in the proposed business improvement area.

**19-18 When notice received**

- A. A person who receives a notice under 19-17 shall, within 30 days of the date of the notice, give a copy of the notice to each tenant of the property to which the notice relates, who is required to pay all or part of the taxes on the property.
- B. A person who receives a notice under 19-17 shall, within 60 days of the date of the notice, give the Clerk a list of every tenant described in 19-18 A and the share of the taxes that each tenant is required to pay and the share that the person is required to pay.

**19-19 Determining Tenancy for Notification**

- A. In determining whether a person is a tenant or not, the Clerk shall only accept a list provided under 19-18 B, and the determination of the Clerk is final.
- B. Only those tenants identified in the lists submitted under 19-18 B shall be eligible to submit a written objection or consent under 19-20.

## **19-20 Objections and Consents**

- A. Council shall not pass a by-law to establish a new business improvement area if:
- (1) written objections in the form required by the Clerk are received within 60 days of the date of the notice;
  - (2) the objections have been signed by at least one-third of the total number of persons entitled to notice under 19-17 and 19-18; and
  - (3) the objectors are responsible for at least one-third of the taxes levied for purposes of the general local municipal levy on rateable property in all business property classes in the business improvement area.
- B. Subject to 19-16C, Council shall not pass a by-law to expand a business improvement area if:
- (1) written objections in the form required by the Clerk are received within 60 days of the date of the notice;
  - (2) the objections have been signed by at least one-third of the total number of persons entitled to notice under 19-17 and 19-18 in the existing business improvement area, and the objectors are responsible for at least one-third of the taxes levied for purposes of the general local municipal levy on rateable property in all business property classes in the existing business improvement area; or
  - (3) the objections have been signed by at least one-third of the total number of persons entitled to notice under 19-17 and 19-18 in the geographic area the proposed by-law would add to the existing business improvement area, and the objectors are responsible for at least one-third of the taxes levied for purposes of the general local municipal levy on rateable property in all business property classes in the geographic area the proposed by-law would add to the existing business improvement area.
- C. Council shall not pass a by-law to divide a business improvement area, thereby creating two new business improvement areas if:
- (1) written objections in the form required by the Clerk are received within 60 days of the date of the notice;
  - (2) the objections have been signed by at least one-third of the total number of persons entitled to notice under 19-17 and 19-18 in either portion of the proposed divided business improvement area;

- (3) the objectors are responsible for at least one-third of the taxes levied for purposes of the general local municipal levy on rateable property in all business property classes in either portion of the proposed divided business improvement area.
- D. Subject to 19-16C, Council shall only pass a by-law to reduce the size of a business improvement area if:
  - (1) written consents in the form required by the Clerk are received within 60 days of the date of the notice;
  - (2) the consents have been signed by at least 50 percent plus one of the total number of persons entitled to notice under 19-17 and 19-18;
  - (3) those consenting are responsible for at least one-half of the taxes levied for purposes of the general local municipal levy on rateable property in all business property classes in the business improvement area.
- E. Where the last day of the notice period falls upon a holiday, Saturday or Sunday, the notice period shall end on the next regular business day that is not a holiday.

**19-21 Withdrawal of objections and consents**

- A. If sufficient objections are withdrawn in writing within the 60-day period referred to in clause 19-20 A (1), B(1), and C(1) so that the conditions set out in clause 19-20 A (2) or (3), B (2) or (3), or C (2) or (3), no longer apply, Council may pass the by-law.
- B. If sufficient consents are withdrawn in writing within the 60-day period referred to in clause 19-20 D(1) so that the conditions set out in clause 19-20 D (2) or (3) no longer apply, Council shall not pass the by-law.

**19-22 Determination by Clerk**

- A. The Clerk shall determine whether the conditions set out in subsection 19-20 A, B, C, or D have been met and, if they have, shall issue a certificate affirming that fact.
- B. The General Manager shall report to Council on the certificate issued by The Clerk.
- C. The determination of the Clerk is final.



### **19-23 Re-Notification**

Where notification has been provided and sufficient objections received under 19-20 so that a by-law cannot be passed by Council, the City is not required to give notice under subsection 19-17 in response to a resolution or request for a period of two years after the last mailing of the notices.

### **19-24 Repeal of by-law**

- A. The City shall give notice in accordance with subsection 19-17 and 19-18 of a proposed by-law to repeal a by-law under subsection 19-3 if Council has received:
  - (1) a resolution from a Board requesting the repeal; or
  - (2) a request for the repeal signed by persons who are responsible for at least one-third of the taxes levied for purposes of the general local municipal levy on rateable property in all business property classes in the business improvement area.
- B. In order to determine what amount of taxes on a rateable property in the area that a person is required to pay, the Clerk will only accept a tenant list submitted by the property owner indicating the taxes paid by either, or both, the tenant(s) and the property owner. The property owner is required to submit such a list to the Clerk if requested by a tenant or tenants intending to sign a request for repeal as per 19-24 A(2).
- C. The City shall give the notice within 60 days after receiving the resolution or request.
- D. Council shall repeal the by-law under 19-3 if requests for the repeal are received by the Clerk within 60 days after the last day of mailing of the notices and,
  - (1) the requests have been signed by at least 50 percent plus one of the total number of persons entitled to notice under 19-17 and 19-18; and
  - (2) those who have signed the requests are responsible for greater than 50 percent of the taxes levied for purposes of the general local municipal levy on rateable property in all business property classes in the business improvement area.
- E. Council may repeal a by-law passed under section 19-3 on its own initiative without giving notice to a Board or to business improvement area members under 19-17 and 19-18.
- F. The repealing by-law must come into force on or before December 31 of the year in which it is passed.

- G. If sufficient requests are withdrawn in writing within the 60-day period referred to in 19-24 D so that either condition set out in that subsection no longer applies, Council is not required to repeal the by-law.
- H. The Clerk shall determine whether the conditions set out in 19-24 A(2) and 19-24 D have been met and, if so, shall issue a certificate affirming that fact.
- I. The determination by the Clerk is final.
- J. If the conditions of 19-24 D are not satisfied, Council is not required to give notice under subsection 19-24 A in response to a resolution or request for a period of two years after the last mailing of the notices.

**19-25 Effect of by-law**

A by-law passed under subsection 19-3, 19-16, 19-24 D, 19-32B and 19-33, is not invalid by reason only that:

- A. a person required to give a copy of a notice to a tenant under 19-18 A or other information to the Clerk under 19-18 B has not done so;
- B. the objections referred to in clause 19-20 A, B and C have not been signed by at least one-third of the total number of persons entitled to receive notice under 19-17 and 19-18 because a person required to give a copy of the notice under subsection 19-18 B has not done so; or
- C. the requests referred to in 19-24 D have not been signed by at least 50 percent plus one of the total number of persons entitled to notice under subsections 19-17 and 19-18 because a person required to give a copy of the notice under subsection 19-18 A has not done so.

**19-26 Procedural By-law**

- A. A Board shall, within 18 months of its establishment, prepare and adopt a procedural by-law for the business improvement area which governs the calling, place and proceedings of meetings.
- B. A Board shall adopt policies pertaining to the procurement of goods and services and the hiring of employees.

**19-27 Financial procedures and reports**

- A. A Board shall adopt and maintain only banking arrangements and sound business practices that are acceptable to the Chief Financial Officer and shall keep financial records and submit statements from time to time as the Chief Financial Officer may require.

- B. A Board's fiscal year is the calendar year.
- C. Individual business improvement area special charges, when billed by the Chief Financial Officer, shall be posted to separate business improvement area accounts.
- D. After Council's approval of a business improvement area's budget, the Chief Financial Officer shall remit 50 percent of the business improvement area's special charge, with the balance being remitted to the business improvement area no later than September 30<sup>th</sup>, but shall withhold an amount for insurance recovery costs and a provisional amount reserved for assessment and tax appeals from all amounts remitted.

**19-28 Annual Budget**

- A. A Board shall prepare a proposed annual budget for each fiscal year by the date and in the form required by the Chief Financial Officer and shall hold one or more meetings of the members of the business improvement area for discussion and adoption of an annual budget.
- B. A Board shall submit the budget to Council by the date and in the form required by the Chief Financial Officer and Council may approve it in whole or in part but may not add expenditures to it.

**19-29 Post City election budget**

If Council approves the proposed budget for a business improvement area for the year following a municipal election, the approval is subject to the following during the two-week period that starts upon the completion of the Council meeting:

- A. Within the two-week period, a Board may submit a letter to the General Manager requesting that the Board's final budget approval be withheld pending further consideration by the Board and the business improvement area general membership.
- B. If the two-week period passes without a formal letter being received from the Board, the business improvement area's budget approval will become final.

**19-30 Audited Financial Statement**

- A. A Board shall submit its audited financial statement for the preceding year for Council's approval by the date and in the form required by the Chief Financial Officer.
- B. Where the auditor for the business improvement area has identified audit or financial reporting related issues through the preparation of a Management Letter,

the Board shall submit a letter to the General Manager indicating how the Board intends to address the issues identified in the Management Letter.

**19-31 Funds to be raised**

Council shall annually raise the amount required for the purposes of a Board, including any interest payable by the City on money borrowed by it for the purposes of the Board.

**19-32 Special charge**

Council may raise the amount referred to in 19-31:

- A. by imposing a special charge upon rateable property in the business improvement area that is in a business property class; or
- B. by imposing a special charge upon rateable property in the business improvement area that is in a business property class and that, in Council's opinion, derives special benefit from the business improvement area, which special charge may be calculated using different percentages of the assessment for one or more separately assessed properties or categories of separately assessed properties in the class if the resulting special charge is equitable in accordance with the benefits that, in Council's opinion, accrue to the properties from the activities related to the business improvement area.

**19-33 Minimum and maximum charges**

Council may establish a minimum or maximum charge or both, expressed for one or more separately assessed properties or categories of separately assessed properties in a class, as:

- A. percentages of the assessed value of rateable property in the business improvement area that is in a business property class;
- B. dollar amounts; or
- C. percentages of a Board's annual budget.

**19-34 Effect of by-law**

When a by-law under 19-33 is in force:

- A. the amount of a charge levied in a year under 19-32 shall not, when calculated for the individual property in the class to which it applies, be less than or greater than the amount of the applicable minimum and maximum charge for the property established under the by-law; and

- B. if necessary for a fiscal year to raise the amount referred to in 19-31 because a minimum or maximum charge applies to one or more separately assessed properties or categories of separately assessed properties in the prescribed class, Council shall for the year adjust any charges applicable to the remaining individual properties or subclasses of properties in the class by adjusting the percentage or percentages of assessment established under 19-32 for those properties.

**19-35 Exclusion**

19-17 does not apply to an adjustment made under 19-34 B.

**19-36 Borrowings**

If only a part of money borrowed by Council in any year for the purposes of a Board is required to be repaid in that year or a subsequent year, only that part and any interest payable on the total amount shall be included in the special charge under this section in that year or subsequent year, respectively.

**19-37 Insurance**

A Board shall pay to the Chief Financial Officer in each year its apportioned share of the insurance cost to participate in coverage under the City's commercial general liability insurance policies and programs. This is the only insurance coverage provided to Boards by the City.

**19-38 Dissolution of board**

Upon the repeal of a by-law under subsection 19-3, the Board is dissolved and the assets and liabilities of the Board become the assets and liabilities of the City.

**19-39 Liabilities upon dissolution**

If a Board is dissolved and the liabilities exceed the assets assumed by the City, Council shall recover the difference by imposing a charge on all rateable property in the former business improvement area.

**19-40 Priority lien status**

Charges levied under this Chapter 19 have priority lien status and shall be added to the tax roll.

**19-41 Tenants**

For the purposes of 19-20 and 19-24, a tenant shall be deemed to be responsible for the part of the taxes that the tenant is required to pay under the tenant's lease or under Sections 337 and 338 of the Act.

**19-42 Translation**

With respect to 19-17 and 19-24, the Ward Councillor may, within ten days of receiving a copy of the notification, submit a written request to the General Manager that the notification be conducted in up to two languages spoken by at least three percent of the ward's population according to the most recent Statistics Canada Census.

Attachment No. 2 – List of Existing BIA Boards of Management

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1. Albion/Islington BIA
2. Bloor Annex BIA
3. Bloor by the Park
4. Bloor Street BIA
5. Bloor West Village BIA
6. Bloorcourt Village BIA
7. Bloordale Village BIA
8. Bloor-Yorkville BIA
9. Chinatown BIA
10. Church-Wellesley Village BIA
11. College Promenade BIA
12. Corso Italia BIA
13. Danforth Village BIA
14. Dovercourt Village BIA
15. Downtown Yonge BIA
16. Dundas West
17. Eglinton Hill BIA
18. Emery Village BIA
19. Fairbank Village BIA
20. Forest Hill Village BIA
21. Gerrard India Bazaar BIA
22. Greektown on the Danforth BIA
23. Harbord Street BIA
24. Hillcrest Village
25. Junction Gardens BIA
26. Kennedy Road BIA
27. Knob Hill Plaza BIA
28. Korea Town
29. Lakeshore Village BIA
30. Liberty Village BIA
31. Little Italy BIA
32. Long Branch BIA
33. Mimico by the Lake BIA
34. Mimico Village BIA
35. Mirvish Village BIA
36. Mount Dennis BIA
37. Old Cabbagetown BIA
38. Old Queen Street
39. Pape Village BIA
40. Parkdale Village BIA
41. Queens Quay Harbourfront
42. Riverside District BIA
43. Roncesvalles Village BIA
44. Rosedale Main Street BIA
45. Shepard East Village BIA
46. St. Clair Avenue West BIA
47. St. Clair Gardens BIA
48. St. Lawrence Market  
Neighbourhood BIA
49. The Beach BIA
50. The Danforth BIA
51. The Eglinton Way
52. The Kingsway
53. Upper Village BIA
54. Uptown Yonge BIA
55. Village of Islington BIA
56. West Queen West BIA
57. Weston Village BIA
58. Wexford Heights BIA
59. Wychwood Heights BIA
60. Yonge Lawrence Village BIA
61. York Eglinton BIA