

## **Proposed Amendments to Municipal Code Chapter 19: BIA Advocacy and Delegation of Authority to Establish Boards**

<b>Date:</b>	September 21, 2007
<b>To:</b>	Economic Development Committee
<b>From:</b>	Acting Director, Small Business and Local Partnerships
<b>Wards:</b>	All
<b>Reference Number:</b>	P:\2007\Cluster A\EDCT\ECON DEV\ed0710-034

### **SUMMARY**

---

This report responds to the following motion adopted by City Council at its meeting on June 11, 2007:

“The matter of advocacy by the BIA Boards of Management be included in the report related to limitations on BIAs to be submitted by the General Manager, Economic Development, Culture and Tourism.”

This report recommends that BIAs be authorized to advocate on behalf of the interests of the BIA without limitation, provided BIA Boards conduct a general meeting of the BIA to obtain approval from the membership with respect to the BIA’s participation in a hearing of the Ontario Municipal Board or other similar tribunal, including the approval of any related expenditures by the BIA.

This report also recommends two housekeeping amendments to Municipal Code Chapter 19, Business Improvement Areas, to delegate the authority to establish business improvement area boards of management to community council.

## **RECOMMENDATIONS**

---

### **The Acting Director of Small Business and Local Partnership recommends that:**

1. The introductory phrase of Section 19-3 of Municipal Code Chapter 19, “Purpose of a business improvement area Board,” be amended to read “Where Council passes a designation by-law, Council, or community council under delegated authority, may establish a Board under this Chapter.”;
2. Section 19-3 of Municipal Code Chapter 19, be amended to add Clause G that reads “To advocate on behalf of the interests of the business improvement area,”
3. Section 19-19 of the Municipal Code Chapter 19, “Limitations,” be amended to add Clause G that reads a Board shall not: “participate in a hearing of the Ontario Municipal Board or other similar tribunal unless the Board has conducted a general meeting of the membership to obtain approval to participate, and to get approval of any related expenditures”;
4. That Section 19-23 of Municipal Code Chapter 19, “Refusal to Appoint,” be amended to read “Council, or community council under delegated authority, may refuse to appoint a person selected by the members of a business improvement area, in which case Council, or community council under delegated authority, as the case may be, 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, or community council’s consideration”; and
5. Authority be granted to the City Solicitor to submit any bills required to amend Municipal Code Chapter 19 in accordance with recommendations No. 1 - 4 above.

### **Financial Impact**

The 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**

At its meeting on June 11, 2007, Council adopted a 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.

Council also deleted the proposed Clause F of Section 19-4 (now section 19-19), of the proposed Municipal Code Chapter 19, entitled “Limitations,” which set out restrictions on BIA advocacy-related activities, pending further consideration of the matter and report by the General Manager of Economic Development, Culture and Tourism in consultation with the City Manager’s Office and the City Solicitor.

Staff from the City Manager’s Office, Economic Development and Legal Services have met to discuss the matter of BIA advocacy. Staff also met with BIA representatives and the Toronto Association of BIAs (TABIA). This report proposes two amendments to the Municipal Code Chapter 19 regarding BIA advocacy.

At its meeting on June 11, 2007, Council also adopted By-law No. 635-2007 amending Chapter 27 of the Municipal Code to delegate authority to establish business improvement area boards of management to community councils after Council enacts a by-law to designate the business improvement area. The authority is only delegated with respect to those BIAs located within one community council area. Authority to establish BIA boards where the BIA is located within more than one community council area is retained by Council.

In order to maintain consistency with Chapter 27 of the Municipal Code with respect to delegated authority to establish BIA boards of management, two housekeeping amendments are proposed to Chapter 19 of the Code.

## **COMMENTS**

### **BIA Advocacy**

Since the establishment of the first BIA in the City, the ability to advocate on behalf of the interests of its membership and the needs of its area has been an essential component of a BIA’s “tool-kit” to maintain and enhance its area and to demonstrate the value of the BIA to its membership. To this end, the former Toronto Municipal Code Chapter 19 – Business Improvement Areas, adopted by Council in 2001, formally included “advocacy on behalf of the interests of its business improvement area” as a function and responsibility entrusted to BIA boards of management.

With the enactment of the City of Toronto Act, 2006, BIA Boards of Management became city boards, and as such, are agents of the City. Their previous status and relationship to City Council under the Municipal Act, 2001, was somewhat less defined. City staff have met with several BIAs and the Toronto Association of BIAs (TABIA) to discuss whether, as City Boards, restrictions should be established in the Municipal Code to limit BIA advocacy.

BIAs contend that they must be empowered to undertake advocacy activities without restriction in order to fully defend the interests of their membership, the economic viability of their area, and BIA investments in capital streetscape plans, physical enhancements and branding initiatives. In other words, defend the mandate and responsibilities BIAs have been assigned by Council.

Although technically city boards, they do not provide a service that the City would otherwise provide. They are membership organizations that bring private sector funding to work in partnership with the City to improve public lands and achieve neighbourhood beautification and economic development objectives. Advocating as a group on matters of shared interest is one of the benefits of membership in a BIA. Staff recognize the importance of advocacy to BIAs, especially as it pertains to a Board's ability to demonstrate its commitment to the area and to the BIA membership. Therefore, Economic Development staff propose an amendment to the Municipal Code that adds "advocacy on behalf of the interests of the business improvement area" as a responsibility of the BIA Board of Management.

In order to ensure that a BIA's participation in a hearing of the Ontario Municipal Board or other similar tribunals receives adequate consideration within the BIA, Economic Development staff also recommend Section 19-19 of the Municipal Code be amended to add a clause requiring BIA Boards to conduct a general meeting of the BIA to obtain approval from the membership with respect to a BIA's participation in a hearing of the Ontario Municipal Board or other similar tribunal, including the approval of any related expenditures by the BIA.

The amendments described above are appended to this report as Attachment No. 1. Further, staff will continue to work with BIAs to ensure they are actively engaged in City review and approval processes so their interests are taken into account prior to decisions being taken by Council. This will help avoid potential future conflicts at, for example, the Ontario Municipal Board.

### **Delegation of Authority to Establish BIA Boards**

At its meeting on June 11, 2007, Council adopted By-law No. 635-2007, amending Municipal Code Chapter 27, Council Procedures, and delegating authority to establish business improvement area boards of management to community councils after Council enacts a by-law to designate the business improvement area. The authority is only delegated with respect to those BIAs located within one community council area.

Authority to establish BIA boards where the BIA is located within more than one community council area is retained by Council.

In order for Municipal Code Chapter 19, Business Improvement Areas, to be consistent with the provisions of Chapter 27 regarding this delegation, it is recommended that the introductory phrase of Section 19-3 of Municipal Code Chapter 19 be amended to read “Where Council passes a designation by-law, Council, or community council under delegated authority, may establish a Board under this Chapter:”.

It is also recommended that Section 19-23 of Municipal Code Chapter 19, be amended to read “Council, or community council under delegated authority, may refuse to appoint a person selected by the members of a business improvement area, in which case Council or community council, as the case may be, 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 or community council’s consideration.”

## **CONTACT**

Mike Major, Director, Small Business and Local Partnerships  
Tel: 416-392-0623; Fax: 416-392-1380; Email: [mmajor@toronto.ca](mailto:mmajor@toronto.ca)

Nancy Autton, Manager, Governance Structures & Corporate Performance  
Tel: 416-397-0306; Fax: 416-696-3645; Email: [nautton@toronto.ca](mailto:nautton@toronto.ca)

## **SIGNATURE**

---

Mike Major, Acting Director,  
Economic Development, Culture and Tourism

## **ATTACHMENTS**

Attachment No. 1 – Amended Municipal Code Sections – Chapter 19

## **AMENDMENTS TO MUNICIPAL CODE CHAPTER 19, BUSINESS IMPROVEMENT AREAS**

### **§ 19-3. Purpose of a business improvement area Board.**

Where Council passes a designation by-law, Council, **or community council under delegated authority**, may establish a Board under this Chapter:

- A. To oversee the improvement, beautification and maintenance of municipally-owned land, buildings and structures in the business improvement 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 all member property owners who provide written consent, upon approval of the program by the general membership of the business improvement area;
- E. To undertake safety and security initiatives within the business improvement area;
- F. To undertake strategic planning necessary to address business improvement area issues; and
- G. To advocate on behalf of the interests of the business improvement area.**

### **§ 19-19. Limitations.**

A Board shall not:

- A. Spend any money unless it is included in the budget approved by Council or in a reserve fund, but the Board may spend unexpected revenues received subsequent to the approval of the annual budget by Council if the Board reports on these 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. Make or fund improvements to private property, with the exception of graffiti and poster removal initiatives under § 19-3D; or
- G. **Participate in a hearing of the Ontario Municipal Board or other similar tribunal unless the Board has conducted a general meeting of the business improvement area membership to obtain approval to participate, and to obtain approval of any related expenses.**

**§ 19-23. Refusal to appoint.**

Council, **or community council under delegated authority**, may refuse to appoint a person selected by the members of a business improvement area, in which case Council, **or community council as the case may be**, 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 **or community council's** consideration.