

Updates to Municipal Code, Chapter 19, Business Improvement Areas

Date: June 21, 2022

To: Economic and Community Development Committee

From: Interim General Manager, Economic Development and Culture

Wards: All

SUMMARY

In order to address the evolving needs and programming of Business Improvement Areas (BIAs), make technical or 'house-keeping' updates, and address feedback from BIAs, the City of Toronto Municipal Code, Chapter 19, Business Improvement Areas ("Chapter 19") is reviewed periodically by the Toronto BIA Office in consultation with Legal Services and City Clerks.

This report proposes a series of technical amendments to Chapter 19, including changes to the BIA polling process, clarification on electronic financial transactions, updates to some definitions, and corrections related to inconsistent terminology. These proposed amendments are identified in Attachment 1. A review of more substantive issues – including on the changing nature, scale and scope of BIAs – through further analysis, review and consultation, is proposed as a next step.

This report also responds to a Member Motion requesting staff to explore, as part of a Chapter 19 Municipal Code review, the opportunity for BIAs to use their funds to repair windows broken through acts of vandalism, similar to current provisions regarding graffiti and poster removals. In response, the Economic Development and Culture (EDC) division recommends a pilot project in the Danforth Mosaic BIA, which has been significantly impacted by ongoing window vandalism, to test the applicability of the idea.

RECOMMENDATIONS

The Interim General Manager, Economic Development and Culture recommends that:

1. City Council adopt amendments to Toronto Municipal Code, Chapter 19, Business Improvement Areas as set out in Attachment 1 to this report and subject to any

necessary minor substantive or stylistic refinements as may be identified by the General Manager, Economic Development and Culture and the City Solicitor.

2. City Council direct the General Manager, Economic Development and Culture, to conduct additional review and consultation on other issues impacting BIAs, including the potential for further amendments to the Municipal Code, Chapter 19, Business Improvement Areas, and report back by Q4 2023.

3. City Council authorize the Danforth Mosaic BIA to establish a one-year Broken Windows Pilot Program in 2023 in consultation with the Toronto BIA Office.

4. City Council direct the General Manager, Economic Development and Culture, to report on the results of the Danforth Mosaic BIA Broken Windows Pilot Program to City Council by Q4 2023.

FINANCIAL IMPACT

There are no financial implications resulting from the adoption of this report.

The proposed one-year pilot program to address street-facing broken windows due to vandalism in the Danforth Mosaic BIA will be funded through the BIA's Operating Budget. No City funding is required since the financing of Business Improvement Area Operating Budgets is raised by a special levy on the commercial and industrial properties within the respective BIA boundaries.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the information as presented in the Financial Impact Section.

DECISION HISTORY

At its meeting on December 16, 17 and 18, 2013, Council adopted amendments to Municipal Code Chapter 19, Business Improvement Areas, in relation to, amongst other matters, the use of BIA resources during an election, definitions, board and annual general meeting quorum, minor boundary expansions and financial procedures.
<http://www.toronto.ca/legdocs/mmis/2013/ed/bgrd/backgroundfile-63644.pdf>

On July 4, 2017, City Council adopted amendments to Chapter 19 in relation to various issues, including clarity respecting Business Improvement Area membership, voter eligibility as well as minor adjustments to Business Improvement Area boundaries and board of management procedures and practices, amongst others.
<https://www.toronto.ca/legdocs/mmis/2017/ed/bgrd/backgroundfile-103855.pdf>

On May 11, 2022, City Council requested the General Manager, Economic Development and Culture to report back to the Economic and Community Development

Committee on the potential to expand the scope of the authorities granted to BIAs to include making contribution for the cost of repairs to windows broken through acts of vandalism.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.MM43.41>

COMMENTS

City of Toronto Municipal Code Chapter 19 establishes rules for the governance and operation of the City's BIAs, including the establishment of new BIAs, activities BIAs are permitted to undertake, and the appointment of board directors. The amendments to Chapter 19 proposed in this report were developed in consultation with BIA representatives and the Toronto Association of Business Improvement Areas (TABIA) during a meeting in February 2022. Separate meetings were held with representatives of employment areas' BIAs and larger downtown core district BIAs. A number of the issues raised in these meetings concern broader and more substantive issues that reflect the changing nature, scale and scope of BIAs that will require further analysis, review and consultation. A report will be brought forward for Council's consideration in Q4 2023 and will focus on the growing complexity and different needs and challenges of the existing 84 BIAs in Toronto.

Polling Process

Chapter 19 sets out the steps required to establish a new BIA, expand an existing BIA, or rescind a BIA. Each of these scenarios requires extensive consultation with the proposed and existing BIA members. In the case of a proposed BIA, outreach is led by a steering committee, with support of the BIA Office. Where an existing board wishes to expand BIA boundaries, or repeal its status, similar membership outreach and consultation is required. In all three scenarios, subject to stakeholder support, a Council directed poll by a City Clerk is required before the results are determined.

The prescribed pre-poll consultation ensures that prospective BIA members are made aware of the proposed BIA or BIA expansion; are informed about what a BIA is, how it functions, and how it is funded; are given an opportunity to provide input on the focus and mandate of the BIA; and are educated on the start-up and polling process. Upon the successful completion of the pre-poll consultation, a report is brought to Council recommending that the City Clerk conduct a poll to determine if there are sufficient votes to establish, expand or rescind a BIA.

Minor Technical Amendments

Eliminating the poll validity benchmark: Assessment roll information is incomplete and does not fully represent the area under consideration, notably commercial and industrial tenants are not included in assessment roll information. As a result, the poll validity benchmark for the BIA polling process is not reflective of the population and therefore does not add value to the process. The recommendation in this report amends Chapter 19 to remove the threshold of ballots received.

Strengthening the pre-polling consultation process: Amendments to Chapter 19 will establish a new requirement that the proposed consultation process to start, expand or rescind a BIA must be approved by the General Manager, Economic Development and Culture. Under the current terms the consultation process is established by the Steering Committee with input from staff. The purpose of the new requirement is to establish a higher standard to ensure that all affected businesses and property owners are informed and have an opportunity to provide input before a BIA poll is conducted.

Clarity on acceptable ballots: Changes are proposed to clarify the language concerning polling and acceptable ballots.

Notification period for formal public consultation meetings (preceding a poll): A change to the notification period for the formal public consultation meeting is proposed from ten to fifteen days, to match other notification periods mentioned throughout the Chapter 19.

Definition of a majority: A change is proposed to the current '50 percent plus one' threshold for ballots at the formal public consultation meeting (preceding a poll) and the tabulation of eligible ballots submitted to the City Clerk for the purposes of establishing, expanding, or rescinding a BIA to 'more than 50 percent'. The 50 percent plus one phrasing has caused confusion.

Electronic banking: Due to pandemic related restrictions, some BIAs experienced difficulty obtaining in-person signatures authorizing financial transactions. Accordingly, Chapter 19 is proposed to be amended to extend signing authority to electronic banking and authorization for financial transactions. Two authorized directors will continue to be a requirement.

Gender-neutral definitions: The definition of both "Clerk" and "General Manager" and the reference to their designate or successor are proposed to be updated to be gender-neutral.

Conflicting definitions of "Representative" and "Person": The current definition of a "Representative" refers to a person appointed in writing by a Business Improvement Area member to stand for nomination to the Board on behalf of that member. This currently overlaps and partially conflicts with the definition of "Person", which includes a "legal representative". The term "Representative" will be replaced with "Non-Member Nominee" accordingly throughout Chapter 19.

Removing redundant list of BIA Boards: Clause 19-1.2.B. contains a list of boards to which the Chapter applies which duplicates the list contained in Schedule A. The Clause dates back to the original by-law establishing Chapter 19 and is no longer needed.

Broken Windows Impacts - Pilot Project

Through its adoption of MM43.41 at its May 11, 2022 meeting, Council requested staff to explore as part of a Chapter 19 Municipal Code review the opportunity to use BIA funds for repairs to windows broken through acts of vandalism. Currently, BIAs are able to offer graffiti and poster removal services respecting building façades on private property, which are visible from the street, based on the rationale that it is beneficial for the entire area to maintain well-kept street-facing façades. Beyond graffiti and poster removals, BIAs currently cannot make or fund repairs or improvements in any other form to private property.

A number of BIAs have recently observed an increase in vandalized windows in their area, including the Danforth Mosaic BIA, and have reported that insurance coverage is often either very costly or insufficient due to high deductibles. A business that files multiple insurance claims may face future insurance premium increases. Businesses filing claims in the same area may also cause premiums to rise. As many businesses continue to face significant financial challenges due to pandemic-related closures, the costly and often repeated repair of broken windows poses an additional financial burden. At present, BIAs have limited means to address this issue.

Based on consultation with Danforth Mosaic BIA and other affected BIAs, this report recommends a one-year Broken Window Pilot Program in 2023. The pilot program, similar to Graffiti Removal Programs now administered by many BIAs, would authorize the BIA the use of a portion of its approved annual budget in 2023 to fund the cost of repairs to vandalized windows in private property, provided that these windows are visible from the street. Key program parameters would include, but are not limited to: approval of the pilot program by the BIA's general membership, including an upset program budget, development of program criteria that ensure equal access to all BIA members, a maximum dollar value of broken window repair services available to members that meet the program criteria, and terms and conditions between the BIA and impacted members. Program details would be developed in conjunction with the City's BIA Office, with administration of the program undertaken by the Danforth Mosaic BIA. Staff will report back on the results of this pilot by Q4 2023.

Conclusion

This report addresses various technical amendments to City of Toronto Municipal Code, Chapter 19, as well as a consideration of a Member Motion. The proposed technical amendments would add further clarity to Chapter 19. Implementation of the Broken Window pilot in the Danforth Mosaic BIA would allow the testing of the applicability of the idea to expand the authority of BIAs to address vandalism. The General Manager, Economic Development and Culture, will report back on further review and consultation on the evolving scope and mandate of BIAs, including the results of the Danforth Mosaic Broken Window Pilot Program by Q4 2023.

CONTACT

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SIGNATURE

Cheryl Blackman, Interim General Manager
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ATTACHMENTS

Attachment 1 – Proposed Amendments to Toronto Municipal Code, Chapter 19