

ARTICLE 1

Scope

The Municipal Act, specifically Sections 204-216, is the Act under which property owners and business people petition Hamilton City Council (“City”) to enact a by-law establishing an improvement area, its geographical boundaries and a Board of Management to which may be entrusted, subject to such limitations as the by-law provides, the administration of the organization hereafter known as the “B.I.A.”. The B.I.A. is a corporation established by the City. Attached to this document is a copy of the Municipal Act, Section 204-216 of the Municipal Act and, By-law No. 307278 dated 6 December 1978 designating the Dundas B.I.A. The following Constitution will take precedence over any conflicts between the aforementioned By-law and this Constitution.

Purpose and Objectives

The objective of the “B.I.A.” shall be to oversee the improvement, beautification and maintenance of municipally owned land, buildings and structures in the area beyond that provided at the expense of the municipality generally; and, to promote the area as a business or shopping area.

ARTICLE 2

General

- Section 1 In all instances, the B.I.A. shall operate in conformity with the provisions of the Municipal Act and the City by-laws.
- Section 2 The Board of Management of the B.I.A., with the input of the membership, may set general guidelines, rules and regulations above and beyond those provided under the Municipal Act but never in interference or contradiction with the Act. This constitution is intended to provide such further rules of procedure as are not specified in the Municipal Act or City by-laws in order that the functions of the B.I.A. may be performed in as fair and democratic a manner as possible.

ARTICLE 3

Eligibility for Membership

- Section 1 Every person who owns commercial/industrial property or operates a business within an area designated as a business improvement area is a member of the B.I.A. Each member is entitled to one vote regardless of the number of properties that the member may own or lease.
- Section 2 A member can appoint an individual to act as their nominee representing their business or property on the Board of Management.

ARTICLE 4

Board of Management

Section 1 All directors of the Board of Management are appointed by City Council.

- a) The Board of Management shall consist of a minimum of 5 directors and a maximum of 10 directors, as established by the Board from time to time.
- b) A quorum for conducting any meeting of the Board of Management shall consist of a majority of directors not directly appointed by the City. However, after missing 3 consecutive meetings, a member's position on the board of management would be suspended from what is required to constitute a quorum until the board can address the issue.
- c) The Board of Management shall have the following officers: Chair, Vice-Chair, Secretary/Treasurer, and Past President. There shall also be at least one member directly appointed by the City.

The officers be selected by the Board of Management at the first full board meeting in January following the Annual General Meeting at which Board members are appointed (coincides with term of Council). No officer of the organization may hold his/her office for more than two consecutive terms.

Section 2 Vacancies

The seat of a director of the Board becomes vacant when:

- a) A member is absent from Board meetings for three (3) consecutive regular meetings without reasonable cause. Upon a director failing to attend three (3) consecutive regular meetings without reasonable cause, the Board of Management shall send by prepaid mail, a notice to the director advising that upon a fourth (4th) failure to attend, the Board of Management shall recommend to the City that such director be removed from the Board of Management.
- b) Leave of Absence: Any member wishing a leave of absence from the Board of Management must give notice in writing stating the date they intend to resume their board duties. Resumption of duties must be anticipated within one year; otherwise a notice of resignation should be given.

- c) A board director resigns in writing to the Board of Management with a copy of the letter carbon copied to the appropriate City department.

Section 3 Appointment to the Board

In the event of a vacancy occurring on the Board of Management:

- a) The remaining directors of the Board may nominate for the City's consideration and appointment a director to fill the vacancy for the remaining portion of the term of office.
- b) In the event that the remaining directors of the Board no longer constitute a quorum, a membership meeting shall be called by the remaining directors of the Board for the purpose of nominating a director(s) for consideration and appointment by the City.
- c) The Board of Management shall notify the City as soon as any vacancy occurs and shall further notify it if and when a nomination is made by the B.I.A. for appointment to the Board of Management by the City.

Section 4 Term of Office

A member of the Board of Management's term of office is the same term as the Council of the City that appointed them but continues until their successors are appointed.

Section 5 Remuneration

- a) The members of the Board of Management shall receive no remuneration either directly or indirectly, for services rendered as a director of the Board of Management of the B.I.A., but may be reimbursed for out of pocket expenses incurred by them as a result of representing the B.I.A. at non-B.I.A. meetings, upon approval of the Board of Management.
- b) The above requirement does not pertain to the contracting of services with a Board member's business, by the Board, in order for the Board to have the preference of purchasing its services from B.I.A. members, provided business is shared fairly.
- c) A director who is in any way directly or indirectly interested in a contract or proposed contract with the B.I.A. shall disclose his or her interest to the Board. Unless otherwise provided by law, no such director shall vote on any resolution to approve any such contract.

Section 6 Responsibilities of the Board of Management

The Board of Management shall:

- a) Notify the City of those nominees for directorship to the Board of Management proposed by the membership for appointment.
- b) Manage and supervise the affairs of the B.I.A.
- c) Maintain liaison with the City through the appropriate City Department.
- d) On or before the first day of March in each year, submit its annual report for the preceding year to the City, including a complete audited and certified financial statement of its affairs, with balance sheet and revenue and expenditure statement. This section is subject to the requirements as set by the City from time to time, and shall mandate compliance with any notices from the City that require submitting the books and records of the B.I.A. to an auditor of their choosing and such deadlines as the City may require.
- e) Authorize all expenditures in accordance with the budget established for the current year after consultation with the membership and approved by the City.
- f) Report to the B.I.A.'s membership on its actions affecting the administration, activities and policies of the B.I.A. at all membership meetings.
- g) Designate a financial institution for the deposit of funds on behalf of the B.I.A.
- h) Determine the time and place of all B.I.A. meetings (except for committees) and have authority to call any special meetings it deems necessary.
- i) Notify the appropriate City department of all B.I.A. meetings. A representative of the City's staff shall be entitled to attend all meetings of the Board of Management, Committee meetings and all membership meetings, called for the purpose of carrying on the business of the B.I.A.
- j) In the event that both the Chair and the Vice-Chair are unable to attend a B.I.A. scheduled meeting, only those directors present at the scheduled meeting, providing that there is a quorum of the Board, shall select a presiding officer from that meeting.

Section 7 Board Directors and Officers Duties

The duties of the Directors and Officers of the Board of Management are as follows:

- a) Chair
 - i) Shall be the Chief Executive Officer of the B.I.A. and the only spokesperson authorized to speak publicly for the B.I.A. unless another Director is expressly delegated with this responsibility with Board approval.
 - ii) Shall preside over all meetings of the Board of Management and those of the membership, unless otherwise delegated.
 - iii) Shall be ex-officio member of all committees.
 - iv) Shall be one of no fewer than two signing officers for the B.I.A. contracts.
 - v) May be called upon to sign cheques.
- b) Vice-Chair
 - i) Shall exercise the duties of the Chair in the Chair's absence.
- c) Secretary
 - i) Shall record the minutes of all proceedings give all notices required to be given to members, be custodian of all books, records, correspondence, contracts and other documents belonging to the Board of Management of the B.I.A. unless otherwise delegated to the Executive Director subject to any requirements imposed by law.
- d) Treasurer
 - i) Shall receive and account for all monies of the B.I.A., keep on deposit at the B.I.A.'s bank all monies received, keep full and accurate accounts of receipts and disbursements; disburse all funds by cheque unless otherwise directed by the Board.
 - ii) Shall submit an up-to-date statement of receipts and disbursements at each regularly scheduled Board meeting. Upon approval by the Board of

Management the statement will be attached to the minutes at which they were approved.

- iii) Shall provide to the Board of Management an annual financial report, as required under the Municipal Act.
 - iv) May be called upon to sign cheques.
- c) Directors of the Board of Management
- i) May be asked to serve on a committee.
 - ii) Shall ensure that any committee, on which he/she is a member, acts within its mandate.
 - iii) Shall report to the Board of Management on the activities of the committees that he/she chairs.
 - iv) In the event that the chair of a committee is not a member of the Board of Management, and the chair of the committee does not wish to present the committee report himself/herself, a Director of the Board representing the committee shall be the committee spokesperson at the Board of Management meeting.

Section 8 Executive Committee

The Executive Committee, comprising the Chair, Vice-Chair, Secretary/Treasurer, and Past Chair, shall have the authority to act for the Board of Management in the intervals between Board Meetings on such matters as may be necessary to conduct the business of the B.I.A. provided that:

- a) The Executive Committee may proceed on the basis of the majority of votes from the Board of Management obtained by a phone poll, provided that the motion is to be confirmed formally at the next full Board meeting.
- b) A meeting of the Executive Committee shall be called by the Chair and a minimum of three members of the Executive Committee are required to be present for quorum.
- c) Minutes shall be taken at a meeting of the Executive Committee and attached to the minutes of the following Board of Management meeting.

ARTICLE 5

Committees of the Board of Management

Section 1 Formation

- a) All committees are established by the Board of Management and report only to the Board of Management.
- b) All committees shall comprise no fewer than three (3) members. At least one shall be a director of the Board of Management, other than the Chair, and at least two may be members of the B.I.A. The Chair of a committee shall be elected by the members of the committee from within their ranks.
- c) The chair of a committee may be a Director. The Chair of the Board of Management shall not chair any committees.

Section 2 Functions

- a) All committees are responsible for investigating, preparing plans, and recommending actions to the Board of Management within their mandate.
- b) Committees shall not have the authority to enter into a contract on behalf of the B.I.A. or commit the B.I.A. to any financial liability beyond its approved budget.
- c) Each committee shall report (preferably in writing) its activities to the Board of Management at each regularly scheduled Board meeting, either by the chair of the committee or by a Director of the Board representing the committee. Any written report is to be attached to the minutes of the Board of Management meeting at which it was presented.

ARTICLE 6

Meetings of Members

Section 1 General Meetings

- a) There shall be at least one (1) general meeting in each calendar year.
- b) Unless otherwise provided by the Municipal Act, 2001, notice of all general membership meetings shall be hand-delivered or sent by prepaid mail to each member no less than fifteen (15) days prior to the meeting. The notice to be mailed to the address last provided by the member to the Secretary or,

where no address is provided, to the property address of the owner(s) indicated on the last municipal assessment roll.

- c) Notice of the meeting shall include the formal agenda. New business may be received from the floor after the formal agenda has been completed.
- d) All general membership meetings properly called shall be held on the date and time for which they are called.
- e) There shall be no proxy voting unless otherwise provided under Section 204(7) and (8) of the Municipal Act, 2001 as follows:

Sub-section (7) "A corporate member of an improvement area may nominate in writing one individual to vote on behalf of the corporation".

Sub-section (8) "...one individual may be nominated for voting purposes by two or more corporations that are members of an improvement area".

- f) Quorum of a General Meeting consists of the majority of those members present at the meeting duly called.
- g) No error or accidental omission in giving notice of any meeting of members shall invalidate such meeting or make void any proceedings taken at such meeting.
- h) No error or omission in giving notice of any annual or special meeting or any adjourned meeting of the members of the B.I.A. shall invalidate any resolution passed or any proceedings taken at any meetings of members.
- i) No omission to give any notice to any member, director or officer, or the non-receipt of any notice by any member, director or officer, nor error in any notice not affecting the substance thereof shall invalidate any action taken at any meeting held pursuant to such notice or otherwise founded thereon.

Section 2 Special Meetings of the Membership

- a) The Board of Management has authority to call any special membership meeting it deems necessary.
- b) Upon written petition by 33% of the members of the B.I.A. stating a cause or concern, which shall be considered as the agenda of the meeting, the Board of Management shall call a special meeting to deal with the cause or concern in

question within thirty (30) days of reception of the petition by the Secretary of the Board of Management.

ARTICLE 7 Meetings of the Board of Management

- Section 1
- (a) The Board shall regularly meet to conduct the business of the Board, no less than 14 times per year, as established by the Board. The Secretary shall notify all Directors of the date and time of each meeting at least 7 days in advance. Notwithstanding the foregoing, in the event of a special meeting of the Directors, the Secretary shall provide such notice as is reasonable in the circumstances.
 - b) At regularly scheduled Board of Management meetings, any member of the membership may attend, ask to be recognized by the Board of Management's Chair and speak on any items on the agenda or request new business to be placed on a future agenda. However, they shall not vote on any items on the agenda.
 - c) Upon written petition of any four (4) directors of the board, stating a cause or concern, which shall be considered as the agenda of the meeting, the Chair shall call a Board of Management meeting, to deal with the cause or concern in question within fifteen (15) days of reception of the petition by the Secretary of the Board of Management.
 - d) The Board may limit the time for depositions or presentations prior to the commencement of any meeting.
 - e) No error or accidental omission in giving notice of any meeting of directors shall invalidate such meeting or make void any proceedings taken at such meeting.
 - f) No omission to give any notice to any member, director or officer, nor error in any notice not affecting the substance thereof shall invalidate any action taken at any meeting held pursuant to such notice or otherwise founded thereon.
 - g) If all directors of the Board of Management consent, a meeting of directors may be held by means of such telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously and a director participating in such a meeting by such means is deemed to be present at the meeting.
 - h) A resolution in writing, signed by all the directors entitled to vote on that resolution at a meeting of directors or committee

of directors, is as valid as if it has been passed at a meeting of directors or committee of directors. A copy of every such resolution shall be kept with the minutes of the proceedings of the directors or committee of directors.

Section 2 Sub-Committee Meetings

- a) A sub-committee shall meet as often as its members deem necessary to perform the committee's mandate.
- b) A sub-committee shall establish a time and place suitable to the majority of its members for the holding of its regular meetings.
- c) A sub-committee shall keep accurate records of its activities, including minutes, attendance list and agendas, or may report orally to the Board of Management on these matters to be recorded by the Secretary in the minutes. These documents to be attached to the minutes of the Board of Management meeting at which they are presented.

ARTICLE 8

Annual Budget

Section 1 An annual budget prepared by the Board of Management shall be presented at a membership meeting called for this purpose for review and input from the membership.

Section 2 A copy of the proposed budget must be included with notice of a budget meeting if available and if not shall be available at the membership meeting.

Section 3 After adoption of the annual budget by the Board of Management the proposed budget shall be submitted to the City for approval.

Section 4 The allocation of funds may be made by the Board of Management in accordance with the budget upon approval by the City.

ARTICLE 9

General Expenditures

Section 1 All monies spent from the B.I.A. account, shall be within the budgeted provisions and spent only for the benefit of the B.I.A. members businesses. Nothing precludes an individual member from donating their own funds to increase the value of improvements carried out in the vicinity of their business provided the proposed donation is included in the budget or revised budget for the project approved by Council.

ARTICLE 10

Rules of Order

Section 1 In the absence of rules in this constitution, the proceedings of the B.I.A. shall be in accordance with the Municipal Act, 2001 and shall be conducted as set out in Bourinot's Rules of Order.

ARTICLE 11

The three officers of the organization (Chair, Vice Chair, and Secretary/ Treasurer) plus one other board member, as determined from time to time, will be the signing officers for the organization.

Banking

Section 1 The designation of a financial institution for the deposit of funds on behalf of the B.I.A., is the responsibility of the Board of Management.

Section 2 The disbursement of funds shall be by cheque unless otherwise provided by the Board of Management.

Section 3 All cheques shall bear the signatures of two (2) signing officers.

ARTICLE 12

Contracts

Section 1 All B.I.A. contracts are the responsibility of the Board of Management.

Section 2 To enter into a contract, a resolution thereof approved by the Board of Management shall be required to be entered in the minutes of a Board of Management meeting and a copy of the contract is to be attached to the minutes of that meeting.

Section 3 Once approved, a contract shall bear two (2) B.I.A. official signatures, one (1) of which shall be the Chair of the Board of Management and one other signing officer.

ARTICLE 13

Proxy Voting

There shall be no proxy voting of any kind at meetings of the Board of Management or at meetings of the Board with the Membership unless otherwise provided by Section 204 (7) of the Municipal Act, 2001.

ARTICLE 14

Elections

- Section 1 The Board of Management shall conduct elections for membership on the Board of Management as part of the Annual General Meeting in a City Council election year for the purpose of providing City Council with the opinion of the B.I.A. on Council's appointment of members to the Board of Management.
- Section 2
- a) The list of elected nominees for the Board of Management chosen at the Annual General Meeting shall be forwarded to the City for consideration in appointing the new members of the Board of Management.
 - b) The newly appointed Board of Management shall assume their responsibilities in accordance with their appointment by City Council. The previous Board of Management continues in office until the new Board of Management takes office following City appointment.

ARTICLE 15

Voting at Meetings

- Section 1 At each meeting with the membership a member may cast one (1) vote on each motion.
- Section 2 The Chair of the Board or of a Committee has the right to vote at all meetings of the Board or Committee of which he/she is the Chair.

ARTICLE 16

Amendments

- Section 1 This Constitution may be amended by majority vote at a meeting of the Board of Management.
- Section 2 The amendment shall be effective only after it has been circulated to the membership along with notice that the amendment shall take effect if no objection is received from a member by the Secretary within ten (10) days of the notice being given.
- Section 3 If an objection is received, the amendment must be confirmed by majority vote at a General Meeting of the B.I.A.