



**The Municipal Corporation of the
Town of Fort Erie**

BY-LAW NO. 183-07

**BEING A BY-LAW TO ADOPT OPERATING GUIDELINES FOR
BUSINESS IMPROVEMENT AREAS**

WHEREAS Sections 204-215 of the *Municipal Act, 2001*, as amended, regulate business improvement areas, and

WHEREAS Section 216 of the *Municipal Act, 2001* as amended, provides without limiting Sections 9, 10 and 11, that a municipality may dissolve or change a local board, and

WHEREAS it is deemed expedient to establish the mandate, composition, duties and responsibilities, practices and procedures for business improvement area boards of management;

NOW THEREFORE the Municipal Council of the Town of Fort Erie hereby enacts as follows:

1. **THAT** the mandate, composition, duties and responsibilities, practices and procedures for business improvement area boards of management shall be in accordance with Schedule "A" annexed hereto.
2. **THAT** the short form wording of this by-law shall be "BIA Operating Guidelines."
3. **THAT** in the event any by-law conflicts with the provisions herein, this by-law shall prevail.
4. **THAT** pursuant to the provisions of Sections 23.1 to 23.5 inclusive of the *Municipal Act, 2001*, as amended, the Clerk of the Town of Fort Erie is hereby authorized to effect any minor modifications or corrections solely of an administrative, numerical, grammatical, semantical or descriptive nature or kind to this by-law or its schedules as such may be determined to be necessary after the passage of this by-law.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS DAY OF ,
2007.**

MAYOR

CLERK

I, Carolyn J. Kett, the Clerk, of The Corporation of the Town of Fort Erie hereby certifies the foregoing to be a true certified copy of By-law No. ____-07 of the said Town. Given under my hand and the seal of the said Corporation this day of _____, 2007.

SCHEDULE "A" to BY-LAW NO. 183-07



**The Corporation of the
Town of Fort Erie**

BIA OPERATING GUIDELINES

November 2007

SCHEDULE "A" to BY-LAW NO. 183-07

BIA OPERATING GUIDELINES

1. Definitions

ACT – *Municipal Act, 2001*, as amended.

BIA – Business Improvement Area.

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 *Municipal Act, 2001*, as amended.

BUSINESS PROPERTY CLASS – The commercial property classes and the industrial property classes within the meaning of the *Municipal Act, 2001*, as amended 367 & 368

CLERK – The Clerk of the Town.

COUNCIL – Municipal Council of the Town of Fort Erie.

DIRECTOR OF CORPORATE SERVICES – The Director of Corporate Services for the Town, or 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 Town 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.

TENANT – Is included as a member of an improvement area where persons are assessed with respect to rateable property in the area that is in a prescribed business class and tenants of such property.

For purposes of Section 20 and 24 herein (objections/consents and repealing of by-law) provided tenant is responsible for paying taxes under the lease or otherwise.

TOWN – The Corporation of the Town of Fort Erie.

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

2. Application

These Operating Guidelines shall apply to all Boards of Management of Business Improvement Areas established under Section 204 of the *Municipal Act*, as amended.

3. Designation of a business improvement area

Council may pass a by-law to designate an area as a business improvement area:

- (a) 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;
- (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.

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) Make or fund improvements to private property, with the exception of graffiti and poster removal initiatives pursuant to Section 3(d) herein.

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 Town board and is an agent of the Town only for the purposes set out herein.

6. Appointment of Directors

- (a) (1) The directors of a Board shall be appointed by Council.
- (b) A Board shall be composed of,
 - (1) One or more members of Town 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 under separate by-law.
- (d) The term of the directors of a Board shall be 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/her 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 office.

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, substantially in the form of Appendix "1" (Nomination Protocol) annexed hereto. The Nomination Protocol may be altered from time to time in consultation with the Clerk. The Clerk may oversee the election of nominees.
- (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 Section 5 herein, 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.

- (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.
- (g) No proxy votes shall be permitted at the annual general meeting, or any special meeting called for the nomination of persons as directors of the Board or any meeting for the approval of the annual budget.
- (h) The Board shall submit the nominees to the Clerk for consideration and determination by the Council.

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.

The Chair shall be limited to two (2) terms commencing in 2010.

The Board has the option, by resolution, of establishing two (2) terms for officers other than the Chair.

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.

10. Board Vacancies, Replacements, Additions

- (a) If a Board vacancy occurs for any reason, the Board shall notify the Clerk and solicit interest from the membership. The Board may review the applications and submit its recommendation(s) to Council. The Board shall submit to the Clerk all expressions of interest received by the Board, who in turn shall provide copies of same to Council.
- (b) If a Board vacancy occurs for any cause, a person may be appointed by Council 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 notwithstanding the 20% rule as set out in Section 6(b) herein.

- (c) 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 Clerk, signed minutes of the Board meeting at which the vote was held on this matter, and the Clerk shall report to Council.

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 copies of the minutes to all members of the Board and the Clerk.
- (c) The Board shall comply with direction received from the Clerk regarding what constitutes proper minute and record keeping practices.

12. Quorum

- (a) A majority of the members of a Board constitutes a quorum of the Board.
- (b) A member of Council appointed to a Board shall be included for the purpose of determining what constitutes a quorum of the Board.

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) A Board shall supply the Clerk with the notice of the annual general meeting and any accompanying materials, at least fifteen (15) days before the date of the annual general meeting.
- (d) The Board shall send the notice of the annual general meeting by prepaid mail, hand delivery or electronically at least fifteen (15) days before the date of the meeting to business improvement area property owner members, tenant members and Council member(s) sitting on the Board

14. Start-up process

The following process shall be undertaken, with the assistance of Town 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 set out in Section 16(b) and (c) herein, 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 out 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 Clerk shall send notification of the formal public meeting(s) to commercial and/or industrial property owners fifteen (15) days in advance of the meeting, and the steering committee shall distribute notices to all commercial and/or industrial tenants fifteen (15) 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 (2) steering committee members, to the Clerk 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 Sections (a) and (b) herein have been carried out and shall identify the boundaries of the proposed business improvement area.

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 Director of Corporate Services.

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 Section 17 herein, the Town shall not be 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 Section 17 herein, the Town 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.

17. Notice

Before passing a by-law under Sections 3, 16, 31(b) or 32 herein, 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.

18. When notice received

- (a) A person who receives a notice under Section 17 herein shall, within thirty (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 Section 17 herein shall, within thirty (30) days of the date of the notice, give the Clerk a list of every tenant described in Section 18(a) herein and the share of the taxes that each tenant is required to pay and the share that the person is required to pay.

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 Section 18(b) herein, and the determination of the Clerk shall be final.
- (b) Only those tenants identified in the lists submitted under Section 18(b) herein shall be eligible to submit a written objection or consent under Section 20 herein.

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 sixty (60) days of the date of the notice;
 - (2) the objections have been signed by a least one-third of the total number of persons entitled to notice under Sections 17 and 18 herein; 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 Section 16(c) herein, 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 sixty (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 Sections 17 and 18 herein 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 Sections 17 and 18 herein 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 sixty (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 Sections 17 and 18 herein 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 Section 16(c) herein, 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 sixty (60) days of the date of the notice;
 - (2) the consents have been signed by at least 50% plus one of the total number of persons entitled to notice under Sections 17 and 18 herein;
 - (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.

21. Withdrawal of objections and consents

- (a) If sufficient objections are withdrawn in writing within the sixty (60) day period referred to in Sections 20(a)(1), (b)(1) and (c)(1) herein so that the conditions set out in Sections 20(a)(2) or (3), (b)(2) or (3) or (c)(2) or (3) herein, no longer apply, Council may pass the by-law.
- (b) If sufficient consents are withdrawn in writing within the sixty (60) day period referred to in Section 20(d)(1) herein so that the conditions set out in Section 20(d)(2) or (3) herein no longer apply, Council shall not pass the by-law.

22. Determination by Clerk

- (a) The Clerk shall determine whether the conditions set out in Section 20(a), (b), (c) or (d) herein have been met and, if they have, shall issue a certificate affirming that fact.
- (b) The Clerk shall report to Council on the issuing of the certificate.
- (c) The determination of the Clerk shall be final.

23. Re-Notification

Where notification has been provided and sufficient objections received under Section 20 herein so that a by-law cannot be passed by Council, the Town shall not be required to give notice under Section 17 herein in response to a resolution or request for a period of two (2) years after the last mailing of the notices.

24. Repeal of by-law

- (a) The Town shall give notice in accordance with Sections 17 and 18 herein of a proposed by-law to repeal a by-law under Section 3 herein 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 pursuant to Section 24(a)(2) herein.
- (c) The Town shall give the notice within sixty (60) days after receiving the resolution or request.
- (d) Council shall repeal the by-law under Section 3 herein if requests for the repeal are received by the Clerk within sixty (60) days after the last day of mailing of the notices and,
 - (1) the requests have been signed by at least 50% plus one of the total number of persons entitled to notice under Sections 17 and 18 herein; and
 - (2) those who have signed the requests are responsible for greater than 50% 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 3 herein on its own initiative without giving notice to a Board or to business improvement area members under Sections 17 and 18 herein.
- (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 sixty (60) day period referred to in Section 24(d) herein so that either condition set out in that section no longer applies, Council is not required to repeal the by-law.
- (h) The Clerk shall determine whether the conditions set out in Sections 24(a)(2) and 24(d) herein have been met and, if so, shall issue a certificate affirming that fact.
- (i) The determination by the Clerk shall be final.
- (j) If the conditions of Section 24(d) herein are not satisfied, Council shall not be required to give notice under Section 24(a) herein in response to a

resolution or request for a period of two (2) years after the last mailing of the notices.

25. Effect of by-law

A by-law passed under Sections 3, 16, 24(d), 31(b) and 32 herein, shall not be invalid by reason only that:

- (a) A person required to give a copy of a notice to a tenant under Section 18(a) herein or other information to the Clerk under Section 18(b) herein has not done so;
- (b) The objections referred to in Section 20(a), (b) and (c) herein have not been signed by at least one-third of the total number of persons entitled to receive notice under Sections 17 and 18 herein because a person required to give a copy of the notice under Section 18(b) herein has not done so; or
- (c) The requests referred to in Section 24(d) herein have not been signed by at least 50% plus one of the total number of persons entitled to notice under Sections 17 and 18 herein because a person required to give a copy of the notice under Section 18(a) herein has not done so.

26. Procedure By-law and Policies

- (a) A Board shall, within three (3) months of its establishment, adopt a procedural by-law for the business improvement area which governs the calling, place and proceedings of meetings in the form of Appendix "2" annexed hereto.
- (b) A Board shall adopt within three (3) months of its establishment policies pertaining to the procurement of goods and services, the hiring of employees and the sale and other disposition of land, in a form acceptable to Council.
- (c) The Town Clerk shall provide the Board with assistance and support as required to develop the required policies.

27. Financial procedures and reports

- (a) A Board shall adopt and maintain only banking arrangements and sound business practices that are acceptable to the Director of Corporate Services. All bank accounts and financial records shall be maintained by the Town's Corporate Services Department.
- (b) A Board's fiscal year shall be the calendar year.

- (c) Individual business improvement area special charges, when billed by the Director of Corporate Services, shall be posted to separate business improvement area accounts.

28. Annual Budget

- (a) A Board shall prepare a proposed annual budget for each fiscal year by December 15th of each year and shall hold one or more meetings of the members of the business improvement area for discussion and adoption of the annual budget.
- (b) A Board shall submit the budget to the Director of Corporate Services by December 15th of each year including the notice and minutes of the budget meeting as set out in Section 28(a) and Council may approve it in whole or in part but may not add expenditures to it.

29. Audited Financial Statement

- (a) A Board shall submit its audited financial statement for the preceding year for Council's review by the date and in the form required by the Director of Corporate Services.
- (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 Director of Corporate Services and Clerk indicating how the Board intends to address the issues identified in the Management Letter.

30. Funds to be raised

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

31. Special charge

Council may raise the amount referred to in Section 30 herein:

- (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.

32. 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.

33. Effect of by-law

When a by-law under Section 32 herein is in force:

- (a) The amount of a charge levied in a year under Section 31 herein 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 or 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 Section 30 herein 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 Section 31 herein for those properties.

34. Exclusion

Section 17 herein shall not apply to an adjustment made under Section 33(b) herein.

35. 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.

36. Insurance, Legal and Audit Services

- a) The Town shall provide comprehensive general liability and property insurance coverage for the BIA each year at its expense, subject to a deductible of \$10,000.00 per claim. The BIA shall be responsible for the payment of costs and amounts paid in settlement of claims up to a maximum of \$5,000.00 and the Town shall be responsible for payment of any additional amounts up to the deductible limit.
- b) The BIA shall forward to the Clerk notice of all claims, who shall be responsible for claims management.
- c) Legal support to the BIA shall be provided by the Town Solicitor or external counsel retained by the Town.
- d) Commencing in 2009, the BIA shall be responsible for the payment to the Town for the cost of the annual audit fee.

37. Dissolution of Board

Upon the repeal of a by-law under Section 3 herein, the Board shall be dissolved and the assets and liabilities of the Board become the assets and liabilities of the Town.

38. Liabilities upon dissolution

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

39. Priority lien status

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

40. Tenants

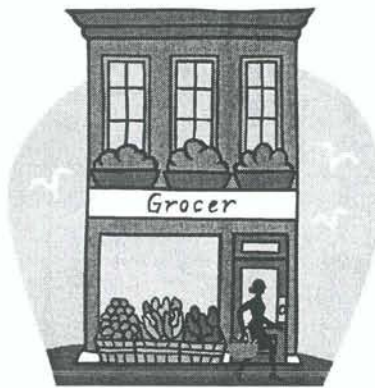
For the purposes of Sections 20 and 24 herein, a tenant shall be deemed to be responsible for the part of the taxes that the tenant is required to pay under the tenant's lease or under Sections 337 and 338 of the *Act*.

Nomination Protocol for BIA's

To be used for Annual General Meetings or Special Meetings where nominations to the Board are required.

1. The Board shall set a date, time and place for nominations to the Board.
2. Notice shall be provided to the membership in accordance with Section 13 of BIA Guidelines By-law No. 183-07 at least 10 days in advance of the nominations taking place.
3. The membership shall be invited to submit nominations to the Board in advance of the meeting.
4. A voting membership accountability mechanism should be established in advance of the nomination meeting i.e. prior to entry to membership meeting, name of member is crossed off membership list and hand is stamped.
5. At the nomination meeting, the names of nominees received prior to the meeting shall be posted and displayed.
6. The Board shall select a Board member to act as Chair to carry out the nomination process or may request the Clerk of the Town of Fort Erie to do so.
7. A nominee should be present to accept the nomination or be nominated. However, the nominee may confirm and consent to the nomination in writing.
8. No proxy votes shall be permitted.
9. The Nominating Chair shall call the meeting to order, state the number of directors to be selected and:
 - (a) Recite the nominees posted and ask each to confirm their intention to stand for selection to the Board and to briefly state their interest in serving on the Board.
 - (b) Call for additional nominees, confirm willingness to stand and post names
 - (c) Prior to announcing the closing of nominations, the Chair shall call for any further nominations two more times.
 - (d) At the close of nominations, the Chair shall determine the voting method such as voting by voice, show of hands, or by ballot.
 - (e) When the ballot is used, it shall be delivered to the Nominating Chair and one other witness for counting.
 - (f) The Chair shall announce the results.
 - (g) The Chair shall inform the Clerk of the results of the selection process, including number of votes per nominee who shall in turn submit same to Council for consideration.
 - (h) The nomination process shall be included in the minutes of the meeting.
10. The Nomination Protocol may be altered from time to time in consultation with the Clerk.

**BIA Procedural By-law
By-law No. 183-07**



BUSINESS IMPROVEMENT AREA

BOARD OF MANAGEMENT

PROCEDURAL BY-LAW

November 2007

BIA Procedural By-law By-law No. 183-07

1. Legislative Authority

Section 238(2) of the *Municipal Act, 2001*, as amended, provides every municipality and local board shall pass a procedure by-law for governing the calling, place and proceedings of meetings.

Section 238(2.1) of the said *Municipal Act* provides the procedure by-law shall provide for public notice of meetings.

2. Notice of Meetings

The Board shall provide public notice of its meetings at least three (3) days in advance of the meeting date by posting same on its website or posting the notice in a visible location in the BIA office or another designated location in the business improvement area.

3. General Provisions

3.1 The rules and procedures contained in this by-law shall be observed in all proceedings of the Board. Where greater clarification is required, the Board shall have regard firstly to Town of Fort Erie Rules of Procedure By-law No. 145-06.

3.2 Rules of Procedure not specifically governed by this by-law or the said Town of Fort Erie by-law shall be dealt with in accordance with, as far as reasonably practical, Roberts Rules of Order and in such cases the decision of the Chair of the Board shall be final.

3.3 Any rules or procedures contained in this by-law may be suspended for minor matters or with the consent of a majority of the Board members present, unless prohibited by law or to do such would place the Board at legal risk.

This by-law shall not be amended or repealed except by a majority vote of the Board present, but no such amendment or repeal may be considered at any meeting of the Board unless notice of the proposed amendment or repeal has been given to the BIA membership at least fifteen (15) business days in advance of the meeting to which such amendment or repeal is to be considered.

3.4 No Board member shall be absent from any regular meeting of the Board without providing substantive notice of such absence to the Chair and the Office Manager, where applicable, at least seventy-two (72) hours prior to the commencement of the meeting from which the Board member shall be absent, where practical.

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- 3.5 Where a Board member is absent from meetings of the Board for more than three (3) successive months without being authorized to do so by a resolution of the Board, the member's seat shall be declared vacant and procedures set out in Town of Fort Erie By-law No. 145-06 shall apply.
- 3.6 Regular meetings of the Board shall be held at the BIA offices, currently located at _____ unless otherwise decided by a majority vote of the Board members and with proper notice. In the event the annual general meeting is not held at the BIA offices or other common meeting place, notice of the location and time shall be given to the membership at least fifteen (15) days in advance of the annual meeting.

4. Regular Meetings

- 4.1 Regular meetings of the Board shall be held _____ of (every month) at (____p.m.) at the BIA offices unless otherwise determined by resolution of the Board and the proper giving of notice.
- 4.2 The Chair may, at any time, summon a special meeting of the Board or upon direction of the Board given at a regular meeting or upon receipt of a petition from a majority of the members of the Board.
- 4.3 The notice calling a special meeting of the Board shall state the business to be considered at the special meeting and no business other than that stated in the notice shall be considered at such meeting except with the consent of a majority of the members present and voting.
- 4.4 Written notice of all special meetings of the Board shall be delivered not less than forty-eight (48) hours before the time set for the meeting to all members of the Board either by hand or electronically.
- 4.5 Notwithstanding the provisions herein, on urgent and extraordinary occasions, with the consent of a majority of the Board members present recorded in the minutes, an emergency meeting of the Board may be held.
- 4.6 Notwithstanding the provisions herein, on urgent and extraordinary occasions, a telephone poll or electronic poll of the Board members may be conducted to determine consensus by the members on a matter and such action and results shall be ratified by the Board at its next regular meeting.

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5. Closed Sessions

5.1 Qualifications

All meetings shall be open to the public unless the subject matter being considered is:

- (a) the security of the property of the municipality or local board;
- (b) personal matters about an identifiable individual, including municipal or local board employees;
- (c) a proposed or pending acquisition or disposition of land by the municipality or local board;
- (d) labour relations or employee negotiations;
- (e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
- (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- (g) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another *Act*; and
- (h) a matter in which the subject relates to the consideration of a request under the *Municipal Freedom of Information and Protection of Privacy Act* if the board is designated as the Head for purpose of that *Act*.

The Rules of Procedure shall apply in Closed Session meetings with modifications where necessary.

5.2 A meeting may be closed to the public if the following conditions are both satisfied:

- (a) The meeting is held for the purpose of education or training the members,
- (b) At the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council, local board or committee.

5.3 Before holding a meeting or part of a meeting that is to be closed to the public, a resolution shall be passed stating:

- (a) The fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting; or
- (b) In the case of a meeting for educational or training sessions, the fact of the holding of the closed meeting, the general nature of its subject matter and that it is to be closed under that subsection.

5.4 Subject to subsection 5.5 herein, a meeting shall not be closed to the public during the taking of a vote.

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- 5.5 A meeting may be closed to the public during a vote if,
- (a) Section 5.1 or 5.2 herein permits or requires the meeting to be closed to the public; and
 - (b) The vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the BIA Board or committee or persons retained by or under a contract with the BIA Board.
- 5.6 The Secretary of the Board or designated employee shall record without note or comments all resolutions, decisions and other proceedings at a meeting of the board, whether it is closed to the public or not and the said record shall be made by the appropriate officer of the Board.
- 5.7 Clause 6(1)(b) of the *Municipal Freedom of Information and Protection of Privacy Act* does not apply to a record of a meeting for educational or training sessions.

6. Disclosures of Pecuniary Interest

It shall be the responsibility of each member of the Board to identify and disclose any pecuniary interest as defined in the *Municipal Conflict of Interest Act*, R.S.O. 1990, c.M.50 as amended or replaced, in any item or matter before the Board.

7. Commencement of Board Meetings

- 7.1 Quorum at a Board meeting shall be a majority of the members constituting the Board, including the Council representative(s).
- 7.2 As soon after the hour fixed for the Board meeting as a quorum is present, the meeting shall be called to order by the Chair.
- 7.3 If a quorum is not present within thirty (30) minutes after the time appointed for the meeting, the Board shall stand adjourned until the date and time of the next regular or special meeting and the appropriate officer shall record the names of those members of the Board present upon such adjournment.
- 7.4 The Chair, if present, shall preside at all meetings. In the absence of the Chair, the Vice-Chair shall preside during the meetings.

8. Agendas and Minutes of Board Meetings

- 8.1 An agenda shall be prepared for each Board meeting as well as the annual general meeting including the order of business which may consist of the following:

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- (a) Call to Order
- (b) Roll Call
- (c) Review of Addendum/Announcements
- (d) Disclosures of Pecuniary Interest
- (e) Adoption of Minutes
- (f) Presentations and Delegations
- (g) Communications
- (h) Reports of Committees
- (i) Financial Report
- (j) Discussion and Adoption of Annual Proposed Budget
- (k) Enquiries
- (l) Motions
- (m) Notice of Motion
- (n) Consideration of By-laws
- (o) New Business
- (p) Scheduling of Meetings
- (q) Closed Session, where necessary
- (r) Adjournment

The business of each meeting shall be taken up in the order in which it appears on the agenda unless otherwise decided by a majority vote of the members present and all questions relating to the priority of business shall be decided without debate.

- 8.2 The agendas shall be considered as notice of regular Board meetings. Sufficient notice of meetings shall be deemed to include the posting of the agenda on the BIA website or in a conspicuous area of the BIA office or another designated location in the business improvement area.
- 8.3 Agendas shall be delivered either by hand or electronically to Board members at least forty-eight (48) hours prior to a regular Board meeting.
- 8.4 The Secretary of the Board or designated employee shall truly record, without note or comment, all proceedings of the Board. The minutes shall not include any discussion undertaken in the course of a meeting, but shall only record decisions of the Board expressed in resolution form and shall record all such resolutions affirmatively voted upon by a majority of the Board members present and those which are lost.

Declarations, presentations, delegations and other items on the agenda shall be referred to in a brief and summary manner.

The minutes shall be adopted, by resolution, for each and every regular and special meeting of the Board.

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The Chair and Secretary shall sign the minutes.

The recording officer may effect any minor modifications or corrections of an administrative, numerical, grammatical, semantical or descriptive nature or kind to the minutes as may be deemed necessary after the approval thereof and same shall be recorded in a register.

The recording officer shall distribute the minutes to the members of the Board, the Clerk of the Town of Fort Erie and by posting same on the website, where applicable. The minutes shall also be distributed with the agenda for the next regular meeting.

9. Delegations

The Board may receive any person wishing to address the Board on any matter included on the agenda and such request to the Chair shall clearly state the nature of the business to be discussed. Delegations shall be limited to ten (10) minutes in their presentation.

10. Rules of Conduct and Debate

- 10.1** A code of conduct setting out general standards for acceptable conduct by members of the Board in performance of their public duties shall be as set out in Appendix "A" annexed hereto.
- 10.2** The Chair shall preside over the conduct of Board meetings, including the preservation of good order and decorum, ruling on points of order and deciding all questions relating to the orderly procedure of the meeting, subject to an appeal to the Board.
- 10.3** The Chair may answer questions and comment in a general way without leaving the chair, but if he/she wishes to speak to a motion and take part in the debate, he/she shall first leave the chair and turn it over to a member who has not spoken to the question and the Chair shall resume the chair after the question has been decided.
- 10.4** No member shall:
- (a) speak disrespectfully of any member of the royal family, the Governor General, the Lieutenant governor of any Province, any member of the Federal, Provincial or Regional Council, any member of Council or the Board or any employee of the Town or Region;
 - (b) use indecent, offensive or insulting language;
 - (c) speak on any subject other than the subject in debate;

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- (d) where a matter has been discussed in a meeting or part of a meeting closed to the public and where the matter remains confidential, disclose the content of the matter or the substance of deliberations of the closed session meeting;
- (e) disobey the rules of the Board or a decision of the Chair on questions of order or practice or the interpretation of the Rules;
- (f) a member shall not interrupt a member who is speaking, except to raise a point of order or a question of privilege.

11. Enquiries

Enquiries may be made of the Chair or through him/her to any member of the Board or staff member, relating to any matter connected with the business of the Board.

12. Motions

12.1 Notice shall be given of all motions for introducing new matters, other than a point of order or a matter of urgency, and no motion shall be discussed unless such notice has been given at the last regular meeting of the Board or filed with the appropriate officer before noon on the day upon which the agenda is printed unless the Board, without debate, dispenses with such a majority vote of all of the members present.

12.2 Motions shall be seconded before being debated or put to a vote. A negative motion shall not be permitted.

13. Miscellaneous Motions and Voting

Regard shall be had to Sections 13 and 14 of Council Rules of Procedure By-law No. 145-06 for the various motions and voting procedures.

14. By-laws

14.1 All by-laws to be received by the Board shall be printed and numbered consecutively in the years in which they are considered i.e. (1-07).

Copies of all by-laws shall be attached to the agenda distributed to each member of the Board.

14.2 All by-laws shall be approved by majority vote of the Board.

15. Advice of Clerk

The Board shall contact the Clerk of the Town of Fort Erie to seek procedural Advice, as required.

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16. At the Commencement of the term, the Board shall select a Chair, Vice-Chair, Secretary and Treasurer. Commencing in 2010, the Chair shall be limited to serving two (2) consecutive terms.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS DAY OF ,
2007.**

CHAIR

SECRETARY

**BIA Procedural By-law
By-law No. 183-07**

APPENDIX "A"
Code of Conduct

PREAMBLE

A written Code of Conduct helps to ensure that the Directors of a BIA Board share a common basis for acceptable conduct. These standards are designed to provide a reference guide and a supplement to the legislative parameters within which the members must operate. These standards should serve to enhance public confidence that the municipality's appointed representatives operate from a base of integrity, justice and courtesy.

The Code of Conduct is a general standard that augments the provincial laws and municipal by-laws that govern conduct. It is not intended to replace personal ethics.

GENERAL

All Directors of the Board shall serve the BIA membership in a conscientious and diligent manner. No member shall use the influence of office for any purpose other than the exercise of his or her official duties.

GIFTS AND BENEFITS

Directors shall not accept fees, gifts, hospitality or personal benefits that are connected directly or indirectly with the performance of duties as a Director of a BIA Board, except compensation authorized by law.

This section does not apply to nominal tokens, mementoes, souvenirs or such gifts or benefits that are received as an incident of protocol or social obligation that normally accompanies the responsibilities of office. Tokens, mementoes, souvenirs or gifts with a value of greater than \$100.00 shall be the property of the Board.

No member shall seek or obtain by reason of his or her office any personal privilege or advantage with respect to Board services not otherwise available to the general membership and not consequent to his or her official duties.

CONFIDENTIALITY

All information, documentation or deliberation received, reviewed or taken in Closed Session of the BIA Board and its Committees are confidential.

Members shall not disclose or release by any means to any member of the public either by verbal or written form any confidential information acquired by virtue of their office, except when required by law to do so.

Directors shall not permit any person other than those who are entitled thereto to have access to information that is confidential.