



LEGISLATIVE AND COURT SERVICES MEMORANDUM

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Pending #:

TO: MAYOR LEHMAN AND MEMBERS OF COUNCIL

FROM: W. COOKE, DIRECTOR OF LEGISLATIVE AND COURT SERVICES / CITY CLERK
C. MILLAR, DIRECTOR OF FINANCE/TREASURER
S. SCHLICHTER, DIRECTOR OF ECONOMIC AND CREATIVE DEVELOPMENT
D. MCALPINE, GENERAL MANAGER OF COMMUNITY AND CORPORATE SERVICES

NOTED: D. MCALPINE, GENERAL MANAGER OF COMMUNITY AND CORPORATE SERVICES
A. MILLER, GENERAL MANAGER OF INFRASTRUCTURE AND GROWTH MANAGEMENT
M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RE: DOWNTOWN BARRIE BUSINESS ASSOCIATION (BIA) MATTERS

DATE: June 14, 2021

The purpose of this Memorandum is to provide members of Council with additional information related to matters that have been raised and information requested concerning City Council's role and options for the BIA related to governance and budget as well as the status of current partnerships and joint programming.

On May 10, 2021, City Council adopted the following motion concerning the Downtown Barrie BIA:

"21-G-116 REQUEST FOR PRESENTATION FROM THE DOWNTOWN BARRIE BUSINESS ASSOCIATION (BIA)

1. That the Downtown Barrie Business Association (BIA) be requested to provide a presentation to City Council concerning their governance model, vision including suggestions for possible boundary expansion, and objectives for the remainder of the 2018 - 2022 Term of Council prior to the end of June 2021.
2. That staff in the Legislative and Court Services prepare a memorandum on the status of current partnerships and joint programming with the BIA, an understanding of City Council's role and future options for the BIA and report back at the time of the presentation." (Item for Discussion 8.6, May 3, 2021)

Background – Specific Provisions in the *Municipal Act, 2001* related to Business Improvement Areas

Sections 204 through 215 of the *Municipal Act, 2001* (the "Act") establish the specific provisions regulating Business Improvement Areas. They also prescribe the roles and requirements of Council and the board of management as it relates to the Business Improvement Area. The sections of the Act are summarized in the paragraphs that follow with a copy of the sections attached as Appendix "A" to this memorandum.

Section 204 (1) of the Act permits a municipality to designate an area as an improvement area and establish a board of management. A business improvement area is established to:

- (a) To oversee the improvement, beautification and maintenance of municipally owned land, buildings and structures in the area beyond that provided at the expenses of the municipality generally; and
- (b) To promote the area as a business or shopping area.

The board of management is corporation consisting of the number of directors established by the municipality. It is also deemed to be a local board of the municipality, for all purposes. As a local board of the municipality, it is required to address the numerous requirements contained within the Act and associated regulations that apply to all local boards. This dual role of both a corporation and a local board, imposes additional requirements on the board of management.

The board of management is composed of:

- (a) One or more directors appointed directly by the municipality; and
- (b) The remaining directors selected by a vote of the membership of the improvement area and appointed by the municipality.

Under 204 (3) (b) of the Act, the directors selected by a vote of the members are also required to be appointed by the municipality. The members of an improvement area consist of persons who are assessed, on the last returned assessment roll, with respect to rateable property in the area that is in a prescribed business property class and tenants of such property.

Council may refuse to appoint a person selected by the membership as established by 204 (9). If Council refuses to appoint a person selected by the membership, it may leave the position vacant or direct that a meeting of the members of the improvement area be held to elect or select another candidate for the municipality's consideration.

The term of the directors of a board of management is the same as the term of the council that appointed them but continues until their successors are appointed. If a vacancy occurs for any cause, the municipality may appoint a person to fill the vacancy for the unexpired portion of the term and the appointed person is not required to be a member of the improvement area.

Section 205 (1) requires a board of management to prepare a proposed budget for each fiscal year by the date and in the form required by the municipality. It also requires the board to hold one or more meetings of the members of the improvement area for discussion of the proposed budget.

The board of management is required to submit the budget to Council by the date and in the form that the municipality requires. Council may approve it in whole or in part but may not add expenditures to the budget submitted.

As per Section 205(3)(b) of the Act, the BIA is not permitted to "incur any indebtedness extending beyond the current year without the prior approval of the municipality".

Section 207 requires the board of management to submit an annual report for the preceding year to Council by the date and in the form required by the municipality and the report is required to include audited financial statements. The municipal auditor is the auditor of the board of management and has the power to inspect all records of the board.

The municipality is required to annually raise the amount required for the purposes of a board of management, including any interest payable by the municipality on money borrowed by it for the purposes of the board of management. A levy or special charge is imposed upon taxable commercial and industrial properties in the designated improvement area to raise the funds for the purposes of a board.

Before passing a by-law to designate an area as an improvement area and establish a board of management, notice of the proposed by-law must be sent to every person on the last returned assessment roll that is assessed for rateable property in the prescribed business property class in the proposed improvement area. The person who receives the notice is required to provide notice to each tenant who is required to pay all or part of the taxes of the property and give the Clerk of the municipality a list of every tenant and the share of the taxes paid by tenants as well as the person themselves.

A person who receives the notice is able to object to the proposed by-law. If written objections are received by the municipality within 60 days of the notice, and the objections are signed by at least one-third of the total number of persons entitled to notice and the objectors are responsible for at least one-third of the taxes levied for the improvement area, the by-law to establish the business improvement area is not permitted to be passed.

The process to expand the boundaries of an existing business improvement area follows the same requirements as the initial process to establish the business improvement area.

A by-law establishing a business improvement area can be repealed. If a municipality receives a request from persons who are responsible for at least one-third of the taxes levied in an improvement area or a board of management itself, the Council is required to give notice of the proposed repeal of the by-law. The by-law establishing the business improvement area is repealed, if after notice is given, requests for repeal are received from at least one-half of the persons entitled to notice and those who have signed the requests are responsible for at least 50% of the taxes levied for the improvement area.

A Council may also initiate its own repeal of a by-law establishing a business improvement area. The Act does not contain any requirements to notify the persons in the improvement area and there are no provisions for objections to a repeal initiated by a Council.

If a by-law establishing a business improvement area is repealed, the board of management is dissolved and the assets and liabilities of the board become the assets and liabilities of the municipality. If the liabilities exceed the assets that are assumed, the council may recover the difference by imposing a charge on all rateable property in the former improvement area.

In accordance with Ontario Regulation 582/06, should a local board such as a board of management be dissolved:

- (a) The municipality stands in the place of the board for all purposes, on and after the effective date;
- (b) The powers of the board vest in the municipality on the effective date;
- (c) All rights, claims, undertakings, obligations, assets and liabilities of the board vest in the municipality on the effective date;
- (d) The by-laws and resolutions of the board;
 - (i) Are continued as by-laws and resolutions of the municipality, on the effective date, and
 - (ii) Remain in force until repealed or amended;
- (e) The board ceases to exist on the effective date; and
- (f) If the board is a corporation, it is dissolved on the effective date.

The effective date is the date that the by-law comes into force.

The Downtown Barrie Business Improvement Association (BIA)

Downtown Barrie was designated as an improvement area in 1972 in accordance with by-law 72-126. The by-law established the boundaries of the area that was designated. The boundaries were amended in 1973 (By-law 73-012) and again in 1977 (By-law 77-155).

Downtown Barrie BIA Board of Management is currently comprised of two Members of Council and ten Directors (typically selected by the members of the BIA and confirmed by Council).

As noted by the Ontario government ([Business Improvement Area handbook : Managing and operating a BIA | Ontario.ca](#)), "administration and strategic management of a Business Improvement Area is generally the responsibility of the board of management. In particular, the board of management is typically responsible for overseeing the planning, budgeting, implementing and evaluating of BIA projects."

The BIA operates at an arm's length of the City and they have their own governance model and constitution that includes process and procedures, including Board and Annual General Meeting procedures, annual budget, and involvement on the BIA membership in their decision-making processes.

The past and current practice for the City has been for Council to approve the BIA budget and related tax rate in April/May of each year. The timing coincides with the preparation and final tax bills that are issued in June of each year.

As of January 1, 2021, the BIA is responsible for completing their own bookkeeping, which includes paying their own expenses including their staff wages. As permitted under the Act, the City collects interim taxes from January to May based on the previous year's budgets.

The BIA is able to continue operating during the first half of the year utilizing prior year approved budgets that have not been spent and accessing interim year tax billing.

The BIA's financial statements are audited by the City's external auditor. Like other Boards such as the Library and Barrie Police Services, their audited financial statements are consolidated with the City of Barrie and reported as one entity.

Current Partnerships and Joint Programming

The City and the BIA have entered into a number of partnerships and worked together on numerous initiatives to promote the businesses and shopping in the Downtown Area. The following paragraphs highlight a small sample of the most recent partnerships:

Meridian Place and Memorial Square

In partnership with the BIA, the City redeveloped Memorial Square and created Meridian Place. Meridian Place and Memorial Square is a provincially recognized multi-use civic public space.

The BIA has been a key partner in the programming of Meridian Place and Memorial Square gathering space and performance venue. Prior to the COVID-19 pandemic, the BIA hosted many successful events and activities at Meridian Place showcasing local artists and performers. These special events and festivals add to the quality of life enjoyed in Barrie, including celebrating our community, showcasing our heritage and culture, activating our beautiful waterfront and downtown, encouraging recreation and tourism, and providing economic benefits to local businesses, artists, tourism operators, and community organizations.

Accolades associated with the partnership between the BIA and the City include:

- 2020 Economic Developers Council of Ontario: Urban Building Initiatives Category Winner – Dunlop Streetscape Project
- 2019 Ontario General Contractors Association – Ontario Builder Award – Public Venue
- 2018 Ontario Business Improvement Area Association (OBIAA) Award – Streetscape and Public Realm Improvements – Large
- 2018 Economic Developers Council of Ontario: Local Collaboration & Partnership: Honourable Mention

The BIA entered into a Redevelopment of Meridian Place Contribution agreement with the City in 2015 for the construction of the Memorial Square/Meridian Place project. The Contribution Agreement states that the BIA will pay one third of the shareable project costs through the City imposing a special charge under section 208(2) of the Municipal Act. The amount of the committed funding is \$3,351,775, comprised of fundraising of \$1,838,829 and a loan of \$1,512, 946.

The special charge is to be charged over a ten-year period commencing two years after substantial performance of the project, which occurred in 2018. As such, the commitment was initially due to be repaid in full on or before 2030. The agreement did not include a specific requirement for a payment to be made each year.

The BIA is also responsible for coordinating community contributions, representing at least one third of the total cost of the project. Any shortfall in community contributions will be added to the special charge as described above, and any contributions in excess of one third of the total cost, will be used to decrease the BIA's share of the shareable project costs.

As of December 31, 2020, the BIA had successfully fundraised \$1,205,862 of the project. It needs to fundraise an additional \$632,967 over a 5-year period. The remainder is to be funded by a loan from the City of Barrie, along with any fundraising shortfall. The loan currently totals \$1,512,946.

Due to COVID-19, in 2020 and again this year, City Council approved an extension of the timeline for the remaining payments required under the Agreement by one additional year with final payment in 2032.

Dunlop Streetscape Project

Dunlop Street is a vital component and attraction to downtown Barrie. Maintaining and enhancing this corridor is an essential component in the success of downtown revitalization and the City's [Downtown Commercial Master Plan](#). A \$16 million project was undertaken that has transformed Barrie's downtown. The project began in August 2019 and was substantially completed in November 2020 with final finishing and repair work nearing completion.

As a partner in this important project, the BIA committed to fund \$300,000 of the Dunlop Streetscape project with payments over a ten-year period, beginning in 2022.

Open Air Dunlop

In June of 2020, the Downtown Barrie Business Association (BIA) surveyed its membership on whether it should lead a pilot project to close Dunlop Street East to vehicle traffic and provide a pedestrian experience along Dunlop Street in a safe, physically distanced manner to help attract patrons to the downtown. This occurred on select Saturdays. The majority of responses from businesses were in favour of this pilot project.

On June 29, 2020, Barrie City Council approved Council motion 20-G-098 a pedestrianization road closure of Dunlop Street East between Mulcaster Street and Clapperton Street with the BIA taking the lead on the Open Air project. The motion further supported a fiscal contribution of up to 50% of costs, to a maximum of \$10,000 to support road closure logistics and additional clean-up with funding from the Reinvestment Reserve for Open Air Dunlop.

In 2020, the BIA piloted the pedestrianization of Dunlop Street East between Mulcaster Street and the Five Points intersection (Clapperton Street) by hosting five (5) Open Air Dunlop Saturdays, September 26, October 3, 10, and 17 and November 7.

Once again this year, the City and the BIA have partnered to offer the Open Air Dunlop 2021 programming. Every Saturday during the summer, Dunlop Street will be closed to traffic between The Five Points and Mulcaster Street (5 a.m. to midnight). The Downtown BIA will be the project lead and would be responsible for managing the execution of the program, including responsibility for executing the road closures.

The BIA's total budget for Open Air Dunlop 2021 is \$118,502.00. This includes, road closures, entertainment, advertising, signage, personal protective equipment (PPE) and some general supplies. This budget does not include any BIA staff time

Council approved a contribution by the City of up to \$60,000 to support the road closures required over the duration of the program.

Electric Vehicle Charging Stations

In 2017, the City entered into an agreement to install Tesla branded Level 2 EV charging stations and 4 generic charging stations. The BIA endorsed the recommendation the installation of the proposed EV chargers and committed to support the ongoing utility costs associated with their operation.

COVID-19 Support Partnerships

The City has also partnered with the BIA as well as a number of other organizations (Barrie Chamber of Commerce, Sandbox, Tourism Barrie, Barrie Construction Association, the Small Business Centre, and the Henry Bernick Entrepreneurship Centre) to provide supports specific to COVID-19 recovery, including:

- Downtown Patios Program
- Waiving parking tickets with proof of purchase from a local restaurant
- Digital Main Street Programs
- Barrie Together Recovery Kit
- HeyLocal online marketplace
- Barrielicious presents: Locallicious
- Downtown Curbside Pickup Pilot Program and Associated Free Parking initiatives
- Business in the Parks Pilot Program
- Business Response and Recovery Action Plans

Valuable information has been shared related to financial assistance available, business resources and webinars.

Further, the Downtown BIA staff and Economic and Creative Development Department are engaged in several initiatives and programs with community partners to further broader economic goals for the downtown, including wayfinding signage, investment attraction opportunities, public art, creative and cultural sector development, and overall downtown business retention and support.

Downtown Barrie BIA Options

There have been a number of questions raised recently related to the BIA. They have included questions ranging from the possibility of expanding the BIA boundaries to temporarily repealing the BIA while governance matters are addressed. The questions have also included means of addressing BIA commitments to the City and ensuring transparency of its operations for its members.

Expanding the BIA boundaries

As noted earlier in this memorandum, there is an extensive process required to expand a BIA's boundaries. The process involves issuing notice to the property owners on the roll impacted by the proposed expansion, the property owners providing notice to any of their tenants who are required to pay all or part of the taxes and providing the Clerk of the municipality with a list of the tenants and their proportionate share of the taxes.

An objection process exists and if one-third of the total number of persons entitled to notice, representing at least one-third of the rateable property object within the designated time frame, the by-law to expand the business improvement area is not permitted to be passed.

Repealing the BIA temporarily or permanently

Under the Municipal Act, 2001 Council can dissolve a BIA. When it does so, the municipality stands in place of the board as soon as the by-law is effective and the rights, claims, obligations, undertakings and assets and liabilities of the BIA become the responsibility/assets and liabilities of the municipality (section 214 (1)/O. reg 582/06). It is of note that any by-laws and resolutions are continued as if they were the municipality's until repealed or amended.

There are no specific requirements in legislation if Council decides to repeal a by-law that established a BIA, on its own initiative as per 211 (10). There are significant procedural requirements if the request for a repeal is received from members of the BIA or the Board itself. Notwithstanding the lack of any requirements, it would be prudent to follow similar procedural requirements to a request for a repeal from the members or the Board itself, including providing notice to the members of the BIA. A council would want to carefully consider whether it wishes to proceed if objections are received from at least one-half of the members representing at least 50% of taxes levied, prior to passing a repealing by-law.

There are no provisions for a temporary repeal of a BIA. Should a by-law establishing a business improvement area be repealed, it is staff's view that the same process that was required to form one initially, will be required. There are no provisions within the Act to allow it to be re-established utilizing a less onerous process.

Addressing BIA commitments to the City ensuring transparency of its operations

Staff have met with representatives of the BIA on several occasions related to the capital commitments for Meridian Place/Memorial Square and the Dunlop Streetscape Project. The BIA representatives have committed to working with staff over the coming months to develop a long-term repayment plan for its capital commitments.

Given the impact of COVID-19 on local businesses, the remaining amount to be paid and the impact of a levy increase that would be necessary to raise these funds on the BIA members, staff will be discussing a longer repayment plan than was identified in the original Redevelopment of Meridian Place Contribution agreement.

Staff will report back to General Committee with recommendations concerning a new agreement to address both the Dunlop Streetscape commitments as well as the Meridian Place Contributions. A specific annual repayment schedule, extension of the length of the repayment timeline, how levy funds collected by the City are disbursed to the BIA to address annual payments on the capital commitment and other terms and conditions required to provide clarity for the parties will be addressed in the report. The report is anticipated to be presented in the early Fall.



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BIA Operational Oversight

Currently, By-law 72-126 as amended, that established the Downtown Barrie BIA is limited to the boundaries of the designated area. It does not set out the City's expectations related to oversight. Over the years, practices related to communications and budget have not been formalized in a single written document.

A method of addressing matters such as transparency of its operations would be to amend the BIA establishing by-law. The amendment would be intended to provide provisions related to additional oversight including but not limited to expectations concerning matters related to accountability and transparency, budgeting and fulfilment of BIA commitments to the City.

Examples of possible requirements might include:

- A requirement to provide copies of minutes to the City from board meetings for circulation;
- A requirement to include as part of the base BIA budget, any financial commitments made to the City;
- The inclusion of formal timelines and format requirements for the budget to be provided to City Council;
- A requirement to provide copies of the notice provided to the members of budget deliberations as well as a copy of the minutes of the meeting; and
- A requirement to provide an annual presentation to City Council regarding BIA operations

The concept of an amendment to address these types of oversight matters has been discussed with BIA representatives. The representatives have indicated an interest in further discussions. As the BIA is in the process of a governance review, it would be prudent to align the two steps. Staff have indicated that it would develop any amendments to the BIA's establishing by-law in consultation with representatives from the BIA. A staff report would be presented with the proposed amendments for consideration by General Committee and Council.

Conclusion

Staff will be reporting back to General Committee with respect to a new capital contribution agreement to address the BIA's financial commitments. Staff will also report back to General Committee with respect to proposed amendments to the BIA establishing by-law that provide for clarity of expectations concerning accountability and transparency of BIA's broader operations. An operational Memorandum of Understanding has been developed to address the processes and expectations of roles between the City and BIA on day-to-day functionality and will be brought forward as part of the report back to General Committee. Staff have also offered to provide or arrange for training of new BIA boards of management and staff regarding Municipal Act provisions and the Code of Conduct for Members of Council and Committees.

APPENDIX "A"
SECTIONS 204 TO 215 OF THE MUNICIPAL ACT RELATING TO BUSINESS IMPROVEMENT AREAS

BUSINESS IMPROVEMENT AREAS

Designation of improvement area

204 (1) A local municipality may designate an area as an improvement area and may establish a board of management,

- (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; and
- (b) to promote the area as a business or shopping area. 2001, c. 25, s. 204 (1).

Corporation

(2) A board of management is a corporation consisting of the number of directors established by the municipality. 2001, c. 25, s. 204 (2).

Local board status

(2.1) A board of management is a local board of the municipality for all purposes. 2006, c. 32, Sched. A, s. 89.

Composition

- (3) A board of management shall be composed of,
- (a) one or more directors appointed directly by the municipality; and
 - (b) the remaining directors selected by a vote of the membership of the improvement area and appointed by the municipality. 2001, c. 25, s. 204 (3).

Membership

(4) Members of an improvement area consist of persons who are assessed, on the last returned assessment roll, with respect to rateable property in the area that is in a prescribed business property class and tenants of such property. 2001, c. 25, s. 204 (4).

Determining tenancy

(5) In determining whether a person is a tenant or not, the clerk of the municipality may accept a list provided under clause 210 (2) (b) or the declaration of a person that the person is a tenant and the determination of the clerk is final. 2001, c. 25, s. 204 (5).

One vote

(6) Each member of an improvement area has one vote regardless of the number of properties that the member may own or lease in the improvement area. 2001, c. 25, s. 204 (6).

Nominee

(7) A corporate member of an improvement area may nominate in writing one individual to vote on behalf of the corporation. 2001, c. 25, s. 204 (7).

Joint nominee

(8) Subject to subsection (6), one individual may be nominated for voting purposes by two or more corporations that are members of an improvement area. 2001, c. 25, s. 204 (8).

Refusal to appoint

(9) The municipality may refuse to appoint a person selected by the members of an improvement area, in which case the municipality may leave the position vacant or direct that a meeting of the members of the improvement area be held to elect or select another candidate for the municipality's consideration. 2001, c. 25, s. 204 (9).

Term

(10) The term of the directors of a board of management is the same as the term of the council that appointed them but continues until their successors are appointed. 2001, c. 25, s. 204 (10).

Reappointment

(11) Directors are eligible for reappointment. 2001, c. 25, s. 204 (11).

Vacancies

(12) Subject to subsection (9), if a vacancy occurs for any cause, the municipality may appoint a person to fill the vacancy for the unexpired portion of the term and the appointed person is not required to be a member of the improvement area. 2001, c. 25, s. 204 (12).

Section Amendments with date in force (d/m/y)

Budget

205 (1) A board of management shall prepare a proposed budget for each fiscal year by the date and in the form required by the municipality and shall hold one or more meetings of the members of the improvement area for discussion of the proposed budget. 2002, c. 17, Sched. A, s. 40 (1).

Council to approve

(2) A board of management shall submit the budget to council by the date and in the form required by the municipality and the municipality may approve it in whole or in part but may not add expenditures to it. 2001, c. 25, s. 205 (2); 2002, c. 17, Sched. A, s. 40 (2).

Limitations

- (3) A board of management shall not,
- (a) spend any money unless it is included in the budget approved by the municipality or in a reserve fund established under section 417;
 - (b) incur any indebtedness extending beyond the current year without the prior approval of the municipality; or
 - (c) borrow money. 2001, c. 25, s. 205 (3).

Limitations on power

(4) Sections 401 and 474.10.13 apply to the municipality's approval under clause (3) (b) in the same manner as if it were incurring a debt of the municipality. 2001, c. 25, s. 205 (4); 2017, c. 23, Sched. 5, s. 48; 2021, c. 4, Sched. 6, s. 64 (3).

Section Amendments with date in force (d/m/y)

Notice

206 A board of management shall give reasonable notice to the general membership of the improvement area of a meeting to hold a vote under clause 204 (3) (b) or for the purposes of a discussion under subsection 205 (1). 2001, c. 25, s. 206; 2002, c. 17, Sched. A, s. 41.

Section Amendments with date in force (d/m/y)

Annual report

207 (1) A board of management shall submit its annual report for the preceding year to council by the date and in the form required by the municipality and the report shall include audited financial statements. 2001, c. 25, s. 207 (1).

Auditor

(2) The municipal auditor is the auditor of each board of management and may inspect all records of the board. 2001, c. 25, s. 207 (2).

Funds to be raised

208 (1) The municipality shall annually raise the amount required for the purposes of a board of management, including any interest payable by the municipality on money borrowed by it for the purposes of the board of management. 2001, c. 25, s. 208 (1).

Special charge

- (2) The municipality may establish a special charge for the amount referred to in subsection (1),
- (a) by levy upon rateable property in the improvement area that is in a prescribed business property class; or
 - (b) by levy upon rateable property in the improvement area that is in a prescribed business property class and that, in council's opinion, derives special benefit from the improvement area, which levy may be calculated using different percentages of the assessment for one or more separately assessed properties or categories of separately assessed properties in the prescribed class if the resulting levy is equitable in accordance with the benefits that, in council's opinion, accrue to the properties from the activities related to the improvement area. 2001, c. 25, s. 208 (2).

Minimum and maximum charges

- (3) The municipality 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 prescribed class, as,
- (a) percentages of the assessed value of rateable property in the improvement area that is in a prescribed business property class;
 - (b) dollar amounts; or
 - (c) percentages of the board of management's annual budget. 2001, c. 25, s. 208 (3).

Effect of by-law

- (4) When a by-law under subsection (3) is in force,
- (a) the amount of a charge levied in a year under subsection (2) shall not, when calculated for the individual property in the prescribed class to which it applies, be less than or greater than the amount of the applicable minimum and maximum charge for the property established under the by-law; and
 - (b) if necessary for a fiscal year to raise the amount referred to in subsection (1) because a minimum or maximum charge applies to one or more separately assessed properties or categories of separately assessed properties in the prescribed class, the municipality shall for the year adjust any charges applicable to the remaining individual properties or subclasses of properties in the prescribed class by adjusting the percentage or percentages of assessment established under subsection (2) for those properties. 2001, c. 25, s. 208 (4).

Exclusion

- (5) Section 210 does not apply to an adjustment made under clause (4) (b). 2001, c. 25, s. 208 (5).

Borrowings

- (6) If only a part of money borrowed by the municipality in any year for the purposes of a board of management 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 levies under this section in that year or subsequent year, respectively. 2001, c. 25, s. 208 (6).

Priority lien status

- (7) Charges levied under this section shall have priority lien status and shall be added to the tax roll. 2002, c. 17, Sched. A, s. 42.

Section Amendments with date in force (d/m/y)

Changes to boundary

209 The municipality may alter the boundaries of an improvement area and the board of management for that improvement area is continued as the board of management for the altered area. 2001, c. 25, s. 209.

Notice

210 (1) Before passing a by-law under subsection 204 (1), clause 208 (2) (b), subsection 208 (3) or section 209, notice of the proposed by-law shall be sent by prepaid mail to the board of management of the improvement area, if any, and to every person who, on the last returned assessment roll, is assessed for rateable property that is in a prescribed business property class which is located,

- (a) where the improvement area already exists, in the improvement area and in any geographic area the proposed by-law would add to the improvement area; and
- (b) where a new improvement area would be created by the proposed by-law, in the proposed improvement area. 2001, c. 25, s. 210 (1).

When notice received

- (2) A person who receives a notice under subsection (1) shall, within 30 days after the notice is mailed,
- (a) 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; and
 - (b) give the clerk of the municipality a list of every tenant described in clause (a) and the share of the taxes that each tenant is required to pay and the share that the person is required to pay. 2001, c. 25, s. 210 (2).

Objections

- (3) A municipality shall not pass a by-law referred to in subsection (1) if,
- (a) written objections are received by the clerk of the municipality within 60 days after the last day of mailing of the notices;
 - (b) the objections have been signed by at least one-third of the total number of persons entitled to notice under subsection (1) and under clause (2) (a); and
 - (c) the objectors are responsible for,
 - (i) in the case of a proposed addition to an existing improvement area,
 - (A) at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area, or

- (B) at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the geographic area the proposed by-law would add to the existing improvement area, or
- (ii) in all other cases, at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area. 2001, c. 25, s. 210 (3).

Withdrawal of objections

(4) If sufficient objections are withdrawn in writing within the 60-day period referred to in clause (3) (a) so that the conditions set out in clause (3) (b) or (c) no longer apply, the municipality may pass the by-law. 2001, c. 25, s. 210 (4).

Determination by clerk

(5) The clerk shall determine whether the conditions set out in subsection (3) have been met and, if they are, shall issue a certificate affirming that fact. 2001, c. 25, s. 210 (5).

Determination final

(6) The determination by the clerk is final. 2001, c. 25, s. 210 (6).

Repeal of by-law

211 (1) Council shall give notice in accordance with subsection 210 (1) of a proposed by-law to repeal a by-law under subsection 204 (1) if the municipality has received,

- (a) a resolution from the board of management requesting the repeal; or
- (b) 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 municipality levy on rateable property in all prescribed business property classes in the improvement area. 2001, c. 25, s. 211 (1).

Statement

(2) A person signing a request under clause (1) (b) shall state what amount of taxes on rateable property in the area that the person is required to pay. 2001, c. 25, s. 211 (2).

Time

(3) Council shall give the notice within 60 days after receiving the resolution or request. 2001, c. 25, s. 211 (3).

Repeal

(4) Council shall repeal the by-law under subsection 204 (1) if requests for the repeal are received by the clerk of the municipality within 60 days after the last day of mailing of the notices and,

- (a) the requests have been signed by at least one-half of the total number of persons entitled to notice under subsection 210 (1) and under clause 210 (2) (a); and
- (b) those who have signed the requests are responsible for at least 50 per cent of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area. 2001, c. 25, s. 211 (4).

Timing

(5) The repealing by-law must come into force on or before December 31 of the year in which it is passed. 2001, c. 25, s. 211 (5).

Requests withdrawn

(6) If sufficient requests are withdrawn in writing within the 60-day period referred to in subsection (4) so that either condition set out in that subsection no longer applies, the municipality is not required to repeal the by-law. 2001, c. 25, s. 211 (6).

Determination by clerk

(7) The clerk shall determine whether the conditions set out in clause (1) (b) and subsection (4) have been met and, if so, shall issue a certificate affirming that fact. 2001, c. 25, s. 211 (7).

Determination final

(8) The determination by the clerk is final. 2001, c. 25, s. 211 (8).

Restriction

(9) If the conditions of subsection (4) are not satisfied, council is not required to give notice under subsection (1) in response to a resolution or request for a period of two years after the last mailing of the notices. 2001, c. 25, s. 211 (9).

Non-application

(10) No requirement under this section or under section 210 applies to the repeal by a municipality on its own initiative of a by-law under subsection 204 (1). 2001, c. 25, s. 211 (10).

Effect of by-law

212 A by-law passed under subsection 204 (1), subsection 208 (2) or (3), section 209 or subsection 211 (4) is not invalid by reason only that,

- (a) a person required to give a copy of a notice to a tenant or other information to the municipality under subsection 210 (2) has not done so;
- (b) the objections referred to in clause 210 (3) (b) have not been signed by at least one-third of the total number of persons entitled to receive notice under subsections 210 (1) and (2) because a person required to give a copy of the notice under subsection 210 (2) has not done so; or
- (c) the requests referred to in clause 211 (4) (a) have not been signed by at least one-half of the total number of persons entitled to notice under subsections 210 (1) and (2) because a person required to give a copy of the notice under subsection 210 (2) has not done so. 2001, c. 25, s. 212.

Tenants

213 For the purposes of clauses 210 (3) (c) and 211 (1) (b), subsection 211 (2) and clause 211 (4) (b), 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 367 and 368. 2001, c. 25, s. 213.

Dissolution of board

214 (1) Upon the repeal of a by-law under subsection 204 (1), the board of management is dissolved and the assets and liabilities of the board become the assets and liabilities of the municipality. 2001, c. 25, s. 214 (1).

Liabilities exceed assets

(2) If the liabilities assumed under subsection (1) exceed the assets assumed, the council may recover the difference by imposing a charge on all rateable property in the former improvement area that is in a prescribed business property class. 2001, c. 25, s. 214 (2).

Regulations

215 The Minister may make regulations prescribing one or more classes of real property prescribed under the *Assessment Act* as business property classes for the purposes of sections 204 to 214. 2001, c. 25, s. 215