



# OLD STRATHCONA BUSINESS ASSOCIATION (OSBA) GOVERNANCE GUIDELINES

Revised September 7, 2022

## Overview of Objectives

The Old Strathcona Business Improvement Area (operating as Old Strathcona Business Association) is a non-profit organization that represents the interests of businesses within the OSBA BIA boundaries. As per city bylaw 10454, the objectives of the association are to physically and economically revitalize the Old Strathcona area by: marketing, promotions and events; improving communication and engagement within business and residential community; enhancing the appearance through streetscape improvements, walkability and beautification; creating operational guidelines and framework to address important issues; assisting area businesses in remaining vital; attracting new businesses; maintaining relationships with stakeholders that make the district unique; and providing a unified voice for the business community when liaising with the City of Edmonton on planning, developments and mobility that affect the Old Strathcona Area.

## 1. ARTICLE 1

### Definitions and Interpretation

#### 1.1. Definitions

In the Governing Document of the BIA, unless the context otherwise requires:

- 1.1.1 “BIA” means the individual Business Improvement Area, incorporated under the City of Edmonton Bylaw 10454;
- 1.1.2 “Board” means all Directors of the BIA as appointed by Council from time to time;
- 1.1.3 “Bylaw” means the City of Edmonton Bylaw **10454** incorporating the Old Strathcona Business Improvement Area;
- 1.1.4 “City” means the municipal corporation of the City of Edmonton
- 1.1.5 “Chair” means the chair of the BIA as provided at section 8.2;
- 1.1.6 “Council” means the municipal council of the City of Edmonton;
- 1.1.7 “Director” means a person appointed by Council to serve in that capacity on the Board of Directors;
- 1.1.8 “Executive Director” means the Executive Director of the BIA as provided at Section 9;
- 1.1.9 “Governing Document” means this specific Governing Document as approved by the Members;
- 1.1.10 “Honourary Directors” means a non-voting board member appointed by the Board of Directors to act as a representative and advisor for festivals, support urban planning, share reports and information to board.
- 1.1.11 “Member” means a business assessed for business taxes within the BIA Area;

- 1.1.12 “MGA” means the Municipal Government Act, S.A. 2000, c.M-26 and Municipal Government Act Business Improvement Area Regulation Alberta Regulation 93/2016;
- 1.1.13 “Officer” means an officer of the BIA as determined in accordance with these Governing Document.
- 1.1.14 “Past Chair” means the past chair of the BIA as provided at section 8.5;
- 1.1.15 “Proxy” means when a Member provides written authorization for an individual to represent the Member at the AGM.
- 1.1.16 “Purpose or Objects of the Zone” means the purpose of the BIA as established in the Bylaw and for convenient reference are set forth below:  
*The purposes of the BIA are:*
  - 1.1.15.1 Improving, beautify and maintaining property in the BIA;
  - 1.1.15.2 Developing, improving and maintaining public parking; and
  - 1.1.15.3 Promoting the BIA as a business or shopping district.
- 1.1.17 “Regular Meeting” means any meeting of Members that is not an Annual General Meeting;
- 1.1.18 “Treasurer” means the treasurer of the BIA as provided at section 8.4;
- 1.1.19 “Vice Chair” means the vice chair of the BIA as provided at section 8.3

## **1.2 Interpretation**

In the Governing Documents, the singular shall include the plural and the plural the singular; the masculine shall include the feminine and the term “person” includes individuals, firms, partnerships, corporations and societies.

## **2. ARTICLE 2**

### **Members of the BIA**

#### **2.1 Determination of Membership**

- 2.1.1 As declared in the MGA and established in the Bylaw, a member is defined to be a business assessed for business taxes within the Old Strathcona Business Improvement Area.

## **3. ARTICLE 3**

### **Conflict of Interest**

- 3.1** If a Director or a Director’s family member, as defined within the MGA, has a pecuniary interest in a matter before the Board, the Director or Honourary Director shall be precluded from voting or participating in the discussion.
- 3.2** A Director, an Honourary Director or a Director who has a family member, who:
  - 3.2.1 is a party to a material contract or proposed material contract with the BIA,
  - 3.2.2 is a director or an officer of, or has a material interest in, any person who is a party to a material contract or proposed material contract with the BIA, or
  - 3.2.3 otherwise has knowledge of facts or circumstances that a reasonable person would believe to give rise to a conflict of interest with the BIA for such Director,

3.2.4 is deemed to have a conflict of interest with the BIA and shall disclose to the Board in writing, with a copy to the Chair, the nature and extent of the conflict of interest as soon as it comes to his or her attention. Such Director shall not vote on any resolution or attend or participate in any deliberations concerning the subject matter of the Director's conflict of interest. A Director's membership in the BIA shall not, in and of itself, give rise to a conflict of interest between the Director and the BIA.

**3.3** Notwithstanding that a Director, Honourary Director or a Director with a family member, is associated with a business in the BIA Area and is therefore generally benefitting from the activities of the BIA that generally benefit shall not be a conflict of interest - it is only when their specific business or a limited number of businesses will benefit from a specific activity of the BIA that a conflict of interest shall exist.

**3.4** The OSBA utilizes sponsorship dollars to support events that enhance the community as well as the strategic goals of the association. Cash sponsorship is provided to non-profit organizations only. These dollars are outlined in our annual budget which is approved by the board prior to the AGM.

Donations may be provided to a non-profit or charitable group that provides a service or volunteer support to the OSBA. Specific guidelines for sponsorship and donation contributions are outlined in OSBA's Sponsorship Guidelines document (ref new policy).

#### **4. ARTICLE 4**

##### **Remuneration of Directors and Officers**

No Director or Officer shall receive any remuneration from the BIA for serving as a Director or Officer. Directors and Officers may receive reimbursement from the BIA for approved out-of-pocket expenses.

#### **5. ARTICLE 5**

##### **The Board of Directors**

As defined in Article 6.1 of the bylaws, the Board of Directors can consist of up to fifteen (15) individuals as appointed annually by City Council following the nomination process of the BIA in preparation for the Annual General Meeting and finalized at the Annual General Meeting. And as defined in Article 6.2 of the bylaws, council may appoint fewer than 15 Directors.

The Board's suggested term for Directors is two (2) years and Directors are to be re-elected each year. It is recommended that the Past Chair remain on the Board for one year.

##### **5.1 Board Structure**

5.1.1 The Board's guideline, as a best practice, is a maximum of 11 individuals, 9 that are Directors and Business members and two (2) that are honorary, non-voting individuals appointed by the Board.

5.1.2 Honorary Directors: The board may appoint non-voting members as required for guidance and advice on current operational and strategic needs and goals.

5.1.3 Roles of Honorary Directors: These roles are in place to add to the breadth of the perspectives on the board and to act as advisors. These non-voting members can provide the board with expert opinion in the areas of their skill and experience and support consultation as needed and required.

- 5.1.4 Role of the Past Chair: to support the incoming Chair and succession planning. The Past Chair is not elected but remains on the Board until the new Chair is elected.

## **5.2 Primary Role of the Board of Directors**

Subject to the MGA, the Bylaw and the Governing Document, the Board shall manage or oversee the management of the business and affairs of the BIA. Without restricting the generality of the foregoing, the Board is responsible:

- 5.2.1 for oversight of the Executive Director of the BIA and evaluation of the Executive Director's performance;
- 5.2.2 evaluation of the BIA's performance and the Board's performance;
- 5.2.3 to have meaningful input and lead the decision-making process for the development and approval of the strategic plan and direction of the business and affairs of the BIA;
- 5.2.4 to provide wise and thoughtful counsel to the Board and the Executive Director of the BIA on matters concerning the business and affairs of the BIA; and
- 5.2.5 as required in the Bylaw, the Board shall prepare and submit to Council an annual report of the activities of the BIA together with the audited financial statements of the BIA and any other statements and reports required by Council, at the time specified by Council.

## **5.3 General Responsibilities**

Without restricting the generality of the foregoing, the Board shall develop and oversee the implementation of policies and procedures intended to reasonably ensure:

- 5.3.1 that the business and affairs of the BIA are conducted in a manner that is consistent with the Purpose of the BIA;
- 5.3.2 that adequate accounting and financial records of the BIA are maintained; that effective internal controls, management information systems, and systems to recognize and assess the principle risks of the BIA are in place; and
- 5.3.3 the BIA's compliance with regulatory requirements.

## **5.4. Financial Matters and Reporting**

The Board shall be responsible to:

- 5.4.1 develop the annual budget, review the proposed budget with the Members at the AGM and recommend the passage of a motion by the Members at the AGM to recommend approval of the budget by Council. The MGA Act & Regulations and the Bylaw do not require a motion to be passed by the members on the budget; doing so will add strength to the recommendation of approval by the Board to Council especially if any Member chooses to speak against the budget as Council considers it. As defined in the MGA, the BIA annual budget must be a balanced budget, the Board may only make expenditures that are included in the approved budget, and, the Board must provide the Members with written notice of the date and time that Council will consider approval of the budget;
  - 5.4.1.2 ensure any budget changes of \$5000 and more that are within the budget, are approved by Executive Committee (Officers). Any budget changes \$5000 or more, outside of the budget that require more budget allocation, need to be approved by the entire board.

- 5.4.2 as declared in the MGA BIA Regulations, Council may, in its approval of a board's budget,
  - 5.4.2.1 authorize the board to amend the budget by:
  - 5.4.2.2 transferring amounts to or from the board's reserves, and
  - 5.4.2.3 transferring amounts between expenditures so long as the amount of the total expenditure is not increased, and
  - 5.4.2.4 establishing conditions respecting the amendment of the budget under Clause 5.3.2.
- 5.4.3 ensure the preparation of audited annual financial statements of the BIA;
- 5.4.4 as defined in the MGA, the Board must appoint an auditor to audit the accounts and annual financial statements of the BIA and report thereon as required by the City following the end of each fiscal year; and
- 5.4.5 ensure that the audited financial statements of the BIA, together with the auditor's report thereon, are presented at the Annual General Meeting or Spring General Meeting.
- 5.4.6 as defined in the Bylaw, the BIA has no power to borrow money or otherwise pledge its assets without the express direction of Council.
- 5.4.7 as established in the Bylaw, the banking business of the BIA shall be transacted with such banks or financial institutions as the Board may from time to time designate, and shall be transacted in accordance with such agreements, instructions and delegation of powers as the Board may from time to time prescribe.
- 5.4.8 as defined in the MGA and the Bylaw, the fiscal year of the BIA shall be the calendar year.

## **5.5. Authority of Board**

The Board shall have any such power and authority as may be necessary or convenient to manage or oversee the management of the business and affairs of the BIA and to discharge their responsibilities under the MGA, the Bylaw, and the Governing Document.

- 5.5.1. Without restricting the generality of the foregoing, the Board has the authority to:
  - 5.5.1.1 implement the annual operating plan as per the budget approved by Council,
  - 5.5.1.2 appoint officers, and otherwise retain, employ, remunerate, and indemnify any person or contracted service provider for services rendered or liabilities incurred in connection with the business and affairs of the BIA and, acting reasonably, make such expenditures from the resources of the BIA as may be necessary and to do so within the approved budget,
  - 5.5.1.3 appoint signing authorities for the BIA, and
  - 5.5.1.4 generally, to establish policies and make rules and regulations for the operation of the BIA.
  - 5.5.1.5 as defined in the MGA, the Board must appoint an auditor and as outlined in 5.3.3.
  - 5.5.1.6 the Board is authorized to determine its own practices and procedures consistent with the MGA, the Bylaw, and this Governing Document.

## **5.6 Exercise of Authority by Board**

The Board shall exercise its authority by:

- 5.6.1 passing a resolution by a simple majority; or
- 5.6.2 the adoption of a resolution in writing.

## **5.7 Voting by Electronic Means**

Directors may validly vote at any meeting of the Board by such electronic means as are acceptable to the chair of the meeting.

## **5.8 Written Resolutions and Electronic Signatures**

Any resolution in writing signed or otherwise approved in writing by all Directors entitled to vote on that resolution is as valid as if it had been passed at a meeting of the Board. Directors may validly sign or otherwise approve a resolution in writing by such electronic means as are acceptable to the Chair.

## **5.9 Delegation of Authority to Committees, Officers, and Employees**

The Board may, from time to time, assign duties and delegate authority to committees of the Board, to Officers and employees of the BIA, and to such other persons as the Board may determine from time to time. The Board shall approve Terms of Reference, which shall contain any delegation, for any committees established.

## **5.10 Nomination of Candidates for Director Appointment by Council**

A Nominating Committee shall be established annually for the purpose of:

- 5.10.1 Implementing a call for nominations prior to the Annual General Meeting;
- 5.10.2 Verifying that nominees have been nominated in writing by a Member and have agreed to the nomination in writing;
- 5.10.3 Continuing the nomination process on the floor of the Annual General Meeting;
- 5.10.4 Closing Nominations at the Annual General Meeting;
- 5.10.5 Conducting the selection process to confirm nominations being recommended to Council at the Annual General Meeting;
- 5.10.6 Confirming if less than the appointment of fifteen (15) Directors is being recommended by the members;
- 5.10.7 *Process for Honorary Members:* Honorary Members are appointed by the Board and are not elected. City Council is not required to approve these members.

# **6. ARTICLE 6**

## **Meetings of Members**

### **6.1 Regular Meetings**

The Members shall meet at the call of the Chair or at the call of any eleven (11) Members.

#### **6.1.1 Notice of Regular Meetings**

The Chair shall ensure that notice is given to the Members of the date, time, place, and agenda of any Regular Meeting. Such notice shall be given not less than seven (7) days before the meeting.

## **6.2 Spring General Meetings**

In May or June of each year the BIA shall hold a meeting of Members that shall be the Spring General Meeting of the BIA and at such meeting shall:

- 6.2.1 present the financial statements of the BIA for the most recently completed fiscal year, accompanied by the auditor's report thereon;
- 6.2.2 present the annual report; and
- 6.2.3 updates on projects, initiatives and issues in Old Strathcona.

## **6.3 Annual General Meetings**

In September or October of each year the BIA shall hold a meeting of Members that shall be the Annual General Meeting of the BIA, and at such meeting shall:

- 6.3.1 present the minutes of the previous Annual General Meeting;
- 6.3.2 elect the proposed slate of Nominees to be recommended for appointment as Directors by City Council;
- 6.3.3 presentation and review of the proposed next annual operating budget to be recommended for approval by City Council; and
- 6.3.4 **Notice of Annual General Meetings**

As established in the Bylaw, written notice of the Annual General Meeting shall be sent by mail, personal delivery, or a combination of the two, to all members at least fourteen (14) days prior to the meeting date.

## **6.4 Waiver of Notice by Members - Regular and AGM**

Notwithstanding any other provision of the Governing Document, attendance by a Member at any meeting is a waiver of notice of the meeting except when a Member attends a meeting and at the opening of the meeting declares to the meeting that such attendance is only for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

## **6.5 Quorum for Regular Member Meetings - Regular and AGM**

There is no minimum number of Members required to be present for any meeting of the Members.

## **6.6 General Procedure at Member Meetings - Regular and AGM**

The Chair shall preside at all meetings of the Members. If the Chair is not present, or is unable to act, the Members present at the meeting shall choose an Officer of the Board to chair the meeting. If no Officer is available or willing to chair the meeting the Members may choose any other Director, present at the meeting, to chair the Meeting.

The Chair of any meeting of Members shall rule on the procedure to be followed at the meeting in accordance with the rules of procedure adopted by the Members from time to time and the decision of such chair on all matters relating to procedure shall be conclusive and binding upon the Members.

## **6.7 Voting at Member Meetings - Regular and AGM**

Members, including the Chair of a meeting if the Chair is also a Member, shall be entitled to vote on any question or matter coming before a meeting of Members, each Member having one vote.

Voting at every meeting of the Members shall be by a show of voting cards of those present, except where, either before or after a show of hands or verbal poll, a ballot is required by the chair of the meeting or is demanded by any Member present.

All motions are passed by a simple majority vote (50% + 1) of the members present at a meeting.

In the case of an equality of votes, the Chair of the meeting shall not have a casting vote.

#### **6.7.1 Election Procedure at AGM**

All nominated members of the board will be presented as-a-whole to be elected on by members at the AGM. Only voting members can vote.

Honorary Directors, who are appointed by the board, may be presented but are not elected at the AGM.

Any nominations for other board members can be nominated from the floor and will be added to the board list to be elected on.

Directors elected every single year with an intention of serving two years. Following best practice for succession, Officers may have an intention to serve for more than one term.

At the discretion and appointment by the Board, Honorary Directors can be appointed for two years.

#### **6.8 Place of Member Meetings – Regular, AGM and SGM**

Any Meeting of the Members or Board shall be held in Edmonton.

#### **6.9 Minutes of Member Meetings - Regular and AGM**

Minutes of all meetings of Members shall be prepared and maintained among the records of the BIA. It shall be the duty of the OSBA staff to ensure the preparation, distribution, and maintenance of accurate and complete meeting minutes.

### **7. ARTICLE 7**

#### **Meetings of the Board**

##### **7.1 Meetings of the Board**

As established in the Bylaw, included here for convenient reference, the Board shall meet at least quarterly and may meet more frequently, as it sees fit, for the dispatch of business.

###### **7.1.1 Attendance at Board Meetings**

Attendance at Board Meetings is restricted to the Board of Directors and Executive Director except where an invitation has been made by or on behalf of the Board of Directors.

###### **7.1.2 Board Participation and Responsibility**

Participation in Board meetings and Board activities is vital to Board operations. Any member who has missed 3 (three) meetings can be removed from the Board. In addition, Board members no longer able to fulfill their obligations or act in good standing can be removed with a 2/3 majority vote of voting Board members.



## **7.2 Notice of Meeting Board Meetings**

Notice is to be given to the Directors of the date, time, place, and agenda of any Board Meeting. Such notice shall be given not less than seven (7) days before the meeting.

## **7.3 Waiver of Notice by Directors**

Notwithstanding any other provision of the Governing Document, attendance by a Director at any meeting is a waiver of notice of the meeting except when a Director attends a meeting and at the opening of the meeting declares to the meeting that such attendance is only for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

## **7.4 Quorum for Board Meetings**

A simple majority, 50% + 1, of the existing appointed Directors shall constitute a quorum for all meetings of Directors. If a quorum is present at the opening of a meeting, the Directors present may validly proceed with the business of the meeting, notwithstanding that a quorum is not present throughout the meeting. Proxies shall not be allowed for Board Meetings.

## **7.5 General Proceedings at Board Meetings**

The Chair shall preside at all meetings of the Directors. If the Chair is not present, or is unable to act, the Directors present at the meeting shall choose an Officer of the Board to chair the meeting, if no Officer is available or willing to chair the meeting, the Directors may choose any other Director, present at the meeting, to chair the Meeting.

The Chair of any meeting of Directors shall rule on the procedure to be followed at the meeting in accordance with the rules of procedure adopted by the Directors from time to time and the decision of such chair on all matters relating to procedure shall be conclusive and binding upon the Directors.

## **7.6 Voting at Board Meetings**

Members, including the Chair of a meeting, shall be entitled to vote on any question or matter coming before a meeting of Directors, each Director having one vote. Voting at every meeting of the Directors shall be by a show of hands or verbal poll of those present (and a Director shall be deemed to be present if attending by telephone or other communications facilities as permitted by section 7.8) except where, either before or after a show of hands or verbal poll, a ballot is required by the chair of the meeting or is demanded by any Director present.

In the event of a ballot, those Directors attending by telephone or other communication facilities may validly participate by casting a vote by email addressed as the chair may direct. In the case of an equality of votes, the Chair of the meeting shall not have a casting vote.

## **7.7 Place of Meetings**

Any Meeting of the Board shall be held in Edmonton, or in a virtual setting online.

## **7.8 Meeting Attendance by Telephone or Other Communications Facilities**

One or more Directors may participate in any meeting by means of telephone or other communications facilities which permit all persons participating in the meeting to hear and communicate with each other, and any Director participating in a meeting by such means is deemed to be personally present at the meeting for quorum and all other purposes of the MGA, the Bylaw and the Governing Document. For the avoidance of doubt, the provisions of this section apply to any Board Meeting or any meeting of Board committees.

## **7.9 Minutes of Director and Board Committee Meetings**

Minutes of all meetings of the Board and Board committees shall be prepared and maintained among the records of the BIA. It shall be the duty of the OSBA administration to ensure the preparation, distribution, and maintenance of accurate and complete meeting minutes.

# **8. ARTICLE 8**

## **Officers**

### **8.1 Officers**

The officers of the BIA shall be elected by the Directors at the first meeting following the annual appointment of Directors by Council and shall include a Chair, Vice Chair, Treasurer, and a Past Chair (if applicable) and such other Officers as the Directors may, from time to time, determine. In addition to the duties and authorities specified in the Governing Document, the Directors may designate the duties of and delegate authority to the Officers and may establish such other matters concerning the Officers, as the Directors may determine. The Officers have signing authority on behalf of the OSBA, as does the Executive Director. Each year upon election, the signing authority representatives need to be updated (see *OSBA Policy & Process Signing Authority*).

### **8.2 Chair**

The Chair is responsible for the effective functioning of the Board and should provide leadership in all aspects of their work. The Chair should encourage each Director to participate in discussions and make positive contributions to meetings to bring forward the best of their abilities and expertise for the benefit of the Directors and the BIA.

In cooperation with the Executive Director, the Chair should plan and organize meetings of the Board. The Chair shall preside at all meetings of the Members and the Board, together with the Executive Director, is responsible for meeting agendas and the quality, quantity, and timeliness of information provided. The Chair is responsible to ensure that all meetings of the Members and Board are conducted in an efficient, respectful and effective manner. The Chair should work to promote ongoing formal and informal communication with and among Members, Directors and the Executive Director. The Chair should be a positive ambassador for the BIA to the BIA community and the greater community at large.

### **8.3 Vice Chair**

In the absence of the Chair, the Vice Chair may act on behalf of the Chair as the Acting Chair responsible for the duties as noted under 8.2. The Vice Chair is traditionally elected as the succeeding Chair. The Vice Chair acts as a support to the Chair to ensure the organization's mission is met.

## **8.4 Treasurer**

The Treasurer shall oversee the financial affairs of the BIA. In doing so, the Treasurer is responsible to:

- 8.4.1 ensure that all funds and other property are properly accounted for and that such books and records are kept as required by the MGA, the Bylaw, the Governing Document, and regulators;
- 8.4.2 review financial reporting and updates as the Board or City may request;
- 8.4.3 in concert with the Executive Director, ensure that effective internal financial controls and information systems are in place;
- 8.4.4 in concert with the Executive Director, implement reasonable measures to recognize and assess the principal financial risks of the BIA and take steps to ensure that such risks are monitored and managed to the extent that it is reasonable to do so;
- 8.4.5 supervise the preparation of audited annual financial statements of the BIA for submission to the City and for review and approval by the Board prior to that submission, and their review at each Annual General Meeting; and 8.4.6. present the audited financial statements at the Annual General Meeting; and
- 8.4.6 together with such other matters as the Board may determine.

## **8.5 Past Chair**

Role of the Past Chair: to support the incoming Chair and succession planning. The Past Chair is not elected but remains on the Board until the new Chair is elected.

## **8.6 Term of Officers**

The Officers shall serve from the time elected through to the appointment of the new Board by Council. Therefore, each term shall be no more than one year. Officers may serve more than one term. Following best practices, the Board's suggested term for Officers and Directors is two (2) years and shall be re-elected each year.

# **9. ARTICLE 9**

## **9.1 Executive Director**

The Executive Director of the BIA shall not be a voting member of the Board but shall be the primary resource for the Board, shall be invited to all Board Meetings and excused only when the topic warrants and be the lead liaison with the City and shall be responsible to:

- 9.1.1 lead, in conjunction with the Board, the development of the BIA's long and short-term strategy;
- 9.1.2 lead the operational management of the BIA;
- 9.1.3 oversee the implementation of the BIA's strategic goals and approved annual operating plan;
- 9.1.4 ensure that effective internal controls and management information systems are in place;
- 9.1.5 implement reasonable measures to recognize and assess the principal risks of the BIA and take steps to ensure that such risks are monitored and managed to the extent that it is reasonable to do so;

- 9.1.6 serve as a signing authority for the BIA along with Officers or such others as the Board shall establish;
- 9.1.7 support the Chair in the development of meeting agendas, the scheduling of meetings, and the preparation of materials for Board meetings; and
- 9.1.8 in conjunction with the Chair, ensure that on an ongoing basis, the Members and Directors are properly informed and provided with enough quality and timely information to reasonably enable them to provide advice and counsel, and form sound judgements, concerning the business and affairs of the BIA, together with such other matters as the Board may determine.

## **10. ARTICLE 10**

### **Auditor, Inspection of Records and Seal**

#### **10.1 Independent Auditor**

The BIA shall have an independent, qualified financial auditor. The Directors shall appoint an auditor to hold office until the completion and acceptance of the audit for the fiscal year.

#### **10.2 Inspection of Books**

Inspection of books is limited by the Bylaw. As defined in the Bylaw, the books of account of the BIA shall be kept at such place or places as the Board thinks fit. No person, other than a Director, an Officer, the City Auditor, or an officer, accountant, or other person whose duty to the BIA or to the Council require that person to do so, shall have any right to inspect any account, book or other document of the BIA at the discretion of the Board.

#### **10.3 Seal**

The Board may adopt a common seal for the BIA. If the Board adopts a common seal it shall create a policy for its use.

## **11. ARTICLE 11**

### **Duty of Care, Limitation of Liability, Indemnity**

#### **11.1 Duty of Care of Members and Officers**

Every Director and Officer of the BIA, in exercising his or her powers and discharging his or her duties shall:

- 11.1.1 act honestly and in good faith with a view to the best interests of the BIA; and
- 11.1.2 exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

#### **11.2 Civil Liability of Board Members**

As defined in the MGA:

- 11.2.1 In this section “approved budget” means a budget of the board of a business improvement area that has been approved by council.
- 11.2.2 A member of the board of a business improvement area that makes an expenditure that is not included in an approved budget is liable to the municipality for the expenditure.

11.2.3 If more than one member is liable to the municipality under this section in respect of a particular expenditure, the members are jointly and severally liable to the municipality for the expenditure.

11.2.4 The liability may be enforced by action by:

11.2.4.1 The municipality, or

11.2.4.2 A person who is liable to pay the business improvement area tax imposed in the business improvement area.

### **11.3 Limitation of Liability**

With the exception of liability as outlined in section 11.2, no Director or officer shall be liable for the acts, omissions or defaults of any other Director or officer or employee of the BIA, or for any loss, damage or expense occasioned to the BIA through the insufficiency or deficiency of title to any property acquired for or on behalf of the BIA, or for the insufficiency or deficiency of any security in or upon which any of the monies of the BIA shall be invested, or for any loss or damage arising from bankruptcy, insolvency or tortious or criminal acts of any third party with whom any of the monies, securities or effects of the BIA shall be deposited, or for any loss occasioned by any error of judgment or oversight of that third party or for any other loss, damage or misfortune whatever which shall happen in the execution of the duties of that third party's office or in relation to it.

### **11.4 Indemnification of Members, Officers, and Other Persons**

The Directors and officers, and every former Director or officer, shall be indemnified, except for liabilities as outlined in section 11.2, by the BIA against all costs, charges, and expenses, including an amount paid to settle an action or satisfy a judgment, which such Director or Officer may reasonably incur in respect of any civil, criminal, or administrative action or proceeding to which the Director or Officer is made a party by reason of being or having been a Director or officer of the Association.

Nothing in the Governing Document shall limit the right of any person contractually or otherwise entitled to indemnity from the BIA to claim indemnity apart from the provisions of the Governing Document.

## **12. ARTICLE 12**

### **Miscellaneous**

#### **12.1 Amendment of Governing Document**

The Governing Document shall not be made, altered, rescinded or added to except by Resolution of the Members and must be filed with the municipality.

#### **12.2. Omissions and Errors in Notice**

The inadvertent omission to give any notice to any Member, Director, Officer or auditor or the non-receipt of any notice by any Member, Director, Officer or auditor, or any error in any notice not affecting its substance, shall not invalidate any action taken at any meeting held pursuant to that notice or otherwise founded on it.

## **13. ARTICLE 13**

### **Dissolution or Cessation of the BIA**

#### **13.1 Surrender Incorporation**

The rules to disestablish the BIA are contained in the MGA Regulations – sections 23, 24,25, 26, 27, 28, 29 and 30.

#### **13.2. No Distribution to Members**

At no time including, without limitation, if the BIA is dissolved or otherwise ceases to exist for any reason, shall any dividends be paid or any of the property or assets of the BIA be in any way distributed among its Members.

#### **13.3 Disposition of Assets upon Dissolution or Cessation**

13.3.1 Upon dissolution or cessation of the BIA, any assets remaining after paying debts and liabilities shall be transferred to the City for management in the place and stead of the BIA.

Original Operating procedures approved Oct 2019

Revised September 2022

Approved by the OSBA Board September 14, 2022

Reviewed and approved as amended by OSBA Board September 14, 2022

Approved by OSBA members at the 2022 AGM October 5, 2022