

To: David Creery, Chief Administrative Officer

From: Jeff Bunn, Manager of Legislative Services/Deputy City Clerk

Re: Amendments to Municipal Code Chapter 36 – Board of Management Improvement Areas

AIM

To obtain Council's authorization to amend Municipal Code Chapter 36 – Board of Management Improvement Areas to align with provincial legislation and recent amendments to the Board's Procedural By-law.

BACKGROUND

The Woodstock Business Improvement Area Board of Management is governed by a legislative framework including the *Municipal Act, 2001* (hereafter "the Act"), City of Woodstock Municipal Code (e.g., Chapter 36), and Downtown Woodstock BIA By-laws.

Sections 204-215 of the Act governs the formation and purpose of Business Improvement Areas, including the Board's and Council's role in appointments and its composition; funding formula; and budget and administrative requirements.

At the beginning of every term of Council, the incoming Council appoints citizens and Councillors to various City boards and committees, including the Downtown Woodstock BIA Board of Management, in accordance with the Act, Chapter 36 of the Municipal Code, and City of Woodstock Policy GA005 – Appointments to Boards and Committees.

More specifically, Article 2 of Chapter 36 of the Municipal Code outlines how the Board of Management is established, the composition of the Board, and how members of the Board are appointed.

COMMENTS

On September 5, 2024, the Downtown Woodstock Business Improvement Area Board of Management amended its Procedural By-law to reflect a composition of 12 directors, including one member of the City Council appointed by City Council.

To ensure consistency and alignment with the amendments of the Procedural By-law, City Staff reviewed Chapter 36 of the Municipal Code with specific attention to the appointment of new members to the Board (e.g., at the beginning of the term of Council), and when membership vacancies arise. As such, a minor housekeeping amendment is required to align the two governance documents. A revised "marked up" copy of Municipal Code Chapter 36 with the proposed changes has been attached to this report for Council's consideration as Attachment 1.

In addition to updating the composition of the Board in the Municipal Code, Staff also completed a review of the rules and regulations under Section 204 of the Act to ensure consistency with the appointment process and the legislative framework. Section 204 of the Act regulates composition, membership, and the appointment process of Board members. It was identified during this review that two sections of the Act relating to appointment of members of the Board were not reflected in the Municipal Code. Namely, the following sections were identified and are reflected in the proposed changes:

Vacancies

(12) Subject to subsection (9) [of the Act], 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.

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.

A copy of Section 204 of the Act, in its entirety, has been attached to this report as Attachment 2.

RECOMMENDATION

That Woodstock City Council refer the amended Municipal Code Chapter 36 to the by-law section of the meeting.

Authored by: Jeff Bunn, Manager of Legislative Services/Deputy City Clerk

Approved by: Amy Humphries, Deputy Chief Administrative Officer/City Clerk

Approved by: David Creery, Chief Administrative Officer

Board - Committee

Chapter 0036 - Board of Management Improvement Areas

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Article 1 - Improvement Area

36.1.1 Area - designated

The area described as follows:

commencing at a point, being the intersection of the centre lines of Oxford Street and Hunter Street;

thence easterly along the centre line of Hunter Street to the centre line of Princess Street;

thence easterly along the centre line of Princess Street to the centre line of Beale Street;

thence southerly along the centre line of Beale Street to the centre line of Bay Street;

thence southerly along the centre line of Bay Street to Main Street;

thence westerly along the centre line of Main Street to the centre line of Mill Street;

thence northerly along the centre line of Mill Street to the centre line of Oxford Street;

thence northerly along the centre line of Oxford Street to the place of beginning; shall be designated as an improvement area.

Article 2 - Board - Established

36.2.1 Board of Management - improvement area

A Board of Management is hereby established to manage the improvement area.

36.2.2 Members - appointed - by Council

The Council shall, in each term at its appointments meeting or so soon thereafter as may be convenient, appoint members to the Board of Management in accordance with section 204 of the *Municipal Act, 2001*.

36.2.3 Composition-members number - as advisable

The Board shall consist of ~~12 such number of~~ members appointed ~~by Council~~ as the Council considers advisable.

36.2.4 Membership - eligibility - requirements

At least one member of the Board shall be a member of the Council and the remaining members shall be individuals who are persons who, on the last returned assessment roll, are assessed with respect to rateable property in the area that is in a prescribed business property class or tenants or representatives of such property.

36.2.5 Term - expiration - term of Council

Each member of the Board of Management shall, provided he/she continues to be qualified, hold office from the time of his/her appointment until the expiration of the term of the Council that appointed him/her.

36.2.6 Vacancy - filled - remainder of term

~~Where a vacancy occurs on the Board, from any cause, Council may appoint a person qualified as set out in Section 36.2.3 and 36.2.4, who shall hold office for the remainder of the term for which his/her predecessor was appointed.~~
Subject to subsection 36.2.8, if a vacancy occurs for any cause, the Council 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.

36.2.7 Term - until successors appointed – reappointment

Members of the Board shall hold office until their successors are appointed and are eligible for reappointment.

36.2.8 Refusal to appoint

The Council 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 Council's consideration.

Article 3 - Board - Responsibilities

36.3.1 Lands - buildings - in area - improved – beautified

The Board of Management is entrusted to oversee the improvement, beautification and maintenance of municipally-owned lands, buildings, and structures in the area beyond that provided at the expense of the municipality generally.

36.3.2 Area - promoted - business - shopping area

The Board of Management is also entrusted with the promotion of the improvement area as a business and shopping area.

Article 4 - Financial

36.4.1 Financial statement - estimates - submitted – May

The Board of Management shall on or before the 31st day of May of each year submit an annual report including complete audited financial statement which shall be prepared by the City's Auditor at the expense of the Board. By-law 9464-21, June 17, 2021.

36.4.2 Estimates- submitted- March

The Board of Management shall on, or before the 31st day of March of each year submit its estimates for the then current year in the form prescribed by Council. By-law 9464-21, June 17, 2021.

36.4.3 Estimates - rejection - acceptance - by Council

The Council may reject estimates set out in Section 36.4.2, in whole or in part or may provide all or any part of the estimates requested by the Board.

36.4.4 Estimates - approval - by-law - Council

The estimates as finally accepted by Council shall be approved by by-law.

36.4.5 Treasurer - established - payment of accounts

The Treasurer of the Corporation shall act as Treasurer of the Board and shall pay the accounts of the Board following approval of the estimates of the Board by Council and of the accounts by the Board.

36.4.6 Expenditures - unapproved - prohibited

The Board shall not expend any money which is not provided for in its estimates as approved by Council.

36.4.7 Debt - incurred - beyond current year – prohibited

The Board shall not incur any indebtedness extending beyond the current year without the prior approval of Council.

36.4.8 Business assessment - special levy - calculated

The Council shall annually raise the amount required for the purposes of the board of management as set out in Article 3, including any interest payable by the municipality on money borrowed by it for the purposes of the board of management and shall establish a special charge for the amount to be raised by levy upon rateable property in the improvement area that is in a prescribed business property class.

36.4.9 Application - Municipal Act

The Board shall be governed by and comply with the provisions of the *Municipal Act, 2001*, as amended from time to time.

Article 5 - Repeal - Enactment - Conditional

36.5.1 Chapter - repeal - by Council

This Chapter may be repealed by the Council in any year to take effect on the 31st day of December of that year.

36.5.2 Ontario Municipal Board - approval - required

The by-law upon which this Chapter was founded came into force and took effect upon the approval of the Ontario Municipal Board.

36.5.3 36.5.3 Ontario Municipal Board - approval - received

By-law 5211-76 was approved by the Ontario Municipal Board November 26, 1976.

Attachment 2: January 16, 2025 Report Regarding Amendments to Municipal Code
Chapter 36 – Board of Management 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).