

**BY-LAW 49-2023**

**THE CORPORATION OF THE TOWN OF ST. MARYS**

Being a By-law to establish and clarify rules of procedure for the governance of the St. Marys Business Improvement Area.

- WHEREAS:** Subsection 204(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that the local municipality may designate a geographic area as a Business Improvement Area and may establish a Board of Management for the designated improvement area;
- AND WHEREAS:** Section 204(2.1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that a Board of Management of a business improvement area is a local board of the Town of St. Marys for all purposes;
- AND WHEREAS:** Pursuant to By-law 06-2019 dated the 24<sup>th</sup> day of June, 2003, the Town of St. Marys designated an area to be known as the Business Improvement Area;
- AND WHEREAS:** Council now wishes to establish the rules of procedure for governance of the Business Improvement Area;
- NOW THEREFORE:** The Council of the Corporation of the Town of St. Marys hereby enacts as follows;

**1.0. DEFINITIONS**

1.1. For the purpose of this By-law:

"Business Improvement Area,' or 'The BIA,' means the association of property owners and tenants within the area designated by Council in By-law 06-2019;

"Board of Management" or "The Board" means the group of Directors elected by the BIA membership and appointed by Council to control and oversee the business of the BIA;

"Constitution" means this document, being the primary governing document of the BIA, as passed by Council and as amended;

"Council" means the Council of the Corporation of the Town of St. Marys;

"Director" means an individual appointed to the Board of Management by Council;

"Member" means an individual, partnership or corporation that, on the last returned assessment roll, was assessed with respect to rateable property in the Business Improvement Area that is in a prescribed business property class;

"Notice" means notification of the date, time and location of an upcoming meeting;

“Tenant” means tenant of a property in a prescribed business property class within the designated BIA area, who is eligible to pay any portion of the property taxes on the same; and

“Town” means the Corporation of the Town of St. Marys.

## **2.0. PURPOSE**

2.1. The purpose of the St. Marys BIA under the *Municipal Act, 2001*, as amended is:

- a) To promote the commercial area of St. Marys as a business and shopping area;
- b) To oversee the improvement, beautification and maintenance of municipally-owned land, buildings, and structures within the boundaries of the St. Marys BIA, beyond that provided at the expense of the Town generally.

2.2. The purpose of the St. Marys BIA is governed by the Board of Management which is a corporation consisting of its Directors.

## **3.0. MEMBERSHIP AND VOTING**

3.1. Eligibility

- a) Members of the St. Marys BIA as outlined in the *Municipal Act, 2001*, as amended, consist of:
  - i. 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 properties.
  - ii. Tenant means the tenant of commercial or industrial property with a gross lease including a portion of taxes with respect to rateable property in the area.
- b) Each Member has one vote, regardless of the number of properties that the Member may own or lease within the St. Marys BIA.
- c) Where a Member is a partnership or corporation it may nominate in writing one individual to vote on behalf of the partnership or corporation.
- d) A list of all commercial and industrial members in the designated area will be held by the Clerk. The Clerk at their discretion may request every property owner to provide tenant information for the purposes of maintaining an accurate list.
- e) If necessary, the Clerk of the Municipality may accept a list provided under clause 210(2)(b) of the Act or the declaration of a person that the person is a tenant member of the St. Marys BIA. The determination by the Clerk is final.
- f) The Membership list shall not be utilized by any member for any purpose whatsoever other than as may be specifically approved by the Clerk upon request or by use by a certified candidate during a board election. Any member who uses all or part of the Membership list for unauthorized purposes will receive a warning from the Clerk that includes, among other

things, a provision stipulating that any subsequent unauthorized use will result in:

- i. That member's email privileges being revoked such that all communication will thereafter be in writing and,
- ii. The Membership being advised of such revocation.

#### **4.0. BOARD OF MANAGEMENT COMPOSITION**

- 4.1. The Board is a local board of the Town as defined by the *Municipal Act, 2001*, as amended or its successor legislation.
- 4.2. The Board of Management shall consist of five (5) to eight (8) Directors as follows:
  - a) One (1) member of Council to be appointed by Council; and,
  - b) The remaining Directors selected by a vote of the membership of the BIA and appointed by Council.
  - c) The Mayor is a voting ex-officio member of the Board and retains all powers granted to all other Directors on the Board.
- 4.3. Council may refuse to appoint a Member selected under Section 4.2 in which case Council may:
  - a) Leave the position vacant,
  - b) Appoint an alternate choice; or
  - c) Direct the Clerk of the Town to hold an election.
- 4.4. Directors shall serve for a term that is the same as the term of the Council that appoints them, but until their successors are appointed.
- 4.5. Quorum for the Board shall be a majority of the Directors.
- 4.6. The seat of a Director on the Board shall become vacant if a Director is absent from the regular meeting(s) of the Board for any three (3) consecutive months without being authorized to do so by a resolution of Council.
- 4.7. If a seat of a Director becomes vacant for any reason, Council will follow Section 4.3 of this By-law.
- 4.8. A Director may be reappointed to the Board of Management for up to two (2) consecutive terms.
- 4.9. Directors shall serve without remuneration. Directors may be reimbursed for all reasonable expenses directly relating to their functions as Board members provided those expenses are approved in advance by resolution of the Board.

#### **5.0. BOARD OF MANAGEMENT ELECTION PROCEDURES**

- 5.1. Call of an Election

- a) An election will be conducted within four (4) months of a new term of Council commencing or as directed by Council. The Town Clerk shall conduct the election process.
- b) The date and location of the election shall be advertised to the membership by any or all of the following: email, direct mail, public advertisement and/or social media accounts. Notice will be provided for a minimum of three (3) weeks in advance of the election.

## 5.2. Nominations

- a) At the call of the election as specified in Section 5.1, the Clerk shall advertise the call for nominations and election by any or all of the following: email, direct mail, public advertisement and/or social media accounts. Notice shall be provided for a minimum of three (3) weeks to the membership.
- b) Nomination forms shall be made available on the Town's website and at any other location specified by the Clerk. These locations will be advertised in the call for nomination advertisements.
- c) Nominations shall be submitted on the prescribed nomination form and filed directly with the Clerk.
- d) Nominations filed by individuals not assessed commercially or industrially in the business improvement area shall be deemed by the Clerk as ineligible.
- e) Nomination period shall close three weeks prior to the date of the election.
- f) The due date of nominations must be advertised in the call for nominations advertisement.
- g) A person may withdraw his or her nomination by filing a written withdrawal with the Clerk before the close of nominations.
- h) If at 4:00 p.m. on the second business day following nomination day, the number of certified candidates for an office is the same as or less than the number to be elected, the Clerk shall immediately declare the candidate or candidates accepted to stand on recommendation to Council for appointment to the BIA Board.
- i) Subject to section 5.2(h), the Clerk shall extend the nomination period by one week from the date of acceptance for additional nominations for the remaining seats. If the number of certified candidates still does not exceed the remaining number of vacancies, the Clerk shall immediately declare the additional candidate or candidates accepted to stand on recommendation to Council for appointment to the BIA Board.
- j) Immediately following the close of nominations, the Clerk shall prepare a report to Council with respect to all nominations received and certified for the election or acceptance and seek Council's approval through By-law of the appointments to the Board.

## 5.3. Election

- a) The Clerk is the Returning Officer and is responsible for the election.

- b) The Business Improvement Area election shall be conducted by ballot and held at the date, time and location specified by the Clerk.
- c) Each member has one vote regardless of the number of properties that the member may own or lease in the Business Improvement Area.
- d) Every member that is a corporation or partnership has one vote regardless of the number of shareholders or partners that the member has.
- e) A candidate may appoint a scrutineer to represent him or her during voting and the counting of votes, including a recount.
- f) The Clerk shall place the results of the election on the Town's website and indicate that all appointments are subject to Council approval.

5.4. Board of Management Officers

- a) The Board, as soon as is practicable after its members are appointed, shall select a Chair, Vice-Chair, Secretary and Treasurer and such other officers as it may deem necessary and as are lawfully authorized to properly conduct the business of the Board.

**6.0. RESPONSIBILITIES OF THE BOARD**

6.1. The collective responsibilities of the Board shall include:

- a) Maintenance of records - the Board shall prepare and forward original minutes of every meeting of the Board to the Clerk. The Chair and Secretary must sign the minutes and forward copies to all Directors within thirty (30) days of the meeting;
- b) Maintaining appropriate banking arrangements - the Board shall adopt and maintain banking and accounting arrangements acceptable to the Treasurer of the Town and shall submit to an audit by the Treasurer of the Town, or their designate, upon request;
- c) Ensure proper budgeting - the Board shall prepare and submit to the Clerk of the Town a proposed annual budget and business plan, in a form approved by the Treasurer of the Town, on or before April 30 in each year. The fiscal year shall end on December 31 of each year. The proposed budget must include projected revenue and expenses. The proposed business plan must include a description of planned expenses. The proposed budget and business plan must be approved by the members of the BIA at the annual general meeting prior to submission of the budget to the Town. Council shall then either approve or modify the proposed annual budget and business plan;
- d) Submission of financial statements -which shall be submitted to the Clerk on or before May 31 of each year, and an audited financial statement for the prior year.

**7.0. POWERS OF THE BOARD**

7.1. The Board has and may legally exercise the following powers, in the absence of

other restrictions placed upon the Board by law or the membership, these being that the Board has the power to:

- a) Procure goods and services in line with the approved budget and adhering to the Town's procurement policies;
- b) Enter into contracts and agreements;
- c) Make banking and financial arrangements;
- d) Hire an employee of the Board as per the Town's hiring policies and in conjunction with approved funding in the budget;
- e) Direct the manner in which any other person or persons may enter into contracts or agreements on behalf of the BIA; and,
- f) Create working groups, either ad hoc or permanent, to assist the Board with its purpose and goals which must follow the governance set out in this By-law.

## **8.0. WORKING GROUPS**

- 8.1. The Board may strike a working group during its term for the purpose of preparing recommendations on a specific topic(s) to the Board.
- 8.2. The Board shall strike a working group by resolution of the Board.
- 8.3. The working group shall consist of at least one (1) member of the Board and may consist of members of the BIA membership and shall not include a quorum of the Board.
- 8.4. A working group shall come to a consensus on a recommendation which shall be presented to the Board at a regular meeting for consideration.
- 8.5. A working group has none of the decision-making powers of the BIA or the Board.
- 8.6. A working group may be dissolved at any time by a decision of the Board.

## **9.0. DIRECTORS DUTIES**

- 9.1. All Board of Management Directors are voting members. The duties of each of the Directors are as follows:
  - a) **The Chair shall:**
    - i. Chair all board of management meetings;
    - ii. Rule on all procedural matters and maintain decorum;
    - iii. Ensure motions and amendments are clearly expressed;
    - iv. Have general supervision of the affairs of the BIA;
    - v. Be one of the two (2) officers of the BIA authorized, who may be called upon to sign cheques, and to execute documents and agreements by way of a required two-signature system;
    - vi. Sit as an ex-officio voting member on all committees of the BIA;

- vii. Be the public representative of and spokesperson for the Board;
- viii. Perform any other duties which the Board may assign from time to time; and,
- ix. Work with staff of the Town to ensure all legislative obligations are met, including but not limited to those regarding all staff, volunteers, committees and Board Directors of the BIA.

**b) The Vice Chair shall:**

- i. Perform all of the duties of the Chair in the absence of the Chair or if the Chair is unable for any reason to perform those duties;
- ii. Along with the Chair, or Treasurer, have authority to co-sign all cheques and by- laws, and to execute any documents, contracts or agreements by way of a required two-signature system; and,
- iii. Perform any other duties that the Board may assign from time to time.

**c) The Secretary shall:**

- i. Give the required notice as per the Board's procedural rules contained within this document for every board and general meeting of the BIA.
- ii. Take minutes of each such meeting and shall record in the minutes the following: the place, time and date of meeting, the name of the person presiding, and the Board members present and absent, any correction to and the adoption of, the minutes of the previous meeting, and all resolutions. All minutes of every meeting shall be printed and signed by the Chair and the Secretary and provided to the Clerk for purposes of record keeping; and,
- iii. Perform any other duties that the Board may assign from time to time.
- iv. The Secretary may be an employee of the Board and if so, shall not be deemed a Director and therefore, is not entitled to vote.

**d) The Treasurer shall:**

- i. Keep and maintain the financial records and books of the BIA which shall include but not be limited to keeping of all receipts and disbursements in proper books of account, depositing all moneys or valuable effects in the name of the Board and to its credit in the bank designated by the Board from time to time;
- ii. Assist the Town Treasurer or their designate in the preparation of the financial statements of the BIA;
- iii. Maintain an inventory of all tangible and intangible assets owned or leased by the BIA;
- iv. Prepare and distribute the proposed annual budget in accordance with the requirements of the Town;

- v. Together with the Chair or Vice-Chair, have authority to co-sign all cheques and by-laws and execute any documents, contracts or agreements by way of a required two-signature system;
- vi. Prepare written financial updates for the membership's review and consideration at each regular general meeting;
- vii. Provide the Treasurer of the Town with all financial records for purposes of record keeping, once they are no longer current as determined by the Town's Treasurer; and
- viii. Perform any other duties that the Board may assign from time to time.

**e) The Council Representative shall:**

- i. Represent the interests of the BIA Board, including providing timely reports on BIA activities to Town Council.
- ii. Report on regular Council activities to the BIA Board that may be of relevance to the day-to-day operations of the BIA; and,
- iii. Act as a resource to the Board and the general BIA membership on matters pertaining to Town policies, by-laws and accountabilities to ensure BIA practices and procedures are aligned with those of the Town.

**f) The Town Staff Liaison may be appointed by Council, and if so appointed shall:**

- i. Have the right to attend meetings of the Board and its committees and to participate in their deliberations, but is not entitled to vote, or to act as the presiding officer at the meeting.

## **10.0. MEETINGS**

### **10.1. General Membership Meetings**

- a) There shall be a meeting of the membership held at least once per year and to be known as the Annual General Meeting.
- b) The Board may also call a special meeting of the membership throughout the term of the Board.
- c) Notice to all Members of an annual general meeting shall be provided by either email, direct mail, public advertisement and further advertised through social media accounts at least three (3) weeks in advance of the meeting.
- d) Notice to all Members of a special meeting may be provided at least ten (10) days in advance of the meeting and utilize the distribution system outlined in Section 10.1(c).
- e) Notice of the agenda shall be made available to the Members at least seven (7) days in advance of an annual general meeting or a special meeting.
- f) New business may be received from the floor after the agenda has been approved.

- g) Quorum for any meeting of the Members shall be 10% of the Members or ten (10) members, whichever is less. No business shall be conducted unless a quorum of the Members has been achieved.
- h) No error or accidental omission in giving notice of any meeting of Members shall invalidate such meeting or make void any proceeding taken at such meeting.
- i) No omission to give any notice to any Member, Director, or the non-receipt of any notice by any Member or Director, nor error in any notice not affecting the substance thereof shall invalidate any action taken at any meeting held pursuant to such Notice or otherwise founded thereon.
- j) In the absence of rules in this By-law, the proceedings of the BIA shall be in accordance with the *Municipal Act, 2001* and shall be conducted as set out in Robert's Rules of Order.
- k) Motions arising at any meeting of Members shall be decided by a majority vote unless otherwise stated in these by-laws or as required by law.
- l) At all meetings, every question shall be decided by a show of hands unless a ballot on the question is required by the Chair or requested by a Member.
- m) The Chair shall declare that a resolution has been carried or not carried. The outcome of the motion will be entered into the minutes. It is not necessary to record the number or the proportion of votes, or the debate on the motion.
- n) The Secretary of the Board of Management shall keep minutes of any meeting of Members of the Board and submit a copy of those minutes to the Clerk within 30 days of the meeting.
- o) Draft minutes of the annual general meeting and special meeting shall be posted on the Town's website after each meeting.
- p) Direction for the management of delegations and correspondence is provided in the Town's Procedure By-law, as amended.

#### 10.2. Board of Management Meetings

- a) The Board shall regularly meet to conduct the business of the BIA, not less than nine (9) times per year, as scheduled by the Board.
- b) The Secretary shall provide notice to all Members of the Board of Management meeting through either email, direct mail, public advertisement, and further advertisement through social media accounts at least ten (10) days in advance. Notwithstanding the foregoing, in the event of a special meeting of the Directors, the Secretary shall provide such notice as is reasonable in the circumstances, but always in writing.
- c) Notice of the agenda shall be made available to the Members at least seven (7) days in advance of the Board of Management meeting.
- d) At regularly scheduled Board meetings, any Member may attend, ask to be recognized by the Board Chair and speak on any items on the agenda or

request new business to be placed on a future agenda. However, they shall not vote on any items on the agenda.

- e) Upon written petition of any two (2) Directors, stating a cause or concern, which shall be considered as the agenda of the meeting, the Chair shall call a meeting of the Board, to deal with the cause or concern in question within fifteen (15) days of receipt of the petition by the Secretary of the Board.
- f) The Board may limit time for deputations or presentations prior to the commencement of any meeting.
- g) No error or accidental omission in giving notice of any meeting of Directors shall invalidate such meeting or make void any proceeding taken at such meeting.
- h) No omission to give any notice to any Member or Director, or the non-receipt of any notice by any Member or Director, nor error in any notice not affecting the substance thereof shall invalidate any action taken at any meeting held pursuant to such Notice or otherwise founded thereon.
- i) In the absence of rules in this By-law, the proceedings of the BIA shall be in accordance with the *Municipal Act, 2001* and shall be conducted as set out in Robert's Rules of Order.
- j) Motions arising at any meeting of the Board shall be decided by a majority vote unless otherwise stated in these by-laws or as required by law.
- k) At all meetings, every question shall be decided by a show of hands unless a ballot on the question is required by the Chair or requested by a Director.
- l) The Chair shall declare that a resolution has been carried or not carried. The outcome of the motion will be entered into the minutes. It is not necessary to record the number or the proportion of votes, or the debate on the motion.
- m) The Secretary of the Board shall keep minutes of any meeting of the Board and submit a copy of those minutes to the Clerk within 30 days of the meeting.
- n) Draft minutes of the Board shall be posted on the Town's website after each meeting.
- o) Direction for the management of delegations and correspondence is provided in the Town's Procedure By-law, as amended.

## **11.0. FINANCIAL POLICY**

- 11.1. The fiscal year shall be January 1 to December 31.
- 11.2. Before being taken to Council for approval, the annual budget shall be presented to the membership for information prior to March 31.
- 11.3. At minimum, there shall be two Directors including the Chair and the Treasurer listed on a bank agreement as having signing authority on the Board's financial accounts.

- 11.4. The Board shall appoint a financial auditor at its annual general meeting. The auditor may be the same which the Town appoints for their needs.
- 11.5. The Board shall prepare and submit to the Clerk of the Town a proposed annual budget and business plan, in a form approved by the Treasurer of the Town, on or before April 30 in each year.
- 11.6. The proposed budget and business plan must be approved by the members of the BIA at the annual general meeting prior to submission of the budget to the Town. Council shall then either approve or modify the proposed annual budget and business plan.
- 11.7. The Board of Management shall follow all Town procurement policies. Should a question arise, the Town's Treasurer shall be consulted.
- 11.8. The Board of Management shall follow all Town hiring policies in the event of hiring an employee. Should a question arise, the Town's Director of Human Resources shall be consulted.
- 11.9. The Board may provide in its budget for the establishment and maintenance of a reserve fund for any purpose for which it has authority to spend money in accordance with subsection 417(1) of the *Municipal Act*, 2001, as amended.
- 11.10. Any establishment of a reserve fund shall be done with the assistance and consultation of the Treasurer of the Town to ensure compliance with financial reporting requirements.
- 11.11. The Board shall not:
  - a) Spend any money unless it is included in the overall budget approved by the municipality or in a reserve fund;
  - b) Incur any indebtedness extending beyond the current year without the prior approval of Council; or
  - c) Borrow money including bank account overdrafts, credit cards, lines of credit, private loans from members of the public or businesses or loans from board members or any other person, business, group or organization.
- 11.12. All new bank accounts, investment accounts (GICs, brokerage accounts, mutual funds and any other type of investment account) and any other accounts involving money (paypal, gofundme, or similar) must be approved by the St. Marys Town Treasurer prior to being opened.
- 11.13. Board members shall observe the laws, policies, and practices governing all matters related to confidentiality, privacy, and access to information. Should a question arise, the Clerk shall be consulted.

**12.0. ENACTMENT**

This By-Law comes into force and takes effect on the final passing thereof.

**Read a first, second and third time this 9<sup>th</sup> day of May 2023.**

Signed by Mayor  
Al Strathdee, Mayor

Signed by Clerk  
Jenna McCartney, Clerk