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BARRIE

Downtown Barrie BIA Constitution

Downtown Barrie Business Improvement Area

CONSTITUTION



Adopted by Board of Management October 5, 2021

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ARTICLE 1 – THE ORGANIZATION

CREATION AND LEGAL NAME

- 1.1 The legal name of the organization is the “Downtown Barrie Business Improvement Area (BIA)” (hereinafter the “**Association**”).
- 1.2 The Association may be known or referred to as the “Downtown Barrie BIA”.
- 1.3 The affairs of the Association shall be governed by a board of management (hereafter referred to as the “**Board of Management**” or the “**Board**”) consisting of directors elected pursuant to this Constitution.
- 1.4 The Board is a local board of the Corporation of the City of Barrie (hereafter referred to as the “**City**”) as defined by the *Municipal Act*, 2001, as amended from time to time, or under its successor legislation (hereinafter the “**Act**”).
- 1.5 The head office of the Association shall be determined by the Board from time to time and shall, at all times, be located within the geographic boundaries of the Downtown Barrie BIA.

1.6 The fiscal year end of the Association shall be December 31st.

MISSION

1.7 The mission of the Association is to establish the area of the city as depicted in Schedule "A" attached hereto (the "**Barrie Business Improvement Area**" or the "**Downtown Barrie BIA**") as the economically leading mid-size commercial, retail and entertainment community within the city, county and province, while working within a framework of high quality, guiding values.

1.8 The purpose of the Association under the Act is:

- i. To promote the Downtown Barrie BIA as a business and shopping area; and
- ii. To oversee the improvement, beautification and maintenance of municipally-owned land, buildings and structures within the boundaries of the Downtown Barrie BIA over and above those improvements, beautification and maintenance typically provided at the expense of the City generally.

ARTICLE 2 – MEMBERSHIP AND VOTING

2.1 For the purposes of Article 2, "Persons" includes any natural person, sole proprietorship, partnership, corporation, or any nominee or proxy thereof.

2.2 Members of the Association (hereinafter referred to as "**Members**"), as outlined in the Act, consist of:

- i. Persons who are assessed, on the last returned assessment roll provided by the City of Barrie, with respect to rateable property located within the Downtown Barrie BIA that is in a prescribed business property class;
- ii. Tenants who are the primary lessee with a written lease including responsibility for payment of municipal taxes or a portion thereof with respect to rateable property in the area in accordance with requirements of the Act related to payment of taxes allowing them the use of a commercial or industrial property located within the Downtown Barrie BIA. A determination of who is a Tenant may be made by the City Clerk in accordance with the Act;
- iii. Upon approval of the newly elected City Council, one (1) City Councilor, as appointed by the City Council, will be deemed a Member of the Association and will serve on the Association's Board of Management.

- 2.3 The Secretary-Treasurer of the Board to the best of their ability shall keep, or cause to be kept, a list of all Members. The Secretary-Treasurer at his or her discretion may request every property owner within the Downtown Barrie BIA to provide information regarding tenants who are the primary lessee of a commercial or industrial property located within the Downtown Barrie BIA for the purposes of maintaining an accurate list of the Members of the Association.
- 2.4 If necessary to determine whether a specific person qualifies as a Member, the Clerk of the City may accept a list provided under clause 210(2)(b), or the declaration of a person that they qualify as a Member of the Association pursuant to 204(5) of the Act. The determination by the Clerk is final.
- 2.5 The Membership list shall not be utilized by any Member for any purpose whatsoever other than as may be specifically approved by the Board upon request or by use by a 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 Board 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.
- 2.6 For the purposes of determining Membership, it is specifically stated that subleases or licenses of a property located in the Downtown Barrie BIA shall not make a person eligible for membership to the Association.
- 2.7 For the purposes of determining if a Member, Nominee, or Proxy is in good standing, the Member, Nominee, or Proxy must have no outstanding restrictions from the Board of Management due to litigation, staff relationships, or other.

RIGHTS AND BENEFITS OF MEMBERSHIP

- 2.8 Every Member in good standing is entitled:
 - i. to attend any Annual or General Meeting of the Association;
 - ii. to one vote on each question arising at any Annual or General Meeting of the Association; and
 - iii. to run for any office of the Board of Management of the Association, or to nominate other Members to such positions.
- 2.9 Members that are corporations or partnerships shall, by written notice to the

Executive Director of the Association, appoint an individual as its nominee (a “**Nominee**”) in good standing who shall attend any meetings of the Members of the Association on behalf of the Member and exercise that Member’s rights. A Member that is a corporation or partnership may update the Executive Director as to the identity of its Nominee on not less than forty-eight (48) hours written notice prior to any meeting of the Members of the Association.

- 2.10 Any Member may appoint an individual to attend any Annual or Special General Meeting of the Association, or to vote on questions arising at any Annual or General Meeting of the Association on the Member’s behalf (a “**Proxy**”) by providing written notice to the Executive Director of the Association or any member of the Board of Management at least forty-eight (48) hours prior to the Meeting, or, where the Association has a prescribed form for the purposes of allowing Members to appoint a Proxy, by completing such form and providing it to the Proxy who shall be required to present it to the Chair prior to or immediately upon the commencement of the Members meeting. Subject to the By-laws, a Proxy shall be appointed for the specific meeting of the Members for which it has been given unless noted on the prescribed form that the appointment is in perpetuity until revoked by the Member. Notwithstanding that a Member may have appointed a Proxy, all notices due to Members shall continue to be sent to the Member, and not to their Proxy.

VOTING

- 2.11 Each Member is entitled to one vote on any matter raised at a meeting of the Members, regardless of the number of properties that the Member may own or lease within the Downtown Barrie BIA.
- 2.12 Every Member that is a corporation or partnership has one vote regardless of the number of shareholders or partners that the Member has.
- 2.13 Where a Member is a corporation or partnership, its Nominee shall vote on behalf of the Member. A Nominee may vote on behalf of two or more Members.
- 2.14 Where a Member has appointed a Proxy for the purposes of exercising the Member’s right to vote, the vote of the Proxy shall be counted as the vote of the Member in accordance with, and in the form as provided in, Association By-Law [2021-02]. A Proxy may vote on behalf of two or more Members.

ARTICLE 3 – MEETINGS OF THE MEMBERSHIP

- 3.1 Each calendar year, the Board of Management will call and hold one Annual General Meeting and the Board of Management may also call and hold at any

time, one or more Special General Meetings to deal with special issues or to update the organization membership (hereinafter collectively referred to as **“Meeting of the Members”**).

- 3.2 Special General Meetings of the Members may be called by resolution of the Board or by a petition signed by at least seventy-five (75) Members of the Association delivered to the Chair. It is the duty of the Chair of the Board, to summon a Special General Meeting of the Members within thirty (30) days of the request being delivered.
- 3.3 Meetings of the Members shall be held at such a place within the geographic boundaries of the city as the Board determines in a meeting space open to the public and accessible.
- 3.4 The notice and a proposed agenda for a Meeting of the Members shall be provided to Members at least ten (10) days prior to the proposed date for the meeting of the Members.
- 3.5 Meetings of the Members shall be open to any member of the Association or the public. Members of the public who are not Members, Nominees, or Proxies, may attend but may not take part in the proceedings unless invited to do so by the Chair.
- 3.6 Meetings of the Members may take place virtually using an electronic platform which allows for simultaneous visual and vocal communication. Notice that any such meetings that are to take place virtually shall be declared in the notice for the meeting. All other notice and procedural requirements under the Constitution and any By-law of the Association or relevant legislation shall be adhered to at the virtual meeting.
- 3.7 At the hour appointed for the commencement of the Meeting of the Members, when quorum is present, the Chair shall call the Meeting of the Members to order and if a quorum is not present within fifteen (15) minutes after the hour appointed, the meeting shall be cancelled.
- 3.8 Where a Member wishes to discuss the creation, repeal, or amendment of an Association By-Law at an upcoming Meeting of the Members, the Member shall provide written notice of the proposed discussion or motion endorsed by at least six (6) other Members to the Executive Director at least seven (7) days prior to the Meeting of the Members. The Executive Director shall forthwith inform the Board of such proposed discussion or motion so that the discussion or motion can be included in the agenda for the Meeting of the Members. Where a

discussion or proposed motion regarding a By-law or proposed By-law is added to the agenda for a meeting, the amended agenda shall be circulated to the Members at least five (5) days prior to the proposed date of the Meeting of the Members.

- 3.9 Excepting only where it pertains to the creation, repeal, or amendment of an Association By-law, any Member may request during any Meeting of the Members that an item be added to the agenda as “new business.” Upon the approval of at least **Fifty Percent (50%) plus One (1)** Members present (in person or by Nominee or Proxy), a motion to amend the agenda of that Meeting of the Members to include such item will be voted on by the Members present at the meeting, and such motion shall pass upon a simple majority of Members present at the meeting voting in favour of the amendment to the agenda.
- 3.10 All motions arising at any Meeting of the Members shall relate to an item on the agenda for that meeting and the Chair shall have the right to determine whether a motion is in order.
- 3.11 All questions and motions raised at a Meeting of the Members shall be decided by a majority vote of the Members present in person or by Nominee or Proxy unless otherwise stated in this Constitution or required by law.
- 3.12 No vote shall be taken by ballot or any other method of secret voting except the election of the Board which shall be conducted by ballot or other method of secret voting.
- 3.13 At each Meeting of the Members, every motion shall be decided by a vote from all Members who are present in person or by Nominee or Proxy. No vote or motion at a Meeting of the Members shall be taken by ballot or any other method of secret voting. The only exception is the election of members of the Board which may be designated by secret ballot if so determined by the Board. The Chair shall declare that a motion has been carried or not carried. All motions, resolutions or proceedings shall be recorded without note or comment.
- 3.14 At each Meeting of the Members, the Secretary-Treasurer shall have a current list of the Members available for viewing and shall record, or cause to be recorded, all votes in favour, in opposition and any abstentions for votes put forward for consideration by the Members.
- 3.15 Where a vote of the Members present in person or by Nominee or Proxy results in a tie, the Chair of the meeting shall have a deciding vote.
- 3.16 Subject to the By-laws of the Association, the procedure to be used at all General

and Annual General Meetings shall be governed by the Robert's Rules in Plain English, 2nd Edition, Doris P. Zimmerman.

- 3.17 All regular Meetings of the Members of the Association shall be open to the public, but a meeting or any part thereof may be closed to the public, in accordance with Section 239 of the *Municipal Act*, if the subject matter being considered is:
- i. The security of the property of the Association;
 - ii. Personal matters about an identifiable individual, including employees of the Association;
 - iii. A proposed or pending acquisition or disposition of land for the Association;
 - iv. Labour relations or employee negotiations;
 - v. Litigation or potential litigation, including matters before administrative tribunals, affecting the Association;
 - vi. The receiving of advice that is subject to solicitor – client privilege, including communications necessary for that purpose;
 - vii. a matter in respect of which the Board is authorized by statute to hold a closed meeting;
 - viii. Related to consideration of a request under the Municipal Freedom of Information and Protection of Privacy Act if the Board of Management or any member of the Board of Management is the head of an institution for the purposes of the Act;
 - ix. The educating or training of the Board of Management or any member thereof at the meeting;
 - x. information explicitly supplied in confidence to the Board by Canada, a province or territory or a Crown agency of any of them;
 - xi. a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the Board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
 - xii. a trade secret or scientific, technical, commercial or financial information that belongs to the Board and has monetary value or potential monetary value; or
 - xiii. a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the Board.

- 3.18 All votes of the Members of the Association shall be open to the public except those votes taken during a meeting or part thereof that is closed to the public in accordance with Article 3.17 or unless said votes are for a procedural matter or for giving direction or instruction to officers, employees or agents of the Association or those under contract with the Association.
- 3.19 Before holding a meeting or part of a Meeting of the Members of the Association that is to be closed to the public, the Chair of the Meeting of the Members shall state by proposed resolution or motion the request to move to a closed meeting, and provide the general nature of the matter to be considered at the closed meeting for the purposes of demonstrating grounds for the closed meeting.
- 3.20 The Chair or acting chair of the Board of Management, prior to a regular scheduled meeting, may cancel the meeting of the Board of Management and/or a Meeting of the Members due to inclement weather, a matter of respect or a lack of corporate business requiring immediate attention.
- 3.21 The Secretary-Treasurer of the Association shall take, or cause to be taken, minutes of the Meeting of the Members which shall be made available to all Members of the Association prior to the next Meeting of the Members, at which time they will be approved, and upon approval, such minutes shall be made public, excepting only those parts of the meetings that were closed, the minutes of which shall be kept confidential, subject only to any legislative obligation to disclose such minutes, or by court order.

QUORUM FOR MEMBERSHIP MEETINGS

- 3.22 The quorum for a Meeting of the Membership meeting shall be at least 10% of qualified Members of the Association being present at the meeting either in person, by Nominee, or by Proxy. The Secretary-Treasurer shall record, or cause to be recorded, all names of the Members, Nominees, and Proxies present.

NOTICE TO MEMBERS

- 3.23 Unless specifically stated otherwise in this Constitution, wherever this Constitution requires “notice” to be sent to the Members, such notice requirement shall be fulfilled by any of the following:
- i. A letter sent by courier or prepaid mail to the last known mailing address of the Member;
 - ii. A letter sent by courier or prepaid mail to the address of the Member that is

located within the BIA; or

iii. An email sent to an email address provided by the Member to the Association for the purposes of general communications.

3.24 Any notice sent in accordance with Article 3.23 (i) or (ii) shall be deemed to be received on the third business day after which it is sent. Any notice sent in accordance with Article 3.23 (iii) shall be deemed to be received on the same day on which it was sent.

3.25 The accidental omission to give notice of any meeting or the non-receipt of any notice by any Members shall not invalidate any resolution passed or any proceedings taken at the respective meeting

ARTICLE 4 – BOARD OF MANAGEMENT COMPOSITION

ELIGIBILITY

4.1 A Director must meet the following criteria at the time of their election, and throughout their term, to be elected and to continue to sit as a Director:

i. A Director shall be a Member of the Association in good standing and shall remain a Member throughout his or her term of office or shall be the nominee of a Member which shall remain a Member of the Association throughout the term of its nominee;

ii. A Director representing a commercially rateable property owner or tenant (i.e. a Member in good standing) who loses their membership status shall no longer remain a Director, and his or her position shall be treated as vacant, unless they are re-nominated in writing by a Member in good standing within 30 days;

iii. A Director must be at least eighteen (18) years of age; and

iv. A Director must not be bankrupt.

4.2 A Director is eligible for re-election following the expiration of a previous term on the Board, provided that if they were nominated by a Member, a Member must re-nominate the Director for an additional term.

4.3 Following the conclusion of an election or appointment of individual(s) to the Board of Management, the proposed Member(s) elected or appointed must be approved by City Council prior to assuming their role on the Board of Management.

COMPOSITION

- 4.4 The Board of Management shall be comprised of **eight (8)** voting Members, each referred to as a "Director".
- 4.5 The Board of Management shall be comprised of the following:
- i. Seven (7) of the Directors shall be nominated and selected by the Members during a nomination and election period coinciding with the municipal election period and approved by the City; and
 - ii. One (1) of the Directors shall be a Barrie City Councilor and shall be appointed directly by the City to serve on the Board of Management, who shall be deemed to be a Member during their term as a Director, and, unless otherwise qualified to be a Member, shall have their status as a Member expire upon the expiration of their term as Director.
- 4.6 In addition to the Directors, the immediate Past Chair may continue to serve on the Board of Management in the role of Past Chair for a period of two (2) years immediately following his or her term as Chair to act in an advisory capacity to the Chair. The Past Chair shall be a non-voting Member.

Sections 4.4, 4.5, and 4.6 come into force on the day of the appointment of the new 2022 Board pursuant to City Council approval.

ELECTION

- 4.7 The Association shall conduct an election to appoint individuals to the Board of Management within four (4) months of a new term of City Council commencing.
- 4.8 The Board of Management shall administer the elections for Directors to the Board of Management for a new term and provide a letter to City Council advising of the results of the election for City Council's consideration and confirmation.
- 4.9 The Board of Management shall appoint a "Nominating Committee" not less than six (6) weeks before the date set for the election of the Board of Management from among the Members of the Association. The Nominating Committee shall consist of at least five (5) Members of the Association, at least three (3) of whom shall be Members not currently part of the Board of Management. A current Board Member seeking re-election shall not sit on the Nomination Committee.

- 4.10 The Nominating Committee shall submit to the Secretary-Treasurer of the Board of Management a list of at least nine (9) candidates not less than three (3) weeks before the date set for the election of the Board of Management.
- 4.11 If at 4:00 p.m. on the Monday following nomination day, the number of certified candidates for an office is the same as or less than the number to be elected, the Nomination Committee shall immediately declare the candidate or candidates elected by acclamation.
- 4.12 Subject to section 4.11, the Nomination Committee shall extend the nomination period by two weeks from the date of acclamation for additional nominations for any seats that remain to be filled. If the number of certified candidates still does not exceed the remaining number of vacancies, the Nomination Committee shall immediately declare the additional candidate or candidates acclaimed.
- 4.13 Immediately following the close of nominations, the Nomination Committee shall cause the Executive Director to provide notice to the Membership of all nominations received and certified for the election or acclamation.
- 4.14 The date, time and location of the election shall be advertised to the Members by any or all of the following: email, direct mail, public advertisement in a local newspaper and/or social media accounts. Notice providing a date, time and location of the election will be provided to the Members not less than thirty (30) days in advance of the election. Where Notice is provided by email, public advertisement and/or social media accounts, Notice shall be deemed to have been provided upon the date that the email is sent, the public advertisement published in a local newspaper, or the date the social media account post is published. Where Notice is sent by regular direct mail, Notice will be deemed to have been made on the third business day following the date the direct mail was sent out.
- 4.15 The Nomination Committee shall cause the Executive Director to distribute to all Members, not less than two (2) weeks before the date set for the election, a list of candidates submitted by the Nominating Committee.
- 4.16 At the meeting of the Members called for the purposes of the election, the election procedure shall be as follows:
 - i. The slate of shall be certified by the Secretary-Treasurer as the candidates qualified for election;
 - ii. Voting shall take place at a place and time designated by the Board of Management for which notice has been provided to the Members of the Association thirty (30) days prior to the meeting;
 - iii. Each Member, Nominee or Proxy may cast one (1) vote;

- iv. After the poll closes, the sealed ballots are to be delivered to three (3) persons appointed by the Board of Management to count the ballots cast (hereinafter referred to as “**Tabulators**”) and report on the results;
- v. A candidate has the right to appoint a scrutineer to be present during the counting of the ballots;
- vi. The Tabulators shall count all ballots on election day and post the results at a place designated by the Board of Management;
- vii. If two or more candidates who cannot both or all be elected have received the same number of votes, one Tabulator shall choose, in the presence of the other two Tabulators, the successful candidate or candidates by lot;
- viii. All ballots shall be kept securely for thirty (30) days following the election. If no challenges are registered with the Secretary-Treasurer of the Board of Management the ballots shall be destroyed with approval of the Board of Management;
- ix. The list of elected nominees for the Board of Management chosen at the Annual General Meeting or Meeting of the Members shall be forwarded to the City for consideration in appointing the new Directors of the Board of Management;
- x. The newly appointed Board of Management shall assume their responsibilities in accordance with their appointment by City Council. The previous Board of Management continues in office until the new Board of Management takes office following City appointment.
- xi. Upon appointment by the City Council, individual Board Members shall be provided with copies of the following documents pertaining to the Association, receipt of which shall be acknowledged in writing provided to the Executive Director, to confirm their acceptance of the terms contained in them:
 - 1. The City of Barrie Council and Committee Member Code of Conduct;
 - 2. Confidentiality Agreement;
 - 3. Declaration of receipt of the Association’s Constitution and By-Laws; and
 - 4. Proof of Liability Insurance

TERM OF OFFICE

4.17 The term of office for each Director shall be from the time the Director is:

- i. appointed by City Council; or
- ii. the City Council approves the election of an individual by the Members

until the expiration of the term of the City Council that appointed him or her, or until his or her successor shall have been duly appointed following an election by the Members so long as the Director continues to be a Member in good standing, does not resign, and is not removed pursuant to Article 6.11 herein.

4.18 In an election year, the new Board shall not officially assume its duties until approved by City Council.

4.19 Prior to the approval of the new Board, the outgoing Board shall continue to hold office.

VACANCY

4.20 Where a vacancy on the Board occurs partway through the term of any Director, the Board of Management may nominate a replacement Director for consideration by the City Council and, subject to City Council appointment, that nominated individual shall hold office as a Director for the remainder of the term for which his or her predecessor was appointed. If quorum cannot be achieved for the purposes of nominating a replacement Director, the remaining Board Members shall call a Special General Meeting of the Association to nominate the replacement Director, and such nominated individual shall be proposed to the City Council for appointment and if appointed shall serve out the remainder of the term of the Director they are replacing.

REMUNERATION AND EXPENSES

4.21 Directors shall serve without remuneration. Directors may be reimbursed for all reasonable expenses directly relating to their functions on the Board of Management provided those expenses are approved in advance by resolution of the Board.

4.22 The Board of Management, in its discretion, may approve reimbursement of reasonable expenses incurred by a Director in fulfillment of his or her duties despite the absence of pre-approval, subject only to the Association's By-Law 2021-01.

ARTICLE 5 – DUTIES OF ELECTED BOARD OF MANAGEMENT

5.1 The duties of each of the elected Directors of the Board of Management are as follows:

- i. To exercise the powers and discharge the duties of the office of a Director on the Board of Management in good faith, and in the best interests of the Association and to exercise the degree of care, diligence, and skill that a reasonable and prudent person would exercise in comparable circumstances.
- ii. The Board may, on behalf of the Association, exercise all the powers that the Association may legally exercise in fulfillment of its objectives, unless the Board is restricted by law or by the Members from exercising those powers. The powers include, but are not limited to, the power to:
 - a. enter into contracts or agreements;
 - b. make banking and financial arrangements;
 - c. execute documents;
 - d. direct the manner in which any other person or persons may enter into contracts or agreements on behalf of the Association;
 - e. purchase, lease or otherwise acquire, sell, exchange or otherwise dispose of real or personal property, securities or any rights or interests for such consideration and upon such terms and conditions as the Board may consider advisable;
 - f. purchase insurance to protect the property, rights and interests of the Association and to indemnify the Association, its Members, the Board, and Officers from any claims, damages, losses or costs arising from or related to the affairs of the Association; and
 - g. arrange for the Association to carry Directors' and Officers' liability and negligence insurance on such terms and for such amounts as the Directors in their absolute discretion deem advisable and such insurance shall cover the Directors and Officers of the Association and such other individual (if any) as the Directors may determine.
- iii. Without limiting the generality of subsections i., ii., and iii. directly above, the Board shall be responsible for:
 - a. making decisions on policy affecting the Association;
 - b. managing the affairs of the Association; and
 - c. appointing such committees as may be required to accomplish the

work of the Association.

- iv. The Association shall not borrow money or may not incur indebtedness or obligations to make ongoing payments that extend beyond a calendar year from the date the obligation is entered into without the prior approval of City Council and approved by a two-thirds (2/3) vote of the Members present at a duly called Special General Meeting of the Members or the AGM.

ARTICLE 6 – MEETINGS OF THE BOARD OF MANAGEMENT

- 6.1 There shall be a minimum four (4) meetings of the Board of Management in each calendar year unless the City Council authorizes and approves fewer meetings. Meetings of the Board of Management will be open to any member of the BIA or the public who may attend but not take part in the proceedings unless invited to do so by the Chair.
- 6.2 At the hour appointed for the commencement of the meeting, when quorum is present, the Chair shall call the meeting of the Board of Management to order and if a quorum is not present within fifteen (15) minutes after the hour appointed, the meeting shall be cancelled.
- 6.3 All votes of the Board of Management shall be open to the public except those votes taken during a meeting or part thereof that is closed to the public in accordance with Article 3.17 or unless said votes are for a procedural matter or for giving direction or instruction to officers, employees or agents of the Association or those under contract with the Association.
- 6.4 Before holding a meeting or part of a meeting of the Board of Management that is to be closed to the public, the Chair of the Board of Management or the member of the Board of Management proposing to move into a closed meeting shall state by proposed resolution or motion the request to move to a closed meeting, and provide the general nature of the matter to be considered at the closed meeting for the purposes of demonstrating grounds for the closed meeting.
- 6.5 The Chair or acting chair of the Board of Management, prior to a regular scheduled meeting, may cancel the meeting of the Board of Management due to inclement weather, a matter of respect or lack of corporate business requiring immediate attention.
- 6.6 The Secretary-Treasurer shall take, or cause to be taken, minutes of the meetings of the Board which shall be made available to all members of the Board of Management prior to the next meeting, at which time they will be approved, and upon approval, such minutes shall forthwith be made public, excepting only those

parts of the meetings which were held in closed session, the minutes of which shall be kept confidential, subject only to any legislative obligation to disclose such minutes, or court order.

QUORUM AT BOARD OF MANAGEMENT MEETINGS

6.7 A quorum of the Board of Management shall be comprised of five (5) Directors.

NOTICE OF BOARD MEETINGS

6.8 Notice of a meeting of the Board of Management shall be provided to all Board Members at least ten (10) business days prior to a meeting.

6.9 In the event of an emergency, notice of a special Meeting of the Board (“Special Meeting of the Board”) shall be provided no less than six (6) hours before the proposed meeting time. The notice shall include the date, time and location of the meeting, as well as the agenda and the text of any proposed resolutions that the Members will be asked to vote on.

6.10 Unless specifically stated otherwise in this Constitution, wherever this Constitution requires “notice” to be sent to the Board Members, such notice requirement shall be fulfilled by any of the following:

- i. A letter sent by courier or prepaid mail to the last known mailing address of the Board Member; or
- ii. An email sent to an email address provided by the Board Member to the Association for the purposes of general communications.

6.11 Any notice sent in accordance with Article 6.10(i) shall be deemed to be received on the third (3rd) business day after which it was sent. Any notice sent in accordance with Article 6.10(ii) shall be deemed to be received on the same day on which it was sent.

REMOVAL OF DIRECTORS

6.12 A Director may be removed from the Board of Management upon:

- i. ceasing to be a Member in good standing;
- ii. absence from three (3) meetings of the Board of Management in a calendar year, unless the Director has received prior approval from the Executive Director;
- iii. failure to perform any duty or tasks as set out in the Constitution, the Association’s By-laws and any governing policies;

- iv. a breach of the provisions of any Association By-law regarding conflict of interest;
 - v. a breach of the provisions of any Association By-law regarding confidentiality and privacy of information; or
 - vi. a breach of the provisions of any of the Association's By-laws regarding the Standard of Care referred to in Article 12 below and/or behaviour deemed harmful to the welfare or best interests of the Association through non-compliance with the Constitution, By-laws and/or other policies.
- 6.13 The Board may recommend to City Council the removal from office of the Director duly appointed by the City.
- 6.14 To remove a Director from the Board of Management for any of the reasons set out in this Article, a resolution shall be made and approved by a two-thirds (2/3) vote of the Members present at a duly called Special General Meeting for which notice specifying the intent to pass such resolution has been given to the Members.

ARTICLE 7 – OFFICERS

APPOINTMENT

- 7.1 The Board Members shall elect, as required, from among themselves, a Chair, Vice-Chair and a Secretary-Treasurer to stand as Officers of the Association.
- 7.2 Officers elected from the Board of Management may not be Board of Management Directors who are members of City Council. Provided that no Member steps forward in a reasonable amount of time who is not a member of City Council, a member of City Council may be elected as an Officer, except for the position of Chair.

Section 7.2 comes into force on the day of the appointment of the new 2022 Board pursuant to City Council approval.

TERM

- 7.3 The Officers of the Association shall hold office for four (4) years from the date of election or until their successors are elected in their stead or until they are no longer members of the Board of Management. Officers shall be subject to removal by an ordinary resolution of the Board of Management at any time.

CHAIR

7.4 The Chair shall:

- i. Chair all Board of Management and Members meetings of the Association;
- ii. Rule on all procedural matters and maintain decorum;
- iii. Ensure motions and amendments are clearly expressed and, if there is no motion under consideration, summarize the discussion for the purpose of the minutes;
- iv. Have general supervision of the affairs of the Association;
- v. Sit as an ex-officio member on all of the Association's committees;
- vi. Be the public representative of and spokesperson for the Board of Management;
- vii. Perform any other duties which the Board of Management may assign from time to time; and
- viii. Work with staff of the City to ensure legislative obligations are met, including but not limited to those regarding the staff, volunteers, committees and members of the of the Association including its Board of Management.

VICE-CHAIR

7.5 The Vice-Chair shall:

- i. Exercise any or 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; and
- ii. Perform any other duties which the Board of Management may, from time to time, assign.

SECRETARY-TREASURER

7.6 The Secretary-Treasurer shall:

- i. Give, or cause to be given, the required notice as per the Association's procedural rules contained within this document for every meeting of the Board of Management and Members of the Association;
- ii. Take, or cause to be taken, minutes of each such meeting and record in the minutes the following: the place, time and date of meeting, the name of the

person presiding, the names of all those in attendance at the meetings, any correction to and the adoption of the minutes of the previous meeting, all resolutions put forth at the meeting and the results of any proposed resolutions put forward at such meetings. All minutes of every meeting shall be printed and signed by the Secretary-Treasurer and Chair;

- iii. Perform any other duties that the Board of Management may assign from time to time;
- iv. Keep and maintain, or cause to be kept and maintained, the financial records and books of the Association which shall include but be not limited to keeping of all receipts and disbursements in proper books of account and depositing all moneys or valuable effects;
- v. Provide the City of Barrie Finance staff with all financial records to assist them and the auditor in the audit of the financial statements of the Association;
- vi. Prepare, or cause to be prepared, and distribute the financial statements of the Association in accordance with the requirements of the City of Barrie;
- vii. Maintain, or cause to be maintained, an inventory of all tangible and intangible assets owned or leased by the Association or to which it has rights under licence;
- viii. Prepare and distribute, or cause to be prepared and distributed, the proposed annual budget in accordance with the requirements of the City; and
- ix. Prepare, or cause to be prepared, written financial updates for the Membership's review and consideration at each regular meeting.

EXECUTIVE DIRECTOR

- 7.7 The Board of Management shall hire or contract with an Executive Director and shall prescribe the duties of this position.
- 7.8 The Board of Management shall delegate to the Executive Director the responsibility for the general management of the Association and the execution of its policies.
- 7.9 The Executive Director shall:
 - i. be the chief administrative officer for the Association;

- ii. be the senior staff position, responsible for the hiring and termination of all other Association staff;
- iii. attend all meetings of the Board of Management and be entitled to speak on all matters, without the right to vote;
- iv. manage the conduct or appoint an individual to manage the conduct of any elections;
- v. serve as a resource to all committees of the Association; and
- vi. be the second spokesperson of the Board of Management if and after the Chair formally declines the opportunity.

7.10 The Board of Management shall:

- i. establish the remuneration for the Executive Director through a resolution of the Board of Management; and
- ii. annually, and jointly with the Executive Director, carry out a formal written evaluation of the position of the Executive Director, within a mutually determined and agreed upon approach, process and time-frame.

7.11 The Chair of the Board of Management shall represent the Board of Management for the purpose of Section 7.10(ii) unless otherwise specifically determined by the Board.

PAST CHAIR

7.12 The immediate Past Chair shall:

- i. continue to serve on the Board in the role of Past Chair for a period of two (2) year immediately following their term as Chair, unless they provide notice within five (5) days from the date of the election to resign as Past Chair or the Board of Management votes to remove the Past Chair from their position in accordance with Sections 6.11, 6.12 and 6.13;
- ii. act in an advisory capacity to the Chair and other members of the Board and shall carry out any additional duties assigned by the Chair;
- iii. serve in an ex-officio capacity to the Board of Management and shall not have voting privileges.

ARTICLE 8 – COMMITTEES OF THE BOARD

- 8.1 The Board of Management may establish committees to carry out the objectives of the Association or to advise the Board of Management.
- 8.2 The Board of Management shall prescribe the duties of all such committees by resolution.
- 8.3 The Chair shall be an ex-officio member of each committee.
- 8.4 The Board of Management may allocate funding to one or more committees to undertake approved, specific tasks on behalf of the Board of Management, provided an account of all planned expenditures is presented at each meeting of the Board of Management throughout the tenure of the committee, for review and approval. Committee members are responsible for their budgeted funds and must seek Board of Management approval for any funds that exceed the committee's budget.
- 8.5 The chair of a committee shall present progress reports and make recommendations to the Board of Management on all projects undertaken.
- 8.6 Committee(s) of the Board are created at the discretion of the Board of Management and can be restructured at any time by an ordinary resolution of the Board.
- 8.7 There shall be such standing committees as the Board of Management shall from time to time determine.
- 8.8 All committee members shall be held to the same standard of care as those of the Directors of the Board of Management.
- 8.9 Each committee is considered a committee of the Board of Management and as such, is responsible to the Board of Management. Each committee shall make recommendations to the Board of Management for its approval, and shall report to the Board of Management, through each committee chair, as determined by the Board of Management, from time to time.
- 8.10 Standing Committees of the Board of Management may include, but not be necessarily limited to:
 - i. Marketing and Communication Committee
 - ii. Traffic and Safety Committee
 - iii. Beautification and Cleanliness Committee
 - iv. Culture and Heritage Events Committee

- v. Retail Committee
- vi. Hospitality Committee
- vii. Property Owners Committee
- viii. Executive Committee
- ix. Finance Committee

- 8.11 Each committee of the Board or Management shall be chaired by a Director, as elected by the Board of Management. Committee members may be Directors, Members, or non-Members with an ownership of leasehold interest within the BIA. Representatives from the Association’s partner organizations from time to time may be appointed as *ex-officio* members of any committee. Members of the committee shall be approved by the Board of Management.
- 8.12 Unless otherwise stated in any Association By-law, the terms of reference for each committee will be determined by the Board of Management, from time to time.

EXECUTIVE AND FINANCE COMMITTEES

- 8.13 There shall be an Executive Committee and a Finance Committee composed of the Officers and any other committee chairs. Executive Committee and Finance Committee members shall not receive remuneration for serving as such, but are entitled to reimbursement of reasonable expenses incurred in the exercise of their duties.
- 8.14 The Executive and Finance Committees must follow the rules and procedures defined in the Association’s Financial Policy By-Law 2021-01 as amended from time to time.

ARTICLE 9 – SIGNING AUTHORITY

- 9.1 Subject only to the policies of the Association, contracts, documents or any instruments in writing requiring the signature of the Association shall be signed by any two of the following officers: the Chair, the Vice-Chair, the Secretary-Treasurer, and the Executive Director.

ARTICLE 10 – FINANCIAL POLICY

- 10.1 The annual budget of the Association shall be presented to the Members of the Association for consideration and comment on an annual basis before being taken to Council for City approval.

- 10.2 The Board of Management shall submit a proposed budget for the Association to City Council by the date and in the form required by the City. The City may approve the budget in whole or in part but may not add expenditures to it.
- 10.3 The Secretary-Treasurer, on behalf of the Board of Management, shall adopt and maintain, or cause to be adopted and maintained, banking arrangements in accordance with good accounting practices that are acceptable to the Treasurer of the City, and shall keep, or cause to be kept, such books of account and submit, or cause to be submitted, such statements as from time to time may be required by the Treasurer of the City.
- 10.4 The external auditor for the City shall be the auditor for the Association and all books, documents, transactions, minutes and accounts of the Association shall at all times be open to the Treasurer of the City and made available for the Treasurer of the City's inspection.
- 10.5 The Board of Management shall submit an annual report for the preceding year to City Council by the date and in the form required by the City and the report shall include the audited financial statements.
- 10.6 The Board of Management may provide in its budget for the establishment and maintenance of a reserve fund for which it has authority to spend money in accordance with subsection 417(1) of the Act.
- 10.7 The Board of Management shall follow the Association's By-Law 2021-01 governing the procurement of goods and services. Should a question arise, the City's Treasurer may be consulted for advice to the BIA.
- 10.8 The Board of Management shall not:
 - i. spend any money unless it is included in the overall budget approved by the City or in a reserve fund;
 - ii. incur or enter into any contracts which incur any indebtedness extending beyond the current year without the prior approval of City Council and approved by a two-thirds (2/3) vote of the Members present at a duly called Special General Meeting of the Members or the AGM;
 - iii. spend or commit their budget beyond their term of office without the prior approval of City Council and approved by a two-thirds (2/3) vote of the Members present at a duly called Special General Meeting of the Members or the AGM; or
 - iv. except as may be approved by City Council, borrow money including bank

account overdrafts, 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.

- 10.9 An exception to the limitations in Article 10.8 shall be permitted for the express purposes of entering into a lease agreement for office space. The term of the lease shall not be greater than five (5) years.
- 10.10 Directors shall observe the laws, policies, and practices governing all matters related to confidentiality, privacy, and access to information. Should a question arise, the Municipal Clerk may be consulted.

ARTICLE 11 – INDEMNIFICATION

- 11.1 The Association shall indemnify and save harmless Directors, their heirs, executors and administrators acts done in good faith and carried out in the performance of their duties, respectively, from time to time and at all times from and against:
- i. all costs, charges and expenses whatsoever that any Director sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him or her, for or in respect of any act, deed, matter or thing whatsoever made, done or permitted by him or her in the execution of the duties of his or her office; and
 - ii. all other costs, charges and expenses that he or she sustains or incurs in or about or arising from or in relation to the business of the Association except costs, charges or expenses thereof as are occasioned by his or her own willful neglect or default.

ARTICLE 12 – STANDARD OF CARE, CODE OF CONDUCT AND CONFLICT OF INTEREST

- 12.1 Every member of the Board of Management shall:
- i. exercise the powers and discharge the duties of the office honestly, in good faith, and in the best interests of the Association; and
 - ii. exercise the degree of care, diligence, and skill that a reasonable and prudent person would exercise in comparable circumstances.
- 12.2 The Board of Management shall follow the City's code of conduct as approved by Council and specified for City Boards. Upon receiving a complaint, the Integrity

Commissioner may investigate any Director's alleged breach of the code of conduct and/or the *Municipal Conflict of Interest Act*, as amended, subject to provisions of the Act.

- 12.3 Every member of the Board of Management who has any direct or indirect pecuniary interest concerning any matter to be considered by the Board or Management, or any direct or indirect pecuniary interest in any contract or arrangement, or proposed contract or arrangement with the Board of Management shall disclose his or her pecuniary interest in the manner required by the *Municipal Conflict of Interest Act*, as amended and shall:
- i. provide a written declaration of his or her pecuniary interest as soon as he or she became aware of any such interest, and in any event, prior to or during the next meeting of the Board of Management;
 - ii. request that his or her declaration be recorded in the minutes of the meeting; and
 - iii. not vote on any resolution or participate in any discussion with respect to the resolution concerning any matter in which the member has a direct or indirect pecuniary interest.
- 12.4 Directors may request advice respecting their obligations under the *Municipal Conflict of Interest Act*, as amended.
- 12.5 All Integrity Commissioner duties and responsibilities relating to the Board of Management are as specified in the *Municipal Act, 2001*, as amended.

ARTICLE 13 – POLICIES

- 13.1 The Association's records retention policy applies to all Board of Management documents. The Board of Management shall provide their records to the City Clerk's Office for archival storage. The Executive Director and Secretary-Treasurer are responsible for the retention of documents related to the business of the Association.
- 13.2 Under Section 2(3) of the *Municipal Freedom of Information and Protection of Privacy Act*, as amended, records relating to the business of the Board of Management are accessible to the public upon request, subject to the limitations found therein.
- 13.3 Pursuant to Section 239.1 of the Act, as amended, any individual may request that an investigation be undertaken to determine whether the Association has complied with Section 239 or a procedural bylaw under Subsection 238(2), in respect of a

meeting or part of a meeting that was closed to the public.

- 13.4 Should an investigation occur under Section 239.1 of the Act, whereby any individual may request that an investigation be undertaken to determine whether the Association has complied with Section 239 or a procedural by-law under subsection 238(2) of the Act, in respect of a meeting or part of a meeting that was closed to the public, the Board of Management shall comply with such requests from the Investigator as required by the Act.
- 13.5 Under Section 239.2(11) of the Act, the Board of Management shall ensure reports commissioned by the Investigator are made public.

ARTICLE 14 – FORMS

- 14.1 The Board of Management may create forms from time to time for purposes of managing the affairs of the Association.

ARTICLE 15 – REVIEW MECHANISM AND DISSOLUTION

- 15.1 For a Meeting of the Members to be called for the purpose of dissolving the Association, at least seventy-five (75) Members of the Association must make the request to the Chair to hold a Meeting duly called for such purpose
- 15.2 At least fifty (50) percent plus one (1) of the Members of the Association must be in attendance at this meeting duly called for such purpose.
- 15.3 Should a special resolution to dissolve the Association be passed by at least fifty (50) percent plus one (1) of the Members of the Association present at the meeting, a request shall be made to the City to repeal the By-law establishing the Association.
- 15.4 Upon the repeal of the By-law under the Act, the Board of Management shall be dissolved and the assets and liabilities of the Association shall become the assets and liabilities of the City.
- 15.5 If the liabilities assumed under Article 15.2 exceed the assets assumed, the City 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.

ARTICLE 16 – AMENDMENTS TO CONSTITUTION

- 16.1 This Constitution of the Association may be enacted, repealed, amended, added to or re-enacted by the Board of Management, and sanctioned by an affirmative

vote of at least two-thirds (2/3) of the Members present at a Special General Meeting of Members duly called to consider confirmation of such amendment or at an Annual General Meeting, whichever occurs first.

ARTICLE 17 – AMENDMENTS TO BY-LAWS

- 17.1 By-laws of the Association may be enacted, repealed, amended, added to or re-enacted by the Board of Management provided that both of the following criteria are met:
- i. an affirmative vote of at least a majority of Directors in attendance at a duly constituted meeting of the Board of Management confirms the proposed enactment, repeal, or amendment; and
 - ii. the proposed enactment, repeal, or amendment is approved by at least a majority of the Members attending a duly constituted Meeting of the Members for which at least 30 days' prior written notice is given. The notice shall specifically set out the proposed enactment, repeal, or amendment.

ARTICLE 18 – CONSISTENCY WITH LEGISLATION

- 18.1 Where reference is made in this Constitution to legislation (municipal, provincial and federal) it shall be meant to include all amendments made to that legislation from time to time or the introduction of new legislation.
- 18.2 If there is any conflict between any provisions contained in this Constitution and any provision of the Act and other legislation, the legislation shall prevail, and the provisions herein affected shall be modified to the extent necessary to remove such conflict, and as so modified, this Constitution shall remain in full force and effect.
- 18.3 This Constitution shall come into force and be effective immediately, subject to ratification and confirmation by the Members at a Special General Meeting for that purpose or an Annual General Meeting, whichever comes first and subject to approval from the Council of the City of Barrie.

PASSED by the Board of Management this 5th day of October, 2021.

DOWNTOWN BARRIE BUSINESS IMPROVEMENT AREA BOUNDARY MAP

Index 'A'

Being the map of the boundaries established by City of Barrie by-law 72-126, as amended by City of Barrie by-laws 73-12 and 77-155.

