

BY-LAW 17-118
OF
THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW

Creemore Business Improvement Area Constitution

Being a by-law relating to the management and operation of the Creemore Business Improvement Area (hereafter called the "Creemore BIA")

WHEREAS the Creemore BIA was established in 1987 by the Corporation of the Village of Creemore by By-law 88-003, as amended; and

WHEREAS the provisions of the Municipal Act, 2001, S.O. 2001, c.25 as amended, govern the operation of business improvement areas in Ontario; and

WHEREAS the members of the Creemore BIA hereafter sometimes called the "Membership") are desirous of formalizing and updating their procedures and policies in accordance with these new provisions; and

WHEREAS the Corporation of the Village of Creemore was amalgamated with other municipalities and is now known as the Corporation of the Township of Clearview (hereafter called the "Township");

NOW THEREFORE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW HEREBY ENACTS AS FOLLOWS:

1. That Schedule A – Creemore Business Improvement Area Constitution forms part of this by-law.
2. That By-law 88-003, as amended, be changed to replace Section 4 "The Board shall consist of six (6) members" to "The Board shall consist of up to nine (9) members. In addition, the Mayor is a voting ex-officio member of this board and retains all powers granted to all other Directors on the Board of Management."
3. That By-law 11-22, a by-law to amend the Creemore Improvement Area By-law 88-003, is hereby repealed.
4. That the Mayor and Clerk be authorized to execute the constitution on behalf of Council of the Township of Clearview.
5. That this by-law shall come into force and effect on the date of final passing thereof.

That By-law 17-118 read a first, second and third time and finally passed this 11th day of December, 2017.

MAYOR

DIRECTOR OF LEGISLATIVE SERVICES/CLERK

Creemore Business Improvement Area

CONSTITUTION



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ARTICLE 1 - THE ORGANIZATION

- 1.1 The purpose of the Creemore BIA under the *Municipal Act, 2001*, as amended is:
- To promote the commercial area of Creemore as a business and shopping area;
 - To oversee the improvement, beautification and maintenance of municipally-owned land, buildings, and structures within the boundaries of the Creemore BIA, beyond that provided at the expense of the Municipality generally.
- 1.2 The boundaries of the Creemore BIA are as shown on Schedule "A" to this constitution.
- 1.3 The affairs of the Creemore BIA are governed by the Board of Management (hereafter called the "Board") which is a corporation consisting of its directors;
- 1.4 The Board is a local board of the Township as defined by the *Municipal Act, 2001*, as amended or its successor legislation.
- 1.5 The Board shall be comprised of 5 to 8 directors, plus the past president. Directors shall include a Council Member appointed directly by the Township Council. The remainder of the directors are elected by the Membership and appointed by the Township Council. The Mayor is a voting ex-officio.
- 1.6 Any office of the Creemore BIA shall be located within the geographic boundaries of the Creemore BIA.
- 1.7 The fiscal year shall be January 1st to December 31st.

ARTICLE 2 - MEMBERSHIP AND VOTING

- 2.1 Members of the Creemore BIA as outlined in the *Municipal Act, 2001*, as amended, consist of:
- a) 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.
 - b) 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.

- 2.2 A list of all commercial and industrial members in the designated area will be kept by the Secretary of the Board. The Secretary at his or her discretion may request every property owner to provide tenant information for the purposes of maintaining an accurate list.
- 2.3 If necessary, 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 member of the Creemore BIA. The determination by the Clerk is final.
- 2.4 Each member has one vote, regardless of the number of properties that the member may own or lease within the Creemore BIA.
- 2.5 Every member that is a corporation or partnership has one vote regardless of the number of shareholders or partners that the member has.
- 2.6 Where a member is a corporation it may nominate in writing one individual to vote on behalf of the corporation.
- 2.7 Where a member is a partnership it may nominate in writing one of the partners to vote on behalf of the partnership.
- 2.8 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 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 Board that includes, among other things, a provision stipulating that any subsequent unauthorized use will result in:
 - a) That member's email privileges being revoked such that all communication will thereafter be in writing and,
 - b) The Membership being advised of such revocation.
- 2.9 In certain circumstances where the Township is passing a by-law affecting the Creemore BIA, the Clerk of the Township will be required to establish a Membership list pursuant to S. 210 of the Municipal Act, 2001, as amended.

ARTICLE 3 - BOARD OF MANAGEMENT COMPOSITION

- 3.1 The Board of Management shall consist of five (5) to eight (8) directors as follows:
 - a) One (1) member of Council and the past president to be appointed by the Township; and

- b) The remaining directors selected by a vote of the membership of the improvement area and appointed by the Township.
 - c) The Mayor is a voting ex-officio member of this board and retains all powers granted to all other Directors on the Board of Management.
- 3.2 Council may refuse to appoint a Member selected under section 3.1 in which case Council may:
- a) Leave the position vacant, appoint their alternate choice; or
 - b) Direct that a meeting of the Members be held to select another candidate for Council's consideration.
- 3.3 Directors shall serve for a term that is the same as the term of the Council that appoints them or until their successors are appointed.
- 3.4 The Creemore BIA Board of Management is elected by its members and is not required to submit applications as part of the Township selection process for boards and committees when a direct election is being held.
- 3.5 The seat of a director shall become vacant if a director is absent from the regular meeting(s) of the Board of Management for three (3) consecutive months without being authorized to do so by a resolution of Council.
- 3.6 If a seat of a director becomes vacant for any reason, Council may fill the vacancy for the remainder of the vacant director's term and may seek the Board of Management's recommendation if an election should be held.
- 3.7 A director may be reappointed to the Board of Management for up to (3) consecutive terms.
- 3.8 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.

ARTICLE 4 - BOARD OF MANAGEMENT ELECTION PROCEDURES

CALL OF AN ELECTION

- 4.1 An election will be conducted within four (4) months of a new term of Council commencing or as directed by Council. Township staff will assist with the election process.

- 4.2 If a seat of a director becomes vacant for any reason during the term of office, Council may fill the vacancy for the remainder of the vacant director's term and may seek the Board of Management's recommendation if an election should be held.
- 4.3 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 (3) weeks in advance of the election.
- 4.4 A Nomination Committee shall be formed by resolution at a Board of Management meeting and shall not include any persons seeking election to the Board of Management. Nominations for the Nominating Committee will be taken in advance or at the meeting from the floor and voted on by the membership in attendance. Should no members put forward their name, Township staff will be the Nominating Committee.

NOMINATIONS

- 4.5 At the call of the election as specified in section 4.1, the Nomination Committee 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 will be provided for a minimum of (3) weeks to the membership.
- 4.6 Nomination forms shall be made available on the Township's website and at any other location specified by the Nominating Committee. These locations will be advertised in the call for nomination advertisements.
- 4.7 All nominations must be received and approved by the Nominating Committee.
- 4.8 Nominations filed by a property owner or tenant assessed commercially or industrially in the business improvement area, shall be submitted on the specified nomination form, directly to the Nomination Committee.
- 4.9 Nominations filed by individuals not assessed commercially or industrially in the business improvement area, must be nominated by two (2) Members assessed commercially or industrially within the business improvement area prior to submitting their nomination to the Nomination Committee.
- 4.10 Nominations will be due at least three weeks prior to the election called by the Board of Management. The due date must be advertised in the call for nominations advertisement.

- 4.11 A person may withdraw his or her nomination by filing a written withdrawal with the Nominating Committee before the close of nominations.
- 4.12 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 Nominating Committee shall immediately declare the candidate or candidates elected by acclamation.
- 4.13 Subject to section 4.12, the Nominating Committee shall extend the nomination period by two weeks from the date of acclamation for additional nominations for the remaining seats. If the number of certified candidates still does not exceed the remaining number of vacancies, the Nominating Committee shall immediately declare the additional candidate or candidates acclaimed.
- 4.14 Immediately following the close of nominations, the Nominating Committee shall prepare a report to Council with respect to all nominations received and certified for the election or acclamation.

ELECTION

- 4.15 The Nomination Committee are the Returning Officers and are responsible for the election.
- 4.16 The Returning Officers may appoint, in writing, Assistant Returning Officers (ARO's) and such other officials required to assist in the Business Improvement Area Election.
- 4.17 The Business Improvement Area Election shall be conducted by ballot and held at the date, time and location specified by the Nominating Committee.
- 4.18 Each member has one vote regardless of the number of properties that the member may own or lease in the Business Improvement Area.
- 4.19 Every member that is a corporation or partnership has one vote regardless of the number of shareholders or partners that the member has.
- 4.20 A Candidate may appoint a scrutineer to represent him or her during voting and the counting of votes, including a recount.
- 4.21 The Nomination Committee shall place the results of the election on the Township's website and indicate that all appointments are subject to Council approval.

BOARD OF MANAGEMENT OFFICERS

- 4.22 The Board, as soon as is practicable after its members are appointed, shall select a Chairman, Vice-Chairman, 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.

ARTICLE 5 - DUTIES OF ELECTED BOARD MEMBERS

- 5.1 All Board of Management positions are voting members. The duties of each of the elected Board members are as follows:

1) The Chairman also referred to as the President shall:

- a) Chair all board of management meetings of the Creemore BIA;
- b) Rule on all procedural matters and maintain decorum;
- c) Ensure motions and amendments are clearly expressed and, if there is no motion under consideration, summarize the discussion for the purpose of the minutes;
- d) Have general supervision of the affairs of the Creemore BIA;
- e) Along with the Vice-President, Treasurer or Secretary of the Board, co-sign all cheques and execute any documents, contracts or agreements;
- f) Sit as voting ex-officio, on all Creemore BIA committees;
- g) Be the public representative of and spokesperson for the Board;
- h) Perform any other duties which the Board may assign from time to time.
- i) Work with staff of the Township to ensure legislative obligations are met, including but not limited to those regarding staff, volunteers, committees and Board members of the BIA.

2) The Vice Chairman also referred to as the Vice-President shall:

- a) Perform all of the duties of the President in the absence of the President or if the President is unable for any reason to perform those duties;
- b) Along with the President, Treasurer or Secretary, co-sign all cheques and by-laws and execute any documents, contracts or agreements;
- c) Perform any other duties that the Board may assign from time to time.

3) The Secretary shall:

- a) Give the required notice as per the Board's procedural rules contained within this document for every board and general meeting of the Creemore BIA.
- b) 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 any two Board members and provided to the Vice-President for purposes of record keeping;
- c) Together with the President, Vice-President or Treasurer, co-sign all cheques and by-laws and execute any documents, contracts or agreements;
- d) Perform any other duties that the Board may assign from time to time.

4) The Treasurer shall:

- a) Keep and maintain the financial records and books of the Creemore BIA which shall include but be not 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;
- b) Assist the Township Treasurer or their designate in the preparation of the financial statements of the Creemore BIA;
- c) Maintain an inventory of all tangible and intangible assets owned or leased by the Creemore BIA;
- d) Prepare and distribute the proposed annual budget in accordance with the requirements of the Township;
- e) Together with the President, Vice-President or Secretary, co-sign all cheques and by-laws and execute any documents, contracts or agreements
- f) Prepare written financial updates for the membership's review and consideration at each regular general meeting;
- g) Provide the Executive and Township with all financial records for purposes of record keeping, once they are no longer current as determined by the Township's Treasurer; and
- h) Perform any other duties that the Board may assign from time to time.

5) The Past President shall:

- a) Advise on existing BIA policies, past strategic direction and priorities;
- b) Provide historical context for decision-making;
- c) Ensure that all past records of the Board are transferred to the succeeding Board of Management;
- d) Supporting the President in his/her position through mentoring, coaching, and advising on Board development and procedures.
- e) Perform any other duties that the Board may assign from time to time.

6) The Council Representative shall:

- a) Represent the interests of the BIA Board of Management including providing timely reports on BIA activities to Township Council.
- b) Report on regular Council deliberations to the BIA Board of Management that may be of interest to the day-to-day operations of the BIA.
- c) Represent the broader interests and responsibilities of the Township of Clearview.
- d) Act as a resource to the Board of Management and the general BIA membership on matters pertaining to Township policies, by-laws and accountabilities to ensure BIA practices and procedures are aligned with those of the Township.
- e) Act as a liaison between the BIA Board of Management and Township staff where opportunities for additional support and collaboration are identified.

ARTICLE 6 – FINANCIAL POLICY

- 6.1 The annual budget shall be presented to the membership for information before being taken to Council for approval prior to December 31st of the previous year.
- 6.2 The Board of Management shall follow all Township procurement policies. Should a question arise, the Township's Treasurer shall be consulted.
- 6.3 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.
 - d) 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 Clearview Township Treasurer prior to being opened.
- 6.4 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 Municipal Clerk shall be consulted.

ARTICLE 7 - COMMITTEES OF THE BOARD

- 7.1 The Board may establish committees to carry out the objectives of the Creemore BIA or to advise the Board.
- 7.2 The Board shall prescribe the duties of all such committees by resolution or as defined in Board approved terms of reference.
- 7.3 Committee members selected by the Board need not be members, but shall be individuals committed to the advancement of the purposes of the Creemore BIA. The President is an ex-officio member of each committee.
- 7.4 The Board may allocate funding to one or more committees to undertake approved, specific tasks on behalf of the Board, provided an account of all planned expenditures is presented at each Board meeting throughout the tenure of the committee, for review and approval. Committee members are responsible for their budgeted funds and must seek Board approval for any funds that exceed this budget.
- 7.5 Significant decisions of a committee shall be subsequently ratified by the Board before they are implemented or take effect.
- 7.6 The Chair of a committee shall present progress reports and make recommendations to the Board on all projects undertaken.
- 7.7 Committee(s) of the Board are at the discretion of the Board of Management and can be restructured at any time.

ARTICLE 8 – MEETINGS OF THE BOARD OF MANAGEMENT

- 8.1 All Board of Management meetings also referred to as Executive meetings and sub-committee meetings must follow the rules and procedures defined in the Township’s Procedural By-law for Boards and Committees.

ARTICLE 9 – MEETINGS OF THE MEMBERSHIP

- 9.1 Meetings of the Membership may be called by the President or any two members of the Board, but at least one Annual General Meeting of the Membership shall be held prior to the month of December in each year. It is anticipated that there will be four meetings of the Membership each year. If a written request is made by at least ten (10) members of the Creemore BIA to call a meeting, it is the duty of the President, or in his or her absence, the Secretary, to summon a meeting of the Membership within 30 days of the request being delivered.
- 9.2 Membership meetings shall be held at such place in the Township as the Board determines in a meeting space open to the public and accessible.
- 9.3 The quorum for a Membership meeting shall be the majority of qualified members present at the meeting. The Secretary has record all names of qualified members present in the minutes.
- 9.4 The notice and agenda for a Membership meeting should reach members at least five (5) days in advance of the meeting.
- 9.5 The notice and agenda for a Membership meetings shall be posted on the Township’s website and e-mailed to each member.
- 9.6 The President shall establish the agenda for each Membership meeting, however the agenda for the Annual General Meeting shall include, but not be limited to:
- a) minutes of the last Annual General Meeting;
 - b) annual activity and financial report of the Board;
 - c) audited financial statement;
 - d) appointment of an accountant for following year;
 - e) proposed annual budget for the following year, for
 - f) discussion purposes;
 - g) election of Board (if an election year); and
 - h) any other business that may properly be brought before the meeting.

- 9.7 Members shall submit additional items to the President for consideration for inclusion on the agenda at least seven days prior to the applicable meeting.
- 9.8 All motions arising at any meeting of the Membership shall relate to an item on the agenda for that meeting and the President shall have the right to determine whether a motion is in order.
- 9.9 A member may request during any meeting of the Membership that an item be added to the agenda as "new business." The majority of qualified members present shall make a determination at that time whether to amend the agenda to include such item or whether to defer such item to the agenda of the next meeting of the Membership.
- 9.10 All questions shall be decided by a majority vote of the qualified members present unless otherwise stated in this by-law or as required by law. A tie vote shall be deemed to be lost.
- 9.11 No vote shall be taken by ballot or any other method of secret voting except the election of the officers of the Board may be designated by secret ballot if so determined by the Board.
- 9.12 At all meetings, every motion shall be decided by a show of hands from all qualified members in attendance. The President shall declare that a motion has been carried or not carried. All motions, resolutions or proceedings shall be recorded without note or comment. It is not necessary to record the number or the proportion of votes.
- 9.13 The Secretary shall have a current Membership list available for viewing at each Membership meeting.
- 9.14 Except as specified in Article 9, all other meeting procedures shall follow the Procedural By-law designated and approved by Council for all Boards and Committees.

ARTICLE 10 - STANDARD OF CARE AND CODE OF CONDUCT AND CONFLICT OF INTEREST

- 10.1 Every Board member of the Creemore BIA shall:
 - a) exercise the powers and discharge the duties of the office honestly, in good faith, and in the best interests of the Creemore BIA; and
 - b) exercise the degree of care, diligence, and skill that a reasonable and prudent person would exercise in comparable circumstances.

- 10.2 The Board of Directors shall follow the Township of Clearview's code of conduct as approved by Council and specified for Township Boards. Upon receiving a complaint, the Integrity Commissioner may investigate any Directors alleged breach of the code of conduct and/or the Municipal Conflict of Interest Act, as amended, subject to provisions of the Municipal Act, 2001, as amended.
- 10.3 Every Board member who has any direct or indirect interest concerning any matter to be considered by the Board, or any direct or indirect interest in any contract or arrangement, or proposed contract or arrangement with the Board shall disclose his or her interest in the manner required by the *Municipal Conflict of Interest Act*, as amended and shall:
- a) Provide a written declaration of his or her interests 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;
 - b) request that his or her declaration be recorded in the minutes of the meeting; and
 - c) not vote on any resolution or participate in any discussion with respect to the resolution concerning the contract or proposed contract.
- 10.4 Effective March 1, 2019, Directors may request advice respecting their obligations under the *Municipal Conflict of Interest Act*, as amended.
- 10.5 All Integrity Commissioner duties and responsibilities relating to the Board is specified in the *Municipal Act, 2001*, as amended.

ARTICLE 11 - POLICIES

- 11.1 The by-law of the Township governing the procurement of goods and services (which also governs the sale of surplus goods) applies to the Board.
- 11.2 The Board will not recruit, select or employ permanent full or part-time staff. The Board may contract out services as per the Township's Procurement of Goods and Services policy. Any proposed hiring of a contractor must be included in the annual budget.
- 11.3 All sales and disposition of land are the responsibility of Council of the Township of Clearview.

- 11.4 The Township of Clearview records retention policy applies to all Board documents. The Township has a Record Storage Centre. Each Board is encouraged to provide their records to the Clerk's Office for archival storage. All Board Members are responsible for the retention of documents related to the business of the Creemore BIA.

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 are accessible to the public upon request.

ARTICLE 12 - RESERVE FUND

- 12.1 The Board may provide in its budget for the establishment and maintenance of a reserve fund.

ARTICLE 13 – CLOSED MEETING INVESTIGATOR

- 13.1 Under Section 239.1 of the Municipal Act, 2001, as amended, any individual may request that an investigation be undertaken to determine whether a municipality or local board has complied with section 239 or a procedural by-law under subsection 238(2), in respect of a meeting or part of a meeting that was closed to the public.
- 13.2 Should an investigation take place, the Investigator may request information or records to examine and the Board shall comply with such requests.
- 13.3 Under Section 239.2(11) of the Municipal Act, as amended, the Board shall ensure reports commissioned by the Investigator are made public.

ARTICLE 14 - FORMS

- 14.1 The Board may create forms from time to time, for purposes of managing the affairs of the Creemore BIA. Forms will be circulated to Township staff for consultation prior to publication and distribution.
- 14.2 Such forms may be changed by the Board without the necessity of an amendment to this By-law.

ARTICLE 15 – CONSISTENCY WITH LEGISLATION

- 15.1 Where reference is made in this by-law 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.

- 15.2 If there is any conflict between any provisions contained in this By-law and any provision of the Municipal Act 2001 and other legislation the latter shall prevail, and the provisions herein affected shall be modified to the extent necessary to remove such conflict, and as so modified this By-law shall remain in full force and effect.

ENDORSED BY THE Board of Management for the Creemore Business Improvement

Area on: _____

President

Dated:

Secretary

Dated:

Subject to approval from Council of the Township of Clearview.

CREEMORE BUSINESS IMPROVEMENT AREA BOUNDARY MAP

Being the map of the boundaries established originally by By-law 88-003 of the Village of Creemore in 1987.

