



Province of Alberta

## MUNICIPAL GOVERNMENT ACT

# **BUSINESS IMPROVEMENT AREA REGULATION**

**Alberta Regulation 93/2016**

### Extract

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*Table of Contents*

|           |  |
|-----------|--|
| <b>1</b>  | Definitions                            |
|           | <b>Establishment</b>                   |
| <b>2</b>  | Procedure for establishment            |
| <b>3</b>  | Request for establishment              |
| <b>4</b>  | Petition objecting to establishment    |
| <b>5</b>  | Business improvement area bylaw        |
| <b>6</b>  | Board                                  |
| <b>7</b>  | Amendments to BIA bylaw                |
| <b>8</b>  | Change in boundaries                   |
|           | <b>Capital Property</b>                |
| <b>9</b>  | Capital property                       |
|           | <b>Financial Matters</b>               |
| <b>10</b> | Financial year                         |
| <b>11</b> | Budget                                 |
| <b>12</b> | Notice of proposed budget              |
| <b>13</b> | Budget amendments                      |
| <b>14</b> | Transfer of money by municipality      |
| <b>15</b> | Restrictions on board                  |
| <b>16</b> | Non-profit organization                |
| <b>17</b> | Records                                |
| <b>18</b> | Auditor                                |
| <b>19</b> | Financial statement and reports        |
|           | <b>Business Improvement Area Tax</b>   |
| <b>20</b> | BIA tax bylaw                          |
| <b>21</b> | BIA tax rate bylaw                     |
| <b>22</b> | Application of business tax provisions |
|           | <b>Disestablishment</b>                |
| <b>23</b> | Procedure for disestablishment         |

- 24 Petition
- 25 Disestablishment bylaw and taxpayers vote
- 26 Notice
- 27 Taxpayer vote on bylaw
- 28 Consequences of taxpayers vote
- 29 Liability for deficiency
- 30 Imposing tax after disestablishment

#### **Expiry**

- 31 Expiry

#### **Transitional**

- 32 Transitional

#### **Commencement**

- 33 Coming into force

#### **Definitions**

**1** In this Regulation,

- (a) “board” means the board of a business improvement area;
- (b) “capital property” means a capital property as defined in section 241(c) of the Act;
- (c) “disestablishment” in respect of a business improvement area includes the dissolution of the area’s board;
- (d) “taxable business” means a business in a business improvement area whose operator is a taxpayer;
- (e) “taxpayer” means a person who operates a business and is liable to pay business improvement area tax in respect of that business.

#### **Establishment**

##### **Procedure for establishment**

**2** A business improvement area may only be established in accordance with this Regulation.

##### **Request for establishment**

**3(1)** The process for establishing a business improvement area begins with a request to council signed by persons who

- (a) would be taxpayers if an area was established, and
  - (b) represent at least 25% of the businesses that would be taxable businesses if an area was established.
- (2) The request must ask that an area be established and describe the proposed purposes and boundaries of the area.
- (3) Within 30 days of receiving a request that meets the requirements of subsections (1) and (2), the municipality must take reasonable steps to ensure that a notice of the request is mailed or delivered to every business in the proposed area that would be a taxable business if an area was established.

#### **Petition objecting to establishment**

- 4(1)** Persons who would be taxpayers if a proposed area was established may petition the council objecting to the establishment of the area.
- (2) The petition is not sufficient unless
- (a) it is signed by persons referred to in subsection (1) who represent more than 50% of the businesses that would be taxable businesses if the proposed area was established, and
  - (b) it is filed with the chief administrative officer within 60 days of the last date on which notice of the request was mailed or delivered.
- (3) If the chief administrative officer declares a petition to be sufficient, council may not pass a bylaw establishing a business improvement area set out in the request until 2 years have passed from the day the petition was declared to be sufficient.

#### **Business improvement area bylaw**

- 5(1)** If a sufficient petition is not received, the council may pass a business improvement area bylaw that is based on the request.
- (2) A business improvement area bylaw must
- (a) designate an area as a business improvement area,
  - (b) designate a name for the area,
  - (c) describe the purposes for which the area is established,
  - (d) establish a board for the area, and

- (e) specify the number of board members, the term of office of board members and the method of filling vacancies.

#### **Board**

**6(1)** A board established for a business improvement area must consist of individuals nominated by one or more taxpayers in the zone.

**(2)** A council may also appoint one or more councillors to be members of a board.

**(3)** A council may only revoke the appointment of a board member who was nominated by a taxpayer if the revocation is recommended by the board.

#### **Amendments to BIA bylaw**

**7** Sections 3 and 4 do not apply to an amendment of a business improvement area bylaw or when a business improvement area is disestablished.

#### **Change in boundaries**

**8(1)** A council may not pass a proposed bylaw to amend a business improvement area bylaw that changes the boundaries of the area unless, before the proposed bylaw receives second reading,

- (a) the area's board consents to the change in boundaries, and
- (b) taxpayers in the area and people who would be taxpayers under the change in boundaries are provided with an opportunity to make representations concerning the change to council.

**(2)** Before the proposed bylaw receives second reading, the municipality must take reasonable steps to ensure that a notice that meets the requirements of subsection (3) is mailed or delivered to every taxable business in the area and to every business that would be a taxable business under the change in boundaries.

**(3)** The notice must set out

- (a) a summary of the proposed bylaw, including a description of the change in boundaries,
- (b) a statement that taxpayers in the area and people who would be taxpayers under the change in boundaries may make representations concerning the proposed bylaw to council, and

- (c) the manner and time period for making those representations.

### **Capital Property**

#### **Capital property**

**9(1)** A board may enter into an agreement with a municipality in which the municipality agrees to undertake the construction of a capital property to be located within the business improvement area of the board.

**(2)** The agreement may deal with payment for the costs and expenses associated with the construction of the capital property and its subsequent maintenance and operation and any other matter relating to the capital property that the board and the municipality consider appropriate.

### **Financial Matters**

#### **Financial year**

**10** The financial year of a board is the calendar year.

#### **Budget**

**11(1)** A board must submit a proposed budget for each calendar year to the council for the council's approval.

**(2)** The proposed budget must be submitted at the time and in the form specified by council.

**(3)** The proposed budget must be a balanced budget and include

- (a) the estimated amount of the board's revenue from every source, including the amount that the board will receive from the municipality in respect of the business improvement area tax, and
- (b) the estimated amount of all operating and capital expenditures planned for the year.

#### **Notice of proposed budget**

**12(1)** The municipality must take reasonable steps to ensure that a notice of the proposed budget and the date and place of the council meeting at which the proposed budget will be considered is mailed or delivered to every taxable business in the business improvement area.

(2) Persons representing those businesses may, with the permission of council, speak at the meeting.

#### **Budget amendments**

**13(1)** Council may, in its approval of a board's budget,

- (a) authorize the board to amend the budget by
  - (i) transferring amounts to or from the board's reserves, and
  - (ii) transferring amounts between expenditures so long as the amount of the total expenditures is not increased,
- and
- (b) establish conditions respecting the amendment of the budget under clause (a).

(2) An amendment to a board's budget made in accordance with subsection (1) is deemed to be approved by council.

#### **Transfer of money by municipality**

**14(1)** After council approves the budget of a board, the municipality is required to transfer to the board the amounts identified in the approved budget as revenue to be received from the municipality.

(2) The municipality may make the payments in a method agreed upon with the board.

#### **Restrictions on board**

**15(1)** A board may only make an expenditure if

- (a) the expenditure is included in the board's budget, and
- (b) the budget has been approved by the council.

(2) A board must not incur indebtedness extending beyond the current fiscal year of the board without the approval of the council.

#### **Non-profit organization**

**16** A board must apply all income and any profits to promoting the objects of the board and must not pay any dividends to any person.



**Records**

**17** A board must ensure that proper financial records are maintained and that the minutes of its meetings and its resolutions are recorded.

**Auditor**

**18(1)** The board must appoint an auditor.

**(2)** An auditor appointed by the board is at all reasonable times and for any purpose related to an audit entitled to access to

- (a) the records of the board, and
- (b) data processing equipment owned or leased by the board.

**Financial statement and reports**

**19** Each year following its financial year, the board must submit an audited financial statement to the council and any reports required by the council by the date agreed upon with the council.

**Business Improvement Area Tax****BIA tax bylaw**

**20(1)** A council of a municipality must pass a business improvement area tax bylaw if there is a business improvement area within the municipality.

**(2)** A business improvement area tax bylaw or an amendment to it applies to the year in which it is passed only if it is passed before May 1 of that year.

**(3)** The business improvement area tax bylaw authorizes the council to impose a tax on all businesses operating within the business improvement area, except businesses that are referred to in section 351 or 375 of the Act.

**(4)** The business improvement area tax bylaw must require assessments of taxable businesses operating within the area to be prepared and recorded on an assessment roll for the purposes of the business improvement area tax.

**(5)** If a council has passed a business tax bylaw, the business improvement area bylaw may adopt for the purposes of the business improvement area tax the assessments of businesses prepared for the business tax.

**(6)** A business improvement area tax bylaw may establish maximum and minimum amounts to be paid under it.

**BIA tax rate bylaw**

**21(1)** Each council that has passed a business improvement area tax bylaw must pass a business improvement area tax rate bylaw annually.

**(2)** A business improvement area tax rate for an area may be

- (a) a uniform rate throughout the area, or
- (b) at different rates in different parts of the area if the council considers that some activities of the board are of greater benefit to businesses in one or more parts of the area.

**(3)** The business improvement area tax rate for an area must be sufficient to raise the amount that the board is to receive from the municipality in respect of the business improvement area tax as set out in the board's approved budget.

**Application of business tax provisions**

**22(1)** Except as modified by this Regulation, Parts 9 to 12 of the Act relating to business tax apply with the necessary modifications to business improvement area tax and for that purpose a reference in those Parts to

- (a) business tax or tax imposed under Part 10, Division 3 is deemed to be a reference to business improvement area tax;
- (b) a business tax bylaw is deemed to be a reference to a business improvement area tax bylaw;
- (c) a business tax rate bylaw is deemed to be a reference to a business improvement area tax rate bylaw;
- (d) a business assessment roll is deemed to be a reference to the assessment roll prepared or adopted for the purposes of the business improvement area tax;
- (e) a business tax roll is deemed to be a reference to a business improvement area tax roll.

**(2)** Sections 371, 372, 374(1)(a), (2), 376 and 377(3) and (4) of the Act do not apply to business improvement area tax.

**Disestablishment****Procedure for disestablishment**

**23** A business improvement area may only be disestablished in accordance with this Regulation.

**Petition**

**24(1)** Taxpayers in a business improvement area may petition for a bylaw to disestablish the zone.

**(2)** The petition is not sufficient unless it is signed by taxpayers representing at least 25% of the taxable businesses in the business improvement area.

**Disestablishment bylaw and taxpayers vote**

**25(1)** A council must, within 30 days of the chief administrative officer's declaring a petition referred to in section 24 to be sufficient,

- (a) give first reading to a bylaw to disestablish the business improvement area,
- (b) specify a date that is within 90 days after the bylaw receives first reading for a vote of the taxpayers in the area on the bylaw, and
- (c) specify the question that is to appear on the ballot for the vote.

**(2)** The bylaw must specify the date, being at least 6 weeks after the date of the vote, on which the bylaw is to take effect.

**(3)** A council that wants to disestablish a business improvement area either on its own initiative or on the request of the area's board must follow the procedures for the disestablishment of the area that apply when a petition referred to in section 24 is declared to be sufficient.

**Notice**

**26** After a bylaw to disestablish an area receives first reading, the municipality must take reasonable steps to ensure that every taxable business within the area is notified

- (a) that a bylaw to disestablish the area has been given first reading, and
- (b) that a vote on the bylaw will be held on the specified day.

**Taxpayer vote on bylaw**

**27(1)** Council is responsible for holding the vote on the bylaw to disestablish the area.

**(2)** The board of the business improvement area is responsible for the costs and expenses of the vote on the bylaw.

- (3)** The vote must be conducted in accordance with the *Local Authorities Election Act*, except that
- (a) sections 44, 46(1), (2), (2.1) and (3), 47, 49, 50 and 52 of that Act do not apply to the vote,
  - (b) only a taxpayer in the business improvement area is eligible to vote,
  - (c) if there is more than one taxpayer for a taxable business, only one such taxpayer, selected by the taxable business, may vote in respect of that business, and
  - (d) the returning officer may
    - (i) prepare a list of the taxable businesses eligible to vote on the bylaw,
    - (ii) require reasonable proof of a taxpayer's entitlement to vote on behalf of an eligible taxable business,
    - (iii) remove the taxable business's name from the list once a ballot is issued to a taxpayer who operates the business,
    - (iv) refuse to issue a ballot to a taxpayer who does not meet the eligibility requirements, and
    - (v) utilize any form necessary to further the objects of this section.

**Consequences of taxpayers vote**

**28(1)** If the vote approves the bylaw to disestablish the area, the council must pass the bylaw within 30 days of the date of the vote without any alteration affecting the bylaw's substance.

**(2)** If the vote does not approve the bylaw, the council

- (a) must not give the bylaw any further readings and any previous readings are rescinded, and
- (b) must not, within 2 years of the date of the vote, give first reading to a bylaw that disestablishes the business improvement area.

**Liability for deficiency**

**29** If on the disestablishment of a business improvement area the amount received from the disposal of the board's assets does not

cover the board's liabilities, the municipality is liable to pay the outstanding amount of the liabilities.

#### **Imposing tax after disestablishment**

**30(1)** The council may, despite the disestablishment of a business improvement area, recover any outstanding amount referred to in section 29 by imposing a business improvement area tax on businesses that were taxable businesses before the disestablishment of the area.

**(2)** Section 21(3) does not apply to a business improvement area tax imposed under subsection (1).

### **Expiry**

#### **Expiry**

**31** For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on June 30, 2021.

### **Transitional**

#### **Transitional**

**32(1)** In this section, "previous regulation" means the *Business Revitalization Zone Regulation* (AR 377/94).

**(2)** On the coming into force of this Regulation,

- (a) a business revitalization zone established under the previous regulation is deemed to be a business improvement area established under this Regulation;
- (b) a board of a business revitalization zone established under the previous regulation is deemed to be a board of a business improvement area;
- (c) a business revitalization zone bylaw passed under the previous regulation is deemed to be a business improvement area bylaw passed under this Regulation
- (d) a business revitalization zone tax bylaw passed under the previous regulation is deemed to be a business improvement area tax bylaw passed under this Regulation;
- (e) a business revitalization zone tax rate bylaw passed under the previous regulation is deemed to be a business

improvement area tax rate bylaw passed under this Regulation.

### **Commencement**

#### **Coming into force**

**33** This Regulation comes into force on July 1, 2016.





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