

THE CORPORATION OF THE MUNICIPALITY OF PORT HOPE

BY-LAW NO. 64/2007

A By-Law to Designate and Establish the Port Hope Heritage Business Improvement Area and to Establish a Board of Management and to Repeal By-Law No. 11/90 and By-Law No. 88/90

WHEREAS Section 204(1) of the Municipal Act, S.O. 2001, c. 25, as amended, provides that a local municipality may designate an area as an improvement area and may establish a board of management to oversee the improvement, beautification and maintenance of municipally-owned land, buildings and structures in the area beyond that provided at the expense of the municipality generally, and to promote the area as a business or shopping area;

AND WHEREAS it is deemed desirable to establish such an area in the Municipality of Port Hope to be known as the Port Hope Heritage Business Improvement Area;

AND WHEREAS Council of the former Town of Port Hope passed By-law No. 11/90 on the 5th day of February, 1990 to designate and establish the Port Hope Heritage Business Improvement Area, and passed By-law No. 88/90 to amend By-law No. 11/90 on the 13th day of November 1990;

AND WHEREAS Notice of Intention to pass such a By-law has been given in accordance with Section 210(1) of the Municipal Act, S.O. 2001, c. 25, as amended;

AND WHEREAS the Clerk of the Municipality has not received written objections within 60 days after the last day of mailing of such Notices of Intention signed by at least one-third of the total number of persons entitled to notice representing at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area;

NOW THEREFORE the Council of the Corporation of the Municipality of Port Hope enacts as follows:

1. For the purposes of this By-law:
 - 1.1 "Act" shall mean the Municipal Act, S.O. 2001, c. 25, as amended.
 - 1.2 "Board" shall mean the Board of Management for the Heritage Business Improvement Area.
 - 1.3 "Director" shall mean Director of the Board of Management for the Heritage Business Improvement Area.
 - 1.4 "HBIA" shall mean the Port Hope Heritage Business Improvement Area.
 - 1.5 "Municipal Clerk" shall mean the Clerk for the Corporation of the Municipality of Port Hope.
 - 1.6 "Council" shall mean the Council of the Corporation of the Municipality of Port Hope.
 - 1.7 "Member" shall mean member of an improvement area consisting of the 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.
 - 1.8 "Municipal Treasurer" shall mean the Treasurer for the Corporation of the Municipality of Port Hope.

2. All properties fronting on the following streets are hereby collectively designated as an improvement area and shall be known as the “Port Hope Heritage Business Improvement Area”:

<u>STREET</u>	<u>SIDE</u>	<u>FROM</u>	<u>TO</u>
Walton Street	Both	Pine Street	Mill Street
Ontario Street	East	Walton Street	South Limit of Barrett Street
Ontario Street	West	Walton Street	Ganaraska River
Mill Street	Both	CNR tracks	South Limit of Barrett Street
Queen Street	Both	Walton Street	Hayward Street
John Street	Both	Walton Street	Hayward Street
Robertson Street	Both	John Street	Mill Street
Augusta Street	Both	John Street	Queen Street
Brogden’s Lane	Both	Ontario Street	End
Maitland Street	South	Cavan Street	Ontario Street
Cavan Street	West	Maitland Street	Walton Street
Elias Street	Both	Augusta Street	End
Thompson Drive	Both	Ontario Street	Mill Street

The Port Hope Heritage Business Improvement Area as described in this section is within the boundaries as shown on the map that is attached to and forms part of this By-law as Schedule “A”.

3. A Board of Management for the Port Hope Heritage Business Improvement Area is hereby established.
4. The Board is entrusted, subject to such limitations hereinafter set out, with the improvement, beautification and maintenance of municipally owned lands, buildings, and structures in the area, beyond such improvement, beautification and maintenance as is provided at the expense of the municipality at large, and the promotion of the area as a business or shopping area.
5. The Board shall consist of fourteen Directors to be approved by Resolution of Council, and selected as follows:
 - 5.1 One Member of Council to be appointed by Council.
 - 5.2 Nine members as per Section 204 (4) and (5) of the Act, of which not more than 2 shall be owners assessed for business assessment in respect of land in the HBIA who do not operate a commercial business from their assessed property in the HBIA or nominees of a corporate member of the HBIA.
 - 5.3 Four ex-officio representatives, one each shall be from the Heritage Port Hope, the Port Hope & District Chamber of Commerce, the Port Hope Bed & Breakfast Association, and the Economic Development & Tourism Department, to be appointed by Council.
6. Each Director has one vote regardless of the number of properties that the Director may own, lease, or represent as an officer of a corporation which owns or leases properties, in the Port Hope Heritage Business Improvement Area.
7. The term of the Directors shall be the same as the term of the Council that appointed them, however in an election year, the Directors shall continue to hold office until their successors have been appointed.
 - 7.1 A Director must continue to be qualified in accordance with Section 5 of this By-law throughout the Director’s term of appointment.

8. A Director may not serve more than eight consecutive years without an absence from the Board for at least one year.
9. Where a vacancy on the Board occurs from any cause, Council shall, by Resolution, appoint a Director qualified as set out in Section 5 of this By-law to be a member, who shall hold office for the remainder of the term for which his or her predecessor was appointed.
10. The Board shall from amongst its Directors, as soon as possible in each year, elect a chairman and vice-chairman and appoint a secretary and treasurer, and such other officers as it may deem necessary to properly conduct the business of the Board during the said year. The Board shall forthwith advise the Municipal Clerk of names of Directors elected and appointed to such positions. The Board shall provide the Municipal Clerk with any changes on the Board as they occur.
11. The Board shall, by November 1st of each year, provide a list to the Municipal Clerk under Section 204(5) of the Municipal Act, 2001, as amended, which, if satisfactory the Municipal Clerk, shall be accepted by the Municipal Clerk in determining tenancy.
12. A Procedural Manual shall be adopted by the Board, satisfactory to the Municipality, which shall provide procedures with respect to Notice, Schedule of Meetings, Agendas, Minutes and the responsibility for minute taking and circulation, records retention, proceedings at meetings, Chairs and Alternates, Committees and Subcommittees, voting, quorum, open meetings, procedure for In Camera matters, and any other procedural matter appropriate for the proper and orderly administration of the Port Hope Heritage Business Improvement Area, responsibilities and conduct of its Board and Members. Any amendments to the Procedural Manual shall be to the satisfaction of the Municipality.
13. All Board banking and accounting records shall be processed by the Municipal Treasurer and all invoicing and budget items approved by the HBIA Board's Treasurer before processed by the Municipal Treasurer. The Municipal Treasurer will supply monthly budget printout reports to the Board's Treasurer or Chair for reporting to the Board.
14. The auditors of the Municipality shall be the auditors of the Board and all books, documents, transactions, minutes and accounts of the Board shall at all times be open to their inspection.
15. On or before the 1st of March in each year, the Board shall submit its annual report for the preceding year to Council, including a complete financial statement of its affairs with balance sheet and revenue and expenditure statement as supplied by the Municipal Treasurer.
16. The Board shall prepare a proposed budget for each fiscal year in a form required by the Municipality and in accordance with Section 17 of this By-law, and shall hold one or more meetings of the Members of the HBIA in accordance with the provisions of the HBIA procedural manual, for discussion of the proposed budget, prior to submission to Council.

17. The Board shall submit to the Council its estimates for the following year no later than October 31st each year in the form prescribed by the General Government and Finance Committee of Council, but nothing herein divests the Council of its authority with reference to rejecting such estimates in whole or in part.
18. The Board may make requisitions upon the Municipal Clerk for all sums of money, including penalties and interest, required to carryout its powers and duties in accordance with the estimates approved by Council. The Municipal Treasurer shall, upon receipt of valid requisitions signed by the Chair of the Board, pay out such money.
19. The Board shall not expend any moneys not included in the budget approved by Council or in a reserve fund established under Section 417 of the Municipal Act.
20. The Municipality shall annually raise the amount required for the purposes of the Board, including any interest payable by the Municipality on money borrowed by it for the purposes of the Board in accordance with Section 208 of the Municipal Act, 2001, as amended. The Municipality shall establish a special charge to raise the amount required for the purposes of the Board by levy on rateable property in the Port Hope Heritage Business Improvement Area, in accordance with Section 208 of the Municipal Act 2001, as amended.
 - 20.1 The Council shall in each year, commencing with 2007, levy a special charge upon rateable property in the Heritage Port Hope Business Improvement Area that is in a prescribed business property class defined in the Assessment Act, R.S.O. 1990, Chapter A31, Section 7 (2), as amended, in accordance with the Municipal Act, 2001, as amended, provided that the total levy in the first year shall not exceed \$37,000.00 and the levy in any subsequent year shall not be increased by more than five percent of the levy for the preceding year unless the increase is approved by two-thirds of the total number of persons entitled to notice under Section 210, subsection (1) and under clause 2(a) of the Municipal Act, 2001, as amended representing at least two-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the Port Hope Improvement Area. The special charge shall be levied in accordance with Section 208 of the Municipal Act, provided that in 2007 the minimum such portion of the special charge levied on any such taxpayer shall be \$75.00 and the maximum portion shall be \$1,385.00. Each of the said minimum portions and maximum portions shall increase annually by the amount of increase, if any, in the annual amount to be levied, provided that no such portion shall increase by more than 5% per year.
 - 20.2 The payment of the special charges or rates levied in accordance with Section 208 of the Municipal Act, 2001, shall be the responsibility of the assessed property owners. It shall be the responsibility of the assessed property owners to apportion and collect the share of the taxes or special charges that each tenant may be required to reimburse the owner.
 - 20.3 The Board shall not borrow money and, without the prior approval of the Council, it shall not incur any indebtedness extending beyond the current year.

- 20.4 The Board shall not request the approval of Council to incur indebtedness or request municipal borrowing on its account unless and until:
- 20.4.1 any requests are in accordance with Section 65 of the Ontario Municipal Board Act and Section 401 of the Municipal Act, 2001, in the same manner as if a debt incurred was that of the Municipality, and
 - 20.4.2 The Municipal Clerk has sent out by prepaid mail to every person who, on the last returned assessment roll, is assessed for rateable property that is in a prescribed business property class which is located within the HBIA, and to each tenant of the property who is required to pay all or part of the taxes on the property, and who is listed on the list being reported to the Municipal Clerk by the Board under Section 210 (2) of the Municipal Act and accepted by the Municipal Clerk under Section 204(5) of the Act, and
 - 20.4.3 only if the Municipal Clerk certifies that he or she has not received a sufficient petition within 60 days next following the latest day of the mailing of such notices provided in Section 20.1 of this By-law, which petition objects to incurring indebtedness and is signed by at least one-third of the persons who, on the last returned assessment roll, is assessed for rateable property that is in a prescribed business property class which is located within the HBIA, and to each tenant of the property who is required to pay all or part of the taxes on the property, and who is listed on the list being reported to the Municipal Clerk by the Board under Section 210 (2) of the Municipal Act and accepted by the Municipal Clerk under Section 204(5) of the Act. The sufficiency of any such petition shall be determined by the Municipal Clerk and his or her determination shall be evidenced by a certificate by the Municipal Clerk and when so evidenced is final and conclusive.
 - 20.4.4 In the event that there is compliance with Section 20.4.1, 20.4.2 and 20.4.3 above, then an appropriate draft By-law shall be presented to Council for its consideration.
21. This By-law shall be reviewed every three years to ensure compliance with the purpose of the Port Hope Heritage Business Improvement Area mandate.
22. If any section, clause or provision of this by-law, including anything contained in the schedule attached hereto, is for any reason declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this by-law as a whole or any part thereof, other than the section, clause or provision so declared to be invalid; and it is hereby declared to be the intention of Council that all remaining sections, clauses or provisions of this by-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions thereof may have been declared invalid.
23. By-law No. 11/90 and 88/90 of the former Town of Port Hope are hereby repealed.
24. This By-law shall come into force and take effect immediately upon passing.

READ a FIRST AND SECOND time in Open Council this 19th day of June, 2007.

READ a THIRD time and finally passed in Open Council this 3rd day of July, 2007.

Linda Thompson

Linda Thompson, Mayor

S.C. Dawe

S.C. Dawe, Municipal Clerk