Current Ontario Municipal Act

Improvement area may be designated by by-law

220. (1) The council of a local municipality may pass by-laws designating an area as an improvement area and may by by-law establish for any such area so designated a board of management to which may be entrusted, subject to such limitations as the by-law may provide, the improvement, beautification and maintenance of municipally owned land, 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. R.S.O. 1990, c. M.45, s. 220 (1).

Notice of intention

(2) Before passing a by-law designating an improvement area, notice of the intention of the council to pass the by-law shall be sent by prepaid mail to every person who, on the last returned assessment roll, is assessed with respect to rateable property in the area that is in a prescribed business property class. 1997, c. 5, s. 51 (1).

Duties of landlords

(2.1) If a person who receives notice under subsection (2) has leased any of their rateable property in the area that is in a prescribed business property class, the person shall, within 14 days after the notice was mailed,

(a) give a copy of the notice to each tenant of such property who, under the tenant's lease, is required to pay all or part of the taxes on the property; and

(b) give the clerk of the municipality a list of every tenant described in clause (a) and the share of the taxes on the property that each tenant is required to pay. 1997, c. 5, s. 51 (2).

Petition objecting to by-law

(3) The council shall not pass the by-law referred to in subsection (2) if the clerk of the municipality receives, within two months after the latest day of the mailing of the notices referred to in that subsection, a petition objecting to the by-law that satisfies both of the following:

1. The petition must have been signed by at least one-third of the persons who are entitled to notice under subsection (2) or clause (2.1) (a).

2. The persons referred to in paragraph 1 must be responsible for at least one-third of the sum of the taxes levied, for the purposes of the general local municipality levy as defined in subsection 368 (1), on rateable property in the area that is in a prescribed business property class plus charges under this section levied on that property. For the purposes of this paragraph, a landlord is not responsible for the part of the taxes that a tenant is required to pay under the tenant's lease. 1997, c. 5, s. 51 (3); 1998, c. 3, s. 13 (1).
Approval of O.M.B.

(4) A by-law referred to in subsection (2) shall not come into force without the approval of the Municipal Board if the clerk of the municipality receives, within 30 days after the latest day of the mailing of the notices referred to in subsection (2), a petition objecting to the by-law that is signed by at least one person who is entitled to notice under subsection (2) or clause (2.1) (a). 1997, c. 5, s. 51 (3).

Sufficiency of petition determined by clerk

(5) The sufficiency of the petition described in this section shall be determined by the clerk and the determination shall be evidenced by his or her certificate and when so evidenced is final and conclusive. R.S.O. 1990, c. M.45, s. 220 (5).

Board of management

(6) A board of management established under subsection (1) is a body corporate and shall consist of such number of members appointed by council as the council considers advisable, at least one of whom shall be a member of the council and the remaining members shall be individuals who are persons who are entitled to notice under subsection (2) or clause (2.1) (a) or who are nominated by such persons. 1997, c. 5, s. 51 (4).

Term of office

(7) Each member shall hold office from the time of appointment until the expiration of the term of the council that made the appointment, if the member continues to be qualified, as provided in subsection (6).

Vacancy

(8) Where a vacancy occurs from any cause, the council shall appoint a person qualified as set out in subsection (6) to be a member, who shall hold office for the remainder of the term for which his or her predecessor was appointed.

Idem

(9) The members shall hold office until their successors are appointed and are eligible for reappointment on the expiration of their term of office.

Estimates

(10) A board of management shall submit to the council its estimates for the current year at the time and in the form prescribed by council and may make requisitions upon the council for all money required to carry out its powers and duties, but nothing herein divests the council of its authority with reference to rejecting such estimates in whole or in part or providing the money for the purposes of the board of management and when money is so provided by the council the treasurer shall, upon the certificate of the board of management, pay out such money to the board of management.
Expenditure of money

(11) The board of management shall not spend any money not included in the estimates approved by the council or in a reserve fund established under section 163.

Borrowing prohibited, restrictions on incurring indebtedness

(12) The board of management shall not borrow money and, without the prior approval of the council, it may not incur any indebtedness extending beyond the current year. R.S.O. 1990, c. M.45, s. 220 (7-12).

Procedures

(13) Section 147 of this Act and section 65 of the Ontario Municipal Board Act apply to the giving of an approval of indebtedness by a council under subsection (12) as though the giving of the approval were the incurring of the indebtedness by the municipality. R.S.O. 1990, c. M.45, s. 220 (13); 1996, c. 32, s. 51.

Annual report

(14) On or before the 1st day of March in each year, a board of management shall submit its annual report for the preceding year to council, including a complete audited and certified financial statement of its affairs, with balance sheet and revenue and expenditure statement.

Auditor

(15) The municipal auditor shall be the auditor of each such board of management and all books, documents, transactions, minutes and accounts of a board of management shall, at all times, be open to his or her inspection.

Dissolution of board

(16) Upon the repeal of a by-law establishing a board of management, the board ceases to exist and its undertakings, assets and liabilities shall be assumed by the municipality. R.S.O. 1990, c. M.45, s. 220 (14-16).

Special charge

(17) Subject to such maximum and minimum charges as the council may specify by by-law, the council shall in each year levy a special charge upon rateable property in the area that is in a prescribed business property class sufficient to provide a sum equal to the sum of money provided for the purposes of the board of management for that area, together with interest on the sum at such rate as is required to repay any interest payable by the municipality on the whole or any part of such sum. 1997, c. 5, s. 51 (5).
Special charge where special benefit derived

(18) Despite subsection (17), the council may by by-law provide that the sum required for the purposes mentioned therein shall be levied as a special charge upon the rateable property in the area that is in a prescribed business property class and that, in the opinion of the council, derives special benefit from the establishment of the area, and the sum chargeable to such property shall be equitably apportioned among the separate parcels of property in accordance with the benefits that, in the opinion of the council, accrue to them from the establishment of the area. 1997, c. 5, s. 51 (6).

Notice

(19) Before the council passes a by-law specifying maximum and minimum charges under subsection (17) or a by-law under subsection (18), notice of the proposed by-law shall be,

(a) published at least once a week for four successive weeks, and the by-law shall not be passed until after the expiry of fourteen days following the day on which the notice was last published; or

(b) given in the same manner as a notice of a proposed by-law under subsection (2), and the by-law shall not be passed until the expiry of 45 days next following the latest day of the mailing of any such notices. R.S.O. 1990, c. M.45, s. 220 (19); 1993, c. 27, Schd.; 1997, c. 5, s. 51 (7).

Duties of landlords

(19.1) If a person who receives notice under clause (19) (b) has leased any of their rateable property in the area that is in a prescribed business property class, the person shall, within 14 days after the notice was mailed, give a copy of the notice to each tenant of such property who, under the tenant's lease, is required to pay all or part of the taxes on the property. 1997, c. 5, s. 51 (8).

Objections

(20) Any person who would be liable to a special charge levied in accordance with a by-law proposed to be passed by the council of a municipality under subsection (17) specifying maximum or minimum charges or under subsection (18), or any tenant who would be required under their lease to pay all or part of the taxes on the property against which such a charge would be levied, may object to the proposed by-law by filing written notice of the objection with the clerk of the municipality before the expiry of the period mentioned in clause (19) (a) or (b), as the case may be. R.S.O. 1990, c. M.45, s. 220 (20); 1997, c. 5, s. 51 (9).

Approval of O.M.B.

(21) Where an objection to a proposed by-law is made under subsection (20), the proposed by-law shall not come into force without the approval of the Municipal Board. R.S.O. 1990, c. M.45, s. 220 (21).
Application

(22) Subsections (19), (19.1), (20) and (21) do not apply to a by-law passed under subsection (17) or (18) to comply with an order of the Municipal Board under subsection (31). R.S.O. 1990, c. M.45, s. 220 (22); 1997, c. 5, s. 51 (10).
Separate notices not required

(23) Notice of a proposed by-law required under subsection (19) may be given in the same notice as notice of a proposed by-law under subsection (2).

Proviso

(24) Despite subsection (17) or (18), where money borrowed by the municipality is provided in any year by the council for the purposes of the board of management and where only a portion of such money is required to be repaid by the municipality to the lender in that year or in any subsequent year, only the portion of the money required to be repaid to the lender in any such year together with any interest repayable in that year in respect of the total of such money shall be included in the sum to be provided in that year by the levy under subsection (17) or (18).


Charges are taxes

(25) Any charge imposed under subsection (17) or (18) shall be deemed to be taxes on property and section 382 applies with respect to such a charge. 1997, c. 5, s. 51 (11).

Designation of enlarged improvement area

(26) The council of a local municipality may pass by-laws for designating as an improvement area an area that includes all of an existing improvement area designated under subsection (1).


Application of subss. (2-5)

(27) Subsections (2), (2.1), (3), (4) and (5) apply with necessary modifications to the passing of a by-law under subsection (26). R.S.O. 1990, c. M.45, s. 220 (27); 1997, c. 5, s. 51 (12).

When by-law comes into effect

(28) A by-law passed under subsection (26) shall not come into force until the 1st day of January next after its passing, or, where the approval of the Municipal Board is required before such by-law may come into force, until the day specified by the Municipal Board.
Board of management continued

(29) Where a by-law passed under subsection (26) comes into effect, the existing improvement area mentioned in that subsection is dissolved, but the board of management established for that improvement area is continued and shall be the board of management for the new improvement area designated under the by-law.

Application

(30) The provisions of this section that apply to a board of management under subsection (1) or to a council or municipal auditor in respect of such a board apply with necessary modifications to a board of management continued under subsection (29) and to the council of a local municipality in respect of such a board over which it has jurisdiction and to the auditor of the municipality in respect of such board.

Approval of O.M.B.

(31) Where approval of the Municipal Board of a by-law passed under this section is required, the Municipal Board as a condition of giving its approval may by its order impose such restrictions, limitations and conditions with respect to such matter as may be necessary or expedient.

Repeal of by-law

(32) A by-law designating an improvement area may be repealed to take effect upon the 31st day of December in the year in which it is passed. R.S.O. 1990, c. M.45, s. 220 (28-32).

Non-application of subss. (2-4)

(33) Subsections (2), (2.1), (3) and (4) do not apply to,
(a) a by-law passed under subsection (1) or (26) to comply with an order of the Municipal Board under subsection (31); or
(b) a by-law passed under subsection (32). R.S.O. 1990, c. M.45, s. 220 (33); 1997, c. 5, s. 51 (13).

Minister may enter into agreements

(34) The Minister and a local municipality may enter into agreements for the provision of loans or grants to the municipality on such terms or conditions as are agreed upon for the purpose of the improvement, beautification and maintenance of municipally owned land, buildings and structures in the municipality or in any defined area thereof and for the purposes mentioned in paragraph 56 of section 207. R.S.O. 1990, c. M.45, s. 220 (34).

Gross lease flow throughs

(34.1) An amount that a tenant could be required to pay under section 444.1 or 444.2 shall be deemed, for the purposes of this section, to be taxes that the tenant is required to pay under the tenant's lease. 1998, c. 3, s. 13 (2).
Regulations, prescribing classes

(35) The Minister may make regulations prescribing one or more classes of real property prescribed under the Assessment Act as business property classes for the purposes of this section. 1997, c. 5, s. 51 (14).
Designation of improvement area

204. (1) A local municipality may designate an area as an improvement area and may establish a board of management,

(a) 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

(b) to promote the area as a business or shopping area. 2001, c. 25, s. 204 (1).

Corporation

(2) A board of management is a corporation consisting of the number of directors established by the municipality. 2001, c. 25, s. 204 (2).

Composition

(3) A board of management shall be composed of,

(a) one or more directors appointed directly by the municipality; and

(b) the remaining directors selected by a vote of the membership of the improvement area and appointed by the municipality. 2001, c. 25, s. 204 (3).

Membership

(4) Members of an improvement area consist of 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. 2001, c. 25, s. 204 (4).

Determining tenancy

(5) In determining whether a person is a tenant or not, 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 and the determination of the clerk is final. 2001, c. 25, s. 204 (5).

One vote

(6) Each member of an improvement area has one vote regardless of the number of properties that the member may own or lease in the improvement area. 2001, c. 25, s. 204 (6).

Nominee

(7) A corporate member of an improvement area may nominate in writing one individual to vote on behalf of the corporation. 2001, c. 25, s. 204 (7).
Joint nominee

(8) Subject to subsection (6), one individual may be nominated for voting purposes by two or more corporations that are members of an improvement area. 2001, c. 25, s. 204 (8).

Refusal to appoint

(9) The municipality may refuse to appoint a person selected by the members of an improvement area, in which case the municipality may leave the position vacant or direct that a meeting of the members of the improvement area be held to elect or select another candidate for the municipality's consideration. 2001, c. 25, s. 204 (9).

Term

(10) The term of the directors of a board of management is the same as the term of the council that appointed them but continues until their successors are appointed. 2001, c. 25, s. 204 (10).

Reappointment

(11) Directors are eligible for reappointment. 2001, c. 25, s. 204 (11).

Vacancies

(12) Subject to subsection (9), if a vacancy occurs for any cause, the municipality may appoint a person to fill the vacancy for the unexpired portion of the term and the appointed person is not required to be a member of the improvement area. 2001, c. 25, s. 204 (12).

Budget

205. (1) A board of management shall submit a proposed budget for each fiscal year for the approval by vote of the members of the improvement area by the date and in the form required by the municipality. 2001, c. 25, s. 205 (1).

Council to approve

(2) A board of management shall submit the approved budget to council by the date and in the form required by the municipality and the municipality may approve it in whole or in part but may not add expenditures to it. 2001, c. 25, s. 205 (2).

Limitations

(3) A board of management shall not,

(a) spend any money unless it is included in the budget approved by the municipality or in a reserve fund established under section 417;

(b) incur any indebtedness extending beyond the current year without the prior approval of the municipality; or
(c) borrow money. 2001, c. 25, s. 205 (3).

**Limitations on power**

(4) Section 65 of the *Ontario Municipal Board Act* and section 401 of this Act apply to the municipality's approval under clause (3) (b) in the same manner as if it were incurring a debt of the municipality. 2001, c. 25, s. 205 (4).

**Notice**

206. A board of management shall give reasonable notice to the general membership of the improvement area of a meeting to hold a vote under clause 204 (3) (b) or subsection 205 (1). 2001, c. 25, s. 206.

**Annual report**

207. (1) A board of management shall submit its annual report for the preceding year to council by the date and in the form required by the municipality and the report shall include audited financial statements. 2001, c. 25, s. 207 (1).

**Auditor**

(2) The municipal auditor is the auditor of each board of management and may inspect all records of the board. 2001, c. 25, s. 207 (2).

**Funds to be raised**

208. (1) The municipality shall annually raise the amount required for the purposes of a board of management, including any interest payable by the municipality on money borrowed by it for the purposes of the board of management. 2001, c. 25, s. 208 (1).

**Special charge**

(2) The municipality may establish a special charge for the amount referred to in subsection (1),

(a) by levy upon rateable property in the improvement area that is in a prescribed business property class; or

(b) by levy upon rateable property in the improvement area that is in a prescribed business property class and that, in council's opinion, derives special benefit from the improvement area, which levy may be calculated using different percentages of the assessment for one or more separately assessed properties or categories of separately assessed properties in the prescribed class if the resulting levy is equitable in accordance with the benefits that, in council's opinion, accrue to the properties from the activities related to the improvement area. 2001, c. 25, s. 208 (2).
Minimum and maximum charges

(3) The municipality may establish a minimum or maximum charge or both, expressed for one or more separately assessed properties or categories of separately assessed properties in a prescribed class, as,

(a) percentages of the assessed value of rateable property in the improvement area that is in a prescribed business property class;

(b) dollar amounts; or

(c) percentages of the board of management's annual budget. 2001, c. 25, s. 208 (3).

Effect of by-law

(4) When a by-law under subsection (3) is in force,

(a) the amount of a charge levied in a year under subsection (2) shall not, when calculated for the individual property in the prescribed class to which it applies, be less than or greater than the amount of the applicable minimum and maximum charge for the property established under the by-law; and

(b) if necessary for a fiscal year to raise the amount referred to in subsection (1) because a minimum or maximum charge applies to one or more separately assessed properties or categories of separately assessed properties in the prescribed class, the municipality shall for the year adjust any charges applicable to the remaining individual properties or subclasses of properties in the prescribed class by adjusting the percentage or percentages of assessment established under subsection (2) for those properties. 2001, c. 25, s. 208 (4).

Exclusion

(5) Section 210 does not apply to an adjustment made under clause (4) (b). 2001, c. 25, s. 208 (5).

Borrowings

(6) If only a part of money borrowed by the municipality in any year for the purposes of a board of management is required to be repaid in that year or a subsequent year, only that part and any interest payable on the total amount shall be included in the levies under this section in that year or subsequent year, respectively. 2001, c. 25, s. 208 (6).

Deemed taxes

(7) Charges levied under this section shall be deemed to be taxes on property for municipal purposes and section 349 applies to the charges. 2001, c. 25, s. 208 (7).

Changes to boundary

209. The municipality may alter the boundaries of an improvement area and the board of management for that improvement area is continued as the board of management for the altered area. 2001, c. 25, s. 209.
Notice

210. (1) Before passing a by-law under subsection 204 (1), clause 208 (2) (b), subsection 208 (3) or section 209, notice of the proposed by-law shall be sent by prepaid mail to the board of management of the improvement area, if any, and 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,

(a) where the improvement area already exists, in the improvement area and in any geographic area the proposed by-law would add to the improvement area; and

(b) where a new improvement area would be created by the proposed by-law, in the proposed improvement area. 2001, c. 25, s. 210 (1).

When notice received

(2) A person who receives a notice under subsection (1) shall, within 30 days after the notice is mailed,

(a) give a copy of the notice to each tenant of the property to which the notice relates who is required to pay all or part of the taxes on the property; and

(b) give the clerk of the municipality a list of every tenant described in clause (a) and the share of the taxes that each tenant is required to pay and the share that the person is required to pay. 2001, c. 25, s. 210 (2).

Objections

(3) A municipality shall not pass a by-law referred to in subsection (1) if,

(a) written objections are received by the clerk of the municipality within 60 days after the last day of mailing of the notices;

(b) the objections have been signed by at least one-third of the total number of persons entitled to notice under subsection (1) and under clause (2) (a); and

(c) the objectors are responsible for,

(i) in the case of a proposed addition to an existing improvement area,

(A) 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, or

(B) 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 geographic area the proposed by-law would add to the existing improvement area, or

(ii) in all other cases, 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. 2001, c. 25, s. 210 (3).
Withdrawal of objections

(4) If sufficient objections are withdrawn in writing within the 60-day period referred to in clause (3) (a) so that the conditions set out in clause (3) (b) or (c) no longer apply, the municipality may pass the by-law. 2001, c. 25, s. 210 (4).

Determination by clerk

(5) The clerk shall determine whether the conditions set out in subsection (3) have been met and, if they are, shall issue a certificate affirming that fact. 2001, c. 25, s. 210 (5).

Determination final

(6) The determination by the clerk is final. 2001, c. 25, s. 210 (6).

Repeal of by-law

211. (1) Council shall give notice in accordance with subsection 210 (1) of a proposed by-law to repeal a by-law under subsection 204 (1) if the municipality has received,

(a) a resolution from the board of management requesting the repeal; or

(b) a request for the repeal signed by persons who are responsible for 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. 2001, c. 25, s. 211 (1).

Statement

(2) A person signing a request under clause (1) (b) shall state what amount of taxes on rateable property in the area that the person is required to pay. 2001, c. 25, s. 211 (2).

Time

(3) Council shall give the notice within 60 days after receiving the resolution or request. 2001, c. 25, s. 211 (3).

Repeal

(4) Council shall repeal the by-law under subsection 204 (1) if requests for the repeal are received by the clerk of the municipality within 60 days after the last day of mailing of the notices and,

(a) the requests have been signed by at least one-half of the total number of persons entitled to notice under subsection 210 (1) and under clause 210 (2) (a); and

(b) those who have signed the requests are responsible for at least 50 per cent 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. 2001, c. 25, s. 211 (4).
Timing

(5) The repealing by-law must come into force on or before December 31 of the year in which it is passed. 2001, c. 25, s. 211 (5).

Requests withdrawn

(6) If sufficient requests are withdrawn in writing within the 60-day period referred to in subsection (4) so that either condition set out in that subsection no longer applies, the municipality is not required to repeal the by-law. 2001, c. 25, s. 211 (6).

Determination by clerk

(7) The clerk shall determine whether the conditions set out in clause (1) (b) and subsection (4) have been met and, if so, shall issue a certificate affirming that fact. 2001, c. 25, s. 211 (7).

Determination final

(8) The determination by the clerk is final. 2001, c. 25, s. 211 (8).

Restriction

(9) If the conditions of subsection (4) are not satisfied, council is not required to give notice under subsection (1) in response to a resolution or request for a period of two years after the last mailing of the notices. 2001, c. 25, s. 211 (9).

Non-application

(10) No requirement under this section or under section 210 applies to the repeal by a municipality on its own initiative of a by-law under subsection 204 (1). 2001, c. 25, s. 211 (10).

Effect of by-law

212. A by-law passed under subsection 204 (1), subsection 208 (2) or (3), section 209 or subsection 211 (4) is not invalid by reason only that,
(a) a person required to give a copy of a notice to a tenant or other information to the municipality under subsection 210 (2) has not done so;
(b) the objections referred to in clause 210 (3) (b) have not been signed by at least one-third of the total number of persons entitled to receive notice under subsections 210 (1) and (2) because a person required to give a copy of the notice under subsection 210 (2) has not done so; or
(c) the requests referred to in clause 211 (4) (a) have not been signed by at least one-half of the total number of persons entitled to notice under subsections 210 (1) and (2) because a person required to give a copy of the notice under subsection 210 (2) has not done so. 2001, c. 25, s. 212.
Tenants
213. For the purposes of clauses 210 (3) (c) and 211 (1) (b), subsection 211 (2) and clause 211 (4) (b), a tenant shall be deemed to be responsible for the part of the taxes that the tenant is required to pay under the tenant's lease or under sections 367 and 368. 2001, c. 25, s. 213.

Dissolution of board
214. (1) Upon the repeal of a by-law under subsection 204 (1), the board of management is dissolved and the assets and liabilities of the board become the assets and liabilities of the municipality. 2001, c. 25, s. 214 (1).

Liabilities exceed assets
(2) If the liabilities assumed under subsection (1) exceed the assets assumed, the council 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. 2001, c. 25, s. 214 (2).

Regulations
215. The Minister may make regulations prescribing one or more classes of real property prescribed under the Assessment Act as business property classes for the purposes of sections 204 to 214. 2001, c. 25, s. 215