

CITY OF NANAIMO

BYLAW NO. 7087

A BYLAW TO CREATE A BUSINESS IMPROVEMENT AREA

WHEREAS a Council may, by majority vote, grant money to an applicant under Section 215 of the *Community Charter* for the purpose of the planning and implementation of a Business Promotion Scheme;

AND WHEREAS before a Council grants money for a Business Promotion Scheme, the Council shall pass a Bylaw as required by Sections 211(2) and 215 of the *Community Charter*,

AND WHEREAS Council has had an application for a grant of money under Section 215 of the *Community Charter*,

AND WHEREAS Council has not received a sufficient petition against in accordance with section 213(4) of the *Community Charter*,

THEREFORE BE IT RESOLVED that the City of Nanaimo in open meeting assembled hereby enacts as follows:

1. Title

This Bylaw may be cited as "BUSINESS IMPROVEMENT AREA (BIA 2) BYLAW 2009 NO. 7087".

2. Definitions

In this Bylaw, unless the context otherwise requires:

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|-----------------------------|--|
| "Applicant" | means the Downtown Nanaimo Partnership Society. |
| "Business Improvement Area" | means the area of the City designated by Section 3 of this Bylaw. |
| "Business Promotion Scheme" | means: <ol style="list-style-type: none">(a) carrying out studies or making reports respecting one or more areas in the municipality where business or commerce is carried on,(b) improving, beautifying or maintaining streets, sidewalks or municipally owned land, buildings or other structures in one or more business improvement areas,(c) the removal of graffiti from buildings and other structures in one or more business improvement areas,(d) conserving heritage property in one or more business improvement areas, and |

(e) encouraging business in one or more business improvement areas,

in accordance with the Business Promotion Scheme set out in Schedule "B".

"City" means the City of Nanaimo.

"Council" means the Council of the City.

"Parcel" means all properties within the boundaries of the Business Improvement Area that are taxable for General Municipal Purposes that fall or would fall within Class 5 or 6 of the Assessment-Classes and Percentage Levels Regulation, B.C. Reg. 438/81.

3. Designation of Area

For the purposes of this Bylaw, the Business Improvement Area to which this Bylaw is applicable shall be comprised of that tract of land shaded on Schedule "A" attached hereto and forming part of this Bylaw, and shall be commonly referred to as Business Improvement Area No. 2.

4. Grant

4.1 For the purposes of this Bylaw, the maximum amount of money to be granted to the Applicant under this Bylaw pursuant to Section 215 of the *Community Charter* is as follows:

4.1.1 in the calendar year 2009, a sum not to exceed THIRTY FOUR THOUSAND EIGHT HUNDRED THIRTEEN DOLLARS AND EIGHTY SIX CENTS (\$34,813.86);

4.1.2 in the calendar year 2010, a sum not to exceed THIRTY FIVE THOUSAND EIGHT HUNDRED FIFTY EIGHT DOLLARS AND TWENTY EIGHT CENTS (\$35,858.28);

4.1.3 in the calendar year 2011, a sum not to exceed THIRTY SIX THOUSAND NINE HUNDRED THIRTY FOUR DOLLARS AND TWO CENTS (\$36,934.02);

4.1.4 in the calendar year 2012, a sum not to exceed THIRTY EIGHT THOUSAND FORTY TWO DOLLARS AND FOUR CENTS (\$38,042.04);

4.1.5 in the calendar year 2013, a sum not to exceed THIRTY NINE THOUSAND ONE HUNDRED EIGHTY THREE DOLLARS AND THIRTY ONE CENTS (\$39,183.31);

subject to adjustment under Subsection 4.2.

4.2 4.2.1 The City shall grant to the Applicant the money as specified in Section 4.1 of this Bylaw in accordance with the timetable set out in Schedule "C" attached to and forming part of this Bylaw.

4.2.2 The City shall pay simple interest to the Applicant on the funds collected from the owners of land within the Business Improvement Area but not yet advanced to the Applicant. The interest rate paid shall be equal to the Municipal Finance Authority of British Columbia money market fund daily annual interest rate established on the annual tax due date.

4.2.3 The City may deduct an administration fee in 2009 from the amount otherwise paid by way of grant to the Applicant for that year.

5. Expenditure

5.1 The money granted under Section 215 of the *Community Charter* pursuant to this Bylaw shall be expended only:

5.1.1 by the Applicant;

5.1.2 in accordance with the conditions and limitations set out in this Bylaw;

5.1.3 for the Business Promotion Scheme described in Schedule "B" attached hereto and forming part of this Bylaw.

6. Cost Recovery

All of the costs of the service established pursuant to this Bylaw shall be recovered within the Business Improvement Area from the owners of the land within that area by a local service tax imposed and calculated in accordance with Section 7.

7. Local Service Tax

7.1 For the purpose of recovering the costs of the service established under this Bylaw, Council hereby levies and imposes each year within the Business Improvement Area pursuant to Section 216(2) of the *Community Charter* a local service tax which shall yield a sum sufficient to raise the amounts specified for each year as set out in section 4.1 as follows:

7.1.1 For the calendar year 2009, each parcel shall be assessed a tax of \$500.00 plus an amount based on that part of the assessed value over \$275,000 to a maximum of \$5,000 per parcel;

7.1.2 For the calendar year 2010, each parcel shall be assessed a tax of \$515.00 plus an amount based on that part of the assessed value over \$275,000 to a maximum of \$5,000 per parcel;

7.1.3 For the calendar year 2011, each parcel shall be assessed a tax of \$530.45 plus an amount based on that part of the assessed value over \$275,000 to a maximum of \$5,000 per parcel;

7.1.4 For the calendar year 2012, each parcel shall be assessed a tax of \$546.36 plus an amount based on that part of the assessed value over \$275,000 to a maximum of \$5,000 per parcel;

7.1.5 For the calendar year 2013, each parcel shall be assessed a tax of \$562.75 plus an amount based on that part of the assessed value over \$275,000 to a maximum of \$5,000 per parcel.

8. Conditions and Limitations

- 8.1 The money granted pursuant to Section 215 of the *Community Charter* as outlined in this Bylaw shall be expended by the Applicant for the purpose of carrying out the Business Promotion Scheme more particularly set out in Schedule "B" attached to and forming part of this Bylaw.
- 8.2 The Applicant shall submit to the City an annual financial statement that shall be prepared in accordance with generally accepted accounting principles and shall include a Balance Sheet and a Statement of Revenue and Expenditure. The financial statement shall be submitted by the Applicant on or before the first day of September in each year of the Business Promotion Scheme.
- 8.3 The Applicant shall submit an annual budget for the approval of the City and, notwithstanding anything in this Bylaw; no payments shall be made unless the budget submitted is within the amounts established by this Bylaw.
- 8.4 The annual budget of the Applicant shall be submitted on or before the first day of June in each year of the Business Promotion Scheme.
- 8.5 The Applicant shall submit a monthly financial statement by the 15th day of each following month.
- 8.6 The Applicant shall cause its financial statements to be audited to ensure that the expenditures of the Applicant in relation to the Business Promotion Scheme comply with this Bylaw and shall submit the results of such audit in writing to the City's Director of Finance before the first day of September in each year of the Business Promotion Scheme.
- 8.7 The Applicant is an agency independent from the City and it shall be solely responsible for managing its own affairs and for hiring, compensating, training and providing direction to its own employees.
- 8.8 The Applicant shall pay all expenses in connection with its operation, including, but not limiting the generality of the foregoing, salaries of administration and support staff, rent, stationery, telephone and postage, taxes, electricity, heat and other utility charges, and all other office expenses from the amount received by way of grant under this Bylaw, or from other revenues of the Applicant.
- 8.9 The Applicant will not in any manner whatsoever commit or purport to commit the City to the payment of any money to any person, firm or corporation.

9. Insurance

The Applicant shall provide to the City copies of insurance policies insuring the Applicant in accordance with the specifications set out in Schedule "D" attached hereto and forming part of this Bylaw, which insurance shall be maintained by the Applicant.

10. Expiration Date

This Bylaw shall cease to have effect on 2013 June 30.

11. Merging of Business Improvement Areas

The Business Improvement Area created by this Bylaw may be merged with another Business Improvement Area, whether contiguous or not, for the purpose of providing, consolidating or completing necessary works or services for the merged area.

PASSED FIRST READING 2009-JAN-26.

Notice of intention to proceed with this Bylaw was published on this 30th day of January, 2009 and the 7th day of February, 2009 in the *Nanaimo Daily News* newspaper, circulating in the City of Nanaimo pursuant to Section 94 of the *Community Charter*.

PASSED SECOND READING 2009-MAR-23

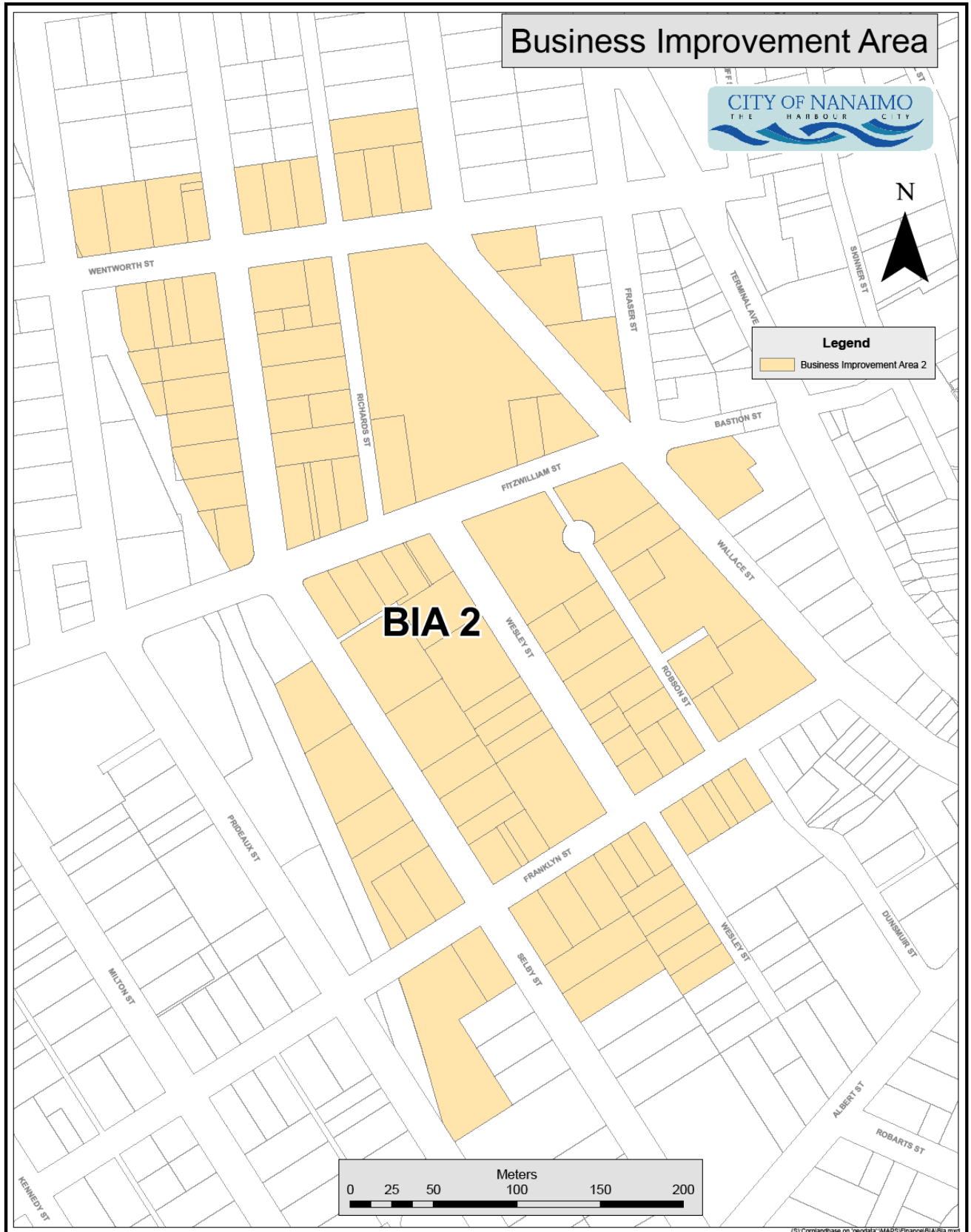
PASSED THIRD READING 2009-MAR-23

ADOPTED 2009-APR-20

J. R. RUTTAN
M A Y O R

I. HOWAT
DIRECTOR,
LEGISLATIVE SERVICES

SCHEDULE "A"



SCHEDULE "B"

BUSINESS PROMOTION SCHEME

1. Marketing, Promotions and Special Events: advertising expenses, design and production of marketing materials, special event development and production, volunteer management of the Information Centre, and target market research including marketing staff who oversee this comprehensive downtown marketing program.
2. Wages/Benefits: for staffing and administration of the Business Promotion Scheme.
3. Facilities: rent, equipment and insurance for the Downtown Nanaimo Partnership Society (DNPS) office space and the Information Centre.
4. Administration: Administrative staff provide bookkeeping services and manage reporting requirements for the DNPS, as well as expenses for staff development, volunteer meeting management and volunteer recognition.
5. Community Projects (2010-2014): Staff support of the three DNPS standing committees, participation by the DNPS in the Nanaimo City Centre Association and the Old City Quarter, plus other Nanaimo initiatives such as Parking Advisory Committee and Safer Downtown and Social Response Committee.

SCHEDULE "C"
SCHEDULE OF PAYMENTS

Payment Date	Payment Amount	Admin Fee
September 30/2009	100% of annual funding	Less an Admin Fee \$983.00
September 30/2010	100% of annual funding	
September 30/2011	100% of annual funding	
September 30/2012	100% of annual funding	
September 30/2013	100% of annual funding	

SCHEDULE "D"

INSURANCE SPECIFICATION

1. The Applicant shall provide and maintain Comprehensive General Liability insurance acceptable to the City and subject to limits of not less than TWO MILLION DOLLARS (\$2,000,000.00) inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof. The insurance shall cover anyone employed directly or indirectly by the Applicant as well as any contractor hired by the Applicant and its subcontractors.
2. The City shall be added as an additional named insured under the Comprehensive General Liability.
3. The Applicant shall provide and maintain Employee Fidelity insurance of not less than ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) per employee.
4. The Applicant shall provide the City with a copy of its Comprehensive General Liability and Employee Fidelity Insurance Policies prior to the City providing funding under Section 4 of this Bylaw.
5. The Applicant's Comprehensive General Liability and Employee Fidelity Insurance policies shall contain an endorsement to provide the City within 30 days written notice of change or cancellation of the policies.