

BY-LAWS
OF THE
LIVINGSTON BUSINESS IMPROVEMENT DISTRICT

ARTICLE I.
NAME

The name of this organization is the LIVINGSTON BUSINESS IMPROVEMENT DISTRICT (hereinafter referred as the "BID").

ARTICLE II.
PRINCIPAL OFFICE

The principal office of the BID shall be at such locations as designated by the Board of Trustees.

ARTICLE III.
BOARD OF TRUSTEES

Section I. Powers. The board in administering a district has all powers necessary to carry out the functions of the district contained in the ordinance creating it, including the power to:

- (1) sue and be sued, enter into contracts, and hire and terminate personnel needed for its purposes;
- (2) provide special police, maintenance, or cleaning personnel for the protection and enjoyment of the general public using the business district;
- (3) landscape and beautify public areas and to maintain those areas;
- (4) contract with the governing body to maintain, operate, or repair public parking facilities;
- (5) contract with the governing body to maintain streets, alleys, malls, bridges, ramps, tunnels, landscaping, and other public facilities as mutually agreed upon;
- (6) promote private investment and business expansion in the district;
- (7) provide for the management and administration of the affairs of the district;
- (8) promote business activity by advertising, decorating, marketing, and promoting and managing events and other actions designed for the general promotion of business activities in the district;

(9) perform such other functions as are necessary to carry out the purposes of this part and to further the objectives of the district; and

(10) the board shall not hire any employees, notwithstanding any of the powers set forth above.

* → (11) the board shall not grant requests pertaining to individual property improvement.

Section 2. Number. The Board of Trustees shall consist of seven (7) owners of property within the District. The Trustees shall be selected by the appointing authority of the City of Livingston, with the approval of the governing body of the City of Livingston. *The number of the board may be changed by the governing body of the City of Livingston.*

Section 3. Term of Office. The members of the Board of Trustees shall serve initial terms as designated by the appointing authority of the City of Livingston, with the approval of the governing body of the City of Livingston in accordance with §7-12-1121, MCA. After the initial appointment, members must be appointed for a term of office of four (4) years except that a vacancy occurring during the term must be filled for the unexpired term. A member shall hold office until his or her successor has been appointed and qualified.

Section 4. Regular and Special Meetings. The Board of Trustees shall meet at such times and places as may be determined by action of the Board of Trustees, subject to any open meeting laws that may apply.

Section 5. Quorum. A quorum of the Board of Trustees consists of a majority of the Trustees in office immediately before the meeting begins. If less than a quorum is in attendance at the time for which a meeting has been called, the meeting may be adjourned to the next scheduled open meeting. If a quorum is present and a Trustee leaves after the beginning of the meeting, the leaving of the Trustee shall not cause the loss of a quorum.

Section 6. Board Decisions. Decisions of the Board shall be made by a majority vote of the directors present at a meeting at which a quorum is present, but in no event less than three (3) director votes, unless the vote of a greater number is required by law or by these By-Laws.

Section 7. Votes. Each Trustee of the Board shall possess one (1) vote on matters coming before the Board. All voting at meetings of the Board shall be by each member in person, whether by telephone or otherwise, and voting by proxy shall not be allowed.

Section 8. Conference Telephone. Any Trustee may participate in a meeting of the Board of Trustees through the use of any means of communication by which all Trustees participating may simultaneously hear each other during the meeting, except at least one (1) Trustee must be present in the location set for the meeting to conduct the meeting and allow for public participation in the meeting. A Trustee participating in

a meeting by this means is considered to be present in person at the meeting.

Section 9. Minutes. Minutes of all proceedings of the Board shall be maintained in a manner determined by the Board and shall be made available to all Board Members and to the public on request.

Section 10. Compensation. Trustee members may receive no compensation.

Section 11. Resignation. Any Trustee may resign his or her office as a Trustee at any time by delivering a written resignation to the Chairperson of the Board of Trustees. Such resignation shall also include any office he or she holds with the Board of Trustees.

Section 12. Removal. A member of the Board of Trustees may be removed by the appointing authority of the City of Livingston with the consent of the governing body of the City of Livingston.

Section 13. Vacancies. Any vacancy occurring during the term of a Trustee must be filled by appointment of the appointing authority of the City of Livingston with the approval of the governing body of the City of Livingston. The term of a Trustee so appointed shall be for the un-expired term of the Trustee leaving the Board.

Section 14. Committees. As it may deem necessary from time to time, the Board may designate and appoint such committees consisting of Board Members. Committees may exercise any or all authority as set forth in a Board resolution establishing any such committees. All committee meetings are subject to open meeting laws.

Section 15. Consultants. The Board may invite additional individuals with expertise in a pertinent area to meet with and assist the Board or any committee established by the Board. Such consultants shall not vote or be counted in determining the existence of a quorum and may be excluded from any session of the Board by a majority vote of the directors present or upon request from the Chairperson.

Section 16. Rules of Order. The Trustees shall adopt a simplified set of rules of order which may be amended from time to time which shall govern all meetings of the Trustees when those rules are not inconsistent with the By-Laws or special rules of order of the BID.

Section 17. Conflict of Interest. A conflict of interest transaction is a transaction with the BID in which a trustee of the BID has a direct or indirect interest. A conflict of interest transaction is not voidable or the basis for imposing liability on the interested trustee if the transaction was fair at the time it was entered into or is approved pursuant to Mont. Code Amu §35-2-418. However, in no event shall the interested trustee vote on the decision to enter into such transaction. Any trustee having an interest or conflict in a transaction presented to the Board for authorization, approval, or ratification shall

make a prompt, full and frank disclosure of his or her interest to the Board prior to its acting on such transaction. Such disclosure shall include any relevant and material facts, known to such person, about the transaction which might reasonably be construed to be adverse to the BID's interest. The Board shall thereupon determine, by majority vote, whether the disclosure shows that a conflict of interest exists or can reasonably be construed to exist. If a conflict is deemed to exist, such trustee shall not vote on, nor use his or her personal influence on nor participate (other than to present factual information or to respond to questions) in the discussions or deliberations with respect to such contract or transaction, nor shall the trustee be counted in determining the quorum for the meeting. The minutes of the meeting will, upon request, reflect that a disclosure was made, the action taken with respect to such disclosure, and, if applicable, the abstention from voting and the presence of a quorum.

ARTICLE IV. OFFICERS

Section 1. Officers. The elective officers of the BID shall be a Chairperson and a Vice-Chairperson. The Board of Trustees may also elect a Secretary and a Treasurer and such other officers as it may deem appropriate. All officers shall be members of the Board.

Section 2. Chairperson. The Chairperson shall provide leadership to the Board and its committees in formulating, developing, and evaluating BID policies and goals. The Chairperson shall be the manager of the Board. In accordance with sound principals of management, the Chairperson shall be given the necessary authority and responsibility to operate the business of the Board, subject to policies as may be adopted and such orders as may be issued by the Board. The Chairperson shall act as a duly authorized agent of the Board in all matters in which the Board has not formally designated some other person to so act. The Board reserves the right to rescind any delegated authority.

The Chairperson's responsibilities and powers, together with all others necessary or beneficial in the discharge thereof, shall include but not be limited to the following:

- (a) Preside at all meetings of the Board;
- (b) Provide overall supervision of the Board and BID affairs;
- (c) Insure that there is appropriate communication among the members of the Board;
- (d) Prepare, in consultation with the other officers, an agenda for Board meetings;

(e) Execute all policies established by the Board; and

(f) Perform all such other activities or duties as are incident to his or her office or as are required by the Board.

Section 3. Vice-Chairperson. It shall be the duty of the Vice-Chairperson of the Board to act as the Chairperson in the absence or disability of the Chairperson and to perform such other duties as may be assigned to him or her by the Chairperson of the Board. While acting as Chairperson, the Vice-Chairperson shall have all the power and authority of the Chairperson.

Section 4. Secretary. If the Board chooses to elect a Secretary, it shall be the duty of the secretary to be the secretary of all meetings of the Board and to act as custodian of the minutes of all Board meetings and proceedings, to keep all other records of the Board and of the BID, to issue such notice as may be required by the By-Laws, and to perform such other acts as the Board may direct.

Section 5. Treasurer. If the Board chooses to elect a Treasurer, it shall be the duty of the Treasurer to oversee information regarding the financial and rate paying activities of the BID together with other information as may be required or requested by the Board or one of its committees.

Section 6. Appointment and Term of Office. The appointing authority of the City of Livingston shall designate which member of the Board is to be the first Chairperson. When the office of Chairperson of the Board becomes vacant thereafter, the Board shall elect a Chairperson from among its members. The Board shall elect the other initial officers of the BID as soon as the Board deems it appropriate after the adoption of these By-Laws. Thereafter, each new officer shall be elected at the first regular meeting of the Board in each calendar year. Each officer shall hold office until his or her successor has been elected. Newly elected officers shall begin their terms on the 1st day of the next month after their election.

Section 7. Removal. Any officer appointed by the Board may be removed by a majority vote of the Board whenever in its judgment the best interest of the BID would be served thereby.

Section 8. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or otherwise, may be filled by the Board for the remaining portion of the term.

Section 9. Powers and Duties. Each of the officers shall have such powers and duties as previously noted and shall perform such duties as may from time to time be specified in resolutions or other directives of the Board.

ARTICLE V.
INDEMNIFICATION AND INSURANCE

Section 1. Right to Indemnification. The BID shall indemnify and hold each Trustee and officer of the BID harmless against any and all loss, including any and all litigation expenses consisting of attorney fees and costs, arising from a legal action because the director or officer was acting as a director or officer of the BID to the maximum amount allowed by the laws of the state of Montana. The right to indemnification under this Article shall continue as to a prior officer or Trustee who has ceased to be an officer or Trustee, as long as the officer or Trustee shall be subject to any possible legal action, by reason of the fact that the individual was an officer or a Trustee of the BID, and shall inure to the benefit of his or her heirs, executors or personal representatives. Any amendment to or appeal of this Article shall not adversely affect any right or protection of an officer or Trustee of the BID for or with respect to any acts or omissions of such officer or Trustee occurring prior to such amendment or repeal.

Section 2. Insurance. The Board of Trustees shall maintain liability insurance coverage insuring the District, the Board and the local government against legal liability for personal injury and property damage in an amount determined sufficient for that purpose by the governing body.

Section 3. Severability. If any provision of this article or any application thereof shall be invalid, unenforceable or contrary to applicable law, the remainder of this Article, or the application of such provisions to persons or circumstances other than those as to which it is held invalid, unenforceable, or contrary to applicable law, shall not be affected thereby and shall continue in full force and effect.

ARTICLE VI.
FISCAL YEAR

The fiscal year of the BID shall end at midnight on the 30th day of June of each year.

ARTICLE VII.
LIABILITIES

Nothing herein shall constitute the directors of the BID as partners for any purpose. No director, officer, agent, or employee shall be liable for the acts or failure to act of any other director, officer, agent, or employee of the BID; nor shall any Trustee, officer, agent, or employee be liable for his or her acts or failure to act under these By-Laws, executing only acts or omissions arising out of his or her willful misfeasance.

ARTICLE VIII
EXEMPT ACTIVITIES

Notwithstanding any other provision of these By-Laws, no director, officer, employee, or representative of the Board shall take any action or carry on any activity, by or on behalf of the BID, not permitted to be taken or carried on without penalty, by an organization exempt from taxation, or by an organization whose contributions are deductible under federal income tax laws as they now exist, or as they should hereafter be amended.

ARTICLE IX.
AMENDMENTS

The Board of Trustees may adopt one or more amendments to the By-Laws by a majority vote of the Trustees present at a meeting of the Board of Trustees. The Board of Trustees shall provide notice of any meeting of Trustees at which an amendment is to be approved. The notice must state that the purpose or that one of the purposes of the meeting is to consider a proposed amendment to the By-Laws and contain or be accompanied by a copy of or summary of the amendment or state the general nature of the amendment. The amendment must be approved by a majority of the Trustees in office at the time the amendment is adopted.

The undersigned Chairperson of the BID does hereby certify that the above and foregoing By-Laws of said BID were duly adopted by the Trustees as the By-Laws of BID and that the same do now constitute the By-Laws of the BID.

Dated this 8 day of July, 2011.



Dan Kaul, Chairperson