

Kalispell Tourism Business Improvement District

BYLAWS
2011

Adopted by the Board of Trustees
April 6, 2011

Adopted by Kalispell City Council
May 16, 2011

KALISPELL TOURISM BUSINESS IMPROVEMENT DISTRICT BYLAWS

Article I Organization

- Section 1.1 Name. The name of the organization shall be the Kalispell Tourism Business Improvement District, hereafter referred to as the "TBID,"
- Section 1.2 Mission. The mission of the TBID is to generate room nights for lodging facilities in the city of Kalispell, Montana by effectively marketing our region as a preferred travel destination.
- Section 1.3 Powers. The TBID may engage in any activity consistent with the City of Kalispell law, Montana law, and these Bylaws, provided that the Board of Trustees determines that the activity is in furtherance of the purposes for which the TBID was formed.
- Section 1.4 Definitions. The following terms used herein shall have the following definitions:
- (a) "Act" means the Montana Business Improvement District Act.
 - (b) "Appointing Authority" means the Mayor of the City of Kalispell, Montana.
 - (c) "Board" means the board of trustees of the TBID.
 - (d) "Governing Body" means the City Council of the City of Kalispell, Montana.

Article II Board of Trustees

- Section 2.1 Board of Trustees. All corporate powers shall be exercised by or under authority of, and the business and affairs of the TBID shall be managed under the direction of, the Board of Trustees of the TBID except as may be otherwise provided in these Bylaws or by law.
- Section 2.2 Number. The Board of Trustees shall consist of not less than five or more than seven owners of hotel property within the TBID or their designees. The number of trustees of the board, once established, may be changed within these limits from time to time by resolution of the Governing Body. A resolution to reduce board membership may not require resignation of any member prior to completion of the member's appointed term.

Section 2.3 Qualifications of Trustees. Candidates for trustee should meet the following general criteria: (1) owners of land within the geographic area of the TBID or their designee, (2) committed to the well-being of the TBID, (3) respected citizen or leader, (4) able to work effectively as part of a group, (5) competent in some area of value in achieving objectives of the TBID, (6) able to maintain a commitment for the term of appointment, and (7) balances board in terms of representation of large, medium and small hotel properties as follows: 3 trustees from large hotels (106 rooms or more); 2 trustees from medium hotels (60 to 104 rooms); and 2 trustees from small hotels (59 rooms and under).

Section 2.4 Nominations. Nominations for the Board of the TBID shall be made according to the guidelines established by the City of Kalispell.

Section 2.5 Appointment. Seven initial trustees have been appointed by the Governing Body in City of Kalispell Ordinance 1675, and future trustees shall be appointed by the Appointing Authority and approved by the Governing Body utilizing the following nomination and election process:

- 1. Notice of board vacancy and request for nomination for hotel category being vacated sent to all TBID members on record.
- Interested Hotel owner or authorized designee submits board application.
- Ballot including nominations distributed to all TBID members. Completed ballots returned to designated TBID board member or staff.
- TBID board votes to approve leading nominee. TBID board recommendation is forwarded to the Appointing Authority for approval by the Governing Body.

If a nomination from the appropriate vacating hotel category is not submitted, the TBID board may request nominations from the other hotel category. The interim trustee will serve out the term in full or until a nomination is received from the vacated hotel categories. If a nomination is submitted by the vacated hotel category during the term, a special ballot and election shall be held. That recommendation will be forwarded to the Appointing Authority for approval by the Governing Body immediately. The interim trustee position must revert back to the appropriate hotel category at the end of the term.

Section 2.6 Term. Three of the trustees who are first appointed must be designated to serve for terms of 1, 2, and 3 years, respectively, from the date of their appointments, and two must be designated to serve for terms of 4 years from the date of their appointments. For a seven-member board, there must be two additional appointments for terms of 2 years and 3 years, respectively. After initial appointment, trustees must be appointed for a term of office of 4 years, except that a vacancy occurring during a term must be filled for the unexpired term. A trustee shall hold office until the trustee's successor has been appointed and qualified,

Section 2.7 Absences. If, within a period of twelve (12) consecutive months, any trustee is absent from three (3) or more regular Board meetings, notice of which has been given to the trustee at the trustee's usual place of work or residence, or by announcement at a

meeting attended by the trustee, the Chairman may call such absences to the attention of the Board which may then recommend to the Appointing Authority that such trustee be removed and that another person be appointed to serve for the unexpired term.

Section 2.8 Resignation, Removal and Vacancies. A trustee may resign at any time by delivering written notice to the Board. A trustee's resignation is effective upon delivery of the notice of resignation unless the Board authorizes other-wise. A member of the Board may be removed by the Appointing Authority, with the consent of the Governing Body. A vacancy on the Board shall be filled by the Appointing Authority, with the approval of the Governing Body.

Section 2.9 Powers and Duties. The Board shall have those powers set forth in the Act, The Board's responsibilities shall include, without limitation, (1) administration of the TBID, including oversight of expenditure of its funds; (2) the establishment of goals and policies for the TBID, (3) providing annual budgets and work plans to the Governing Body for approval each fiscal year; (4) nomination of trustees for the TBID to the Appointing Authority and Governing Body; (5) recommending to the Governing Body for approval each fiscal year a method of levying an assessment on the property within the TBID that will best ensure that the assessment on each lot or parcel is equitable in proportion to the benefits to be received; (6) appointment of a director of the TBID; (7) approval and implementation of projects and programs to be undertaken or administered in furtherance of the objectives of the TBID and the purposes of the Act, (8) compliance with the requirements of the Act, and (9) long range and strategic planning.

Section 2.10 No Compensation. Members of the Board may receive no compensation.

Article III Meetings of the Board

Section 3.1 Regular Board Meetings. The regular monthly meetings of the Board shall be held at a time and location determined by the Board. Notice of such meetings shall be provided by telephone, telefax, U.S. mail, e-mail, or other communication, at least seventy-two hours before the regular meeting is to occur. Public notice of regular Board meetings shall be provided via news release, web site, newspaper advertisement or other method determined by the Board to inform the community.

Section 3.2 Special Board Meetings. The Chair or any officer and two members of the Board may call a special meeting of the Board upon at least forty-eight hours' notice as provided in Section 3.1 to each member of the Board. Such notice shall state the purpose for which such special meeting is called.

Section 3.3 Quorum. A quorum of the Board consists of a majority of the number of trustees in office immediately before the meeting begins. Trustees may be in attendance at any meeting in person or by telephone connection, but any such connection shall permit

any trustee not attending in person to hear all discussion concerning any item upon which action is to be taken, and shall permit all persons in attendance to hear the trustee attending by telephone.

- Section 3.4 Board Action. If a quorum is present at a meeting of the Board, then the affirmative majority vote of the trustees present at the meeting shall constitute the act of the Board. The Board may not take any action unless a quorum of the Board is present, except a majority of less than a quorum may adjourn the meeting from time to time without further notice. Each trustee shall have one (1) vote.
- Section 3.5 Proxy Prohibition. No proxy voting shall be permitted.
- Section 3.6 Actions by Written Consent. Any action of the Board may be taken without a meeting and may be in the form of fax or email. A 2/3 majority of the voting members of the Board are required to pass a written motion.
- Section 3.7 Committees. The Board may designate and establish such committees and task forces as it considers appropriate to carry into effect the objectives and purposes of the TBID. Committee chairs will be appointed by the Chair of the Board. Committee meetings or task force meetings may be called at any time by the chairperson of the committee or task force or by the Chair of the Board. At any duly called meeting of a committee or task force, those present shall constitute a quorum. Each committee and task force shall study, investigate and make recommendations to the Board on subjects within the general scope of activity assigned it by the Chair of the Board or which subsequently may be referred to it by the Chair of the Board or by the Board.

Article IV Officers

- Section 4.1 Officers. There shall be a Chair, a Vice Chair, a Secretary/Treasurer and TBID Executive Director of the Board who shall be the officers of TBID. In the absence of the Chair the Vice Chair shall act as chairman. The Executive Director is a non-voting member of the Board.
- Section 4.2 Election of Officers. Officers shall be elected annually by the Board at the last regular meeting of the fiscal year. Any officer may sign all official documents on behalf of the organization upon approval by the Board, and shall have such other duties as the Board may direct. Officer terms shall coincide with the terms of board trustees, May 1 – April 30. Officers shall be elected annually by the Board at the last regular meeting of the term year. Vice Chair officer shall be appointed to Chair position, secretary/treasurer and vice-chair positions are selected by the board. List of appointed officers is sent to the Appointing Authority for their records.
- Section 4.3 Chair. The Chair shall preside at all meetings of the Board and at any other meetings of the TBID. The Chair shall appoint members to such committees and task forces as are created by the Board of Directors. The initial chair shall be appointed by the Mayor of the City of Kalispell, pursuant to §7-12-1122 M.C.A. The term of office of the Chair shall be for one year or until his/her successor is elected.

- Section 4.4 Vice Chair. The Vice Chair shall perform the duties and exercise the powers of the Chair in the absence or disability of the Chair and shall perform any other duties as prescribed by the Board of Directors.
- Section 4.5 Secretary/Treasurer. The secretary/treasurer shall keep a record of all proceedings, minutes of meetings, certificates, contracts and corporate acts of the Board and shall be responsible for oversight of the financial records of the organization. The Board may appoint an assistant secretary/treasurer who need not be a member of the Board.
- Section 4.6 Executive Director. An Executive Director of the TBID shall be appointed by the Board. The Executive Director must be the executive director of a nonprofit convention and visitor bureau, as defined in 15-65-101, M.C.A., if a nonprofit convention and visitors bureau is operating within the Governing Body's jurisdiction. The Executive Director shall be charged with the general supervision and management of the business affairs of the TBID. The Executive Director shall be the chief executive officer and shall be charged with initiating and implementing the marketing plan, budget and related projects, the general supervision over employees, including their duties and compensation in conformity with the policies approved by the Board. The Executive Director shall keep the minutes of the Board meetings, keep other records as the Board may direct, and perform such other duties as may be prescribed by the Board, these Bylaws, or by law. The Executive Director shall so manage the affairs of the TBID as to promote the objectives for which the TBID is organized.
- Section 4.7 Other Officer Duties. The Board may provide such additional duties for any officer, as it deems necessary.
- Section 4.8 Officer Vacancy. A vacancy in any office shall be filled by the Board at its next regular meeting for the remainder of the unexpired term.

Article V Conflict of Interest

- Section 5.1 Conflict of Interest. A conflict of interest transaction is a transaction with the TBID in which a trustee of the TBID 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 Ann. §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 TBID's interest. The Board shall thereupon determine, by majority vote, whether the disclosure shows that a conflict of interest exists or can

occupancy to assure proper collections of assessments. All audit results should be distributed in writing on a timely basis to the Board.

Section 6.8 Use of Assessments. Assessments collected by the TIBD shall be used for the following purposes:

- (a) The funding of all uses and projects for tourism promotion within Kalispell as specified in the Kalispell TBID budget; and
- (b) The marketing of convention and trade shows that benefit local tourism and lodging businesses in Kalispell; and
- (c) The marketing of Kalispell to the travel industry in order to benefit local tourism and the lodging businesses located within the Kalispell TBID; and
- (d) The marketing of Kalispell to recruit major sporting events in order to promote local tourism and to benefit the lodging businesses within the Kalispell TBID.

Section 6.9 Spokesperson. Only the Chair of the Board, the Executive Director, or their designee shall have authority to speak on behalf of, or to issue press releases for, the Board or the TBID

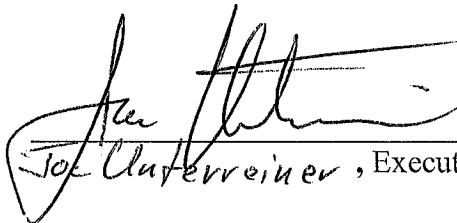
Article VII Amendments

Section 7.1 These Bylaws may be amended or repealed and new Bylaws adopted by the Board any regular or special meeting of the Board by the affirmative vote of at least two-thirds (2/3) of the trustees.

CERTIFICATE OF ADOPTION OF BYLAWS

The undersigned hereby certifies that the above Bylaws of the **Kalispell Tourism Business Improvement District** were duly adopted by majority vote of the Board of Directors at a duly held meeting on April 6, 2011, and now constitute the Bylaws of the Kalispell Tourism Business Improvement District.

DATED: April 6, 2011



Joe Claferriner, Executive Director

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 VI Administrative and Financial Provisions

- Section 6.1 Fiscal Year. The fiscal year of TBID shall be July 1 - June 30.
- Section 6.2 Check Writing Authority. The Board shall establish limits on the check writing authority of trustees, officers, employees, and agents of TBID.
- Section 6.3 Budget and Marketing Plan. Expenditure of all income shall be allocated to meet the operating needs of the TBID under a budget and marketing plan prepared by the Executive Director and adopted by the Board and the Governing Authority. The Executive Director shall make a cumulative report each month to the Board on income and expenditures. The approved budget and marketing plan shall be reviewed as requested by the Board to assure that funds are being expended as allocated and to determine if any reallocation of resources is needed.
- Section 6.4 Disbursements. Upon approval of the Fiscal Year Budget by the Board and the Governing Body, the Executive Director is authorized to make such disbursements as necessary on accounts and expenses provided for in that budget, without additional approval from the Board. Such disbursements may be made by check and require any one (1) of the following signatures: Executive Director or Chair or any designated trustee(s). Checks shall be supported by proper requisitions, vouchers, statements, or other evidence showing the expenditure to be appropriate and authorized under the budget.
- Section 6.5 Indebtedness. No loan or advance shall be made or contracted on behalf of the TBID, and no note, bond, or other evidence of indebtedness shall be executed or delivered in its name except in the manner provided by law and as authorized by the Board.
- Section 6.6 Public Records. All financial records of the TBID related to assessments are public documents and shall be made available to any member of the public who wishes to see them, provided arrangements are made in advance to review said records in the office of the TBID during regular office hours. Approval of a majority of the Board shall be required to remove any financial record of the TBID from the public file.
- Section 6.7 Audit. The Board shall engage an independent certified public accounting firm to audit, annually, all general and special accounts of the TBID in accordance to the standards established by the City of Kalispell. The firm may be instructed to perform unannounced audits at any given period of the year for verification of accounts, in addition to the annual audit. The Board may from time to time audit hotel reports of

occupancy to assure proper collections of assessments. All audit results should be distributed in writing on a timely basis to the Board.

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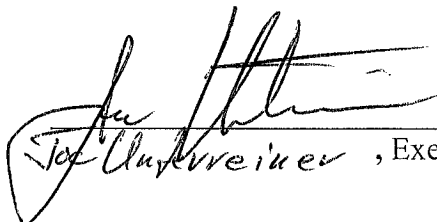
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Joe Unrein, Executive Director