

LOCAL IMPROVEMENT CHARGES BYLAW Council

Administrative

WHEREAS Section 81 of the Municipal Government Act provides that a Municipality may make bylaws imposing, fixing and providing methods of enforcing payment for charges of local improvements;

BE IT ENACTED by the Council of the Municipality of the County of Victoria, as follows:

1. SHORT TITLE

- 1.1. This Bylaw shall be known as and may be cited as the “Local Improvement Charges Bylaw”.

2. PURPOSE

- 2.1. The purpose of this Bylaw is to establish the manner in which the Municipality may impose, fix and enforce payment of charges for local improvements.

3. DEFINITIONS

- 3.1. “corner lot” means a property situated at the intersection of, and abutting on, two or more streets;
- 3.2. “charge” means a charge imposed pursuant to Section 81 of the Municipal Government Act in an amount to be determined pursuant to this Bylaw for the cost of a local improvement;
- 3.3. “cost of a local improvement” means the capital cost of service provision and shall include but is not limited to the costs of study, design, construction, installation and administration, engineering, surveying, municipal staff time, and other incidental expenses as well as the costs of financing including bridge financing, if any, and the cost of financing throughout the amortization period of the project whether or not the money is financed internally or externally. The cost of any particular local improvement may be reduced by its proportionate share of financial contribution from federal, provincial or municipal grant dollars;
- 3.4. “Council” means the Council of the Municipality of the County of Victoria;
- 3.5. “Engineer” means the Municipal employee designated as Municipal Engineer pursuant to the provisions of the Municipal Government Act;

LOCAL IMPROVEMENT CHARGES BYLAW Council

Administrative

- 3.6. “frontage” means the linear measurement of the property line which abuts a local improvement, irrespective of whether the property line is a front, rear, side or flankage yard;
- 3.7. “local improvement” means and includes:
- a) wastewater facilities or storm water systems, the use of wastewater facilities or storm water systems and connecting to wastewater facilities or storm water systems;
 - b) expenditures incurred for the wastewater management system in a wastewater district;
 - c) the Municipal portion of the capital cost of installing a water system;
 - d) the laying out, opening, constructing, repairing, improving, and maintaining streets, curbs, sidewalks, gutters, bridges, culverts, and retaining walls, whether the cost is incurred by the Municipality directly or by, pursuant to an agreement with Her Majesty in right of the Province, the Minister of Transportation and Infrastructure Renewal or any person appointed to act in his/her stead;
 - e) the Municipal portion of the cost of a major tree removal program or the cost of removing trees from a private property;
 - f) the Municipal portion of the capital cost of placing the wiring and other parts of an electrical distribution system underground; as necessary.
 - g) charges for deposit in a special purpose tax account to provide for future expenditures for wastewater facilities, storm water systems, water systems, transportation facilities or other anticipated capital requirement.
- 3.8. “majority approval for a local improvement” means majority approval based on the signatures from owners representing at least two-thirds of all properties in the area that Council has determined will benefit from a local improvement regardless of the methodology chosen (assessed property value or area of the property).
- 3.9. “Municipality” means the Municipality of the County of Victoria;
- 3.10. “owner” has the same meaning as set out in the Municipal Government Act
- 3.11. “property” means a parcel or lot of property which is situated in an area determined by Council to benefit from a local improvement;
- 3.12. “subdividable lot” means, for the purpose of this Bylaw, a property which is capable of being subdivided into at least two buildable lots if, taking into consideration the lot frontage, lot area, zoning and the location of existing buildings, the Municipality would approve the subdivision of the property into at least two lots;

LOCAL IMPROVEMENT CHARGES BYLAW Council

Administrative

- 3.13. “street” means a public street, highway, road, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts, and retaining walls in connection therewith located within the Municipality whether vested in the Municipality or the Province of Nova Scotia;
- 3.14. “through lot” means a property bounded on two opposite sides by two or more streets;
- 3.15. “usable frontage” means property frontage that has not been determined to be unusable under Section 7.4;

4. CHARGE IMPOSED

- 4.1. Where a local improvement has been carried out by the Municipality, a charge is hereby levied upon every owner of real property situated in whole or in part within the area. This charge applies to any property or the owner unless they are totally or partially exempt from the charge by provisions in this Bylaw; or
- 4.2. Where a local improvement has been carried out as a result of a petition receiving majority approval and the project having been adopted and approved by Council, a charge is hereby levied upon every owner of real property situated in whole or in part within the area identified in the petition. This charge applies to any property or owner unless they are totally or partially exempt from the charge by provisions in the petition or in this Bylaw;
- 4.3. Municipally owned land shall be exempt from charges arising from the provisions of this Bylaw unless otherwise indicated in the approved petition.
- 4.4. An interim charge may be imposed when Council approves the project to proceed based on the best estimate of the cost of the project at that time. The interim charge will be adjusted at the completion of the project.

LOCAL IMPROVEMENT CHARGES BYLAW Council

Administrative

5. AMOUNT OF CHARGE

5.1. The charge levied pursuant to Section 4 shall be determined in accordance with the provisions of this Bylaw and, if applicable, of the approved petition. The charge may be calculated based on:

- a) a uniform amount levied for each property in existence or subsequently created upon subdivision;
- b) the frontage of the property on any street;
- c) tax classification of the property;
- d) the area of the property;
- e) the capped assessed value of the property;
- f) any combination of two or more such methods of calculating the charge; or
- g) such other method as Council deems fit.

6. VARIATIONS IN CHARGES

6.1. The charge levied pursuant to this Bylaw may be fixed at different rates for different classes or uses of properties and may be fixed at different rates for different areas or zones as outlined in the approved petition.

7. FRONTAGE CHARGE

7.1. If the charge contains a component calculated in whole or in part based upon the frontage of the property on a street, the component of the charge based upon frontage shall be calculated in accordance with this Section unless otherwise outlined in the approved petition, if applicable.

FC = Frontage Charge

TF = Total of all individual frontages (IF) determined as per the provisions of this Bylaw

IF = Total frontage of an individual property (as possibly adjusted by any frontage reductions or frontage adjustments as per the provisions of this Bylaw

TC = Total cost of the local improvement

GC = Municipal/Provincial/Federal contribution towards the local improvement
 $FC = [IF/TF] \times [TC - GC]$

7.2. Subdivisions plans, deed descriptions, retracement plans and/or geographical information as deemed appropriate by the Municipality shall be used to determine the total frontage of an individual property.

LOCAL IMPROVEMENT CHARGES BYLAW Council

Administrative

- 7.3. In the event of a dispute between a property owner and the Municipality as to any measurements of a property, the owner shall retain, at his or her sole expense, a Licensed Nova Scotia Land Surveyor, who shall certify the measurements of the property and submit same to the Municipality. If the Municipality is incorrect in its measurements by a margin of more than 25%, the County may cover the costs incurred by the resident for the survey.

Frontage Reduction

- 7.4. Where an owner can reasonably demonstrate, and provide evidence such as an environmental study or written confirmation from the Nova Scotia Department of Environment, that the property is unusable for development by reason of soil type, environmental hazard, or other natural factors that do not permit the land to be subdivided for the purpose of creating a lot, a frontage reduction of 75 percent shall be applied to the portion of unusable frontage. Proof must be provided prior to the inclusion of the local improvement, if applicable, or approval of a petition by Council.

Frontage Adjustments

- 7.5. A minimum frontage may be established for each local improvement.
- 7.6. For corner lots and through lots, where both streets adjacent to the property are subject to a local improvement, the total frontage will be adjusted as follows:
- a) For the longest frontage, the frontage will not be subject to any adjustment and will be charged 100 percent of the frontage;
 - b) For the shortest frontage, the frontage will be reduced by 50 percent;
- 7.7. For corner lots and through lots, where one of the two streets is subject to a local improvement and the other street has previously been the subject of a local improvement, the property will only be charged for the portion of the frontage subject to the local improvement and the frontage will be reduced by 50 percent.
- 7.8. For corner lots or through lots, where one of the two streets is subject to a local improvement and the other streets has not been the subject of a local improvement, the property will only be charged for the portion of the frontage subject to the local improvement and there shall not be any adjustments to the total frontage.

LOCAL IMPROVEMENT CHARGES BYLAW Council

Administrative

8. EXEMPTIONS/ADJUSTMENTS TO CHARGES

- 8.1. A property may be exempt from or given an adjustment to a charge if the property is considered not to benefit from the local improvement. An adjustment or exemption may be given when:
- a) a property is already Municipally serviced, or
 - b) a property does not directly benefit from a local improvement, and it cannot be reasonably argued that the local improvement provides a direct or indirect benefit to the property, such as the ability to further subdivide and develop the property.
 - c) The proposed charge is more than 50% of the assessed property tax in any of the repayment years.
- 8.2. If frontage is the method of charge, the property may also be subject to any adjustment or reductions available in Section 7.
- 8.3. Properties given an exemption or adjustment to the charge under this Section must be approved by Council. Council has the ability to exempt a property, such as a not-for-profit property.

9. ADMINISTRATIVE GUIDELINES

- 9.1. Council may proceed with a local improvement at its own discretion or in response to a petition which receives majority approval.
- 9.2. Where a petition has been conducted and does not receive majority approval, Council will not proceed with a local improvement, at its own discretion, for a minimum of three years. Property owners are not prevented from requesting subsequent petitions within the three years timeframe.

Initiating a petition

- 9.3. The petition process may be initiated by:
- a) a request from the property owners of at least two properties that would be subject to the petition and local improvement charge or
 - b) a motion from Council directing Municipal staff to initiate the petition process.

LOCAL IMPROVEMENT CHARGES BYLAW Council

Administrative

- 9.4. The petition request from property owners and the motion from Council must include: a description of the proposed local improvement, the desired method of charge, and the proposed charge area.
- 9.5. At Council's discretion, a petition may include properties fronting onto more than one street, whether those streets share a common border or not.

Processing a Petition When Initiated by a Council motion (per 9.3(b))

- 9.6. The following steps shall be followed:
- a) The petition will be conducted by Municipal staff, and they will be responsible for preparing the petition documents and package.
 - b) The petition documents will include: a description of the proposed local improvement and the desired method of charge, a map of the proposed charge area, the estimated total cost of the local improvement, the estimated cost for each property and the financing options.
 - c) The petition documents will also include a letter clearly explaining the petition and the local improvement process to promote awareness and understanding prior to the property owner vote of YES or NO for local improvement.
 - d) The petition package and documents with a stamped return envelope will be sent by mail to the owners representing each property.
 - e) The petition shall give owners at least 30 days to ensure information was received and respond.

Approval of the Petition

- 9.7. Where Council considers carrying out a local improvement on the basis of a petition, such charges would be considered only where there is at least majority approval for the local improvement. For example:
- a. if the charge is based on the area of the property, the properties representing at least two-thirds of the area would have to vote in favour.
 - b. if the charge is based on the assessed value of the property, the properties representing at least two-thirds of the assessed value would have to vote in favour.
- 9.8. Regardless of the methodology used for the charge, the owners representing at least two-thirds of the total properties must be in favour for a petition.

LOCAL IMPROVEMENT CHARGES BYLAW Council

Administrative

- 9.9. Successful petitions are considered to be valid for a period of five years from the date of approval by Council. Within the five years, the validity of the petition is not affected by the number of times a property may have changed owners.
- 9.10. If the Municipality does not receive a response from the owners by the petition deadline (30 days) the owners will be deemed to have voted YES and being in favour of the local improvement.
- 9.11. In circumstances where there is more than one owner of a property, the property will be considered to be in favour of the local improvement when the majority (50 percent) of the owners of the property has voted "YES" for the local improvement.

Local improvement without a petition

- 9.12. Where a local improvement is approved by Council without a petition, Council shall, by policy, determine an effective method for advising residents impacted by the decision taken under this Bylaw.

Municipal contribution to local improvement

- 9.13. For local improvements, at its own discretion, Council may choose to make a financial contribution up to a maximum of fifty (50) percent towards the cost of the local improvement.

10. LIEN

- 10.1. A charge imposed pursuant to this Bylaw constitutes a first lien on the subject real property in the same manner and with the same effect as rates and taxes under the Municipal Government Act (Section 81(3)(f)).
- 10.2. A charge imposed pursuant to this Bylaw is collectable in the same manner as rates and taxes and, at the option of the Treasurer, collectable at the same time and by the same proceedings, as rates and taxes.
- 10.3. The liens against the real property become effective on the earliest of the date on which the interim charge is imposed or the Engineer files with the Treasurer a certificate that the improvement has been completed.
- 10.4. The lien provided for in this Bylaw shall remain in effect until the charge plus interest has been paid in full.

LOCAL IMPROVEMENT CHARGES BYLAW Council

Administrative

- 10.5. Where a property subject to a lien is subdivided, the unpaid amount of the charge plus interest shall be apportioned among the new lots according to the assessed value the new lots have in relation to the total assessed value of the entire property before subdivision.

11. INTEREST

- 11.1. Interest shall accrue on charges outstanding from the due date forward, at the same rate as for other outstanding taxes. The due date is the date of completion or the date that installments are due if the annual payment option is available.

12. REPAYMENT OF THE CHARGE

- 12.1. At the option of the owner(s) of a property which is subject to a charge, the charge may be paid in either of the following ways:

- a. by payment, in full, at the time of invoicing by the Municipality; or
- b. by annual installments. In the event of default of payment of an installment, the whole balance shall become due and payable without notice or demand.

- 12.2. The term of repayment shall be outlined in the wording of the approved petition, or in the Council motion approving the project. Annual installments shall not exceed 10 years.

- 12.3. The property owner(s) shall have one month from the date of their initial notice of amounts owing, to notify the Treasurer, in writing, which financing option has been selected. If there is no written notification, the property owner(s) shall be deemed to have selected the annual payment option.

13. AMENDMENT TO THE BYLAW

- 13.1. Any amendment to this Bylaw shall not affect existing projects outlined in Schedule A unless expressly intended to do so through an amendment to the Schedule.

LOCAL IMPROVEMENT CHARGES BYLAW Council

Administrative

I, Leanne MacEachen, CAO of the Municipality of the County of Victoria, hereby certify that the above noted Bylaw was passed at a meeting of the Victoria County Council on

X

Leanne MacEachen, CPA, CA
Chief Administration Officer

Bylaw Adoption		Amendment	
First Reading	June 12, 2023	First Reading	
Notice Publication		Notice Publication	
Second Reading & Enactment		Second Reading & Enactment	
Final Publication		Final Publication	
Amendment		Amendment	
First Reading		First Reading	
Notice Publication		Notice Publication	
Second Reading & Enactment		Second Reading & Enactment	
Final Publication		Final Publication	
Amendment		Amendment	
First Reading		First Reading	
Notice Publication		Notice Publication	
Second Reading & Enactment		Second Reading & Enactment	
Final Publication		Final Publication	
Amendment		Amendment	
First Reading		First Reading	
Notice Publication		Notice Publication	
Second Reading & Enactment		Second Reading & Enactment	
Final Publication		Final Publication	
Amendment		Amendment	
First Reading		First Reading	
Notice Publication		Notice Publication	
Second Reading & Enactment		Second Reading & Enactment	

LOCAL IMPROVEMENT CHARGES BYLAW Council

Administrative

Final Publication	Final Publication
Amendment	Amendment
First Reading	First Reading
Notice Publication	Notice Publication
Second Reading & Enactment	Second Reading & Enactment
Final Publication	Final Publication

Bylaw Adoption	
First Reading:	
Website and Social Media Notifications:	
Formal Notice of Publication:	
Second Reading:	
Website and Social Media Notifications:	
Formal Final Publication and Enactment:	
Enacted Bylaw posted to website:	
Notice to Service Nova Scotia & Municipal Relations:	

Bylaw Adoption	
First Reading:	
Website and Social Media Notifications:	
Formal Notice of Publication:	
Second Reading:	
Website and Social Media Notifications:	
Formal Final Publication and Enactment:	
Enacted Bylaw posted to website:	
Notice to Service Nova Scotia & Municipal Relations:	

Bylaw Adoption

LOCAL IMPROVEMENT CHARGES BYLAW Council

Administrative

First Reading:	
Website and Social Media Notifications:	
Formal Notice of Publication:	
Second Reading:	
Website and Social Media Notifications:	
Formal Final Publication and Enactment:	
Enacted Bylaw posted to website:	
Notice to Service Nova Scotia & Municipal Relations:	

DRAFT