



Improvement District Manual

March 2006



BRITISH
COLUMBIA

Ministry of Community Services

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HIGHLIGHT SUMMARY

In this re-issue of the Improvement District Manual, all sections were reviewed and updated. Material additions and significant changes are noted below.

SECTION A

Changes:

Contact Listings, Publications and Improvement District Associations

SECTION B

New Material:

Alternate Approval Process has been added.

Changes:

Major amendments to Freedom of Information and Protection of Privacy segment.

Minor amendments to Expropriation (reference to Expropriation Compensation Board removed).

SECTION D

New Material:

Miscellaneous Charges and Service Fees Bylaw templates.

SECTION E

New Material:

Drought Management Planning.

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INTRODUCTION

This Manual has been prepared by the Ministry of Community Services (the Ministry) as a guide for improvement district trustees, staff and others who have an interest in the administration and operation of improvement districts.

The Manual is not a static document and revisions will be made as the need arises.

This Manual is divided into five sections.

Section A: General Information, including an index to Part 23 of the *Local Government Act* (the part of the *Local Government Act* specifically relating to improvement districts) and other *Local Government Act* references to improvement districts.

Section B: Administration

Section C: Accounting and finance

Section D: Sample bylaws and forms

Section E: Operational issues

The size of improvement districts, and the number of services they provide, varies considerably; as does the experience of improvement district staff and trustees. The Manual has been written so that only a limited knowledge of improvement districts is necessary to understand the information presented. Also, since the majority of improvement districts are responsible for operating water systems or fire departments, more emphasis has been placed on the administration and financial aspects of those services. The information presented applies to every improvement district, regardless of their size, or the number or types of services they provide.

The information in the Manual is meant only as a guide. Careful reference to the provisions of the *Local Government Act* and other applicable statutes should be made on all matters. The Manual is not a substitute for legislation.

An electronic version of the Manual is available on the Ministry's website (www.cserv.gov.bc.ca/lgd). Paper copies are available from:

Crown Publications
521 Fort Street, Victoria, BC V8W 1E7
P: (250) 386-4636
F: (250) 386-0221
Website: www.crownpub.bc.ca/

CALENDAR (IMPROVEMENT DISTRICT ACTIVITIES)

January 1 - June 30	
Item	Description (<i>Local Government Act</i> Section References)
Unpaid Taxes	After March 1, unpaid taxes for the previous year are in arrears and previous arrears become delinquent (section 760).
Annual Reports	Prior to the annual general meeting, the board of trustees must have the annual reports prepared.
Annual Budget and Capital Expenditure Program	Prior to the annual general meeting, the board of trustees should prepare a budget for the current year, and a capital expenditure program to cover the ensuing five-year period.
Annual General Meeting	Usually within the first four months of the calendar year, the board of trustees must call a meeting of landowners (section 741).
Annual Election	The election of a trustee (or trustees) takes place at the annual general meeting (section 737).
Annual Submissions	By May 15 in each year, the board of trustees must furnish the Inspector of Municipalities with the audited financial statements for the preceding year (section 741.1).
Assessment Roll, Notices and Court of Revision	Assessment notices are sent out and a Court of Revision date is set (section 754). The assessment roll is confirmed.
Annual Tax Bylaws	Tax bylaws are registered (section 746).
Tax Notices	After registration of a tax bylaw, tax notices are mailed out (section 758).
Capital Tax Advances (fire protection)	By March 30, capital tax advances for fire protection are confirmed and requisition for funds forwarded to Surveyor of Taxes. Capital tax advance funds are paid directly to the improvement districts.

July 1 - December 31	
Item	Description (<i>Local Government Act Section References</i>)
Operating Tax Advance Payments (fire protection and/or street lighting)	The first working day in July, amounts that have not already been requested in advance for current year operations for the purpose of fire protection and/or street lighting, are paid directly to the participating improvement districts from the Surveyor of Taxes.
Tax Sale	Tax sale is carried out (section 761 to 768).
Budget	Before the end of each year, the board of trustees should prepare a budget for the following year.
Operating Tax Advance Requisitions (fire protection/street lighting)	On or before November 30 of each year, operating tax advance bylaws must be registered with the Inspector of Municipalities so the amount required for fire protection and/or street lighting can be forwarded to the Surveyor of Taxes (section 756).

CONTACT INFORMATION FOR MINISTRY OF COMMUNITY SERVICES

The Local Government Department of the Ministry of Community Services provides advice about the system of local government in the province. In addition, the Department is responsible for reviewing applications from local governments and improvement districts where an approval is required by Cabinet, the Minister, or the Inspector of Municipalities.

Website: www.cserv.gov.bc.ca/lgd/
Location: 800 Johnson Street, Victoria

For information on the **financial operations** of improvement districts, contact the Local Government Infrastructure and Finance Division at:

Mailing Address: P.O. Box 9838, Stn. Prov. Govt.
Victoria, BC V8W 9T1

Phone: (250) 387-4060
Facsimile: (250) 356-1873

For information on the **administration** of improvement districts, contact the Advisory Services Branch of the Governance and Structure Division at:

Mailing Address: P.O. Box 9839, Stn. Prov. Govt.
Victoria, BC V8W 9T1

Phone: (250) 387-4020
Facsimile: (250) 387-7972

PUBLICATIONS

The Ministry of Community Services has developed a number of publications aimed at providing advice and direction to local governments. These publications can be found on the Ministry's web-site (<http://www.cserv.gov.bc.ca/lgd>).

The *Local Government Act* and all other statutes and regulations are available on the general government website www.gov.bc.ca. Paper copies of legislation, as well as the Improvement District Manual, are available from Crown Publications - 521 Fort Street, Victoria, BC V8W 1E7. Phone: (250) 386-4636. Fax: (250) 386-0221. Website: <http://www.crownpub.bc.ca/>

The Ministries of Health and Environment have developed publications which may be of interest to improvement districts. Please contact these Ministries directly, or visit their respective web-sites, for the most up-to-date information (www.gov.bc.ca).

The following publications may be of specific interest to improvement district elected officials and officers.

POLICY

- Improvement District Governance (Ministry of Community Services)
- Managing Changes to Local Government Structure (Ministry of Community Services)

GOVERNANCE

- Improvement District Manual (Ministry of Community Services)

FINANCE

- Development Cost Charge Best Practices Guide (Ministry of Community Services)
- Development Finance Choices Guide (Ministry of Community Services)
- Development Cost Charges Guide for Elected Officials (Ministry of Community Services)

PLANNING AND ENGINEERING

- Regional Growth Strategies: An Explanatory Guide
(Ministry of Community Services)
- Reaching Agreement on Regional Growth Strategies
(Ministry of Community Services)
- Well Protection Toolkit
(Ministry of Environment)
- Design Guidelines for Rural Residential Community Water Systems
(Ministry of Environment)
- Emergency Response Planning for Small Waterworks Systems
(Ministry of Health)
- Guidelines for the Approval of Waterworks
(Ministry of Health)
- Dealing with Drought Handbook
(Ministry of Environment)

IMPROVEMENT DISTRICTS

Improvement districts are autonomous local government bodies responsible for providing one or more local services for the benefit of the residents in a community. They vary considerably in size, from small subdivisions, to urban communities. Improvement districts are usually located in rural areas of the province where there was no alternative form of local governance available, suitable, or desirable for the community. They are similar in structure to a municipality but are more informal and only provide direct services such as waterworks, fire protection or street lighting. There are more than 200 improvement districts operating in the province.

The incorporation of an improvement district will only be considered where a regional district is unable or unwilling to establish a service area. The majority of the landowners in the area being considered for incorporation must vote in favour of creating an improvement district.

Improvement districts are brought into existence by the provincial government through Cabinet Orders which authorized the passage of a document known as Letters Patent. The Letters Patent contain the name of the improvement district, its boundary and the services which it will provide to the residents within that boundary.

Improvement districts are administered by an elected board of trustees, one of whom has the additional duty of chair. Each trustee is elected for a three-year term by the eligible landowners of the improvement district. To be eligible to vote, or to be a candidate for trustee, a person must be eighteen years of age, a Canadian citizen, an owner of land in the improvement district and a B.C. resident for the previous six months.

The improvement district's Letters Patent, applicable sections of the *Local Government Act*, and other applicable provincial statutes outline the powers that can be exercised by the board of trustees. These powers include the ability to enact and enforce its regulations and charges, to assess and collect taxes, to acquire, hold and dispose of lands, to borrow money and to expropriate lands required to carry out its functions. The board of trustees exercise these powers through the passage of resolutions and bylaws.

Although improvement districts are independent public corporations, they are also subject to supervision by the Ministry. All bylaws passed by the board of trustees must be registered with the Inspector of Municipalities and the bylaws are not effective until that approval is granted. In addition, each year the improvement district's audited financial statements and the minutes of its annual general meeting are reviewed and filed with the Ministry.

Ministry staff are available to provide advice and direction to those involved with improvement districts.

For further information regarding improvement districts or other local government options for administering services in rural areas, please contact the Ministry.

IMPROVEMENT DISTRICT ASSOCIATIONS

The Ministry works closely with the two largest Improvement District Associations in the province. The Ministry consults with both organizations on new, or changes to, existing legislation and provides educational materials for matters relating to improvement district finance, administration and operations.

The Water Supply Association of B.C. (WSABC) represents approximately 55 community water purveyors in the Okanagan and Kootenay regions. This association has been in place for over 75 years and provides many services to its members including: education (through workshops and training sessions); government lobbying; partnering with government and non-government agencies; presentations on service related issues; and, communication amongst members.

The Coastal Water Suppliers Association (CWSA) represents 53 community water purveyors on Vancouver Island, the Gulf Islands and the Sunshine Coast. It provides similar services to the WSABC.

WSABC, contact:

Cheryl Halla, Secretary
PO Box 22022
Penticton, BC V2A 8L1

Phone and Fax: (250) 497-5407
E-mail: watersupply@shaw.ca
Website: www.wsabc.com

CWSA, contact:

Brenda Fisher, Secretary
PO Box 70
Union Bay, BC V0R 3B0

Phone: (250) 335-2511
Fax: (250) 335-1178
E-mail: brenda@cwsa.net

REGIONAL DISTRICTS

Regional districts were created by provincial legislation enacted in 1965. B.C. is divided into 27 regional districts, which together cover the entire province, except for the sparsely settled Stikine region. Each regional district is governed by a board, consisting of both elected representatives from the rural areas as well as representatives from the municipalities within its boundary.

Regional districts provide governance and services which vary according to community needs. These services may include those usually found in urban areas such as: water supply and distribution; sewage treatment and disposal; fire protection; and, street lighting. Additionally, they may administer regional services such as recreation facilities; regional parks; libraries; garbage disposal; land-use control; and, building inspection.

Every improvement district, except for Atlin, is located within the boundary of a regional district, yet each is independent of the other. Certain overlaps in jurisdiction, however, can and do occur. For example, regional districts can develop land-use plans to guide development to certain areas; however, the service needed to support that development may be the responsibility of an improvement district. Co-ordination between the two is critical to ensure that expectations for development match the ability for services to be provided.

Regional districts are eligible to apply for a number of grant programs available through the province. They also have a broad range of financing options available through the Municipal Finance Authority (MFA). Features such as these and others, have encouraged some communities to have the regional district administer the local services on their behalf. This is achieved by creating a service area or a local community with the assent of the electors. A management committee could be formed to ensure local input into decisions concerning services.

Regional districts are the service delivery agency in rural areas because they allow for: the consolidation of land use and service decision-making under one authority; provide access to broader administrative and financial tools for service management than available through improvement districts and private water utilities.

The Ministry's policy is not to enhance the use of improvement districts as a means of expanded rural area servicing. Therefore it will not: usually create new improvement districts; add new service responsibilities to existing improvement districts; or consider a major extension to an existing improvement district where there is a regional district willing and able to provide the required service(s).

For further information on regional districts, contact your regional district or the Ministry.

IMPROVEMENT DISTRICT LEGISLATION - INDEX

Part 23 of the *Local Government Act* contains the majority of the provisions relating to improvement districts. The index below provides a listing of specific legislative references to improvement districts. It is for reference only and may not be complete. Please refer to the website: www.qp.gov.bc.ca/statreg/ for an electronic copy of the Act. For a paper copy of the Act, or other legislation, contact:

Crown Publications
521 Fort Street
Victoria, BC V8W 1E7
Phone: (250) 386-4636,
Fax: (250) 386-0221
Website: <http://www.crownpub.bc.ca/>

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BULLETINS / CIRCULARS

The Ministry will mail circulars and bulletins to improvement districts when a certain issue or initiative arises. Interest rate changes for overdue taxes and requests for annual returns, will be mailed on a regular basis. In some cases circulars and bulletins will be sent to all improvement districts; in others, they will only be sent to those with certain functions or characteristics.

It is recommended that each improvement district retain these circulars or bulletins for reference purposes.

IMPROVEMENT DISTRICT MANUAL HISTORICAL UPDATES

Revision Number	Distribution Date
One	September 1987
Two	October 1991
Three	November 1993
Four	March 1998
Five	September 2002
Six	March 2006

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CORPORATE STRUCTURE

Letters Patent

Improvement districts were brought into existence by the provincial government through Cabinet Orders, which approve their incorporation in a document called Letters Patent. The Letters Patent contain: the name of the improvement district; its boundary; and, the services which it would provide to the residents within that boundary. Every improvement district must have a copy of its Letters Patent available for reference by the trustees, staff and any landowners who wish to view them. Copies of the Letters Patent are also available from the Ministry.

There are circumstances when the board of trustees may wish to have the improvement district's Letters Patent changed. The most common change is to the improvement district boundary. Usually this is done to include additional parcels of land where the owners wish to receive the services provided by the improvement district. Another common change is increasing or decreasing the number of trustees on the board.

If an improvement district was incorporated before 1979, it is likely the Letters Patent contain dated terminology or do not reflect current practices. Boards of trustees may wish to consider consolidating and modernizing the Letters Patent if a large number of amendments have been made over the years. This can be accomplished by asking Cabinet to recall the Letters Patent and having new ones issued in their place.

On occasion there is a desire to have the responsibility for providing services under an improvement district transferred to a municipality or regional district. Where this occurs, a Cabinet Order is used to revoke the Letters Patent for the improvement district. The Order also provides for the transfer of all assets and liabilities to the other local government and for the continuation of improvement district bylaws until amended or repealed. The local government taking over responsibility for the improvement district service is obligated to ensure any monies collected from the residents of the improvement district are used only for the purpose for which they were originally collected. For further information about this process, refer to the Improvement District Conversion Guide, available on the Ministry website. www.cserv.gov.bc.ca/lgd

The legislation does not require landowner approval for changes that are made to Letters Patent. However, the Minister or Cabinet may want assurances that the trustees have landowner support before they will consider the change.

The Ministry processes all of the changes to Letters Patent. Therefore, if trustees are considering changes to the Letters Patent, it is recommended they contact the Ministry for further information on the process. More detailed information on the process is contained in the next section.

Improvement District Boundary

General

The boundary description for every improvement district is located in its Letters Patent. The boundary of an improvement district marks the geographic limit to which its powers extend. An improvement district's ability to provide services, charge for them, or regulate them, only exists within its boundary. The only exception to this rule is for improvement districts that operate fire departments where, under certain circumstances, service can be provided outside the boundary.

An improvement district boundary is defined in Letters Patent by listing the legal descriptions for the parcels of land located within a geographic area, or by describing the perimeter following the borders of legal parcels of land. In some cases, the boundary may follow riverbanks or shorelines but improvement district boundaries should not bisect individual parcels of land

Improvement district boundaries should not overlap another local government jurisdiction that provides the same or similar services. This avoids potential conflicts regarding the degree of responsibility each local government has over its area. A contiguous boundary is the preferred option wherever possible so there are no pockets of land excluded from a geographic area. Also, there should be no satellite areas that are separated from the main boundary by intervening lands which are not being serviced by the improvement district.

Improvement district boundaries are also defined based on parcels of land where the owners have signed a petition to join the improvement district. Therefore, there may be areas or parcels of land within an improvement district where its services are not currently being provided, but will be served when an application is submitted in the future. However, if there are areas where improvement district services cannot be provided because of geography or other conditions, it may be appropriate to reduce the boundary.

Improvement district boundaries are extended when a landowner outside the boundary wants the service(s) provided by the improvement district. The board of trustees cannot change the improvement district boundary themselves. Any change to the Letters Patent, such as a boundary amendment, must be referred to Cabinet for consideration. Information about the boundary extension process is contained on the following pages.

Petition to Extend a Boundary

The board of trustees must be satisfied with the answers to the following questions before submitting an application to the Ministry for a boundary extension:

Can the property or area be serviced by the improvement district?

If an improvement district cannot currently supply its services to the parcel of land, or area proposed for inclusion within the boundary, then it should not be included. If the improvement district is not certain whether its services can be supplied to an area being proposed for inclusion, it could ask the owner to supply a report or study done at the cost of the owner or commission its own report.

Is the owner willing to pay the costs (if any) of joining the improvement district?

There is no “buy-in fee” for properties that join an improvement district. However, where an improvement district operates a water system, the usual connection costs will apply to a property once it is included within the boundary. These costs cannot be collected until a boundary extension is approved. Therefore, the improvement district should provide the property owner with a list of the applicable costs authorized under its bylaws.

Where an improvement district operates a fire department, estimates can be provided to the property owner regarding tax rates and possible savings on fire insurance costs if they were to join the improvement district.

Is the property or area already located within the boundary of a local government that is providing the same services as the improvement district?

The boundary for an improvement district should not overlap into another local government jurisdiction that provides the same or similar services. This avoids potential conflicts regarding the degree of responsibility each organization has over its area.

Is there a current application for the property or area to be subdivided?

Subdivision approval cannot be granted unless there is an adequate source of potable water for each lot in the planned subdivision. If the improvement district is expected to supply the water, the subdivision approving officer will ask the board of trustees whether there is sufficient water to supply the property and whether the owner has satisfied the improvement district’s subdivision servicing requirements.

If the proposed extension area is being subdivided off a larger parcel of land, the legal description for the new area can only be assigned once the subdivision approving officer has given final approval and the property has been registered in the Land Title Office.

This legal description can then be used by the Ministry to describe the area being included within the improvement district boundary. However, if the improvement district finds the subdivision approving officer will not approve the subdivision until the property is first included within the boundary then the improvement district should contact the Ministry for direction.

Is the property or area located immediately adjacent to the current boundary?

The Ministry's policy is to avoid creating local government boundaries for satellite areas that are separated from the main boundary by areas, which are not being serviced by the improvement district.

Have the property owners indicated their willingness to join the improvement district?

In the case of small boundary extensions (i.e. less than 30 parcels) individual petitions in the form shown on page 8 should be submitted for each parcel of land. In the case of larger boundary extensions, the Ministry may advise the improvement district to advertise the boundary extension with the condition that if more than 50% of the property owners of the area of extension representing more than 50% of the parcels (or 50% of assessed values in the case of fire protection districts) object to the proposal, they must hold a vote of those residents. Please contact the Ministry for further direction when considering a large boundary extension.

Once the board of trustees has received satisfactory answers to the foregoing questions, the following information must be submitted to the Ministry:

- Evidence of consent by the owners of property in the proposed extension area. In most cases, this will be a petition signed by the landowner and endorsed by a majority of the trustees (see sample that follows).
- A map or plan outlining the area being considered for inclusion. The map or plan should show the parcel(s) being considered for inclusion and show enough of the surrounding area to demonstrate its context. If the area of extension is fairly large, and not all of the property owners have signed a petition in favour of inclusion, the map should also indicate those properties where petitions have been signed.

The Ministry will review the application and if it appears in order, it will be submitted to Cabinet for consideration. If Cabinet approves the extension, the Order in Council (and Supplementary Letters Patent) will be sent to the improvement district and to all local and provincial government agencies that may be affected. The Ministry will also update a map of the improvement district boundary and send copies to those same agencies, as well as to the improvement district.

Section 15 of the *Local Government Act* requires that following the issue of Supplementary Letters Patent; the improvement district must publish a copy of it in a newspaper. Alternatively, a synopsis of the Supplementary Letters Patent could be published together with a statement of where a copy may be examined. If a boundary description is set out in the synopsis, it must state where a map of the boundary description may be viewed. It is recommended that the Supplementary Letters Patent or synopsis be published within one month of receiving it from the Ministry.

Improvement districts that operate fire departments, or supply street lighting and who use the province as assessor and collector for taxation purposes, should be aware the properties being included within the boundary cannot be taxed until the year following the extension. For improvement districts that operate water systems, taxes may only be sent out if the boundary extension is approved in time for the properties to be placed on the current year's assessment roll. Tolls may be pro-rated once the properties are connected to the water system.

Petition to Extend a Boundary

I (we), the undersigned owner(s) of land more particularly described below, hereby petition the Lieutenant Governor in Council on the matter of extending the boundary of the _____ District under Section 734 of the *Local Government Act* to include my (our) tract of land legally described as:

Registered Owner(s) - (PLEASE PRINT)

Signature(s) Date:

The trustees of the _____ District hereby agree to request the Lieutenant Governor in Council amend the Letters Patent for the _____ District to include the above noted land within its boundary.

Trustee Trustee

Trustee Trustee

Trustee

Dated the ____ day of _____, 20 ____ .

Trustees and Officers – Appointment, Selection, Duties and Responsibilities

Trustees

The board has the authority to make decisions that will affect the services being provided to the residents by a majority vote. Each trustee has a single vote and their power lies in the ability to convince the other trustees to agree with their point of view. Therefore, one trustee cannot commit the district to any particular action, not even the chair. The powers of trustee are collective, rather than individual. For example, a trustee negotiating an agreement or contract on behalf of the district cannot make a commitment until the rest of the trustees have had the opportunity to review and vote on the matter.

Trustees are expected to act in the best interest of the community and strive to govern in the best interests of the residents. Trustees must not use their position to benefit personally or they may be in a conflict of interest. Further information on this topic can be found later in this section.

Trustees should strive to attend every meeting. A meeting can only be held, and decisions made, as long as a quorum is present. If a trustee is unable to attend meetings for an extended period of time they should consider resigning their position so that another person can be elected to fill the position. It is not possible for the other trustees, the landowners, or any other person, to remove a trustee from office because of poor attendance or for any other reason.

The duties of a trustee are statutory and cannot be delegated to anyone else. These include:

- Electing one of themselves as chair at the first meeting in each year and at the first meeting after a vacancy occurs in the office of the chair (Section 738).
- The appointment and dismissal of officers or employees and deciding the terms and conditions of their employment (Section 738.4).
- The passage of bylaws and resolutions, to exercise any of the powers granted to the trustees (Section 746).
- Sending a tax notice to every owner of land with sufficient information on assessment to show how the taxes were calculated (Section 758).
- Appointing three of themselves, or other persons, to constitute the Court of Revision to revise the assessment roll and consider complaints about assessment (Section 754).
- Fixing the date, time and place for a tax sale if a property has taxes that are more than 24 months in arrears (Section 762).
- Calling a meeting of the landowners once a year within the period stipulated in the district's Letters Patent and presenting them with the audited financial statement for the preceding calendar year (Section 741).
- Furnishing the Inspector of Municipalities with a true copy of the audited financial statements by May 15 each year (Section 741.1).

The board can appoint a select committee to delegate responsibility to a chosen group of trustees, or other persons, to investigate a particular matter. A standing committee can be appointed by the board to review ongoing issues and report back from time-to-time. Information on these committees is contained later in this section.

There is no requirement for a trustee to disclose his or her financial holdings under the *Financial Disclosure Act*.

The term of office for all trustees is three years unless they were elected to fill the remainder of the term for a position that became vacant before the end of the term. Any remuneration (honorarium) paid to the trustees must be decided at each year's annual general meeting by the landowners and trustees.

The qualifications to be a trustee are established in each improvement district's Letters Patent or failing that, in section 737 of the *Local Government Act*. If during their term, a trustee no longer meets the qualifications, the next step is dependent on the wording contained in the Letters Patent. If the Letters Patent indicate that the qualifications must be in place to be nominated for the position, but not to hold office, the trustee may complete their term. If the Letters Patent require that the qualifications be met to be nominated and to hold office, the trustee is disqualified and an election should be called within a reasonable period (60 days) to fill the vacancy.

Trustees acting in the course of their duty will not generally be liable for damages arising out of the decisions they make. The legislation provides protection that limits their liability to certain actions such as gross negligence, malicious or willful misconduct, dishonesty, libel or slander (section 287). Further information on this topic can be found in the Insurance, Liability and Indemnification section.

Officers

The board of trustees must pass a bylaw to establish the corporate and administrative officer positions that have responsibility for specific duties set out in the legislation (Section 738.1). Additional responsibilities can be assigned to those officers by bylaw or by resolution. The board may wish to establish other officer positions by bylaw, and assign responsibilities to them.

The board of trustees has full discretion to choose an appropriate title for each of the officer positions. The same person may be appointed to two or more officer positions. A sample format for an Officer's Position Establishment Bylaw can be found in Section D.

The duties listed below set out the minimum expectation of the officer position as established in the legislation. The board of trustees may expand these duties to meet the needs of their organization.

Corporate administration (Section 738.2) includes, as a minimum, the following powers, duties and functions:

- preparing accurate meeting minutes and ensuring the safekeeping of minutes, bylaws and other improvement district business records;
- providing access to all improvement district business records as required by law or authorized by the board of trustees;
- signing and certifying copies of bylaws and other documents as required or requested;
- accepting, on behalf of the improvement district or the board of trustees, notices and documents given or provided to the improvement district or the board of trustees; and,
- keeping the improvement district seal and having it affixed to documents as required.

Financial administration (Section 738.3) includes, as a minimum, the following powers, duties and functions:

- receiving all money paid to the improvement district;
- keeping all funds and securities of the improvement district;
- expending and disbursing money in the manner authorized by the board of trustees;
- investing funds in investments under Section 745(4);
- preparing, maintaining and keeping safe the accurate records and full accounts of the improvement district's financial affairs; and,
- compiling and supplying information on the financial affairs of the improvement district required by the Inspector of Municipalities.

The board of trustees is not required to pass a bylaw to appoint an assessor or collector for the improvement district. However, the board of trustees needs to assign the assessor duties to the officer assigned responsibility for either corporate or financial administration as it is not included in the duties listed in Section 738.2 or 738.3. This can be done by resolution or as part of the Officer Position Establishment Bylaw.

The board of trustees should establish the terms and conditions of employment for each officer position in a contract or agreement (Section 738.4). These employment contracts or agreements must be passed by a board resolution.

As long as there is reasonable notice, and taking into consideration the provisions of any contract or employment agreement, the board of trustees can terminate the appointment of an officer with a two-thirds vote of all the trustees. If termination is for cause, a vote by a majority of trustees can be made without any period of notice. The board of trustees may wish to seek the advice of legal counsel prior to writing an employment contract or terminating an officer or employee.

Chair

The chair is a statutory position required by section 738 of the *Local Government Act*. The chair is first and foremost a trustee elected by the landowners at the annual general meeting. The trustees then elect one of themselves as chair at the first meeting in each year or at the first meeting after a vacancy occur in the office. If the chair is absent from a meeting, the members present must appoint one of themselves as acting chair for the purposes of conducting that meeting.

The main duty of the chair is to preside at meetings of the trustees and as such, must be familiar with the rules governing meetings. These rules are adopted by the trustees by resolution and are commonly based on Roberts Rules of Order or Parliamentary procedure (sample Meeting Procedures are contained in Section D). Where a question on procedure is raised, the chair has the power to decide points of order although the other trustees can appeal this. The chair may expel or exclude any person from a meeting if they consider the person to be acting improperly.

The chair can loosely be compared to that of mayor in a municipality. All members of the board, including the chair, have one vote. However, the chair is often regarded as the person who sets the tone for the improvement district.

The chair has the authority to call a meeting of the trustees (Section 739). They may also prepare the agenda for each meeting although this can be delegated to the Corporate Officer. After the minutes of the meeting have been adopted (usually the first business at the following meeting), the chair and corporate officer should sign them as being correct. The chair must sign every bylaw passed by the board (Section 746) and they are customarily a co-signer with the corporate officer, to any agreement, contract, or account.

Trustee and Employee Relationships

Trustees are not employees of the improvement district and should avoid undertaking any paid work on its behalf. Undertaking paid work could place a trustee in a position of conflict of interest. It also might increase the improvement district's liability if they are not a trained system operator. Worker's Compensation Board may not cover a trustee who is injured while working on a water system.

Trustees should not be involved in the day-to-day improvement district administration because it blurs the lines of separation between the trustees and staff. In some cases, it might lead to employees being given conflicting instructions from each trustee. In others, an environment of resentment and suspicion may be created. A negative trustee/employee relationship, creates unwanted tension and deflects discussions from more important issues. It may also lead to the resignation of experienced employees or costly dismissals.

Employees should recognize and accept decisions made by the board of trustees. Employees have a responsibility to advise the board on the implications of their decisions, especially as they relate to legislative requirements however, they should not enter into debate with trustees about issues at board meetings. Once a decision has been made by the board, it is the responsibility of employees to respect and implement that decision.

A clear and positive relationship between the trustees and employees will avoid problems regarding their roles. The following management tools may help to foster a positive relationship:

- current and inclusive job descriptions for all employees;
- a clear line of communication between the trustees and employees;
- regular performance planning and appraisals for employees;
- a policy controlling access by trustees to buildings and other facilities except in emergencies;
- a package of information and/or training session for newly elected trustees covering legislation; improvement district bylaws, policies, and current issues;
- a policy regarding the hours during which trustees can contact employees;
- training opportunities for employees;
- a policy that all information is provided equally to each trustee;
- a policy that trustees and staff should not issue public statements purporting to reflect the board's opinion without prior approval by the board;
- the adoption of ethical behaviour standards;
- a strategic plan that outlines key goals and objectives of the improvement district; and,
- an appropriate system of fiscal control.

Financial Delegation

The board of trustees is ultimately responsible for the improvement district's finances. However, the financial officer or fire chief, are often asked by the board to prepare annual budgets because of their intimate knowledge of the equipment, staffing needs and requirements of the safety agencies, such as the Worker's Compensation Board. Final decisions on the budget are made by the board which needs to weigh the projections in the budget against the impact it will have on the landowners and the level of taxes.

A board of trustees can delegate its spending authority to improvement district staff. The extent of that delegation depends on the purpose, the amount and the level of responsibility that the staff member has in the organization. Some boards allow staff to purchase supplies up to a maximum dollar amount as long as they are within the overall budget allocation for that purpose. This allows the board to concentrate on larger issues. The delegation of spending authority should have appropriate fiscal controls and should be authorized by resolution.

For example, if the board of trustees is asked to allocate funds to a volunteer fire-fighter's association, they should have a clear idea as to the use of those funds unless they are willing to take the risk that the money may be spent for purposes that the board may not support. Volunteer fire-fighter associations should be requested to itemize the use of the funds or provide a budget to avoid jeopardizing their funding.

GOVERNMENT AND PROCEDURES

Bylaws and Resolutions

Section 746 of the *Local Government Act*, states all improvement district matters are decided by passing a bylaw or a resolution. Both are similar insofar as they record a decision made by a majority of the trustees that govern the operation and administration of the improvement district; however, resolutions differ because they can be effective immediately upon passage whereas bylaws must be registered with the Inspector of Municipalities before becoming effective. The format for a resolution is also less structured than for a bylaw. A sample resolution has been provided in Section D. All resolutions should be numbered and kept safe for easy reference.

Bylaws

Bylaws are legal documents containing rules passed by a majority of the trustees. The circumstances under which bylaws may be passed are outlined in section 746 of the *Local Government Act*. Bylaws do not come into force and effect until they are registered with the Inspector of Municipalities, who may refuse to register a bylaw or take any other action considered in the interest of the improvement district or the province. Bylaws are commonly passed for levying taxes, regulating the services operated by the improvement district and for borrowing money.

The Corporate Officer of the improvement district prepares bylaws on the direction of the board. Bylaws can be introduced and passed by a majority of the trustees at one meeting or they can be introduced at one meeting and passed at another. Bylaw introduction starts by assigning it a number and drafting a brief synopsis of its intent. The wording of the bylaw can then be debated and changed by the board at any time before it is passed. However, once a bylaw has been registered with the Inspector, the wording of a bylaw can only be changed by the passage of another bylaw to amend the provisions of the first bylaw. A sample format for an amending bylaw can be found in Section D.

If a bylaw is introduced at a meeting but the trustees decide against passing it, they can rescind the introduction of the bylaw and then pass a new bylaw using the same number. If a bylaw has been passed and registered with the Inspector but the board later decides it does not need the bylaw or wants to replace it with a new one, then they must repeal the first bylaw. This can be accomplished either by including a repeal clause in the body of the bylaw that is replacing the first bylaw, or by passing a separate bylaw whose sole purpose is to repeal the first bylaw. A sample format for a repeal bylaw can be found in Section D.

Bylaws can be passed at any legally convened meeting of the board. There is no requirement for any bylaws to be presented to the landowners at the annual general meeting, or for bylaws to be supported by a majority of the landowners. However, there may be circumstances where the board should obtain the opinion of the landowners in relation to a bylaw. In some cases the Inspector may require an improvement district to obtain landowner approval.

Since bylaws do not become effective until registered with the Inspector, a bylaw cannot be made retroactive.

The *Local Government Act* requires that every bylaw adopted by the board must be signed by the person presiding at the meeting (chair) and by the Corporate Officer. In addition, every bylaw passed must be stamped with the improvement district seal. A copy of every registered bylaw must be kept safe by the Corporate Officer. The original should not be loaned out, but bylaws may be photocopied and provided upon request.

Bylaw Registration Procedures

Unless otherwise stated, two copies of every bylaw passed by the board must be forwarded to the Ministry for registration with the Inspector. In order to ensure the format of the bylaw meets the requirements of the legislation, a checklist has been prepared in order to assist with the preparation and submission of the bylaw. The checklist follows later in this section.

In addition to ensuring the proper number of copies is forwarded, and the format is correct, there must be sufficient supporting information submitted with the bylaw. This information could be contained in a covering letter, by attaching a copy of the minutes at which the bylaw was discussed and passed, or by enclosing copies of budgets, studies or reports related to the bylaw. Certain bylaws, such as capital expenditure charge bylaws, require specific information showing the calculations that were used to determine the amount of the capital expenditure charge.

The Ministry reviews all improvement district bylaws. If the bylaw is recommended for registration with the Inspector, it will be signed, the Inspector's seal will be affixed to it and a copy will be returned to the improvement district. One copy of each bylaw will be retained by the Ministry for safekeeping. Sufficient time should be allowed for mailing, review and registration of a bylaw. In most cases, a one-month period should be allowed for the return of registered bylaws. Submitting bylaws in the correct format, and with sufficient information to explain their purpose, will ensure registration occurs in a timely manner.

Bylaw Enforcement

Section C of this Manual provides information on the penalties set out in tax, toll and other charging bylaws. In addition to those penalties, section 759 of the *Local Government Act* states that every assessment, tax, toll or charge fixed under bylaw, forms a lien and charge on the land on which it has been imposed, levied, accrued or fixed and has preference over any claim, lien, privileges or encumbrance of any person, except the Crown and municipal taxes previously accrued and does not require registration (in the Land Title Office) to preserve it.

An improvement district is unable to have outstanding taxes, tolls or other charges added to the provincial tax roll. However, because they form a lien on the property, the owner will always be responsible for the outstanding amount, even if the property is sold. In fact, the sale of the property is often the best opportunity to recover the amount owing as potential owners usually check to determine if there are any charges outstanding against it.

An owner of land does not have to take immediate action to have a lien removed from their property. In cases where the improvement district may have to wait a long time before it will be able to collect the amount it has outstanding, they might want to consider applying for payment under the *Small Claims Act*.

If a person is found in contravention of an improvement district regulatory bylaw, the improvement district must give the alleged offender an opportunity to comply with the bylaw by sending the owner of the property written notice of the violation and citing the bylaw section contravened. The owner should be given a certain period of time to rectify the problem. The notice should be sent by double registered mail or be personally delivered.

If the property owner does not comply with the notice, an injunction could be sought to cease the activity or remedy the condition. Alternatively, steps could be taken to lay a charge under the provisions of the *Offence Act*. If a summary conviction is obtained, the maximum penalty is six months in jail, a \$2,000 fine, or both a fine and imprisonment.

Improvement districts contemplating legal action against a person in violation of their bylaws, should obtain as much evidence of the incident as possible and document the matter by keeping notes of all conversations, observations and witnesses. The location of the offence, date and time will also be important to the case.

None of the options for enforcing bylaw provisions that involve the courts should be undertaken without a resolution of the board and the advice of legal counsel.

Improvement districts do not have authority to levy fines.

Bylaw Preparation Checklist

When preparing bylaws for registration please ensure that the following is complete:

	BYLAW NO. Should be next in sequence
	PREAMBLE States in general terms the purpose of the bylaw, or provides background. It is not required and is only used for information purposes.
	ENACTMENT CLAUSE To be inserted between the heading and body of the bylaw
	REPEAL CLAUSE (if applicable) Inserted in the body of the bylaw where a bylaw supersedes an existing one. *Note Tax bylaws are required each year and, as such, do not need to be repealed.
	CITING CLAUSE To be inserted as the last clause in the body of the bylaw prior to the reading
	READINGS AND PASSAGE DATES These may occur at the same meeting
	SIGNATURES Chair's and officer's original signatures needed on all copies
	DISTRICT SEAL On all copies of bylaw
	TWO ORIGINAL COPIES OF EACH BYLAW ARE REQUIRED FOR REGISTRATION WITH THE INSPECTOR OF MUNICIPALITIES Except for Loan Bylaws or Fire Protection and/or Street Lighting Tax bylaws where 3 original copies are required.

Elections

General

The Letters Patent for every improvement district contain provisions for the election of trustees. The majority of Letters Patent state the election is to take place at the annual general meeting, but some of the larger improvement districts have provisions allowing them to hold the election on a separate date. A list of all property owners qualified to vote in the improvement district should be prepared for the election. This voters list may be based on the district's assessment roll, from the provincial assessment roll, or other means.

Voter Eligibility

Persons entitled to vote at an election must meet all of the following requirements:

- A Canadian citizen.
- Eighteen years of age, or older.
- An owner of land in the improvement district.
- A resident of the province for the prior six months, or legal representative of an owner of land in the improvement district who has died, become insolvent or insane.

One vote is also allowed for each board or corporation that owns land within the improvement district. The board or corporation must designate one person to act as an authorized agent to vote on its behalf. This should be done in writing so the returning officer can verify the vote.

If more than one person is registered on title as a landowner, each one can vote as long as they also meet the other qualifications. However, no person can have two votes unless they meet the qualifications to be an elector and are also an agent authorized to vote on behalf of a board or corporation.

Voting Procedures

One of the underlying principles of a democratic society is the right to choose community representatives in an open, fair and honest process. For the majority of improvement districts, the only election rules that are outlined in legislation are the eligibility requirements, notice provisions, the ability to use statutory declarations, the time when the election is to be held and the method for challenging an election. The board of trustees has discretion to decide all other election procedures.

If improvement districts do not adopt election procedures, there are likely to be inconsistencies from one election to another and there may be allegations of impropriety. Therefore, it is strongly recommended that every improvement district adopt basic election procedures. At a minimum, the procedures should cover the following points.

Officer Presiding at Elections

The board must appoint a returning officer to preside at the election. A chair or other trustee should not preside at the election because there may be a perception of bias. A list of duties and responsibilities for the position should be established as well as the amount of any remuneration. Where a large voter turnout is expected, provision may also be made for a deputy returning officer and/or poll clerks.

Nominations

Procedures should be established for whether the nomination must be in writing and when nominations close. There are no requirements that a nominator must be an eligible elector. There is also no requirement that the person who is being nominated be present at the time of the election, but it would be prudent to have evidence that the nominee has accepted the nomination. The officer presiding at the election must be able to determine whether a candidate meets the eligibility requirements.

Scrutineers

Scrutineers observe the election process to ensure that proper process is followed. Usually a candidate appoints one person to be their scrutineer. The person appointed must not be a trustee or a candidate. The scrutineer can be present while the ballots are distributed and at the final count but they should not participate directly in the election.

Voters List

A list of electors is not required but it may speed the voting process. It also ensures that the number of ballots cast in an election equals the number of electors who were given a ballot. The list may also serve as evidence of who voted if the results of the election were to be challenged. Since it is difficult to produce a completely accurate voters list, landowners should have the opportunity to be added to the list of electors while registering to vote.

The list of electors can be based on the assessment roll, billing records, or other source of information. If there is any question as to whether a person is eligible to be added to the voters list, the officer presiding at the election can ask that person to complete a statutory declaration.

Election procedures should outline whether electors are required to sign the voters list. Since the list contains personal information such as names and addresses, care should be taken about providing copies to individuals.

In the case of municipalities and regional districts, the legislation provides that one copy of the list of electors may be made available to each candidate. The candidates must sign a statement that they will not inspect the document or use the information in it except for the purposes of the election. If they use it for other reasons, the penalties include fines, imprisonment and a prohibition from voting or holding an election local government office for up to six years.

There are no similar penalties for improvement district elections. Therefore, if an improvement district adopted a policy in favour of providing candidates with a list of electors, there are no legislated penalties if a candidate used the list of electors inappropriately. Therefore, it may be advisable for improvement districts to adopt election procedures prohibiting anyone other than the officer presiding at the election from having a copy of the list of electors. However, the list should be available for viewing.

If an improvement district chooses not to prepare a list of electors prior to an election, an alternative is to use a poll book. The officer presiding at the election records the names and addresses of eligible electors when they request a ballot.

Voting

Election procedures should require that voting be conducted using a secret ballot. Ballots are the critical evidence of the election results and should be protected from potential mishandling or tampering by placing them in a sealed ballot box.

Election procedures adopted by the board should cover such things as the form of the ballot, how it must be marked, how and when they are to be counted and how they are to be kept safe until the statutory period for challenging elections has passed (two weeks).

It should be noted that only persons attending the election, and meeting the eligibility requirements, are entitled to vote. Persons not attending the election in person cannot vote by proxy.

Elections for Vacancies with Different Terms

Where a trustee position becomes vacant before the end of the term, an election is required to fill the vacancy. If the vacancy occurs less than two months before the regular election, it creates a situation where there is an election for two trustee positions with different terms. Provision should be made in the election procedures for determining the process that will be followed in this circumstance.

It is recommended that a separate election be held for each trustee position. In other words, an election is first held for the position with the longest term. After the vote is decided another election is held for the position with the shorter term.

Statutory Declaration

In the matter of the *Local Government Act* and the election of trustees for the Improvement District:

I, _____ a resident of _____, British Columbia, Canada, DO SOLEMNLY DECLARE that I meet the eligibility requirements for voting in the above stated improvement district by virtue of one of the three following sets of criteria:

1. I am a Canadian citizen; eighteen years of age or older; I have resided in the Province of British Columbia for the previous six months; and I am the lawful owner of the following lands by virtue that under the terms of the said agreement for sale, deed, or lease, I am liable for all taxes levied against the said lands and that I have not disposed of, or assigned my interest in the said lands namely, _____ .

2. I am the authorized agent of a board or corporation namely, _____ that is an owner of land in the improvement district _____ with offices at _____ .

3. I am the legal representative of an owner of land in the improvement district namely _____ who has died, become insolvent or insane and whose last address was, or whose current address is,

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true and knowing that it is of the same legal force and effect as if made under oath.

Signature of Declarant

I am satisfied the information given above is correct and the person stated appears qualified to vote. Declared before me this _____ day of _____, 20 ____ .

Returning Officer

Trustee Terms of Office and Eligibility

General

Section 736 of the *Local Government Act* states that the duly elected board of trustees exercises and manages the property of the improvement district.

Terms of Office

All trustees are elected to a three year term unless they were elected to fill the remainder of the term for a trustee whose position became vacant. Where such a vacancy occurs owing to resignation, death, or disqualification of a trustee, an election should be called within 60 days. Trustees may not be appointed on an acting basis - all trustees must be elected to their position.

Trustees are usually elected at the annual general meeting. Their term is considered to begin at the annual general meeting at which they were elected and to end just prior to the annual general meeting three years later. The date for holding the annual general meeting can change from year to year as long as it falls within the timeframe established in the improvement district's Letters Patent. Therefore, a trustee's term should not be strictly interpreted as exactly three years from the anniversary date of their election.

Since the terms for trustees are staggered at the time of incorporation, not all of them will expire in the same year. Depending on the number of trustees in an improvement district, only one or two positions will expire annually. This system allows some continuity on the board so that corporate knowledge can be passed on to new trustees.

Eligibility

Every person who is qualified to be an elector in an improvement district is also qualified to be a trustee.

Some improvement district Letters Patent may contain a provision waiving the eligibility requirements if a person is the spouse of an eligible voter. This provision is a holdover from the days when the *Veteran Lands Administration Act* did not allow spouses of veterans to be co-owners of lands administered under the Act. Since that provision of the Act is no longer in effect, the board may wish to approach the Ministry to have the Letters Patent changed to remove this provision.

If a trustee sells their property in the improvement district and, is therefore no longer a landowner, their eligibility to hold office may not change. In most instances, the trustee may remain in office but is not eligible to run again. Letters Patent may, or may not, contain a provision that says trustees must meet the eligibility requirements to hold office.

Meetings – Regular, Annual General and Special

Regular Board Meetings

Section 739 of the *Local Government Act* states the board may, by resolution, make rules and regulations for the calling of meetings of the trustees. Since every improvement district must hold meetings, the adoption of meeting procedures is crucial to ensure they run smoothly. The board may adopt existing rules such as Roberts Rules of Order, Parliamentary Procedures or the sample meeting procedures contained in Section D. In any case, the procedures should be in written form and formally adopted by resolution of the board.

Government and Procedures

Some meeting procedures are established in sections 738 and 739 of the *Local Government Act*. For example, section 738(3) states that in event of a tie vote, the matter in question is defeated.

A meeting of the board cannot be held unless there is a quorum of trustees. A quorum is a term used to denote the minimum number of trustees required to conduct improvement district business. Where a board of trustees consists of three trustees the quorum is two; where there are five trustees, a quorum is three trustees; and, where there are seven, a quorum is four trustees.

Most meetings of the board are scheduled at regular intervals. No formal notice of the meetings is required if all of the trustees are aware of these dates. If this is not the case, then at least seven days notice must be given in writing, unless all the trustees are present or those who are absent have in writing, waived notice of the meeting or consented to it being held in their absence.

The chair may call a meeting at any time, and is required to call a meeting if requested in writing by a majority of the trustees, or the Inspector of Municipalities.

All board meetings should be open to the public and no person should be excluded except for improper conduct. Persons other than members and officers may be excluded from a special meeting if, in the opinion of the board, the public interest so requires it. These meetings are known as “in camera” meetings and should only be used when discussing legal matters, property acquisition, or personnel matters.

The chair presides at all meetings. If the chair is absent from a meeting, the members present must appoint one of themselves to act as chair for that meeting. As long as the meeting has been properly called, there is a quorum of trustees, and there is a chair, or acting chair, the business of the improvement district can be legally conducted. If these conditions do not exist then any decisions made, or bylaws passed at such a meeting, could be subject to court challenge.

Trustees record their decisions, and exercise their powers, by making and voting on motions at board meetings. Some improvement districts allow motions to be made by landowners attending the meeting. However, motions made by landowners are not binding on the improvement district. The only time a motion from a landowner should be discussed by the board is if one of the trustees agrees to put the motion forward as their own. The only exception to this rule is at the annual general meeting where the landowners decide how much remuneration (if any) is paid to the trustees for the upcoming year

The public should not be discouraged from speaking at board meetings. It is appropriate for the board to allocate a time where landowners can address the board directly. In order to limit the length of board meetings, some improvement districts restrict the speakers to those who have previously written to the improvement district with an outline of the topic they wish to discuss. Others allow for an open forum. Whichever method is chosen, it should be adopted by the board as part of their meeting procedures.

The minutes of all meetings convened by the trustees must be recorded, but the extent of the information recorded is determined by the board. For example, some districts only record motions while others also record the discussion. In any case, the minutes should be brought to the next meeting for any corrections and then signed by the chair as correct. The minutes then form a part of the historical record of the improvement district must be kept safe by the corporate officer. Copies can be made available to the trustees and the public upon request. In-camera minutes are not available to the general public.

Annual General Meetings

Every improvement district is required to hold an annual general meeting. The improvement district's Letters Patent establish the time period for holding the meeting. Generally they are held between January 1 and May 1. If the board holds the meeting outside of the period specified in the Letters Patent, anything that transpires at the meeting could be subject to challenge. If the board has an important issue to raise at the annual general meeting that may not be ready in time a special general meeting should be held at a later date to discuss that matter.

The annual general meeting must be open to the public, not just the landowners.

Section 741 of the *Local Government Act* requires that improvement districts give all landowners at least 14 days notice of the annual general meeting. Notice can be given by advertising in a newspaper circulating within the improvement district, sending a notice by first class mail, and posting the notice in a prominent place. The improvement district Letters Patent will set out which method must be used, although it can be supplemented with other methods.

The notice must set out the date, time, and place of the meeting. The board may also wish to consider the following to increase public attendance:

- make sure the notice is large enough to be noticed;
- list the agenda for the meeting in the notice;
- locate the notice in the section of the paper that is read most often;
- advertise in a community paper as well as a regional paper;
- advertise more than once (as long as the first notice meets the Letters Patent timing requirements); and,
- list the elector qualifications.

Letters Patent set out the purposes for holding the annual general meeting and usually include the following:

- to provide the landowners a report on the conditions of the works;
- to present the audited financial statements for the preceding year;
- to discuss with the landowners any matter relating to the works or finances of the improvement district;
- to have the landowners fix the remuneration of the trustees for the upcoming year; and,
- to elect a trustee or trustees to succeed those whose terms of office expire or to fill vacancies.

A vote from the landowners on trustee remuneration is binding on the board.

The audited financial statements and all other financial information (budgets, capital expenditure programs and statistical reports) must be submitted to the Inspector of Municipalities by May 15 each year. The annual general meeting minutes and trustee list should be submitted to the Inspector as soon as they are completed after the annual general meeting.

A checklist of items that need to be undertaken at the meeting and submitted afterwards can be found on the next page.

Special General Meetings

The board may call a special general meeting at any time for the purpose of electing a trustee or trustees to fill any vacancy or vacancies among the trustees. A meeting may also be held to discuss with the landowners any matter, which, in the opinion of the board, should be brought up at a general meeting. The notification procedures for annual general meetings also apply to special general meetings.

Annual Returns Checklist

The improvement district must advertise the particulars of the meeting such as the date, time and place prior to the annual general meeting. The following checklist is for those boards of trustees who may wish to use it at their annual general meeting to ensure all necessary agenda items are discussed and passed.

- Minutes of the previous annual general meeting read and adopted
- Financial statements are presented
- A decision on whether to pay remuneration to the trustees and if so, the amount
- An election held for the trustee position(s) that is vacant or will expire at the meeting
- Rate changes, borrowing, and other major projects discussed and/or approved
- Report on the condition of the improvement districts' works.

Other Items:

The following items must be submitted to the Ministry following the annual general meeting:

- annual general meeting minutes;
- a list of trustees with contact information;
- the audited financial statements;
- a statistics report; and,
- any other information that the Inspector may require.

Standing and Select Committees

Section 740.1 allows a board of trustees to appoint a select or standing committee by resolution.

Select committees are established to consider or inquire into any matter and report its findings to the board. For example, a committee may be established to review job applications or contractor bids and make a recommendation to the board. Once the report is presented to the board, the committee's business is finished and it is dissolved.

A standing committee is established for matters which are ongoing. For example, the board may wish to establish a committee that deals with financial matters, human resources, or in the case where an improvement district provides more than one service, issues related to a particular service.

Select and standing committees are established by the board of trustees, not by the board chair, and the board makes the committee appointments. The board may appoint persons who are not trustees to select and standing committees. However, there must be at least one trustee on each committee.

Select and standing committees are purely advisory. The committee may provide advice and recommendations to the board of trustees, but it is up to the board to take action or make a decision. The board of trustees is responsible for making all decisions, regardless if a committee is in place to review the matter. A board of trustees cannot delegate any of its authority to a committee. The passing of bylaws, spending of funds, hiring, or signing of contracts must all be decided by the board of trustees.

It should be made clear to committee members that their role is strictly an advisory one so there are no misunderstandings about the extent of the committee's authority. Committees should not be created to assist improvement district staff. Committees have no authority over improvement district staff.

Select and standing committees can be useful for discussing issues outside of regular board meetings. These decisions may help to focus discussions at board meetings making them more efficient.

Appointing persons that are not trustees to committees gives the board input from people who have a particular expertise on the issue which the committee has been assigned, or who may be more directly affected by the issue. Committees are generally more effective when the members have a balance of views.

When a board establishes a committee, it should very clearly define its purpose so that committee members can concentrate on achieving their mandate, not discussing the committee's role. The board should consider whether to appoint the committee chair or allow the committee members to elect their own chair. Committee meeting procedures should be similar to those followed at board meetings.

POWERS AND SERVICES

General

Fire protection is the second most common service provided by improvement districts and the types of issues that arise in the administration of the service are often unique.

Regulation

Fire departments often find they are asked to provide more than fire protection. Often, they are called to respond to medical emergencies, rescue operations and hazardous material incidents. The improvement district must list any additional services in a bylaw to have the authority to respond to any of these incidents. The sample Fire Department Regulation Bylaw located in Section D, contains such a provision. Improvement districts should examine the capabilities of their fire department to determine whether they should respond to all or some of these incidents.

The Fire Department Regulation Bylaw also defines the responsibilities of the fire chief. Whether paid or not, the fire chief is considered to be a board-appointed staff member. The Fire Department Regulation Bylaw also establishes the scope of authority delegated by the board to the fire chief for the operation of the fire department.

Fire departments often regulate the following: open fires; the inspection of premises to identify fire hazards; and, the control of persons at, or near, fires. (This authority was made available to improvement districts through an Order in Council passed by Cabinet in 1989. A copy of this Order in Council and the wording of the legislation that is applicable may be obtained from the Ministry.) A sample bylaw to regulate these matters is contained in Section D. *Open Burning Smoke Regulation* (BC Reg #145/93) was passed by the province in 1993 and affects open burning in improvement districts. The board may wish to solicit input from the community before implementing or changing the times when burning is permitted.

Mutual Aid

An improvement district fire department may enter into a mutual aid agreement with other fire departments. This can be very beneficial for incidents where the fire department needs assistance from, or can provide assistance to, a neighbouring fire department. The mutual aid agreement must be authorized by bylaw. A sample agreement bylaw and mutual aid agreement can be found in Section D.

Boundary Concerns

Fire protection is the only service an improvement district can provide beyond its boundary. This authority was made available to improvement districts by an Order in Council passed in 2005; however, the board of trustees must enact the authority by bylaw. The Order in Council allows improvement districts to respond to incidents outside its boundary where there is an emergency. In the case where a board of trustees wishes to provide fire protection to private property, there must be a signed agreement between the improvement district and the party receiving the service and the agreement must be authorized by bylaw. Fire protection should not be provided outside the improvement district boundary to private property unless it is on a temporary basis and the approval of a boundary extension is pending.

Fire Department Administration and Operation

Office of the Fire Commissioner

The Office of the Fire Commissioner (OFC) can be an additional source of information for those improvement districts that operate fire departments. The OFC has developed manuals such as the Fire Department Operational Guidelines to help fire departments meet the safe work practices required by the Workers' Compensation Board of British Columbia.

Taxation

Fire protection and street lighting are the only two services provided by improvement districts where the province can act as the assessor and collector. This service is optional; therefore, improvement districts may undertake their own assessment process and do their own billing and collection.

Fire Hydrants

The question of who pays for the installation and maintenance of fire hydrants, when the agency operating the water system differs from the one responsible for the fire department, is a recurring one. There is no single answer to this question; rather, it is a matter to be worked out by the two agencies. However, the most common arrangement is for the agency operating the water system to retain responsibility for the installation and maintenance of the hydrants because it:

- owns the water system on which the hydrants are located;
- controls the design of the water system and the location of hydrants;
- has the authority to pass regulations requiring developers to install hydrants;
- has staff who are knowledgeable about maintaining water system components and the necessary equipment to perform the job; and,
- uses the hydrants for flushing water mains.

Fire departments usually want the hydrants to be in proper operating order when they are needed in an emergency and as such, may be willing to pay all, or

part, of the maintenance costs. However, a key issue for consideration would be the different methods that can be used by the two agencies to collect the costs. Another important consideration is whether the fire hydrants benefit all, or a portion of, the areas within the two jurisdictions. Any agreement reached between the two agencies should be formalized in writing. A sample agreement bylaw can be found in Section D. A sample fire hydrant maintenance agreement is also available from the Ministry.

Subdivision Control

Communication between fire departments, water system operators, land-use authorities and other emergency agencies is essential to ensure co-ordination around fire protection. Local governments, the province and improvement districts can each establish subdivision servicing standards so discussions about their common interests could be beneficial.

House Numbering

All communities benefit from house numbers as this allows fire departments to quickly identify the address of an emergency. However, house numbering is not a service that an improvement district can undertake. If house numbering is a concern, the board of trustees should contact the regional district to see if it would be willing to provide the service.

Fire Department Members as Trustees

There are no specific provisions in the *Local Government Act* that prohibit either a volunteer fire-fighter or a paid fire-fighter from also being a trustee of an improvement district. However, there are several reasons why this situation should be avoided.

In the case of municipalities and regional districts, there are provisions in the *Local Government Act* disqualifying a person from office if they are receiving remuneration or payment from the same municipality or regional district. Since improvement districts are not classed as municipalities, these provisions do not apply directly. However, these provisions have established the precedent against paid employees of a local government also being elected officials in the same local government. The reason for this disqualification is to remove the potential for a perceived conflict of interest for a person who holds dual roles as an employer and employee.

In the case of volunteer firefighters, there is less potential for a perceived conflict of interest, although it may still exist, especially where the fire chief is also a trustee. However, a conflict of another type may develop where a firefighter is subordinate to the fire chief, but is also a trustee and would therefore participate in decisions that would be binding on the fire chief. Therefore, if the views of the individuals toward the fire department do not coincide, it could aggravate their relationship. Even if the views of the individuals are the same, it may still lead to the perception the firefighter/trustee is biased.

While there is no specific conflict of interest legislation that applies to improvement districts, conflict of interest allegations can be raised in the courts against trustees under common law.

Acquisitions and Disposal of Real Property

General

Section 745 of the *Local Government Act* provides improvement districts the power to acquire, hold and dispose of land and other property in order to carry out its objectives. The land and other property, and the proceeds from the sale of such land and other property, can only be used for services granted to the improvement district under Letters Patent. Improvement districts are not in the land development business and should not acquire land for speculation purposes. Section 746(1)(a) requires a bylaw if an improvement district is entering into a contract about land.

There is no legislative requirement for landowner input into property acquisition or disposal (unless required by the Inspector of Municipalities when reviewing a bylaw). The board should make every effort to keep their landowners informed about these decisions.

Acquisition

There are several ways an improvement district may acquire land and other property.

Donation or Bequest

The board should carefully consider the cost implications (maintenance/development/liability) and be aware of any special conditions or covenants attached to the transfer that may limit their decision-making authority over the property.

Purchase

As the board will be expending public funds, the trustees should make every effort to negotiate a purchase price which reflects the assessed value of the property. If necessary, a formal appraisal may be necessary. Monies used to acquire property should be raised for the purpose for which said property is to be used. For example, monies raised from water revenues (taxes, tolls) should be used for water-related property acquisitions. If the board enters into a lease or mortgage it may be necessary to submit the contract, under a bylaw, for registration by the Inspector of Municipalities.

Crown Land Lease or Grant

On occasion it may be necessary for an improvement district to acquire, or secure a right of access on, land to protect physical assets such as well sites, pump houses and transmission lines that are located on provincial government (Crown) land. For more information contact the Ministry of Agriculture and Lands.

Tax Sale Default

Section 765, of the *Local Government Act*, states that an improvement district may acquire land and other property as a result of a tax sale default.

Expropriation

Section 750, of the *Local Government Act*, states that an improvement district may acquire land and other property by expropriation.

Land, and its improvements, owned by an improvement district are exempt from taxation by the provincial government, a regional district or a municipality (Section 744 of the *Local Government Act*).

Where an improvement district owns land or property, the board may lease it to a society or a community association. The board must pass a bylaw to enter into such a lease agreement.

Disposal of Property

The board of trustees manages improvement district-owned land on behalf of the landowners. When considering property disposal, the following questions should be considered:

For what purposes was the property originally purchased, acquired or held?

It may be necessary to review the relevant minutes and correspondence surrounding the acquisition as well as determining how it was acquired.

Why is the property no longer required?

Are there restrictions on property use (covenants or land use) affecting its usability? Does the property in question no longer fit the community's long-term needs?

How is the property to be sold and how is the price to be determined?

Unless a surplus property is being transferred to another government body it should be sold at public auction or tender with the assistance of those familiar with these types of land transactions (realtors and/or appraisers) in order to keep the matter at "arms-length" and to obtain the best price possible.

What is the anticipated use of proceeds from the sale?

If the property can be tied to a particular service (either purchased by, or financed through, specific service revenues - such as water or fire protection) then the proceeds from the sale should be set aside in a renewal reserve fund for that service. If the property cannot be tied to a particular service, then proceeds from sale should be set aside in a general purpose renewal reserve fund

Expropriation

Sections 749 and 750 of the *Local Government Act* give improvement districts the power to expropriate licences, works and real property which are reasonably required to carry out any of its objects as granted by Letters Patent. Like most powers of an improvement district, the authority to expropriate does not extend beyond the boundary of the improvement district, except in the case noted below.

Expropriation should only take place as a last resort when all other attempts at negotiating a fair settlement have failed. The process can be expensive, time-consuming and represents the forced acquisition of property without the owner's consent. An improvement district should not attempt to expropriate land without retaining legal counsel and advising the Ministry of the situation.

Since 1987, expropriation procedures have been set out in the *Expropriation Act*. In general, the procedures require the Minister of Community Services to approve the expropriation and send the approval to the improvement district and the owners of the property being expropriated. Afterwards, a bylaw must be passed by the board to acquire ownership of the land being expropriated.

The improvement district must deliver their appraisal of the land being expropriated to the owner and pay the owner that amount. Within 30 days of the payment, the improvement district must file a vesting notice in the Land Title Office that transfers title to the improvement district. The owner can appeal to the courts if they are unsatisfied with the amount of the improvement district's proposed compensation. The cost of the appeal can be assigned to the improvement district by the court.

For those improvement districts that have a water license issued to it by Ministry of Environment there is an additional authority to expropriate land under the *Water Act*. This may allow the improvement district to expropriate land outside of its boundary if it is required for the construction, maintenance, improvement or operation of works authorized under the water license.

Statutory Rights-of-Way

Whenever an improvement district needs to locate its buildings or works on land that it does not own, it will be necessary to obtain the owner's permission to do so. A verbal or written agreement is not sufficient to guarantee permanent access. Properties frequently change hands and the new owner may want the works installed by the improvement district removed from their land. Provided the owner gives six months notice, and there is no easement or statutory right-of-way registered for the works in the Land Titles Office, the owner could have the works removed. This can put the improvement district in the position of having to either relocate their works, or expropriate the lands.

It is therefore strongly recommended that a statutory right-of-way be obtained for any works or buildings that are located on property the improvement district does not own.

Works such as water lines should be located along existing highway right-of-ways wherever possible. To do so, a permit from the Ministry of Transportation is required. A statutory right-of-way over provincial government (Crown) land may also be obtained.

To create a statutory right-of-way over private property, a surveyed plan of the land is required. An agreement with the owner describing the privileges granted to the improvement district and the compensation, terms and conditions for use of the statutory right-of-way is also needed. Both documents must be registered in the Land Title Office. Legal counsel should be retained to assist with the registration of the documents. A bylaw is also required for an improvement district to enter into the agreement and it should be registered with the Inspector of Municipalities before the representatives of the improvement district sign the statutory right-of-way documents.

A statutory right-of-way should grant an improvement district in perpetuity, all of the usual rights and privileges necessary for it to own and operate the water system or buildings located on the land. The agreement should not contain complicating conditions in favour of the landowner which would unduly restrict the usefulness of the statutory right-of-way. Some of the provisions that should be considered include:

- A detailed description of the works to be installed, including items such as roadways, intakes, wells, reservoirs, pumping stations, pipelines, power lines, signal cables or other appurtenances.
- A sufficiently large area for construction, maintenance or replacement machinery to operate. The usual width for a pipeline is six metres. A wider strip may be required on steep ground for deep excavations or for clearing trees.
- The right at any time for ingress and egress by all authorized improvement district personnel either on foot or by vehicle to construct, test, operate, inspect, maintain, alter, remove and renew works.
- Avoid any undue limitations on noise levels, hours of access, limited term, cancellation clauses, landscaping, or fencing.
- Clarify the landowners' right to encumber the area, such as by planting fruit trees, paving, erecting buildings, parking, installing tile fields, or growing crops.
- The indemnification of the landowner against any liabilities arising out of the ordinary use of the right of way by the improvement district.

The cost of obtaining a statutory right-of-way is usually a nominal amount because the works will benefit the landowner as well as the community at large.

However, there may be circumstances where higher compensation is requested by a landowner because of a loss of property value or other considerations. In these cases, the improvement district will have to carefully weigh the implications of a larger settlement against the cost of relocating the works.

Landowner Consultation and Approval

General

There are circumstances when a board of trustees may want to survey the landowners to determine their opinion on a matter before committing the improvement district to a particular course of action. In addition, the province may require an improvement district to obtain evidence of landowner support before considering the registration of a bylaw or other matter requiring provincial approval. There are very few provisions in the *Local Government Act* or Letters Patent, specifically dealing with the questions of why, how, or when, an improvement district requires the approval of its landowners.

The following guidelines have been drafted to assist improvement districts where landowner approval is required. However, since there are different methods for obtaining landowner approval, and not all of them are suitable for all circumstances, it is strongly recommended that improvement districts contact the Ministry for direction in these cases.

Voluntary Landowner Approval

Letters Patent generally state the board of trustees may call a special general meeting to discuss any matter with the landowners. This includes the ability to ask the landowners for formal support for the matter being discussed at the meeting. The types of matters referred to landowners for approval range from borrowing bylaws, rate increases and major capital projects, to a water meter installation program or water restrictions. There are no constraints on matters that can be referred to landowners for approval except that it must be related to the services provided by the improvement district.

Requirements for Landowner Approval

Section 747 of the *Local Government Act* states the Inspector of Municipalities may register a bylaw, refuse to register it, or take any other action considered in the interest of the improvement district or the provincial government. Occasionally, the Inspector of Municipalities requires an improvement district to provide evidence that its landowners support a bylaw before allowing it to be registered. This occurs most often when a bylaw is expected to have a major impact on landowners, either financially or through a fundamental change to the way in which the improvement district delivers, or regulates, its services. All long-term borrowing bylaws generally require landowner approval, as do bylaws that materially increase rates charged to the landowners.

Methods of Landowner Approval

There are various methods for obtaining landowner approval and specific procedures that must be followed. Landowner approval is the culmination of a process that includes an analysis of an issue or project and may also include approvals by the Ministry or other agencies. Information on the process leading up to landowner approval can be found in Section C under Capital Projects.

Annual or Special General Meetings - Most improvement district Letters Patent state the board of trustees may call a special general meeting to discuss any matter which, in the opinion of the board, should be brought up at a general meeting. As part of this process, the trustees could hold a vote at the meeting, provided the landowners are properly notified in advance of the issue, and of the opportunity to vote. This method gives the landowners the ability to discuss the issue or project at the meeting immediately prior to voting. It is less convenient than a referendum for the landowners because they have to be present at the meeting to vote but it does permit the results to be known in a relatively short time and may be more practical when the number of landowners in the improvement district is relatively small. It is the most commonly used method used by improvement districts to obtain landowner approval.

Where a vote is planned at the annual or special general meeting, the improvement district must, at a minimum, follow the same notification procedures as in its Letters Patent for the election of trustees. The notice must clearly indicate the subject that is going to be discussed at the meeting and the fact that a vote will be held. Ballots should be used to ensure the vote is secret.

Direct Petition - Direct petitions are usually used for boundary extensions and are suitable for that purpose because they usually involve a small number of properties. This method requires an improvement district to inform resident and non-resident landowners about the proposal. An individual petition would then be signed by the owner(s) and returned to the improvement district if the owner is in favour of the proposal. However, questions can be raised about the authenticity of the signatures on petitions and the rights of the landowner to have a secret vote. The Ministry does not support the use of direct petitions for purposes other than minor boundary extensions.

Referendum - A referendum is a vote held where the landowners cast their ballot at a polling station on a particular day. An improvement district may be required by the provincial government to hold a referendum prior to the approval of a bylaw or other matter requiring provincial approval. An improvement district may also initiate a referendum itself but there is no specific authority in the *Local Government Act* or Letters Patent as to when a referendum is required. Since the majority of improvement districts are fairly small, it is unlikely they will need to use a referendum since a special general meeting would be a more

practical method for obtaining landowner approval. More detailed information on referendum procedures can be found in the Referendum Guidelines section following.

Alternative Approval Process – An alternative approval process (AAP) is a method for electors to have direct input into a proposed action or decision of the board. The process begins when a notice is published explaining the issue and then the electors have an opportunity to petition against it within 30 days. If ten percent of the electors petition against the matter, the board cannot proceed with it unless approval of the electors is obtained through a referendum or special general meeting vote. Information on the alternative approval process can be found in the AAP section following.

Guidelines for Obtaining Landowner Approval

General

The percentage of landowner support that must be obtained in a vote in order to approve a project or issue for an improvement district is not set down in the *Local Government Act* or Letters Patent. In most cases, a majority of the electors is sufficient to approve the project or issue. However, projects that have a substantial financial impact on landowners should meet a higher threshold. The percentage of voter turnout should also be taken into consideration when viewing the results of a vote. While there is no minimum percentage of voter turnout stipulated, a low percentage of voter turnout may not necessarily reflect the majority view and consideration should be given for holding another vote.

The results of a vote or petition are not binding on a board of trustees, the Ministry, or Cabinet. There may be circumstances where overriding concerns result in a project or issue being either approved or rejected by the board, the Ministry, or Cabinet regardless of the view expressed by a majority of the landowners.

Referendum Guidelines

General

The Ministry may require an improvement district to hold a referendum as a means for determining landowner support for a project or issue. There is no specific authority or reference in the *Local Government Act* or Letters Patent dealing with referenda.

A referendum is the culmination of a process whereby an analysis of a project or issue was first undertaken to identify financial and other impacts. The process may also involve preliminary approval from the Ministry or other agencies. Information on the process can be found in Section C, under Capital Projects.

Before a referendum is held, the board of trustees should formally adopt their referendum procedures by resolution. The following is provided as a guideline:

Polling Date

The board selects a date, time and place for the referendum as well as the wording of the question that will be put to the electors. The date chosen should provide for the largest possible turnout and be convenient for as many people as possible. A referendum on a Saturday between the hours of 8:00 a.m. and 8:00 p.m. is recommended in most cases. An advance poll may be held for those electors who will be absent or otherwise unable to vote on the date of a referendum. If an advance poll is held, it should be scheduled between one and two weeks prior to the referendum.

Returning Officer

The board of trustees must appoint a returning officer to coordinate the voting process. The person selected should be very familiar with improvement district or local government voting procedures. The returning officer could be a member of the improvement district staff, but should not be a trustee. The returning officer can appoint a deputy returning officer or poll clerk(s) as needed. The board determines the amount of remuneration to be paid for the election duties to be undertaken.

All of the activities at the voting place station are the responsibility of the returning officer. These often include making arrangements for a lockable ballot box and a suitable number of ballots to be printed with the question as worded by the board. It may also include having suitable directional signs, a shielded area where the ballots can be marked and marking pencils.

Notice

Notice of the referendum should, at a minimum, be advertised in the same manner required in the improvement district's Letters Patent for notifying the landowners about the annual general meeting. This means giving 14 days notice, usually by advertising in a local paper or by ordinary first class mail, to all eligible landowners setting out date, time and place of voting. To further encourage voter turnout, the notice could also indicate the purpose and background of the issue, the wording of the ballot, the elector eligibility requirements, the financial impact on the average resident, if any, and a phone number to call for further information. Where notification is given by advertisement, its size and location in the paper should be sufficient to attract attention. A public information meeting, public open house, information brochure, or a second advertisement placed in the local paper a week before the referendum, are other ways of encouraging voter turnout.

Voters List

Prior to the date set for the referendum, the returning officer may prepare a list of eligible electors.

The eligibility requirements are established in each improvement district's Letters Patent. Since improvement districts have an election for one or more trustees every year, it may already have a voters list. This is normally prepared from the improvement district's assessment roll, which is prepared annually for taxation purposes. If the improvement district does not already have landowner information, the returning officer may be able to obtain a list of property owners from BC Assessment or the regional district. As an alternative to a voters list, an improvement district may use a poll book. A poll book is used on the day of the referendum by the returning officer to record the names and addresses of eligible electors when they request a ballot.

Voting Procedures

On the day of voting, landowners entering the polling station are asked their name so they can be checked against the voters list. If they are eligible to vote, they are handed a ballot and told how to complete it. If the elector's name is not on the voters list, they can still be given a ballot if the returning officer is satisfied that the person is eligible or the elector is willing to sign a statutory declaration (sample at end of the Election subsection). Those electors voting as an agent of a board or corporation must show evidence of their appointment as agent. There is no other authority in the legislation or Letters Patent, which would allow one landowner to vote on behalf of another landowner (no voting by proxy). A landowner must be present at the polling station in order to vote.

The ballot box should be located near the returning officer who can witness the ballots being cast and ensure there is no tampering. At the start of voting, the first elector should be asked to certify that the ballot box is empty. At the close of the poll, the ballot box should be opened in the company of witnesses (scrutineers) when the ballots are to be counted. Ballots should only be rejected if there is no clear indication of the voter's intent. For example, ballots with no boxes marked or with both boxes marked can be rejected. A separate count is kept for, and against the question and the number of spoiled ballots. The returning officer should declare the result and then seal the ballots back in the box in case a recount is requested or the results are challenged. It is recommended that the ballots be kept for at least two weeks.

Voting Result

The results of the referendum should be made public as soon as the outcome is known. The board may wish to advertise the results and notify the local media. If the referendum was a prerequisite to the adoption of a bylaw or project which is subject to approval by the Ministry, a copy of the advertisement and the returning officer's declaration of the vote, must be submitted in support of the bylaw.

Alternative Approval Process (Formerly referred to as Counter Petition)

General

An alternative approval process (AAP) is a method for electors to have direct input into a decision or action proposed by the board. The improvement district must advertise information about the matter and then the electors have an opportunity to petition against it. If more than ten percent of the electors petition against the matter, the board cannot proceed with it unless the approval of the electors is obtained through a referendum or special general meeting vote.

Process

The improvement district must develop and provide the petition which is also known as an elector response form. The board must set a deadline by which completed forms must be submitted to the improvement district. Notice of the AAP must be published in at least two issues of a newspaper. The second publication must appear at least 30 days before the deadline set by the board. Information about the AAP opportunity could also be mailed by first class mail to all electors if there is no newspaper circulating in the community.

From the time of the first publication, a copy of the notice should be posted in a public place in the improvement district. The notice must include:

- a general description of the project, including costs;
- a statement that the board of trustees may proceed with the project unless more than ten percent petition against the proposal;
- the area the project benefits (i.e. usually the entire improvement district);
- the deadline by which signed the elector response forms must be submitted to the improvement district;
- an estimate of the number of persons who must petition against the matter in order for the AAP to be sufficient. (Those persons eligible to vote at an election would be eligible to sign an elector response form); and,
- how elector response forms may be submitted to the improvement district (i.e., where they can be mailed, faxed, or delivered).

Once the 30-day period has ended, the corporate officer must certify the number of acceptable elector response forms that were received. If at least ten percent of the electors sign elector response forms, then the improvement district cannot proceed with the project unless a majority of the electors vote in favour of the matter at a referendum or a vote at a special general meeting.

If less than ten percent of the electors sign elector response forms the board may proceed with the matter. If the registration of a bylaw is pending, the corporate officer's certification should be submitted to the Ministry along with other background material, to allow a review of the bylaw to be completed.

Please see Section 86 of the *Community Charter* for further information on AAPs.

Services

Service Requests - General

Section 752 of the *Local Government Act* states there is no obligation for an improvement district to convey, supply, or furnish any service to any person, land, or premises. It also states that a person to whom any improvement district refuses to convey, supply, or furnish any service may appeal the decision to the Inspector of Municipalities who may then make any order in the matter considered just and reasonable.

The decision to accept an application for a service is usually based on the capacity that is available and economically feasible. When the board is reviewing an application for a service by a landowner, be it inside or outside existing boundaries, they usually allocate the cost to the applicant, not the existing users. In order to determine whether there is sufficient capacity to approve a service request, the following may be helpful:

An overall water system plan

A long-range plan for upgrading or extending the water system to meet existing and future demands, prepared and updated from time-to-time by a professional engineer familiar with such systems, and tied to a phased capital expenditure program based on priorities and costs.

Regulatory and charging bylaws

A subdivision regulation bylaw defining the design and construction standards and the application process. Charging bylaws, such as a capital expenditure charge bylaw and connection charge bylaw, should reflect the costs to provide the service now, and in the future.

If the board refuses an application for service and the matter is appealed to the Inspector, it is likely that the appeal will be upheld unless the improvement district can show that it has reached the end of its capacity and it is not possible to increase the capacity without jeopardizing the service to existing customers. Therefore, the board of trustees should always be in a position to provide an applicant with a breakdown of works and costs necessary to provide the service.

When properties are proposed for development, there are two opportunities when improvement districts can make their comments known to the agencies responsible for deciding whether to approve it. These are:

- When reviewing subdivision applications, the subdivision approving officer is required to contact improvement districts (and others) in accordance with Section 81 of the *Land Title Act*. The wording of Section 81 states: "If a plan of subdivision affects land located in an improvement district under the *Local Government Act*, within seven days after the plan is received by the approving officer for approval, the approving officer must notify the board of

trustees of the improvement district”. Typically, the improvement district will advise the approving officer whether it has the capacity to provide service(s) to the property in question, the requirements they have established with regard to subdivisions and whether the applicant has agreed to meet those requirements.

- In the case of developments that require a change to land-use designations, a regional district is required to consult with improvement districts (and others) during the development, amendment or repeal of an official community plan in accordance with Section 879 of the *Local Government Act*. Section 879 says in part: “the regional district must consider whether consultation is required with school district boards, greater boards and improvement district boards”. This is an opportunity for the improvement district to provide comments to the regional district about any impact proposed developments will have on its service(s).

Subdivision Servicing Requirements

Section 747.1 sets out the ability of a board of trustees to establish subdivision servicing standards, by bylaw, for any services they provide. These standards outline such things as design, type of materials to be used, and construction requirements.

The servicing standards can be varied for different areas, land uses, zones, or for different circumstances. Once the subdivision servicing standards are established by bylaw, an improvement district can require a landowner to meet the standards on their land and on that portion of a highway immediately adjacent to the site being developed or subdivided. The primary enforcement mechanisms for these requirements are:

- **For land that is being subdivided:** a municipal, regional district or provincial subdivision approving officer appointed under the *Land Title Act* must not approve a subdivision if services do not meet the standards established in an improvement district bylaw.
- **For land that is being developed:** if the improvement district has entered into an agreement with a local government for this purpose, the local government may refuse to issue a building permit unless the owner has provided services to the standard required in the improvement district bylaw.

The following are limitations on the ability for an improvement district to require an owner subdividing or developing their property to meet the improvement district’s servicing standards:

- The ability to set servicing standards only relates to works and services that are within the objects of the improvement district as described in its Letters Patent. In other words, an improvement district that has water as its only object cannot set servicing standards for sewers, or for any service besides water.

- Requirements may only be made under these provisions if they are directly attributable to the subdivision or development. Therefore, if an owner, in accordance with the improvement district's bylaw, provides water, sewage or drainage facilities that serve land other than the land being developed or subdivided, then the portion of the facility that serves other properties is considered an excess or extended service, and the provisions of Section 747.2 automatically apply. This means that if the owner is required to provide these excess or extended services, they are entitled to compensation from properties, which connect to, or use, the services if that connection or use begins during the next 15 years. For more information see the section on Extended Services and Latecomer Payments.
- An owner cannot be required to provide works that are included in a capital expenditure charge (CEC) calculation. However, if the owner agrees to provide these works, any cost related to them that are included in the calculation of a CEC must be deducted from the amount that would otherwise have been collected for a CEC from the owner.
- Improvement district subdivision servicing standards cannot be imposed for a subdivision created under the *Strata Property Act*.

A sample subdivision regulation bylaw can be found in Section D.

Improvement districts in which development is occurring may wish to establish subdivision servicing standards and if so, they must do this by bylaw. Once the bylaw is adopted, the improvement district must provide a copy of the bylaw to the provincial, regional district or municipal subdivision approving officer. This is essential if an agreement has been made in which a local government agrees to withhold building permits unless the improvement district's servicing standards have been met.

Regional districts, municipalities and improvement districts have concurrent authority to establish subdivision servicing standards. It is important that improvement districts consult with regional districts, municipalities, and the subdivision approving officer of the Ministry of Transportation in developing their subdivision servicing bylaws to ensure that the interests of each are met. The improvement district may be responsible for providing water and the regional district fire protection. Both parties will likely want to ensure that pipes are sized to provide both potable water and adequate fire flows.

The objective of these discussions should be to achieve a common standard in the bylaws of both the improvement district and the regional district or municipality. This reduces confusion for the applicant and for the subdivision approving officer.

Improvement districts should be aware of the distinction between services that are required in relation to the property being subdivided or developed and those that are required to service other properties. If an improvement district

requires an owner to provide services for other properties, the owner is entitled to compensation from latecomers. If the improvement district fails to collect latecomer revenues, the improvement district could be held liable for those costs.

Extended Services and Latecomer Payments

Section 747.2 allows a board of trustees to require that an owner of land that is to be subdivided or developed, provide excess or extended services as described below.

An excess or extended service is that portion of a water, sewage, or drainage system that serves properties other than the land being subdivided or developed. For example, if a six-inch water main is adequate to serve land being subdivided, or developed, but the improvement district requires the owner to install a larger main to accommodate anticipated future demand, the excess service would be the difference between the six inch main and the larger one. Similarly, if the property being subdivided or developed is physically removed from the existing service and an owner is required to extend that service from its termination to the owner's property, that portion of the service is considered an extended service.

The up-front cost of the excess or extended service must be paid by the improvement district unless the board of trustees views the costs to do so would be excessive. If the board considers them to be excessive then the improvement district can require the owner of the property being subdivided or developed to initially pay for the service. However, if the owner is required to pay for the excess or extended service, the improvement district is required to impose a latecomer charge on those properties that later connect to, or use the service. These amounts are then turned over to the owner of the property that paid for the service.

In the circumstance where the owner pays the initial cost of the excess or extended services, latecomer charges must be imposed by the improvement district until:

- a date agreed on by the owner and the board of trustees;
- if there is no agreement, a date determined under the *Commercial Arbitration Act*; and,
- in any case, no more than 15 years from the date the service was completed.

Latecomer charges must be based on that portion of the owner's costs that the improvement district considers related to the excess or extended service, and the part of that amount that it considers will benefit each of the properties that will be serviced. The amount imposed for an individual property must include interest calculated annually payable for the period beginning when the excess or extended services were completed, up to the date that the connection is made or the use begins. A bylaw is required to establish both the latecomer charge and the interest rate and sample formats of these bylaws, can be found in Section D.

If the improvement district pays all or part of the initial cost of providing the excess or extended services, it has a choice whether or not it wishes to impose latecomer charges. If the improvement district chooses to impose the charges, it must establish the charge and the interest rate by bylaw using the same procedure as described above. The latecomer charge can be collected for a period not exceeding fifteen years past the date that the service was completed. In the event that no one chooses to connect to the service within the time period, the improvement district would, in effect, have financed the works.

Improvement districts must choose, based on values and practicalities, whether the costs of installing services are to be paid by developers or by the improvement district. If it chooses to pay initially, the improvement district must then decide whether or not to impose latecomer charges. It is important that improvement districts make these decisions in the context of potential development within its boundary only – development which might occur outside this boundary should not be taken into account.

As part of its decision-making process, the board of trustees should consider a number of factors, including:

- what is the cost of the excess or extended service likely to be?
- how much development is expected to occur over the next 15 years?
- what is the likelihood that development will actually take place over that time frame?
- if the improvement district were to pay some or all of the costs, is it prepared to accept the risk that anticipated development does not occur, in which case the improvement district will not be able to recover all of its original investment?

The improvement district then needs to decide whether any of the cost should be recovered subsequently through a latecomer charge. When consideration is taken of the extension of services, the improvement district should be making its decisions based on its boundary.

To implement a latecomer charge, an improvement district must determine the proportion of the infrastructure cost which constitutes excess or extended service and calculate the benefit of the excess or extended service to each parcel of land that will be serviced. For example, if half of the cost of an extended service is determined to benefit six parcels of land because a water main now exists in front of their property, and the estimated benefit is half the cost (say \$6,000), and the improvement district determines the benefit to be equal for each parcel, the latecomer charge will be \$1,000. Other methods could be used such as the amount of frontage for each parcel located adjacent to the water main. However, it is more difficult to estimate some benefits such as the completion of a water main loop.

The improvement district does not need to enter into a formal latecomer agreement with the subdivider or developer unless the collection period agreed to by both parties is less than 15 years. Nevertheless, it is recommended that formal agreements be drawn up to allow both sides to clearly identify and fully understand their obligations.

- A developer does not have to apply to receive latecomer payments. The obligation to pay the charge to the owner rests with the improvement district.
- Where an improvement district pays all or part of the cost but expects to get repaid by latecomers, they need to determine the risk of recouping their cost within ten years.
- Latecomer charges may require a significant amount of staff time to prepare the documentation and administer the charges.
- An improvement district is not required to notify property owners of the latecomer charge, nor are they required to register it against title. However, the improvement district may wish to consider sending a letter to the property owners who would be subject to the charge at the time the excess or extended service is constructed.
- Developers will need to provide certain basic information with respect to their development so that the improvement district can calculate costs, benefits and charges.
- Latecomer charges should be paid to the developer within a reasonable time of being received by the improvement district (within 60 days is ideal).
- The interest rate established by bylaw should be set at a reasonable level such as the amount the improvement district earns on its investments.

Advice about latecomer charges can be found in the Ministry's Development Finance Choices Guide available at: <http://www.cserv.gov.bc.ca/lgd/>

GENERAL

Conflict of Interest

Introduction

There are no legislative provisions that deal with conflict of interest for improvement district trustees or employees. Trustees should consult legal counsel when drafting conflict of interest policies and guidelines.

General

Although there is no specific legislation dealing with conflict of interest for improvement district trustees and employees, Division 6 of Part 4 of the *Community Charter* provides rules for local government elected officials that should be considered as a guideline for trustees.

A person is in a conflict of interest when they exercise an official power or perform an official duty or function in the execution of their office, knowing that it will further their private interests. A person is likely to be in a conflict of interest where there is a reasonable perception, which a reasonably well-informed person could properly have, that the person's ability to exercise an official power or perform an official duty or function must have been affected by their private interests.

One of the reasons for the lack of a specific definition for conflict of interest is the difficulty in trying to define every situation where a conflict of interest exists. Most public officials have a conflict of interest simply by the fact that decisions they make could affect themselves. For example, trustees are responsible for setting tax levels and establishing regulations, which affect themselves as well as everyone else in the district. However, these are usually looked upon as unavoidable responsibilities that go with the job and are therefore not considered a conflict of interest.

Conflict of interest can also exist where the benefit to the person in public office may be indirect. For example, if a contract for construction work is let to a company that is owned by a trustee's family member, such as a spouse or brother, a potential conflict exists. But what if the contract was to a brother-in-law or cousin? There is no clear answer to this question. Steps can be taken in order to avoid or minimize the potential for conflict of interest. Bringing the potential conflict to the attention of the board and then removing themselves from the situation is a reasonable step for a trustee to take. For example, if a trustee is expected to vote on a matter where a potential conflict exists, they should inform the board of their interest and during discussions, or votes on the matter, leave the room so the rest of the trustees can be free to discuss and decide without their influence. Guidelines and policies could also be established by the improvement district which would guide its trustees and employees in their actions by identifying procedures to follow in the execution of their duties (sample follows this section).

The common law allegation of conflict of interest can be part of an attempt to strike down a bylaw, resolution or decision of the board. In court cases, the test generally used will establish a standard of reasonableness as to the likelihood of specific bias on the part of the interested person. It is important to note that even the appearance of a conflict of interest may cause as many problems as an actual conflict.

A trustee or improvement district employee should not be involved in any decision where they might be seen as deriving personal benefit (monetary or otherwise) from the outcome of the decision. In such a case, excusing themselves from the board meeting, discussion or vote, and in no way influencing the vote may insulate the trustee or employee from allegations of conflict of interest and any subsequent consequences.

The public expects that elected officials and public employees to be independent, impartial and duly responsible to the people. For this reason, the following three principles should be followed:

- Government decisions and policy should be made through the proper and lawful channels of government structure.
- Public office must not be used for personal gain.
- The public must have confidence in the integrity of its government.

The Law

Each trustee and employee is responsible to determine whether they are in a conflict of interest. If in doubt, advice should be sought from a solicitor. The board should consider whether trustees can seek a solicitor's advice at the improvement district's expense and/or whether this should be a board decision.

Public Duty and Private Interests

A trustee's overriding duty is to all the residents of the improvement district. If a trustee has any question as to whether they may be in a conflict of interest they should:

- declare to the board at the first opportunity their interests, or known interests of any close relatives, in any enterprise which proposes to transact business with the improvement district;
- declare to the board at the first opportunity their interest or the known interests of any close relative or business associate in any property which is subject to a rezoning proposal, development proposal, subdivision or any permit or other consideration within the improvement district where a decision involving the improvement district's services might be required;
- make no effort whatsoever to influence the trustees or staff in any decisions on these matters;
- leave the place of the meeting prior to discussion and vote on the subject; and,
- not vote on the matter.

A trustee should not do anything which they cannot justify to the public. It is not always enough to avoid actual impropriety; trustees should at all times avoid any occasion for the appearance of improper conduct.

It is the responsibility of each trustee to declare a conflict of interest if he or she has a direct or indirect pecuniary interest under consideration by the board of trustees or a committee of the board. This could include any benefit obtained by relations, close friends, or associates of the trustees.

Where the benefit to a trustee is in common with the landowners, then a conflict of interest may not exist. For example, if a trustee votes in favour of reducing water rates, it is not a conflict of interest even though each trustee will benefit from reduced rates.

Membership on Board Committees

Trustees, or an organization to which they are personally connected, may have professional business or personal interests that involve the services for which the board is responsible. Such interests may be substantial and closely related to the work of one of the improvement district's committees concerned with planning or developing land, personnel matters, or contracts for supplies, services, or works. Before seeking or accepting membership of any such committee, a trustee should seriously consider whether their membership would require them to disclose an interest so often that they would be of little value to the committee, or weakens public confidence in the impartiality of the committee. A trustee should not seek or accept the chair of a committee whose business is closely related to a substantial interest or range of interests of the trustee or of any organization with which they are associated.

Use of Confidential and Private Information

Trustees acquire much information that may not be public and is still considered confidential. It is a betrayal of trust to use confidential information for personal advantage. Trustees must not communicate confidential information to anyone not entitled to receive it.

If a trustee disagrees with the designation of such information as confidential, or the designation of those entitled to receive it, they should advise the board in writing at an in-camera meeting advise them of the reasons for the disagreement. If the disagreement is not resolved, then the board may at least make preparations to respond to the matter.

Gifts and Hospitality

Trustees should treat any offer, gift, favour, or hospitality that is given them in the course of their duties with caution. The person or organization making the offer may be doing, or seeking to do, business with the improvement district, or may be applying for planning permission or some other kind of decision. Working lunches and other social occasions arranged, or authorized by the trustees may be a proper way of doing business, provided that no extravagance is involved. There are no specific rules around acceptance of tokens of goodwill on special occasions. Trustees are personally responsible for all such decisions and for avoiding the risk of damage to public confidence. The receipt or offer of, gifts should be reported to the board.

Use of Improvement District Facilities

Any facilities, such as transport, stationery, or office support services, provided by the improvement district for trustees in relation to their duties are to be used strictly for those duties and for no other purpose.

Undue Influence

Trustees should not use their position to secure special privileges, favours, or exemptions for themselves or for any other person.

Bias and Partiality

Trustees should avoid any situations that could cause a person to believe that the trustee may have brought bias or partiality to a question before the board.

Conduct After Leaving Office

After leaving office, a trustee should abide by these guidelines except for those related to confidential information which will apply in perpetuity, or until public release of such information as authorized by the board.

While provisions in the *Community Charter* do not apply to improvement districts, local government elected officials have specific restrictions with regard to confidentiality, use of insider information, inside influence, outside influence, accepting gifts and disclosing contracts with the local government which should be used as a guideline.

Document Retention

The following information is presented as a general guideline for improvement districts to assist in developing a records and documentation policy. There are no provisions in the *Local Government Act* which relate to this subject.

General correspondence

Documents and correspondence are usually retained for a period of five to seven years. Refer to the *Document Disposal Act* for further details. While the procedures outlined in the *Document Disposal Act* should serve as a guideline for improvement districts, the statutory requirement of requesting approval for the destruction of public documents pertains only to the ministries and institutions of the provincial government.

Billings

Sewer and water billings and cemetery receipts can be destroyed after five years. Burial permits are required to be kept in perpetuity. There is no need to keep cheque book stubs where cancelled cheques have been retained. Some of the other records, however, may be of interest to local historians. The destruction of any documents or records should be authorized by resolution of the board. The concurrence of the auditor should also be received. No documents which might give rise to a cause of action should be destroyed until the time limitation for such actions has passed.

Causes of Action

It is important to note that the majority of actions that may be brought in court cannot be initiated after six years from the date the event occurred. However, in normal tort actions, there is a six-year limitation period, most actions would be brought within a year or two after the damage has occurred. Therefore it is not necessary to retain most records for more than two years. Legal counsel can advise the board of trustees if there are questions around document retention.

Bylaws

Bylaws are legal documents that form part of the historical record of the improvement district and must be kept safe by the corporate officer.

Minutes

Agendas of trustees meetings may be destroyed once the meeting has been held. The minutes replace the agenda as a permanent record of the proceedings. Meeting minutes are accepted in court as evidence of what transpired. The minutes are a vital record of board decisions. Minutes must be kept safe by the corporate officer.

Personnel Records

Personnel files may be destroyed after a period of five years. There is no set period of retention for payroll records. The books of account and records are required to be maintained by employers (including improvement districts) under the provisions of the *Income Tax Act*, the *Canada Pension Plan Act* and the *Employment Insurance Act*. Written permission is required from the Canada Customs and Revenue Agency before personnel files can be destroyed, Improvement districts should retain all records, books of account and vouchers necessary to verify the information.

Assessment Information

Assessment rolls should be retained for historical purposes for a minimum of ten years and then may be destroyed following a resolution of the board.

Electronic Media

Consideration could be given to preserving documents in electronic media to reduce the amount of space needed to store documents.

Section 35 of the *Evidence Act* states that photographic film, prints, reduction and enlargements, micro photographic films, and photocopies are admissible in evidence where the original no longer exists. Therefore, if an improvement district wanted to reduce the amount of storage space needed for its records, it could use any of these methods to record the information and then destroy the original.

General

The following are minimum retention periods for the disposal of documents. The destruction of any and all documents, records, or correspondence may only occur with board approval.

Documents and records to be retained permanently:

- Burial permits
- Bylaws
- Certificates of Title
- Minutes of board meetings

Documents and records that may be destroyed after ten years:

- Assessment Rolls

Documents and records that may be destroyed after eight years:

- Cemetery receipts
- Sewer billings
- Water billing
- Accounting records
- Bank statements
- Cancelled cheques
- Vouchers

Documents and records that may be destroyed after five years:

- Personnel records

Documents and records that may be destroyed within a period of one year:

- Cheque book stubs (when in possession of related cancelled cheques).
- List of electors

Documents and records that may be destroyed only after receiving approval:

- Payroll records (require written permission of Canada Customs and Revenue Agency).

Freedom of Information / Protection of Privacy

All improvement districts are subject to the *Freedom of Information and Protection of Privacy Act (the Act)*. The purposes of the Act are to:

- give the public a right to access to records;
- give individuals a right to obtain and correct personal information about themselves;
- specify limited exceptions to the right of access to records;
- prevent the unauthorized collection, use or disclosure of personal information by public bodies; and,
- provide independent review of decisions by public bodies.

The basic premise of the Act is that all information held by public bodies is accessible to the public unless an exception specified in the Act applies.

The following are examples of items either required by statute to be made available, or that are routinely releasable by improvement districts:

- Letters Patent;
- bylaws;
- agendas and minutes of any meeting other than an in camera meeting;
- the annual financial statements and auditor's report; and,
- annual reports on the operation of its services.

Some requests for information will need to be processed as formal requests under the Act as exceptions in the Act may apply to the information in the records. Examples of these include requests for:

- correspondence containing the personal identifiers of individual complainants, unless a previous disclaimer is issued, and even so, the identifiers could be withheld;
- the personal information of electors (unless request is made during an election period), or employees;
- any reports, studies, correspondence or other items dealt with in-camera;
- information related to negotiations for contracts or the purchase of property, while in process, or in some cases, after the process is completed; and,
- any legal advice from the improvement district's solicitor.

Part 3 of the Act outlines the rules for the collection, use and disclosure of personal information by public bodies in their day-to-day work. Improvement districts should ensure that any personal information they collect meets the requirements of this part of the Act.

Whether the improvement district's documents are kept at a private residence or in an office, reasonable arrangements should be established so the public can have access to the records.

If the request is made under the Act for records, fees can be charged, so long as the improvement district has met the requirements of section 77 of the Act which requires a bylaw to be passed specifying the fees that will be charged. A sample miscellaneous charges and service fees bylaw is located in Section D.

The *Freedom of Information and Protection of Privacy Act* also requires that every improvement district designate the "head" of the public body and the persons who can administer the Act for the improvement district. Any questions relating to public disclosure or the Act should be directed to the:

Information and Privacy Branch
Ministry of Community Services
P.O. Box 9832, Stn. Prov. Govt.
Victoria, BC V8W 9T1

Phone: (250) 953-3622.

Information about the application of the Act and a Question and Answer document for local governments can be found at: http://www.msar.gov.bc.ca/privacyaccess/index_toc.htm#Guidelines

Insurance, Liability and Indemnification

As a public body, improvement districts have corporate status. This means they may initiate legal actions or they can be subject to legal actions. In addition, improvement districts are corporately responsible for the actions of their trustees, employees and volunteers acting in the course of their duties. However, trustees, employees and volunteers can also be held personally liable for their actions.

Sections 287 and 288 of the *Local Government Act* state the causes of actions that can be brought against improvement districts, trustees, officers and volunteers.

Boards of trustees should obtain insurance coverage for trustees, employees and volunteers, as well as the improvement district's property assets, even though the legislation does not make it mandatory to do so.

There are a wide variety of insurance plans available through insurance agencies and can vary according to the complexities and risks involved with the service provided by the improvement district. Some of the insurance options available include coverage for automobiles, fire, earthquake, flood, crime, boiler and machinery, accidental death, pollution and employee bond.

At a minimum, an insurance policy of at least \$2,000,000 should be obtained in case of a claim for personal injury, death, property damage, or third party liability.

It is always desirable to avoid any actions that could result in costly court challenges. A risk assessment could be undertaken by a professional advisor to identify ways that improvement districts can limit their liability.

Indemnification

Section 743.1 provides improvement districts the same powers as a municipality with respect to indemnification and identifies who the board of trustees may indemnify. Indemnification means that the improvement district may pay legal costs incurred to defend specific individuals or positions involved in court actions brought against them in the performance of their duties. The costs that may be paid relate to the person's defense or damages recovered against the person. However, improvement districts cannot pay a fine imposed as a result of the person's conviction for a criminal offence.

The individuals that may be indemnified include:

- trustees;
- officers or employees;
- volunteer fire-fighters;
- a volunteer who participates in the delivery of services by the improvement district under the supervision of an officer or employee of the improvement district; and,
- select or standing committee members.

There are two alternate ways for the board of trustees to authorize remuneration. The board may pass a bylaw identifies which groups of people or positions it will make payments for, and what type of payments it will make (i.e. whether the improvement district will pay defense costs, damages, or both). This bylaw would be passed proactively – that is, the board must consider whether or not it wanted to pay these costs before any legal action had been commenced. The bylaw would therefore be in place if an action was started, and the board would not be put in the position of making these decisions on an individual basis in the middle of a court action. However, once the bylaw is passed, the improvement district is obligated to pay the costs it has set out in the bylaw.

If a bylaw, as described above, has not been passed, and an action or prosecution is started, the board may, by resolution with a vote of at least two-thirds of all members, agree to pay the person's defense costs, damages recovered against the person, or both. This method is more reactive – it allows the board to make individual decisions as the need arises, but necessitates decisions being made while a court action is underway.

The *Local Government Act* restricts an improvement district's ability to recover its costs from individual trustees, officers, employees, or volunteers. That is, if the improvement district is faced with a court action in its own name, the improvement district cannot commence a suit against any of these individuals to recover its legal costs or damages unless the claim relates to gross negligence of the person, or the person acted contrary to the terms of the person's employment, or an order of a superior.

A sample indemnification bylaw can be found in Section D.

The following may be useful to a board of trustees that is considering whether to pass an indemnification bylaw:

- Indemnifying a person can be controversial since the public may perceive that its taxes are going toward legal fees instead of into the maintenance or operation of services.
- If a prosecution or action is brought against a trustee, that trustee is permitted to vote on the resolution with respect to the issue of their indemnification.
- Providing for the indemnification of trustees may remove a concern expressed by potential candidates for office about their financial vulnerability if a lawsuit were to be brought against them. Similarly, it may assist in attracting professional staff.
- Decisions about what groups to indemnify should be made with a view to avoiding the perception of favouritism or bias.
- The passage of an indemnification bylaw may have an impact on liability insurance rates.
- The passage of an indemnification bylaw does not prevent the board from securing some form of insurance for trustees, officers, employees and volunteers as a means of coverage against claims.

The vote to pay amounts required for the protection, defense, or indemnification of the person, and to cover costs or damages, requires a two-thirds vote of all trustees, not two-thirds of the trustees present at the meeting where the vote is held.

Strata Information

Taxation

Section 67 of the *Strata Property Act* states: “For the purposes of assessment and taxation, each strata lot ... is a separate parcel of land.” Therefore, each strata lot should receive a separate assessment notice and be taxed as an individual dwelling. Depending on whether the strata development is an apartment-style condominium or a separate townhouse, the water assessment category and associated tax amount could be similar for a standard single-family dwelling. The developer of the strata property is responsible for taxes until the unit is sold.

User Rates (Tolls)

In the interpretation of common property of the strata development, the water supply system is included. Unless the strata development is individual townhouses on water meters, the total water charges should be billed to the strata corporation, and in the event of non-payment, the entire development would be turned off from the water supply main. This is the common method used in municipalities. The developer is responsible for any water tolls until such time as the strata council is formed.

Voting at Elections

Where each strata lot is separately registered at the Land Titles Office, every owner of each strata lot is entitled to vote or to be a trustee so long as they meet the other eligibility requirements.

Connection Charge

There is one connection charge for the strata development where there is only one connection. If strata lots are sold undeveloped, and if the improvement district had to connect each one as it was developed, then a connection charge for each connection would be collected.

Capital Expenditure Charges

Each strata lot represents a separate dwelling. The charge is therefore due for each strata lot created. Determination of what this amount should be depends on whether the board considers each strata unit to be equivalent to a standard single-family residential dwelling.

Regulations

The developer and owners of strata lots are subject to the improvement district's regulatory bylaws.

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ACCOUNTING

General

The board of trustees is responsible for ensuring that the improvement district meets its financial obligations. For this reason, the board is authorized to levy taxes, tolls and other charges, to invest money, to spend money and to borrow money. The legislation provides a wide range of options that can be used by the board to implement each of these powers. The decisions will depend on local circumstances, the goals of the trustees and the impact on the landowners.

There are provisions in the legislation that specify the method of accounting that must be used, a requirement to have the financial accounts audited by a certified auditor, and an obligation for a summary of the financial transactions to be made available to the public. Each year at the annual general meeting, the board of trustees must present audited financial statements to the landowners. They must also be forwarded to the Inspector of Municipalities. The landowners have a significant stake in the financial decisions made by the board of trustees.

Accounting System

Section 741(1) of the *Local Government Act* requires the financial officer to prepare the financial statements and to present them to the board of trustees. In addition, they must be prepared in accordance with generally accepted accounting principles for local governments. The financial statements must be audited by a person who is qualified to be an auditor of a reporting company under the *Company Act*. The audited financial statements must be presented by the board of trustees to the landowners at the annual general meeting and they must then be sent to the Inspector of Municipalities by May 15 each year.

When deciding what accounting system to use, the improvement district should consider one that is easy to use, flexible and will enable the auditor to have a complete record of financial transactions that are current and can be verified. It will also facilitate the completion of the financial statements. A sample set of financial statements starts on page 12 of this section. The improvement district's auditor may be able to assist the board of trustees with the choice of accounting system. An accounting system that provides accurate and timely financial information will assist the board of trustees to make informed decisions about the improvement district's finances.

Accounting and Reporting Requirements

Accurate and complete financial records will allow the auditor to verify that proper accounting procedures have been used in the preparation of financial statements. It should also minimize the amount of time needed by the auditor to prepare their annual report to the board of trustees. The majority of expenses recorded in the accounting system will likely be administrative and operating costs.

An effective accounting system will enable the board of trustees to know: how much money has been invested; how much is payable by the improvement district; how much is owing to the improvement district; and, how much is available for expenses. This will allow the board of trustees to make informed decisions, to maintain a healthy financial position, and avoid unnecessary increases in taxes or tolls. The statement of revenue and expenditure is useful for determining how well the operating costs have been met in relation to the budget. The balance sheet will show the overall financial position.

Improvement districts that provide more than one service, such as waterworks, fire protection or street lighting, must keep the revenues and expenses of each service separate. For example, money collected from water users cannot be spent on fire protection.

Unless the financial officer for an improvement district is a professional accountant, the assistance of an accounting agency or the improvement district auditor would be useful to ensure the accounting system meets the needs of the improvement district.

The fiscal year end is December 31 for improvement district financial statements and the auditor's reports (Section 741.1)

Improvement districts are entitled to a full rebate of the amount of the Goods and Services Tax (GST) paid. An application for the rebate can be made by the improvement district annually, quarterly, or monthly. This decision will depend to some extent on the amount of money that is involved and whether it is needed for other purposes. Further information on the GST is available from the Canada Customs and Revenue Agency.

The board of trustees will need to determine who has the authority to sign improvement district cheques. It is recommended that each cheque have two signatures and it is common to assign this responsibility to the financial officer and the chair. However, it could also be assigned to two trustees.

At each meeting of the board of trustees, a summary of expenditures since the date of the last meeting should be reported. A policy could be established that expenditures above a certain limit would require a resolution from the board of trustees. Expenditures should be in keeping with the amounts estimated in the annual budget. This process will allow all trustees to be kept informed about the financial position of the improvement district.

Payment of all invoices must be by cheque, not cash, to ensure that every financial transaction is properly recorded. A petty cash fund should only be used to make payments for small, incidental expenses.

Duplicate receipts should be kept by the improvement district when payments are received. All money collected should be deposited with the improvement district's financial institution without delay.

Financial Statements

Statement of Revenue and Expenditure

The statement of revenue and expenditure appears in the audited financial statements and gives landowners an opportunity to see how the board of trustees spent the money that was collected from taxes, tolls and other charges. The statement of revenue and expenditure shows total income by source and the total expenditures from this income. Non cash expenditures are dealt with by adjustments to surplus. If the statement does not disclose debt repayments and capital expenditures, there is a possibility that there might be a sizeable excess of revenue over expenditure. This might be misleading to the taxpayers who might conclude that taxes and tolls are set at levels that are unnecessarily high.

If an improvement district provides more than one service there is no need to show the revenues and expenditures for each service in the statement. However, the improvement district must keep the revenues and expenditures for each service separate in its accounting system.

Further information about the items to be included in the revenue and expenditure statement is as follows.

Revenues	
Taxes	All revenues obtained through taxation. This includes taxes levied and collected by the Province for improvement districts that provide fire protection and/or street lighting.
Tolls	All revenues obtained through tolls or user charges.
Connection Fees	Amounts received for a service connection to improvement district works such as a water connection.
Capital Expenditure Charges	Amounts received from developers in consideration for a new unit of water service, if not shown separately on a Capital Expenditure Charge Fund schedule.
Other Revenue	Revenue items not included in previous revenue categories, including interest earned on investments and penalties paid by customers for late payment of taxes or tolls.
Expenditures	
Administration	Items such as salaries, insurance, postage, phone bills, and printing costs.
Operations	Those expenditures concerned with the daily operation of the improvement district. Expenses need to be classified into categories. Certain expenses are incurred where the benefit occurs in future fiscal periods as well as the present. These costs, although paid in one period, need to be divided between each benefiting period.
Capital Expenditures	All expenditures for capital purposes need to be included except for: those expenditures financed from long-term borrowings; capital works that are financed from capital expenditure charge funds; and, capital works that are financed from renewal reserve funds. Annual contributions to the renewal reserve fund are included under Capital Expenditures.
Debt Interest	Payment of interest on all temporary and long-term debts, including amounts levied and collected annually and retained by the Province for repayment of capital tax advances. Debt principal payments are shown after the net revenue item.

Presently depreciation is not generally recognized on the assets of an improvement district for the following reasons:

- Improvement districts do not pay income tax, therefore there is no advantage in accounting for depreciation.
- A new water system is usually designed and planned within narrow financial limits. Often, to avoid unaffordable water charges, no provision is made in this planning for the accumulation of assets to replace the system when worn out. Some thought is given to the question of replacement through the operation of a renewal reserve, but mainly the thinking is that the debentures are issued for the original installation and when the issue has been retired another may be sold if necessary for rebuilding the system. Thus, the taxpayers and consumers at any one time will be paying only for the system in use. If depreciation is charged against revenue in addition to debt repayment, the original users will, in effect, be paying twice for the system.

Balance Sheet

One consolidated balance sheet covering all activities of the improvement district is preferred by the Ministry. Where a renewal reserve fund or capital expenditure charge fund has been established, any changes to the funds should be disclosed in the notes to the financial statements. Changes in fixed asset valuations such as additions, replacements and renewals, and write-offs should also be shown in the notes. A Statement of Change in Financial Position should also be included in the financial statements.

Renewal Reserve Fund

An improvement district whose works have been financed by borrowing may decide not to set aside money into a renewal reserve fund while the loan is still being repaid. However, where an improvement district has become owner, without cost, of works such as those installed by a subdivider, a renewal reserve may be considered necessary to collect funds to finance the costs to upgrade or replace the works. Frequently the amount to be set aside annually in a reserve fund will be determined on the basis of an engineering report. The remaining useful life of each component of the system will be estimated and a schedule of replacement drawn up, so that the works will be renewed constantly by sections. Periodic engineering surveys will be made, and the annual contribution may be adjusted to reflect revised estimates of system life and construction costs.

Renewal reserve funds must be established by bylaw and a separate account at the improvement district's financial institution needs to be opened. A note should be placed on the account by the financial institution indicating that no withdrawals, or transfers, from the account are to be made unless a renewal reserve fund disbursement bylaw has been registered with the Inspector of Municipalities. During the year, contributions to the renewal reserve fund can be made from the improvement district's operating account.

Monies accumulated in the renewal reserve fund that are not immediately required can be invested in accordance with the legislation. Revenue from the sale of any investments must be deposited in the renewal reserve fund. Renewal reserve funds cannot be pledged as collateral for loans because the funds may be needed from time-to-time to finance capital projects, sometimes on short notice. All investments should be readily convertible, without penalty, into cash.

The information regarding reserve funds should be shown in the notes to the financial statements. Interest earned on renewal reserve fund assets and profits on the sale of investments should not be shown on the revenue and expenditure statement, but will be added directly to the renewal reserve and its fund. Similarly any costs to purchase investments, and any loss on the disposal of investments, will be charged directly against the renewal reserve fund.

Capital Expenditure Charge Fund

Capital expenditure charge funds are treated the same way as renewal reserve funds are in the preparation of financial statements. All changes in the capital expenditure charge reserve fund during the fiscal period should be shown by a full presentation on a separate schedule (as shown).

Capital Tax Advances

Under section 756 of the *Local Government Act*, the Minister of Finance may advance money to an improvement district that provides fire protection or street lighting. This is a form of borrowing through the province as the money will subsequently be repaid over a specified period of years from the annual taxes collected by the province from the landowners in the improvement district. A bylaw is required in order to request the money from the province and provide for its repayment. The amount of the money advanced to the improvement district should be shown in the statement of revenue and expenditures as revenue. The interest owing on the amount of money advanced to the improvement district will show as an expenditure under debt interest. The annual repayment applied against the principal amount advanced to the improvement district will show under dept principal payments.

Audit

A qualified auditor must report to the board of trustees on the annual financial statements and the report must be in accordance with the form and the reporting standards established by the Canadian Institute of Certified Accountants.

The purpose of an audit is to safeguard the interests of the landowners by making sure that proper procedures are being followed to record financial transactions in the improvement district's accounting system.

Auditor

Section 741.2 of the *Local Government Act* requires the board of trustees to appoint an auditor for the improvement district. The auditor must meet the requirements of Section 331(2) of the *Local Government Act*. The person, or firm, chosen should have no interest in the affairs of the improvement district apart from their duties as auditor, and should be a member, or a partnership whose partners are members in good standing of the Canadian Institute of Chartered Accountants, or the Certified General Accountants Association of British Columbia, or a person certified by the board established under the *Company Act* (C.A., C.G.A., and CMA respectively).

Section 741.1(5) of the *Local Government Act* requires the board of trustees to furnish the Inspector of Municipalities with a copy of the audited financial statements and other financial information required before May 15 each year.

Budgeting**General**

The preparation of an operating budget and a capital expenditure program are essential elements of any improvement district's financial plan. A good budgetary process will estimate future capital and operating costs which will inform the board of trustees as to the amount of revenue that they will need to meet those costs. Decisions can then be made about how to equitably allocate those costs to the landowners through taxes, tolls and other charges. Decisions can also be made about how much money (if any) should be set aside for contingencies, or for future capital works.

The Inspector of Municipalities may require that budget information be submitted in support of bylaws that are being considered for registration such as taxes, tolls, charges and loans.

Operating

A budget is a plan of operation for a future period of time, generally a calendar year, expressed in monetary terms. It includes a forecast of revenues and expenditures anticipated for that time.

A budget should be prepared and completed several months in advance of the time when the board of trustees needs to consider whether to change its taxes and tolls. This will depend on the due dates set for the taxes and tolls, which vary with each improvement district. Generally, budgets are prepared near the end of the year to guide decisions for the following year.

In order to prepare a budget, it is helpful to review the revenue and expenditures for the current year, or for the last two years. A budget can be developed by comparing this in conjunction with anticipated revenue and expenditures in the

following year. A budget can be developed. Some of the things to consider when estimating future revenues and expenditures are changes in construction costs, salaries, repairs, insurance rates, legal fees or other professional fees, office equipment and earnings on investments.

These projections can then be used to determine whether additional revenue will be required and if so, the source of the revenue needs to be identified. Accurate projections will reduce the need for the trustees to borrow money in the case of a shortfall.

The budget should be completed prior to the annual general meeting so that the board of trustees can not only advise the landowners how the improvement district's finances performed for the past year, but can also advise them whether to expect any increases in taxes, tolls, or other charges for the coming year. Additional suggestions for the budget are as follows:

- The budget should be set out in a fashion similar to the revenue and expenditure statement prepared by the improvement district's auditor.
- The budget should contain details of the revenue by type and source, and expenditures by function and activity.
- If revenue surplus from one year is carried forward for use in the next year, it should be shown as other revenue (transfer from prior year's surplus).
- The current year's portion of the capital expenditure program (source and application of funds) should be included in the budget as other revenue and as a capital expenditure.

Some improvement districts that operate water systems adopt a policy where tolls and user rates cover the administrative and operating costs, while taxes cover capital costs, debt repayment and reserve fund allocations.

Reviewing the budget on a regular basis during the year against actual revenues and expenditures will allow a board of trustees to make adjustments as needed and avoid possible cost overruns. A sample budget has been prepared and follows in the next section.

Capital Expenditure Program

In the course of developing operating budgets, future capital works must be considered. A capital expenditure program covering a reasonable period of time (minimum five years), equates planned capital expenditures with anticipated revenue sources. The capital expenditure program provides a link between the long-term capital works plan and the current year's operating requirements. The preparation of the capital expenditure program can assist improvement districts in:

- the establishment or change to capital expenditure charges;
- the development of a renewal reserve fund program;
- a decision to increase taxes; and, whether a short or long-term loan is required.

A capital expenditure program should be established for each service that is provided by an improvement district as well as by expenditure category (i.e. land, buildings, equipment, etc.). Often the information in the program is based on an engineering report or feasibility study which prioritizes capital expenditures or recommends work be completed in phases. Balanced against the expenditures in the program are the sources of revenue that will be used to finance the cost of the capital expenditures. These sources include current year operating funds, capital expenditure charge funds, renewal reserve funds, and loan.

When preparing a capital expenditure program the following points should be considered:

- The capital expenditure program is a presentation in order of priority of the proposed capital expenditures the sources of funds available to finance those capital works for each year of the program.
- The current year's portion of the capital expenditure program should be included in the annual budget.
- The capital expenditure program should be revised each year.
- A capital expenditure program may cover any reasonable period of time.

IMPROVEMENT DISTRICT 20XX OPERATING BUDGET - WATERWORKS

REVENUE	\$	\$
Taxes		
200 parcels x \$100/parcel/year ¹ (see notes page 14)		20,000
Tolls/User Rates		
170 connections x \$200/connection/year ²		34,000
Connection Charges		1,000
Other Revenue		
Interest and Penalties 500		
Transfer for Prior Year's Surplus ³	2,500	
Transfer from Renewal Reserve Fund ⁴	5,000	
Other	<u>100</u>	<u>8,100⁶</u>
TOTAL REVENUE	<u>63,100</u>	
EXPENDITURE		
Administration		
Salaries and Wages	6,000	
Office and Utilities	2,000	
Audit and Legal	1,000	
Insurance	2,000	
Other	1,000	
		<u>12,000</u>
Operations		
Salaries and Wages	8,000	
Repairs and Maintenance	12,000	
Other	<u>2,000</u>	<u>22,000</u>
Subtotal (Admin + Operating) ²		<u>34,000</u>
Capital Expenditure Out of Revenue		
Capital Acquisitions (Distribution Works) ^{5 & 1}	9,500	
Transfer to Renewal Reserve Funds ¹	<u>5,000</u>	<u>14,500⁶</u>
Debt Charges		
Principal and Interest Payments on Long-term Debt (incl. Sinking Fund Payments)		
- Bylaw No. 40	<u>13,000</u>	<u>13,000¹</u>
Subtotal (Debt & Capital)	<u>27,500</u>	
TOTAL EXPENDITURE	<u>61,500</u>	
SURPLUS (DEFICIT) FOR YEAR	<u>3,600</u>	

IMPROVEMENT DISTRICT 20XX OPERATING BUDGET - FIRE PROTECTION

REVENUE	\$	\$
Taxes		
Operating Tax Advance	25,000	
Capital Tax Advance ⁷	<u>5,000</u>	<u>30,000</u>
Other Revenue		
Interest	250	
Transfer for Prior Year's Surplus ⁸	300	
Transfer from Renewal Reserve Funds ⁹	200	<u>750</u>
TOTAL REVENUE		<u>30,750</u>
EXPENDITURE		
Administration		
Salaries and Wages	4,000	
Office and Utilities	2,000	
Audit and Legal	500	
Insurance	1,000	
Other	<u>500</u>	<u>8,000</u>
Operations		
Salaries and Wages	5,000	
Repairs and Maintenance	4,000	
Other	<u>1,000</u>	<u>10,000</u>
Capital Expenditure Out of Revenue		
Capital Acquisitions (Equipment) ¹⁰	500	
Transfer to Renewal Reserve Funds ¹¹	<u>5,000</u>	<u>5,500</u>
Debt Charges		
Principal and Interest Payments on Long-term Debt (Capital Tax Advances) - Bylaw No. 50 ⁷		<u>5,000</u>
TOTAL EXPENDITURE		<u>28,500</u>
SURPLUS (DEFICIT) FOR YEAR		<u>2,250</u>

NOTES

1. Generally tax revenue generated (\$20,000) should be adequate to cover debt (\$13,000), current year's capital acquisitions out of revenue (\$2,000) and current year's provision for renewal reserve funds (\$5,000).
2. Generally toll/user rate revenue generated (\$34,000) should be adequate to cover administrative (\$12,000) and operating (\$22,000) costs.
3. The amount reported here would also be shown as a "Source of Funds (Surplus Funds on Hand)" in the first year of the capital expenditure program.
4. The amount reported here would also be shown as a "Source of Funds (Renewal Reserve Funds)" in the first year of the capital expenditure program.
5. The amount reported here would represent the "Total Capital Acquisitions" proposed for that year (\$9,500) regardless of the source of funding. In this example, the source of funding for the current year is General Revenue (\$2,000), Surplus Funds on Hand (\$2,500) and Renewal Reserve Funds (\$5,000).
6. Amounts to be expended from the Capital Expenditure Charge Fund are not shown as a revenue transfer or capital expenditure in the operating budget but may be shown as a separate line item or notation in order to connect with the capital expenditure program.
7. The annual amount of repayment on a Capital Tax Advance is shown as a "current year" revenue item as it is actually levied by the Province in that year and retained by the Province as a payment for that year.
8. Any amount reported here would also be shown as a "Source of Funds (Surplus Funds on Hand)" in the first year of the capital expenditure program.
9. Any amount reported here would also be shown as a "Source of Funds (Renewal Reserve Funds)" in the first year of the capital expenditure program.
10. The amount reported here would represent the "Total Capital Acquisitions" proposed for that year (\$500) regardless of the Source of Funding. In this example, the only source of funding for the current year is General Revenue.
11. Any amount reported here would be tied to an "Established Renewal Reserve Fund Program" and would eventually show up as a future "Capital Acquisition" (Expenditure) and "Transfer from Renewal Reserve Fund" (Revenue).

**IMPROVEMENT DISTRICT
SUMMARY OF FIVE-YEAR CAPITAL EXPENDITURE PROGRAM**

Application of Funds	Current Year	Next Year	3rd Year	4th Year	5th Year	TOTAL
Fire Protection	\$	\$	\$	\$	\$	\$
Land	0	0	0	10,000	0	10,000
Buildings	0	0	0	0	50,000	50,000
Vehicles & Equipment	500	0	0	500	15,000	16,000
Sub-totals	500	0	0	10,500	65,000	76,000
Waterworks	\$	\$	\$	\$	\$	\$
Treatment	7,500	0	0	0	0	7,500
Supply	0	75,000	0	0	0	75,000
Distribution	2,000	5,000	20,000	2,000	1,000	30,000
Engineering	0	5,000	0	0	0	5,000
Sub-totals	9,500	85,000	20,000	2,000	1,000	117,500
TOTALS	10,000	85,000	20,000	12,500	66,000	193,500
Source of Funds	Current Year	Next Year	3rd Year	4th Year	5th Year	TOTAL
General Revenue	(FP) 500 (W) 2,000	0	0	(FP) 500	(FP) 5,000	(FP) 6,000 (W) 2,000
Surplus Funds on Hand	(W) 2,500	(W) 15,000	0	(W) 2,000	(FP) 20,000 (W) 1,000	(FP) 20,000 (W) 20,500
Renewal Reserve Fund	(W) 5,000	0	0	(FP) 10,000	0	(FP) 10,000 (W) 5,000
Capital Exp. Charge Funds	0	(W) 5,000	0	0	0	(W) 5,000
Sub-totals	(FP) 500 (W) 9,500	(W) 20,000	0	(FP) 10,500 (W) 2,000	(FP) 25,000 (W) 1,000	(FP) 36,000 (W) 32,500
Short-term Loan	0	0	0	0	0	0
Long-term Loan	0	(W) 65,000	(W) 20,000	0	(FP) 40,000	(FP) 40,000 (W) 85,000
TOTALS	(FP) 500 (W) 9,500	(W) 85,000	(W) 20,000	(FP) 10,500 (W) 2,000	(FP) 65,000 (W) 1,000	(FP) 76,000 (W) 117,500

**IMPROVEMENT DISTRICT FINANCIAL STATEMENTS
FOR THE YEAR ENDED DECEMBER 31, 20XX**

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Auditor's Report

To the board of trustees
Improvement District

We have audited the consolidated balance sheet of the improvement district as at December 31, 20XX and the consolidated statements of capital, equity and revenue and expenditure for the year then ended. These financial statements are the responsibility of the board of trustees. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the financial position of the improvement district as at December 31, 20XX and the results of its operations for the year then ended in accordance with the generally-accepted accounting principles for improvement districts in the Province of British Columbia.

Accountants

Anyplace, British Columbia
March 30, 20XX

IMPROVEMENT DISTRICT CONSOLIDATED BALANCE SHEET
AS OF DECEMBER 31, 20XX

	ASSETS	
	<u>20XX</u>	<u>Prior</u>
FINANCIAL ASSETS:		
Cash (Note 2)	\$	\$
Receivables		
Long-term Investments		
Other	_____	_____
Total Financial Assets	\$ _____	\$ _____
PHYSICAL ASSETS (Note 6)	\$ _____	\$ _____
TOTAL ASSETS	\$ _____	\$ _____

	LIABILITIES AND EQUITY	
	<u>20XX</u>	<u>Prior</u>
CURRENT LIABILITIES:		
Temporary Borrowings	\$	\$
Accounts Payable	\$ _____	\$ _____
Total Current Liabilities	\$ _____	\$ _____
LONG-TERM DEBT (Note 7)	\$ _____	\$ _____
EQUITY (Note 8)	\$ _____	\$ _____
TOTAL LIABILITIES AND EQUITY	\$ _____	\$ _____

IMPROVEMENT DISTRICT CONSOLIDATED STATEMENT OF REVENUE
EXPENDITURE FOR THE YEAR ENDED DECEMBER 31, 20XX

	<u>BUDGET</u>	<u>20XX</u>	<u>Prior</u>
REVENUE:			
Taxes			
Operating Tax Advance	\$	\$	\$
Capital Tax Advances (Note 7)			
Parcel Tax			
Total Taxes	\$ _____	\$ _____	\$ _____
Tolls/User Rates			
Connection Charges			
Capital Expenditure Charges (Note 3)			
Other Revenue			
TOTAL REVENUE	\$ _____	\$ _____	\$ _____
EXPENDITURE:			
Administration	\$	\$	\$
Operations	\$	\$	\$
Capital Expenditures	\$	\$	\$
Debt Interest	\$ _____	\$ _____	\$ _____
TOTAL EXPENDITURE	\$ _____	\$ _____	\$ _____
NET REVENUE (EXPENDITURE)	\$ _____	\$ _____	\$ _____
Debt Principal Payments	\$ (_____)	\$ (_____)	\$ (_____)
Change in Financial Equity	\$ _____	\$ _____	\$ _____
Financial Equity: Opening Balance	\$ _____	\$ _____	\$ _____
Prior Period Adjustment	\$ _____	\$ _____	\$ _____
Financial Equity: Closing Balance	<u>\$ _____</u>	<u>\$ _____</u>	<u>\$ _____</u>

IMPROVEMENT DISTRICT CONSOLIDATED STATEMENT OF CHANGE IN
FINANCIAL POSITION FOR THE YEAR ENDED DECEMBER 31, 20XX

	<u>20XX</u>	<u>Prior</u>
Cash provided by (used for) operations	\$ _____	\$ _____
Changes in Net financial Assets		
Net Operating Revenue		
Changes in non-cash working capital		
Taxes and Accounts Receivable		
Other Assets		
Accounts Payable and accrued liabilities	\$ _____	\$ _____
Net Cash from Operations	\$ _____	\$ _____
Cash Provided by (used for) investing		
Purchase of assets	\$ _____	\$ _____
Proceeds on disposal of capital assets	\$ _____	\$ _____
Net Change in inventories	\$ _____	\$ _____
Cash Provided by (used for) financing		
Long-term debt repaid		
Long-term debt issued		
Adjustment to accrued interest	\$ _____	\$ _____
Change in cash and equivalents	\$ _____	\$ _____
Cash and equivalents, start of year	\$ _____	\$ _____
Cash and equivalents, end of year	\$ _____	\$ _____

IMPROVEMENT DISTRICT NOTES TO FINANCIAL STATEMENTS FOR THE YEAR
ENDED DECEMBER 31, 20XX

1. The improvement district was incorporated on *(month, day, year)* and is subject to the provisions contained in the *Local Government Act*, a statute of the provincial government.

2. Basis of Accounting

The improvement district's policy is to follow accounting principles generally accepted for local governments in British Columbia and to consistently apply such principles. The financial statements have been prepared using the accrual basis of accounting. Revenues are recorded in the period in which the transaction or events occurred that gave rise to the revenues. Expenditures are recorded in the period the goods and service are acquired and a liability is incurred.

Analysis of cash and investments:

Cash	xxxxx
Short term investments	xxxx
Capital Expenditure Charge Fund	xxxx
Renewal Reserve Fund(s)	xxx

3. Capital Expenditure Charge Fund

Capital expenditure charges are levied under bylaw, pursuant to section 746(1) of the *Local Government Act*, where the creation of parcels of land or development on parcels of land will result directly or indirectly in new capital cost burdens for the improvement district. The funds collected from the charges and interest earned on the funds are deposited in a separate reserve account at a financial institution. Disbursements can only be made from the account, after a bylaw is passed by the board of trustees of the improvement district and registered with the Inspector of Municipalities.

STATEMENT OF CHANGES IN CAPITAL EXPENDITURE CHARGE FUND

	<u>20XX</u>	<u>Prior</u>
BALANCE AT BEGINNING OF YEAR	\$ _____	\$ _____
ADD: Capital Expenditure Charges Collected	\$ _____	\$ _____
Interest Earned	\$ _____	\$ _____
 DEDUCT: Capital Expenditures from Fund	 \$ _____	 \$ _____
 BALANCE AT END OF YEAR	 \$ _____	 \$ _____

4. Renewal Reserve Fund(s)

Renewal Reserve Funds are established under bylaw, pursuant to section 751 of the *Local Government Act*, for the upgrading, replacement or renewal of existing capital works. The funds set aside, and interest earned on the funds, are deposited in a separate account at a financial institution. Disbursements can only be made from the account after a bylaw is passed by the trustees of the improvement district and registered with the Inspector of Municipalities.

CONSOLIDATED STATEMENT OF CHANGES IN RESERVE FUNDS

	<u>2 0 X X</u>	<u>Prior</u>
BALANCE AT BEGINNING OF YEAR	\$ _____	\$ _____
Revenues:		
Transfers from Other Funds		
Investment Income	\$ _____	\$ _____
Transfers to Other Funds	\$ _____	\$ _____
Fund Equity – beginning of year	\$ _____	\$ _____
Fund Equity – end of year	\$ _____	\$ _____
Water Fund	\$ **	
Fire Fund	\$ **	

** If there is more than one fund, a separate total of each fund should be kept for each service responsibility.

5. The inventory of supply is valued at the lower of cost and net realizable value.

6. Physical Assets

The capital assets are carried in the accounts at historical cost. No depreciation is recorded in connection with the capital assets.

Capital Assets, at cost	<u>Balance Prior</u>	<u>Additions</u>	<u>Disposals</u>	<u>Balance 20XX</u>
Land	\$	\$	\$	\$
Buildings				
Vehicles				
Equipment				
Other	_____	_____	_____	_____
Total Capital Assets	\$ _____	\$ _____	\$ _____	\$ _____

CONSOLIDATED STATEMENT OF EQUITY IN CAPITAL ASSETS

	<u>2 0 X X</u>	<u>Prior</u>
Increases		
Capital Expenditures	\$ _____	\$ _____
Debt Proceeds Received		
Reduction of Debt – Principal repayment		
Decreases:		
Assets disposed of at cost	(_____)	(_____)
Change in Equity in Capital Assets	\$ _____	\$ _____
Equity: Beginning of year	\$ _____	\$ _____
Equity: End of year	\$ _____	\$ _____

7. Long-term Debt

(Each debt issue should be shown separately, and indicate service responsibility, as shown)

	<u>Bylaw No</u>	<u>Maturity Date</u>	<u>Interest Rate</u>	<u>Balance</u>
Outstanding Debt				
Water - Sinking Fund				\$ _____
Fire - Capital Tax Advance				\$ _____
TOTAL				\$ _____

	Interest	Principal	Sinking Fund	Total
Upcoming Debt Payments				
Water - Sinking Fund	\$ _____	\$ _____	\$ _____	\$ _____
Fire - Capital Tax Advance	\$ _____	\$ _____	\$ _____	\$ _____
TOTAL	\$ _____	\$ _____	\$ _____	\$ _____

8. Equity

This balance represents amounts set aside in reserves, operating surpluses from current and prior years which have not yet been allocated for specific purposes, and the equity in capital assets for which there is no outstanding debt.

Investment Guidelines

Section 745(4) of the *Local Government Act* states that money held by an improvement district that is not immediately required, may be invested by the board in investments referred to in Section 183 of the *Community Charter* (Investment of municipal funds).

The investment guidelines reflect a conservative management philosophy that is based on three fundamentals: the first priority is the preservation of capital; second, is to ensure liquidity; third, is the achievement of high returns. The preservation of capital is accomplished through the placement of funds with institutions esteemed in the marketplace as having the highest credit worthiness. In investing public money it is not sufficient to place funds with institutions who have earned a public reputation as merely a good credit risk.

Section 183 allows investment in one or more of the following:

- securities of, or guaranteed for principal and interest by, Canada or a province;
- securities of a municipality or regional district;
- securities of the Municipal Finance Authority;
- pooled investment funds under Section 16 of the *Municipal Finance Authority Act*;
- investments guaranteed by a chartered bank; and,
- deposits in a savings institution, or non-equity or membership shares of a credit union.

Credit risk minimization can also be achieved through diversified investments. Investing funds in several institutions instead of one reduces risks if one of them does not perform well. However, it is recognized that there may be situations where this is not practicable or desirable.

The insurance of liquidity is the ability to fund operating commitments through the drawdown of the investment portfolio, and this necessitates liquid investments. The following instruments are considered liquid: treasury bills; demand deposits; term deposits with a call feature; banker's acceptances; banker's deposit notes; and, tradable promissory notes.

High returns are achieved through a survey of the marketplace subject to the constraints of the preservation of capital and the insurance of liquidity. Acceptable yield spreads between different financial credits and different terms to maturity should adequately reflect the perceived credit risks on market conditions at the time of investment.

A consequence of the first priority to preserve capital is the obligation to ensure the safe delivery and settlement of securities. To this end, securities should be purchased for delivery only. Offers by investment dealers to provide the permanent safekeeping function should be avoided as should accepting a letter of undertaking from an investment dealer promising to deliver securities at a future date. Securities should be held for safekeeping with any financial institution qualifying as an excellent risk under the preservation of capital requirements. Repurchase agreements for the purpose of overnight investments should only be considered if there is same day physical delivery and there are precise terms negotiated in advance as to the sale price and resale price.

BORROWING

Short-term (Temporary)

Section 746(1) of the *Local Government Act* authorizes the board of trustees to make bylaws for borrowing, by way of loan, temporary or otherwise, from a financial institution, amounts the board believes are necessary to meet approved expenditures.

Temporary borrowing is generally used in the following circumstances:

- When an unexpected or unplanned expenditure arises that was not included in the budget, but which requires immediate attention and cannot be met through existing funds on hand (i.e. operating account or reserve funds). The nature and size of the expenditure will influence the board of trustees' decision about the term of the loan. In most cases, improvement districts should be able to repay the loan within one to three years.
- When a major capital project has been approved and is under construction, the cost is financed by interim borrowing until the project is completed, and final cost figures are known. At that time, the interim financing can be replaced by a long-term loan.

Temporary borrowing bylaws must be registered with the Inspector of Municipalities before the money can be obtained from a financial institution. Three copies of the bylaw must be submitted for registration, so that one copy can be retained by the financial institution. Until the bylaw is registered with the Inspector, the capital project, the purchase of assets, or other purpose for the borrowing, cannot be undertaken. Detailed cost and repayment information must be submitted to the Inspector in support of the bylaw (see the section called Capital Projects). The following points should be noted with respect to the borrowing bylaw provisions:

- **Borrowing Limit** - The amount stated in the bylaw is the maximum amount to be borrowed for the approved expenditure. Actual amounts borrowed under this borrowing authorization may be less depending on the timing of payments and the actual costs incurred.
- **Repayment Date** - The repayment date is tied to the expected cost recovery plan.
- **Borrowing Institution** - The name of the financial institution, from which the borrowing is to be obtained, is stated in the bylaw.

Note the repayment of a loan is secured by the toll and taxing powers of the improvement district, not by the value of its assets.

Long-term

Sections 746 and 769 to 772 of the *Local Government Act* authorize a board of trustees to enact bylaws to borrow money by the issue and sale of notes, bonds, debentures and other securities in principal amounts the board believes are necessary.

Long-term borrowing is used to pay out interim financing for capital expenditure projects approved under a temporary borrowing bylaw. Long-term financing is currently arranged by the Ministry of Community Services through the Ministry of Finance and the borrowing is guaranteed by the Province.

Borrowings (issues) are generally done once a year at interest rates set by the Ministry of Finance and with terms that are discussed with the improvement districts that are participating in the issue.

Long-term borrowing bylaws, and other documentation required by the Ministry of Finance will be prepared by the Ministry of Community Services at the time the issue is being arranged.

COST RECOVERY

Assessment and Taxation

General

Sections 746 and 753 to 760 of the *Local Government Act* authorize the board of trustees to make bylaws in order to assess property, levy and collect taxes and to recover unpaid taxes.

Taxes are property charges fixed and payable by all landowners in the improvement district to which a service (or services) is provided, or can be provided in the future, if the property owner requests it. Monies raised through taxes are generally used to meet the annual debt costs, capital out of revenue and reserve fund allocations

Taxes may be fixed on the basis of parcels, groups of parcels, values or areas, or any combination of these. Most improvement districts use a simplified parcel tax system where the total costs are divided by the total number of benefiting parcels to determine a fixed parcel tax. Whatever the basis of taxation chosen, it should be based on an equitable allocation of costs that can be explained to the landowners.

Taxes are generally used in conjunction with tolls as a method of cost recovery for direct services such as water or garbage collection where there is an element of consumption. Taxes are generally used as the sole method of cost recovery for services that are provided more occasionally or indirectly such as fire protection, street lighting, or dyking. While an improvement district can levy taxes on properties that are not directly receiving a service, consideration must be given to whether the properties could receive the service in the future if the owner requested it. For example, if a water main fronts a property that is undeveloped, there is logic for it to be taxed as the money will be used to ensure the water system is maintained for when the owner wants to develop the property. If a property cannot be connected to a water line, there is no logic for taxing it as the owner will never benefit from the water system. If a property not receiving water is taxed, a capital expenditure charge will not usually be payable at the time a water connection is requested.

Bankruptcy and Collection of Charges

If an improvement district has outstanding taxes, tolls, or charges against a property where the owner has filed for bankruptcy, the improvement district should make a claim to the bankruptcy trustee in order to be added to the list of creditors. The claim should specify the amount owing to the improvement district, including any penalties or interest. The bankruptcy trustee will decide how much of the outstanding amount (if any) will be paid to the improvement district from the owner's assets.

Although outstanding improvement district charges automatically form a lien on the property, Federal bankruptcy legislation takes priority over provincial legislation. Therefore, once the bankruptcy proceedings are finalized, the lien is discharged and the improvement district will not have an opportunity to recover its outstanding amounts from subsequent property owners.

A tax sale cannot be undertaken for a property that is under bankruptcy.

Establishment

Tax bylaws must be passed by the board of trustees and registered with the Inspector of Municipalities to be in force and effect. A tax bylaw is the only bylaw enacted by a board of trustees that does not continue indefinitely. A new taxation bylaw must be passed by the board and registered with the Inspector every year, even if the amount of the taxes are unchanged from the previous year.

The following is an outline of steps a board of trustees must consider when carrying out the assessment and taxation processes.

General Steps to Carry Out Assessment and Taxation

The following steps apply where the improvement district is the assessor and collector for the services for which a tax is to be levied. If an improvement district is responsible for fire protection or street lighting, the improvement district can ask the province to levy and collect taxes for those services on its behalf.

1. **Assessor**
Assign the assessor duties to the corporate officer or the financial officer position. The duties of the collector are already assigned in legislation to the financial officer.
2. **Pass and register an Assessment Bylaw.**
An assessment bylaw sets out the basis for such assessment and authorizes the assessor to carry out an assessment and create an assessment roll.
3. **Prepare the preliminary assessment roll.**
Every parcel of land (if parcels are the basis of assessment) within the improvement district boundary needs to be listed, showing the name(s) of the registered owner the property address, the legal description of the property, and the classification into which the property is being placed. Information about the owners and the property may be available from the regional district, Government Agent office, or the local BC Assessment office.

4. Mail out the assessment notices.
Assessment notices must be sent out annually to every landowner whose property is assessed. The notice must include a description of the property and the assessment category into which it has been placed as well as the date, time and place for the Court of Revision. The Court of Revision must be held not be less than two weeks after the notice was mailed.
5. Appoint members of the Court of Revision.
The board of trustees must appoint three persons to constitute the Court of Revision. These may be trustees or other persons, but not the assessor. The members of the Court of Revision should be familiar with: the improvement district boundary; the basis of assessment used; the uses of property in the community; and, the extent of the improvement district's services.
6. Hold the Court of Revision.
On the date, time and place that has been appointed, the Court of Revision will sit to consider any complaints regarding assessment brought before it. Complaints by landowners may be made regarding their own assessment, or the assessment of other property. If the Court finds that the assessment should be changed, they may amend the assessment and change the assessment roll. If the Court confirms the assessment, no change is made to the roll. The Court only considers complaints about information on the assessment roll such as description, ownership, or that the property was placed in the wrong assessment category. Complaints about the taxes levied against the property are not the concern of the Court.
7. Assessment Appeals.
If the Court of Revision heard a complaint and it was disallowed, there is a two week period during which the decision of the Court can be appealed to the Inspector of Municipalities. The Inspector will review the matter can either ratify the decision of the Court, or amend the assessment accordingly.
8. Tax Bylaw.
If there is no appeal at the end of the two week period, the board of trustees can pass a tax bylaw and submit it for registration. The assessment roll is now valid and binding until the following year when the process is repeated.
9. Tax Notice.
After the tax bylaw has been registered with the Inspector, a tax notice must be sent to each landowner. This notice must contain a description of the property, the amount of taxes owing, and enough information respecting the assessment and rates of taxation to show how this amount was calculated.

10. Other Considerations.

Assessment bylaws may be used until the board of trustees decides to change it but a new tax bylaw must be passed and registered every year.

Samples of the necessary bylaws and forms (i.e. Assessment bylaw, assessment notice and tax notice) can be found in Section D.

Steps for Carrying Out Assessment and Taxation (Fire protection and/or street lighting)

Section 756 of the *Local Government Act* authorizes improvement districts that provide fire protection and/or street lighting to have the provincial government assess and collect taxes on their behalf by including an amount on each landowner's provincial tax notice for this purpose. In order to arrange this, the board of trustees must pass a bylaw that sets out the amount of money they need for the following year for fire protection and/or street lighting purposes. The Ministry of Finance then advances the amount of this money to the improvement district on the date or dates requested by the improvement district. The provincial government charges a small fee for this service that is added to the land owner's taxes.

Each September, the Ministry sends a notice to all improvement districts that provide fire protection or street lighting that if they wish to use this method of cost recovery, they need to pass a taxation bylaw and send it to the Ministry along with detailed budget information.

Once the budget and bylaw are approved, a copy of the taxation bylaw is sent by the Ministry of Community Services to the Ministry of Finance along with a request that the amount of money requested by the improvement district to be processed. The deadline for the Ministry to send this information to the Ministry of Finance is November 30.

The money requested by the improvement district is then advanced by the Ministry of Finance. This occurs on the first business day after July 1 of the following year.

All or part of these funds may be advanced to the improvement district as early as the first working day in January but the improvement district will be charged interest on any funds sent prior to the first business day in July. The interest charge is added to the taxes for that year.

Tax Sale

In addition to all other remedies for the recovery of taxes, such as percentage additions and interest charges, an improvement district may, and must once in each year, hold a tax sale where there are taxes owing to the improvement district for 24 months or longer at the date of the sale. Sections 761 to 768 of the *Local Government Act* and the following preliminary tax sale procedures provide information about the process. Improvement districts may want to seek the assistance of legal counsel to ensure that all of the legislative requirements in each step are met. The method of calculating interest on taxes in arrears is also included later in this section.

If a property owner is in arrears with their provincial taxes as well as their improvement district taxes, there is a possibility the property could forfeit to the province before the improvement district can conduct their tax sale. If provincial taxes are outstanding when an improvement district proceeds to tax sale, the improvement district must be aware of the amount since they should also notify the purchaser of the outstanding provincial taxes. Property is normally subject to forfeiture for unpaid Provincial taxes after 24 months, with absolute forfeiture 12 months later. This usually occurs in November in each year. If property goes to the absolute forfeiture, the improvement district will lose its ability to collect its outstanding taxes.

Improvement districts should contact the nearest Government Agent's office or Surveyor of Taxes office in Victoria for the status of the provincial taxes on the same property where the improvement district has taxes in arrears for 24 months or longer. If absolute forfeiture will occur in the same year, the improvement district will need to schedule their tax sale before the province's.

If an improvement district is located within the boundary of a municipality, the municipality's financial officer should be contacted to determine if there are outstanding municipal taxes. If a municipal tax sale looks inevitable, the improvement district should schedule its tax sale before the municipality's.

If a property is listed for tax sale and a partial payment is received by the improvement district, it must accept the partial payment. Any payment made on taxes owing for 24 months or longer is applied first to the oldest outstanding taxes (interest, percentage addition, then initial levy), and then applied against subsequent years. The tax sale would only be cancelled if the amount received, by way of partial payment, was sufficient to pay the full amount owing for oldest outstanding taxation year (initial levy plus percentage addition plus interest to date of payment).

The upset price for sale of the property is the total tax, interest, penalties owing, plus the cost of conducting the sale and registration fee as set out in section 762 of the *Local Government Act*. A bylaw is required to establish the improvement district's costs for holding a tax sale and should be registered prior to initiating tax sale for the first time.

At the improvement district tax sale auction, the prospective purchasers must be advised of any outstanding Provincial taxes, and improvement district charges (tolls, capital expenditure charges, etc.) which will have to be paid before the tax sale deed is registered.

To avoid a conflict of interest situation no one associated with the improvement district should bid on the property unless they are bidding on behalf of the improvement district. Any property for which there is no bid automatically reverts to the improvement district.

Preliminary Tax Sale Procedures

The following procedures are to be followed by an improvement district to recover unpaid taxes through tax sale proceedings. Improvement districts may want to seek the assistance of legal counsel to ensure that all of the legislative requirements are met.

1. Under Section 762 of the *Local Government Act*, a board of trustees may hold a tax sale once every year and sell at public auction all lands where the improvement district's taxes have been owing for 24 months or longer at the date of the tax sale.
2. The board of trustees should, at a meeting held early in the year, decide the date, time and place to hold the tax sale. When deciding this date, they must consider the taxation due date. For example, if June 30th is the due date for the taxes to be paid, the tax sale date must be later than June 30th.
3. The provincial government no longer holds tax sales for unpaid provincial taxes, but carries out a plan of forfeiture which, if taxes are not paid within a period of one year from the serving of the notice of forfeiture, the land reverts to the ownership of the province. Notice of forfeiture is usually sent out in mid-August or the first part of September to all landowners owing taxes to the provincial government for any of the years up to and including the year in which the notice of forfeiture is mailed. If the province's taxes are not paid prior to November 30 of the following year, the land will revert to the province.

In view of the above, it will be necessary for improvement districts to hold its tax sales prior to the land being forfeited because once it is forfeited to the province, the improvement district cannot recover the taxes. In other words, any taxes presently outstanding for a full 24 months should be collected by tax sale or otherwise prior to November 30, the date of forfeiture. The local Government Agent's office or the Surveyor of Taxes office should be contacted in September of each year to ascertain whether or not any properties in the improvement district are subject to forfeiture.

4. If an improvement district discovers that there are properties subject to forfeiture for which taxes are owed to the improvement district for less than the full 24 month period, the board of trustees should take necessary action to have a statutory lien enforced (section 759) prior to the date of forfeiture.
5. When an improvement district sells a property at tax sale, it is necessary that the Surveyor of Taxes be advised of the name and address of the new owner, along with a legal description of the property affected. The Surveyor's office can be contacted at: Ministry of Finance, P.O. Box 9446, Stn. Prov. Govt., Victoria, British Columbia, V8W 9V6.
6. If there are Provincial taxes owing at the time of the tax sale, the improvement district should advise those attending the public auction of the amount of Provincial taxes owing so that this amount can be paid to the Province by the new owner after acquiring the property and prior to the forfeiture date.
7. If an improvement district is intending to hold a tax sale, a tax sale charge bylaw should be passed to recover the improvement district's expenses in connection to the tax sale.
8. At least 60 days before the tax sale date, the improvement district officer assigned the responsibilities of collector prepares, signs, and causes to be personally served to the registered owner of each parcel of land liable to be offered for sale at the tax sale, a notice giving the information listed below:
 - a short description of the land for which the taxes are owing;
 - the amount of taxes owing to the improvement district (including any penalty addition) and the interest owing to the date established for the tax sale;
 - other expenses which, in combination with the above, will constitute the upset price. This price is shown in the tax sale notice;
 - a statement that if the amounts noted above are not sooner paid, the improvement district will, at the time and place shown in the tax sale notice, offer the land for sale at public auction; and,
 - a statement that the said proposed sale of the land will be an absolute sale and that there is no right of redemption for the owner or charge holder after the sale.

9. In addition to personally serving the above tax sale notice to the registered owner, the officer assigned responsibility must also serve notice to the holder of each registered charge on the property either by serving the notice or by registered mail.
10. The officer assigned responsibility must retain a copy of each tax sale notice issued.
11. No other advertisement or publication of the tax sale is necessary, but the board of trustees may advertise the sale if they feel it would be useful to attract bidders.
12. On the day, hour and place fixed for the sale, the officer assigned responsibility must proceed to sell by auction, all properties for which taxes, penalty additions and interest are still unpaid at that time.
13. Further information about the conduct of the tax sale is contained in Division 4 of Part 23 of the Act.
14. A sample tax sale notice and a tax sale deed are included in this section.

Tax Sale Notice – Sample

To:

TAKE NOTICE that pursuant to Section 762 of the *Local Government Act*, the annual tax sale of _____ District will be held on the _____ day of _____, 20____ at _____ o'clock at _____ Street, _____ B.C.

Short Description of Land (Reg, Plan, Block, Lot)

Amount of Taxes Owing and Interest to Date of Sale

Expenses of Tax Sale

Fee For Issuance and Registration of Tax Deed

Total of Taxes and Interest/Expenses and Fee (Upset Price)

=====

AND FURTHER TAKE NOTICE that if the amount of taxes, interest and expenses are not sooner paid, I will offer the above-described land for sale at public auction at the time and place above-mentioned.

AND FURTHER TAKE NOTICE that the proposed sale of land will be an absolute sale and that no right of redemption will remain the owner or the holder of a charge after the sale.

Officer,

_____ B.C. _____, 20 ____ .

Tax Sale Deed of Land - Sample

WHEREAS, under Section 762 of *Local Government Act* the officer assigned responsibility for the _____ District did, on the _____ day of _____, 20____, sell by public auction to _____ of _____ that certain parcel or tract of land or premises hereinafter mentioned, for the sum of _____ dollars of lawful money of Canada, on account of unpaid taxes, penalty additions and interest due on that date.

I, the officer assigned responsibility for the _____ District, to conduct the sale, under the provision in the *Local Government Act* and for the consideration aforesaid, do hereby grant, bargain, and sell unto the said _____ their heirs and assigns, all that certain parcel or tract of land or premises, said to contain _____ acres more or less, being described as _____

IN WITNESS WHEREOF, I, have set my hand

and seal this _____ day of _____, 20____.

Officer,

District

Calculation of Interest on Tax in Arrears

The interest rate that an improvement district is allowed to charge on overdue taxes is established in section 760 of the *Local Government Act*. This rate is prescribed by the Lieutenant Governor in Council in the *Taxation (Rural Area) Act*. The rate is revised quarterly and all improvement districts are advised of these changes by the Ministry. The interest rate can only be charged starting March 1 next following the date on which the taxes were levied.

The following is an example of how interest charges would be calculated for a \$100 parcel tax unpaid for over two years where it is assumed there is a ten percent penalty addition in the improvement district's taxation bylaw. For the sake of simplification, the taxes for years two and three are not shown in the calculations. The interest rates shown are just examples.

<u>DATE</u>	<u>EXPLANATION</u>	<u>AMOUNT OWING</u>
May 30, Year 1	Billing Date	\$100.00
June 30, Year 1	Due Date	\$100.00
July 1, Year 1	10% penalty addition added	\$110.00
Jan 1, Year 2	12.75 interest rate set under the <i>Taxation Act</i>	
Apr 30, Year 2	Interest charge Mar 1 to Apr 30 (61 days) $61/365 \times 12.75\% \times \$110 = \$2.34$	\$112.34
May 1, Year 2	9% interest rate set under the <i>Taxation Act</i>	
Aug 31, Year 2	Interest charge May 1 to Aug 31 (123 days) $(123/365 \times 9\% \times \$110) = \$3.34$	\$115.68
Sept 1, Year 2	8% interest rate set under the <i>Taxation Act</i>	
Dec 31, Year 2	Interest charge Sept 1 to Dec 31 (121 days) $(121/365 \times 8\% \times \$110) = \$2.92$	\$118.60
Jan 1, Year 3	7.5% interest rate set under the <i>Taxation Act</i>	
Apr 30, Year 3	Interest charge Jan 1 to Apr 30 (120 days) $(120/365 \times 7.5\% \times \$110) = \$2.71$	\$121.31
May 1, Year 3	7.75% interest rate set under the <i>Taxation Act</i>	
June 30, Year 3	Taxes now 24 months in arrears. Tax sale set by the board of trustees to occur on August 30	
Aug 3, Year 3	Property owner pays all outstanding taxes and arrears including interest charged May 1 to Aug 3 (95 days) $(95/365 \times 7.75\% \times \$110) = \$2.22$	\$123.53
Aug 4, Year 3	Tax Sale cancelled	0

Connection Charges

General

Section 746(1) of the *Local Government Act* authorizes the board of trustees to enact a bylaw to establish charges. A connection charge is meant to recover the cost that the improvement district incurs to complete the physical connection from the water distribution main, to the boundary of the property owned by the applicant who requested the connection. The charge may include a reasonable amount for the improvement district staff to process the application and to inspect the connection before turning the water on. A connection charge is not a surplus-generating source of revenue for the improvement district or a “buy-in” fee.

Depending on the construction history of the improvement district’s water system, the pipes and valves connecting the water mains to individual properties may have been installed long ago, very recently, or not at all. The cost might have been paid by a developer, by the landowners in the improvement district as a whole, or by the owners of property fronting the waterline at the time of construction. If curb stops (valves) were installed, they might be well-marked or they might be difficult to locate without excavation.

As a result, connection costs can vary from a simple visit to the site to inspect the landowner’s service pipe connection and to turn on the curb stop, or it may involve road crossings, blasting and considerable expense. In addition, the policies of the improvement district may dictate the work must be undertaken by their own employees, or it might be undertaken by an approved contractor.

Establishment

There are two main methods of establishing a charge to recover the costs incurred by the improvement district for water connections. One is to set a flat charge and the other is a floating charge known as cost-plus. The flat charge is a dollar amount that is usually set at a level which covers the average cost of connections. Where the actual cost to make the connection turns out to be less than the flat rate, the improvement district retains the surplus. Where the cost is more than the flat rate, the improvement district finances the shortfall. In the long run, the improvement district should break-even.

With the cost-plus connection charge, the applicant is required to pay the actual cost of the service connection to their property. A deposit is required at the time the application is made and the difference is either made up the by applicant (for costs higher than the deposit paid) or reimbursed to the applicant (for costs lower than deposit). The amount of this deposit should be set at the expected maximum cost for the type of service connection requested.

The improvement district should not turn water on to the property until the full amount of the connection charge and all other amounts to be collected under bylaw, are paid. This is the best guarantee for the improvement district to receive full payment of the connection charge. Sample bylaw formats can be found in Section D.

Capital Expenditure Charges

General

Section 746(1)(f) of the *Local Government Act* authorizes the board of trustees to enact bylaws for establishing charges for capital expenditures.

A well planned water or sewer system should have spare capacity to service future development. A few customers can usually be hooked up without reducing the quality of service to existing customers. However, the addition of each new connection will gradually erode the ability of the system to deliver a reasonable level of service unless measures are taken in advance by the improvement district to augment the system to compensate for its lost capacity. These problems are due to growth, and for a water system they usually result in: a shortage of water at the source; excessive reservoir draw down; inadequate yield of pumps; or low pressures during periods of heavy demand (which usually occurs in summer and/or at higher elevations).

The degree of spare capacity available on any given date in each component of the system will differ. For instance, the intake for a water system may be sized to handle a much greater flow than presently required and the trunk main may be able to convey enough water for some additional demand, but a booster pump may be unable to deliver more water. A second or larger booster pump (or a balancing storage tank) may be required, followed later by paralleling or upsizing the trunk main. Periodic improvements to the system will be required to remove bottlenecks in the capacity of the water system to meet the increasing demand for service due to continuing development. This upgrading should be pre-planned and based on an engineering study which recommends a staged sequence of new works to handle expected growth. These improvements should be carried out before the demand for water exceeds the capacity of the system.

To pay for these improvements to augment system capacity the improvement district can establish a “Capital Expenditure Charge (CEC) Fund”. Developers and landowners who will create the extra demand for service will be required by bylaw to contribute money to the fund in the form of a charge. The charge must fairly represent the added demand their development will impose on the system. Using this method, the improvement district can accumulate, in advance of need, the money to finance these improvements.

A capital expenditure charge (CEC) is also intended to augment system capacity to supply the more intensive use of a service anticipated when land is redeveloped. Redevelopments might result in a change of land use which could mean that the land needs to be reclassified for assessment and taxation purposes. The change in land use might involve land being used for different purposes such as a residential development on land that was previously agricultural. It might also involve lands where the use is the same but the density has increased such as a single family dwelling being replaced with a duplex or an apartment building.

Under Part 23 of the *Local Government Act*, there are various methods available to finance the costs of works and services required due to new development. Some of the methods are:

- charges under section 746(1)(f);
- capital expenditure charges under section 746(1)(f);
- subdivision servicing requirements under section 747.1; and
- latecomer charges under section 747.2.

Prior to enacting a CEC bylaw, the board of trustees should determine what types of works are to be financed by the various methods since CECs are not intended to duplicate any other requirements for works and services. Specific provisions have been included in the CEC bylaw that may make the charge uncollectible if duplication exists. For example, it could be decided that major water mains will be financed by CECs; whereas water laterals will be the responsibility of the developer under the provisions in a subdivision servicing bylaw. These decisions should be reflected in the capital expenditure program.

Establishment

Capital expenditure charge bylaws must be passed by the board of trustees and registered with the Inspector of Municipalities prior to collecting monies from new development or new services. A sample CEC bylaw can be found in Section D. A CEC bylaw is not mandatory, but if enacted, it will require periodic review and amendment. Some of the features of the bylaw are:

- Improvement districts that had more than one CEC bylaw for different types of development can consolidate them all into one comprehensive bylaw that covers: new connections; subdivisions; and, properties where the use of land has changed.
- It outlines the: purpose of the charge; when it is payable; the basis of the charge; and how money in the CEC fund is to be disbursed.

- It establishes a schedule outlining the different amount of charges that are charged to properties according to the type of land use development involved.

Different capital expenditure charges can be established for areas of the improvement district where there are costs to improve the water system that are specific to that area.

Money in the CEC fund can be used to pay engineering study costs or debt incurred as a result of an expenditure related to the capital costs of providing, constructing, altering or expanding facilities to service new development.

A works plan and capital expenditure program are needed to support a capital expenditure charge bylaw or amendment bylaw that is submitted for registration with the Inspector of Municipalities.

A works plan is a prioritized listing of anticipated capital improvements outlined in an engineering report. A capital expenditure program is a schedule which equates planned expenditures in the works plan with anticipated revenue sources. See Budgeting in Section C for more details about capital expenditure programs.

When a board of trustees is considering, or reviewing a capital expenditure charge bylaw, the following points should be considered:

- CECs may be fixed solely for the purpose of providing funds for the improvement district to pay the capital cost of providing, altering or expanding facilities. Therefore, the CEC must relate to costs related to development.
- The CEC must be paid at the time of subdivision approval or when the application for service is approved by the improvement district.
- The CEC bylaw provides for certain exemptions. If the CEC has been paid with respect to the same development that includes either a building or structure or the subdivision of land, then unless further subdivision occurs or additional development is carried out, there is no new capital cost burden and therefore no CEC is payable. Similarly, if the subdivision or development does not impose new capital cost burdens on the improvement district, no CEC can be imposed.
- The bylaw states that CECs should be fair and equitable and at levels that will not deter development within the community.
- The bylaw requires that all CECs collected must be deposited in separate reserve fund to be expended only for the purpose for which the charges were collected. For example, if the improvement district has determined that

different CECs can be charged in different parts of the improvement district, the monies generated for each area must be spent on the project, or debt incurred for that project, in that area only.

- Schedule A of the bylaw will vary directly according to the needs of each improvement district. The CECs must be related directly to the cost of providing, altering or expanding facilities. The cost may vary according to different areas within the improvement district. That is, the board of trustees could determine that the costs required to serve one area of the improvement district are higher than in other areas.
- The charges could vary according to different capital costs related to any of the different classes of development, and the charge may vary according to the different sizes or numbers of units or lots created by or resulting from a development. However, the charge must be the same for the same capital cost imposed upon the same classes. That is, the charge must be the same for two different properties that are used for the same purpose such as single family dwellings unless the properties are located in different zones identified by the CEC bylaw.

Calculation and Justification

When considering a CEC bylaw, the board of trustees should consider the following:

Non-Financial

- CECs should be based in part on information in the local government official community plan if one has been established in the area. These plans contain the blueprint for present and future development of the community. Improvement districts should consult with their regional district (or municipality or Islands Trust as appropriate) where an Official Community Plan is in place. If an official community plan is not in place, then the Ministry will require evidence when reviewing a CEC bylaw that the charge is based on a rational scheme of development.
- Realistic population projections should also form part of the basis for determining CECs. Population figures are available from regional districts or BC Stats.
- An engineering report should identify capital works required to increase the capacity of the water system to service new developments as well as the cost of those works and then correlate this information with the population projections and community plan information.

Financial

- The estimated costs included in the reports will form the works plan and will need to identify the portion to be financed by new development. These reports will be often prepared by consulting engineers, or occasionally, by improvement district employees.
- CECs should relate to capital costs attributable to projects included in the capital expenditure program that is adopted by the board of trustees.

In general, CECs should be used to finance works and services which benefit all anticipated development in the improvement district as opposed to those which benefit only specific properties. The fundamental aim of the CEC concept is the establishment of a framework within which new capital cost burdens are distributed on an equitable basis between existing and future development.

CECs may be imposed for the purpose of providing funds for the improvement district to pay the capital cost of providing, constructing, altering, or expanding sewer or water facilities, in order to service directly or indirectly, the development for which the charges are imposed. They cannot be used for services other than water or sewer.

CECs should be paid to the improvement district at the time of the approval of the subdivision or the approval of the application for service according to the circumstances.

A bylaw that imposes a CEC is not in effect until it has been registered with the Inspector of Municipalities. The Inspector may refuse to register the bylaw where it is determined that the CEC is not related to capital cost attributable to projects included in a capital expenditure program, the CECs are deemed excessive in relation to the capital cost of prevailing standards of service within the improvement district, or the CECs will deter development.

An improvement district should follow these steps:

Determine Units of New Development

- Utilize the regional district (or municipal or Islands Trust) Official Community Plan and zoning bylaws, or any other information that indicates the amount and type of development that is proposed within the improvement district.
- Determine the number of years over which capital costs will be estimated.

- Calculation Methods (The following examples calculate residential units):
 - Use population projections.
 - Population increase projected 2010 to 2020 = 21,275
 - Residential units based on 3.4* persons per unit = 6,257 units.
 - * factor may vary from one community to another, based on latest census information.
 - In order to use population projections, an improvement district will require historical data on population relative to residential unit averages and industrial and commercial development properties.
 - Measurement of developable land area and application of density factor.
 - 66 hectares x 10.5 units per hectare = 693 units
 - Official community plan and zoning bylaw designations.
 - Refer to the number of residential lots estimated to be created in an Official Community Plan or that can reasonably be expected to be created based on the land-use designations in Official Community Plans and zoned for that purpose.

Determine Costs

- Engineering estimates for the capital projects are required. Estimates must be correlated to population projections.
- The cost of projects completed prior to the registration of the CEC bylaw cannot be included. In order to be able to levy a CEC, new development must impose new capital cost burdens on the improvement district.
- Projects should be included in the capital expenditure program.
- Projects must be within the financial capability of the improvement district.
- Projects must be consistent with the regional district, municipal or Islands Trust Official Community Plan, and zoning bylaws, or any other information that gives an indication of the overall proposed development within the community.
- Project costs are to be in current dollars - an inflation factor cannot be used. CEC bylaws will need to be amended periodically to reflect changes in the underlying data used to calculate the charge.
- An improvement district may be divided into two or more areas for the purpose of allocating new capital cost burdens if the costs are not uniform throughout the improvement district.
- All costs that would normally be capitalized in the financial accounts of the improvement district may be included in the calculation of CECs. Such costs include planning, engineering and the legal costs related directly or indirectly

to the development. Additional costs such as interim financing, administration and a provision for contingencies may also be included where appropriate.

- Projects may be determined on a unit basis with reference to historical data.
- The capital projects must be built to the construction standards established by the improvement district in their subdivision servicing regulation bylaw, water distribution regulation bylaw, or as established by resolution passed by the board of trustees.

Allocate Costs Between Existing and New Development

- The cost of a capital project is normally allocated between existing and new development. Even though existing residents may be adequately serviced by the system, each new capital cost burden must be analysed to determine what benefits, in the form of improved services, accrue to the existing community.

- Methods of Allocation

Population ratio.

Population increase 2010 to 2020 =	3,500
Design population of the system =	25,900
% of cost charged to new development = $(3,500/25,900) \times 100\%$ =	13.5%

Direct allocation of project costs.

Such allocations are based on engineering study and analysis.

Cost of projects	\$438,000
Amount allocated to existing development	\$228,000

Amount recoverable by capital expenditure charge \$210,000

Unit ratio.

Cost of capital project \$14,000

Existing units 20

Developable units 12

Total Units 32

Costs assigned to new development: $(12/32) \times \$14,000 = \$5,250$

Allocate New Development Costs to Residential, Commercial, Industrial and Agricultural Areas

Methods available:

By definition of unit;

- Residential - 1 unit equal to one dwelling unit (0.833 hectare)
- Commercial - 1 unit equal to 800 square meters (0.222 hectare)
- Industrial - 1 unit equal to 7,200 square meters (.2 hectare)
- Agricultural - 1 unit equal to .4 hectare

LAND USE	DEVELOPABLE		NUMBER OF UNITS
	DENSITY	LAND FACTOR	
Residential	25 hectares	12 units per hectare	300
Commercial	3 hectares	45 units per hectare	135
Industrial	15 hectares	5 units per hectare	75
Agricultural	40 hectares	2.5 units per hectare	100
Total Units			610
Cost of Capital Projects =			\$1,220,00

Capital expenditure charge for each unit = $\$1,220,000 \div 610 =$
 $\$2,000$ per unit

By using equivalent (weighted) units;

USE	WEIGHTING FACTOR*	NEW DEVELOPMENT**	NUMBER OF EQUIVALENT UNITS
	(a)	(b)	(a) x (b)
Residential	1	300 units	300
Commercial	2	135 units	270
Industrial	4	75 units	300
Agricultural	3	100 units	300
Total Equivalent Units			1,170

* Based on relative water consumption to one residence

** See Above for calculation of number of units

Cost of Capital Projects \$1,220,000

CEC for water per equivalent unit (peu) = $\$1,220,000 \div 1,170 =$

$\$1,043$ peu

CEC applicable to Residential = $1 \times \$1,043 = \$1,043$ peu

CEC applicable to Commercial = $2 \times \$1,043 = \$2,086$ peu

CEC applicable to Industrial = $4 \times \$1,043 = \$4,172$ peu

CEC applicable to Agricultural = $3 \times \$1,043 = \$3,129$ peu

Determine of Time Period

The time period can range from five to twenty years but increments should be selected to average out changes over the long-term. The choice of time period will affect the number of units of new development and the costs. Time periods should not be compressed if projects with a large amount of excess capacity are planned.

Estimate the Capital Expenditure Charge

When estimating CECs the board of trustees should take into consideration future land use patterns and development, and the phasing of works and services. In addition, consideration should be given to whether the charges: are excessive in relation to the capital cost of prevailing standards of service in the improvement district; will deter development; or will discourage the construction of reasonably-priced housing; or, serviced land in the improvement district.

Collection of Capital Expenditure Charges

CECs collected must be deposited in a separate CEC reserve fund established for that purpose for each service for which the improvement district imposes the CEC.

Uses of Money in a Capital Expenditure Charge Fund

Eligible Expenditures

Projects identified in a works plan and capital expenditure program generally qualify as an eligible use of CEC funds, and fall into one or more of the following categories:

- An engineering study to analyse the improvement district's water or sewer system and provide a plan for upgrading and future expansion to meet additional demands for the service. This study provides information for establishing CECs and used to plan for future growth.
- Increasing water system source capacity such as intake works or new wells.
- Increasing water or sewer treatment capacity, such as a chlorination station, or additional sewage treatment facilities.
- Increasing water storage capacity, such as dams or reservoirs.
- Increasing water supply capacity by, enlarging or paralleling a main supply line, or in some cases enlarging or looping lateral mains where this will enhance the main supply. Increasing sewage collection capacity by enlarging a main trunk line.
- Payment of debt costs incurred as a result of an approved expenditure related to one of the above-mentioned capital costs.

In most circumstances, the following would not be considered an eligible use of CEC funds:

Water System Expenditures

- New or upgraded supply, storage, treatment or distribution works directly attributable to, and solely for the benefit of, a particular service application (new development or redevelopment). These works should be contributed by the developer as required by the improvement district's subdivision servicing bylaw.
- The renewal or replacement of supply, storage, treatment, or distribution works which do not increase the water supply.

Sewer System Expenditures

- New or upgraded collection or treatment works directly attributable to, and solely for the benefit of, a particular service application (new development or redevelopment). These works should be contributed by the developer as required by the improvement district's subdivision servicing bylaw.
- The renewal or replacement of collection or treatment works which do not increase the capacity of the sewer system.

Disbursement of Money from a CEC Fund

CECs are deposited into a reserve fund and together with interest earned on the fund, must only be used for the purpose for which they were collected. This includes a capital cost payment or the payment of a debt incurred to finance the capital works for which the charge was established (i.e. items included in the improvement district's works plan and capital expenditure program).

A capital expenditure charge disbursement bylaw (see sample in Section D) must be registered with the Inspector of Municipalities prior to expending monies from the CEC fund. The steps in the process are as follows:

- A capital expenditure charge disbursement bylaw must be submitted to the Ministry along with an engineering report, design drawings, cost estimate and indication of the amount of the cost of the capital work project that will be financed by the CEC Fund, by other funds, or by borrowing.
- The Ministry will review the bylaw to determine whether the project is eligible to be financed from the capital expenditure charge fund.
- Once the bylaw is registered with the Inspector, the improvement district can take a copy of the bylaw to their financial institution to have the funds released.
- Once the funds are released, work on the project can begin.

In the event a cost overrun occurs on a project, a new capital expenditure charge disbursement bylaw must be submitted for the consideration of the Inspector.

Miscellaneous Charges and Service Fees

Section 746(f) of the *Local Government Act* allows the board of trustees to make bylaws for establishing other charges payable to the improvement district. These charges are meant to recover costs that may be incurred by the improvement district, and may include but are not limited to:

- charges for processing NSF cheques;
- charges for tax and toll information or information about changes (or potential changes) to property ownership;
- photocopying of documents;
- charges where improvement district staff are asked to attend to matters on private property; and,
- requests for information under the *Freedom of Information and Protection of Privacy Act*.

A sample bylaw format is shown in Section D of this Manual.

Tolls

General

Section 746(1) of the *Local Government Act* authorizes the board of trustees to pass bylaws to fix tolls payable to the improvement district, the times of their payment, and the setting of discounts or penalty additions to encourage their prompt payment.

Tolls are user charges fixed and payable by all landowners in the improvement district to which a service is provided. Revenue raised from tolls is generally used to meet the administrative and operating costs for a service. Tolls may be a flat rate, a metered rate (where applicable) or a combination of both. The amount of a toll is based on the estimated or actual use of the service. A review of system demand and usage patterns will enable the board of trustees to develop a rate structure that is equitable and defensible. Tolls are generally used as a method of cost recovery for water, sewer and garbage collection services, but they may be used for other services as well.

Establishment

Toll bylaws must be passed by the board of trustees and registered with the Inspector of Municipalities. The bylaw remains in force and effect until it is amended or repealed by another bylaw. When establishing or considering changes to a toll bylaw, the following points should be considered:

- The number of categories can be limited by identifying types of development that have similar usage patterns. The four major categorical groupings that are often used are: residential (single family and multi-family); commercial; industrial; and, agricultural. If water meters are installed then a metered category should be included.
- A board of trustees may set discounts or penalty provisions, but not both. The amount should be sufficient to encourage prompt payment but not excessive so as to be considered punitive.
- The board of trustees may, by resolution, order that service be discontinued for unpaid tolls. However, a reasonable period must have passed (often 90 days) and a notice must be sent to the property owner or tenant before the service is terminated. The obligation to send a notice is usually considered to be satisfied if a reasonable effort was made to present or otherwise deliver the notice. If the amount still remains unpaid, the service is usually discontinued after serving another (24 hours) notice. Service should only be discontinued when all other efforts to collect the tolls have been unsuccessful.

Interest cannot be charged on unpaid tolls; and all tolls fixed under bylaw automatically form a lien and charge on the land which is enforceable through the courts (section 759 of the *Local Government Act*). A charge for turning a service on or off is usually included in the tolls bylaw. The charge should be reasonable and reflect the average cost of carrying out the task. Sample Toll Bylaws are included in Section D.

CAPITAL PROJECTS

General

On occasion, a board of trustees will need to expend a large amount of money for a capital project or capital asset. This could involve the acquisition, construction, reconstruction, replacement, improvement or extension of works, equipment, or buildings.

When anticipating a major capital project or asset acquisition, the board of trustees should consider the following steps:

Undertake a Technical and Economic Feasibility Study

A study can be done “in-house” by the improvement district if it has professionally qualified staff, or through the services of a consulting engineer. Information is included in Section E about developing terms of reference for a study and the process to select a consulting engineer.

Funding for a study can come from a number of sources depending on its purpose. Improvement districts can use: capital expenditure charge funds; renewal reserve funds; surplus operating funds; and, borrowing to pay for a study. Funding may also be available through the regional district in the form of grants under the Ministry’s Infrastructure Planning Grant program, feasibility reserve fund allocations, or special assessments.

The degree or extent of the study is determined by the improvement district, but often needs to address the following:

- the purpose of the project and the results that are expected;
- how the project fits with the works plan and capital expenditure program of the improvement district;
- the implications for the improvement district’s financial position; and,
- the approvals (provincial or otherwise) that are necessary.

An improvement district will need to obtain the approval of the Ministry prior to undertaking the project or expending funds if a bylaw is needed to help finance it. Prior to making a submission to the Ministry for review, the improvement district should:

- prioritize the works and identify a time frame for completion;
- identify the methods for financing it; and,
- decide the method that will be used to gauge the opinion of the landowners.

Obtain preliminary approval from the Ministry

An application to the Ministry should address the following questions:

- *What is being done?*
Submit full project details with copies of all studies and reports.
- *Why is it being done now?*
Clarify why the project is being considered at this time.
- *How much will it cost?*
Provide a detailed breakdown of the capital costs and how this is expected to impact operating costs (if any).
- *How will it be financed?*
Identify the sources of revenue for the project such as borrowing, reserve funds, and/or operating surpluses.
- *How will the landowners be impacted?*
Provide an estimation of the impact on taxes and tolls (if any).
- *What is the degree of landowner support?*
What steps have been taken to inform the landowners and solicit their opinion? (provide copies of notices, leaflets, newsletters or special meeting minutes).
- *Which method would the board of trustees prefer to obtain formal landowner approval? (see below).*

The Ministry will review the project and advise whether the approval of the landowners is required, and if so, recommend a particular method. The improvement district will also need to obtain approval from other agencies such as the Ministry of Health (for construction permits) or the Ministry of Transportation (to place works on road right of ways). The Regional Public Health Engineer can provide a copy of Guidelines for the Approval of Waterworks, which is a useful document for ensuring a project will be completed successfully.

Obtain landowner approval

Generally any time an improvement district is proposing to borrow money and/or increase taxes or tolls by a substantial amount in order to finance a project, landowner approval will be required before the bylaw will be registered by the Inspector of Municipalities.

Landowner approval can be obtained by referendum, petition, alternative approval process or by vote at a special general meeting. Each method is suited to different circumstances. The landowners need to approve both the project and proposed method(s) used to finance it.

If a project is going to be completed over several years, then it might be necessary to obtain Ministry and landowner approval again at a future stage, particularly if the scope of the project changes or the costs change significantly.

The board should submit the borrowing bylaw or reserve fund disbursement bylaws to the Ministry for registration with the Inspector before obtaining landowner approval. No commitments with regard to the project should be given to suppliers or contractors until the bylaw is registered.

A detailed Project Approvals Checklist is provided at the end of this subsection.

For more information on the borrowing process, refer to section under the heading of Borrowing. For more information about the landowner approval process, refer to the section under the heading of Guidelines for Obtaining Landowner Approval in Section B.

Project Approvals Checklist

The following checklist should be considered by an improvement district when considering whether to undertake a major capital project and expenditure. It can also be used to ensure that complete information is submitted to the Ministry.

PROJECT APPROVALS CHECKLIST	Addressed - Yes/No	Information Attached Yes/No
A. Engineering		
1. An engineering feasibility study and design drawings		
2. A plan showing the location of project in relation to the overall system.		
3. A detailed cost estimate of materials and labour		
4. Details of any public health risks that will be addressed by the project.		
5. The anticipated construction schedule.		
B. Financial		
1. Capital - total project cost (including engineering and contingencies) - Methods of funding a) capital expenditure charge funds b) renewal reserve funds c) surplus funds on hand d) borrowing - Number of connections or parcels - Total capital cost per connection or parcel	\$ _____ \$ _____ _____ \$ _____ \$ _____	
2. Operating - estimated increase in annual costs of administration and operating	\$ _____	

PROJECT APPROVALS CHECKLIST	Addressed - Yes/No	Information Attached Yes/No
3. Landowner Costs <ul style="list-style-type: none"> - Parcel taxes - User fees (Tolls) Total - Capital Expenditure Charge 	Existing/ Proposed \$___ \$___ \$___ \$___ \$___ \$___	Increase (%)
C. Regulatory (Statutory Approvals)		
1. Land Use <ul style="list-style-type: none"> • Regional district, municipality or Islands Trust • Agricultural land reserve • Statutory rights of way/permits 		
2. Health Authority <ul style="list-style-type: none"> • Construction permit 		
3. Environmental Authority <ul style="list-style-type: none"> • Water licence • Septic permit 		
4. Bylaws <ul style="list-style-type: none"> • Agreements <ul style="list-style-type: none"> - Statutory rights of way • Financial <ul style="list-style-type: none"> - Borrowing - Tax and/or tolls - CEC and/or renewal reserve fund expenditure - CEC establishment or amendment 		
5. Landowner <ul style="list-style-type: none"> • Awareness (consultation) <ul style="list-style-type: none"> - notices, leaflets, newsletters • Presentations <ul style="list-style-type: none"> - Annual general meeting - Special general meeting - Public open house • Approval (support) <ul style="list-style-type: none"> - referendum - petition - alternative approval process - vote at a special general meeting 		

RENEWAL RESERVE FUNDS

General

Section 751 of the *Local Government Act* authorizes improvement districts to put money aside in a renewal reserve fund to finance the cost of renewing capital works, buildings, or vehicles such as fire trucks when they come to the end of their useful life.

Putting money aside in a renewal reserve fund will reduce the financial impact to property owners because the amount of borrowing required can be eliminated or reduced.

An engineering study may be necessary to identify capital projects, their costs, estimated lifetime and priority for replacement. This information should be incorporated into the improvement district's budgeting process, particularly the works plan and the capital expenditure program.

Establishment

A renewal reserve fund can be established for any improvement district service and more than one renewal reserve fund can be established for that service. For example, a renewal reserve fund might be established for the supply components of a water system (reservoir, wells or supply mains) and another renewal reserve fund could be established for the distribution components (booster stations, distribution mains and fire hydrants). To formally establish a renewal reserve fund, a bylaw must be passed by the board of trustees and registered with the Inspector of Municipalities.

A sample renewal reserve fund establishment bylaw is included in Section D.

The following are potential sources of funds to be deposited into a renewal reserve fund:

- Operating surpluses set aside each year for this purpose (no commitment to a specific amount needs to be made until year end).
- An annual budgeted amount that is a percentage of revenue received. This figure could be based on capital depreciation rates used for accounting purposes.
- When a debenture or bank loan has been repaid, the amount previously paid annually to retire the debt could be deposited in the fund.
- Any amounts collected through miscellaneous revenue items (interest earned on investments, fees, or other charges).
- Money received from the sale of improvement district property.

The purpose(s) for setting money aside in the reserve fund should be stated in the renewal reserve fund establishment bylaw. The money should be deposited in an account that is separate from all other funds of the improvement district.

Disbursement

A board of trustees intending to spend money from a renewal reserve fund needs to pass a renewal reserve fund disbursement bylaw. When the bylaw is submitted to the Inspector of Municipalities for registration the following needs to be included, as applicable:

- An estimate of total cost of the capital project or expenditure and the amount that is proposed to be financed from the renewal reserve fund and by other means.
- An engineering study and design drawings. If the proposed works are included in an engineering study previously submitted to the Ministry, it does not need to be resubmitted.

When the renewal reserve fund disbursement bylaw has been registered with the Inspector, a copy of the bylaw is usually required by the financial institution in order for the money to be released from the renewal reserve fund. Any amount up to the maximum contained in the bylaw can be withdrawn from the fund. This information must be provided to the improvement district's auditor.

If a cost overrun occurs in the cost of the project, another renewal reserve fund expenditure bylaw will be necessary.

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DISTRICT

BYLAW NO.

A bylaw to amend Bylaw No. _____, being the “ _____ ”.

The Trustees of _____ District ENACT AS FOLLOWS:

- 1. That the improvement district’s Bylaw No. _____ passed by the Trustees on the _____ day of _____, 20 _____ and registered by the Inspector of Municipalities on the _____ day of _____, 20 _____, is hereby amended by deleting Section _____ thereof and substituting the following:
- 2. This bylaw may be cited as the “Bylaw No. _____ Amending Bylaw”.

INTRODUCED and given first reading by the Trustees on the _____ day of _____, 20 _____.

RECONSIDERED and finally passed by the Trustees on the _____ day of _____, 20 _____.

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

DISTRICT

INDEMNIFICATION BYLAW NO.

A bylaw to indemnify an officer of the improvement district against a claim for damages arising out of the performance of his/her duties and to pay legal costs incurred in a court proceeding arising out of the claim.

The trustees of the [name of improvement district] enact as follows:

1. In this bylaw “officer” means: [any or all of these may be listed]
 - a. a member of the board of trustees;
 - b. an appointed member of an improvement district committee;
 - c. an officer or employee of the improvement district;
 - d. a volunteer fire fighter of the improvement district; and,
 - e. any volunteer who participates in the delivery of services by the improvement district under supervision of an officer or employee of the improvement district.

2.
 - a. The improvement district will indemnify its officers against a claim for damages against them arising out of the performance of their duties and in addition pay the actual costs incurred by the officer in a court proceeding arising out of the claim.

 - b. Section 2(a) applies in respect to a person who was an officer at the time he/she performed the duties out of which the claim arose, whether or not he/she is an officer at the time the claim for damages arises or the court proceeding arising out of the claim is commenced, prosecuted or concluded.

 - c. Where any action of an officer results in a claim for damages against the improvement district, the board of trustees will seek indemnity or reimbursement from the officer only where:
 - (i) the claim arises out of gross negligence of the officer; or
 - (ii) the officer acted contrary to the terms of his or her employment or an order of a superior in relation to the action that gave rise to the claim.

3. This bylaw may be cited as the “Indemnification Bylaw No. ____ ”.

INTRODUCED and given first reading by the Trustees on the ____ day
of ____, 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day
of ____, 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

MEETING PROCEDURES

These are suggested procedures that might be adopted by resolution of the board of trustees to govern their meetings.

NOTICE OF MEETINGS

1. Notice of each board meeting must be given by the chair or the officer assigned responsibility for corporate administration by giving notice in writing or by other means specified in the bylaw, such as posting on a community bulletin board, or publication in a local newspaper x days in advance of the meeting. Alternatively, if board meetings are regularly scheduled (i.e., every second Monday of the month), the board may want to waive notice.
2. Notice of the first board meeting following the annual general meeting must be given by the officer assigned responsibility for corporate administration or by a majority of the trustees by giving notice in writing or by other means x days in advance of the meeting.
3. Public notice of the date, time, and place of the annual general meeting and a special general meeting must be given at least 14 days in advance by mailing a notice to all landowners, or advertising in a newspaper, or posting on the improvement district notice board.
4. Notice of select and standing committee meetings must be given by the chair of the committee by giving notice in writing or by other means x days in advance of the meeting.
5. Notice of other committees composed solely of trustees must be given by the chair of the committee by giving notice in writing or by other means x days in advance of the meeting or by a resolution of a majority of trustees in a trustee meeting.

MEETING MINUTES

6. Accurate minutes of all board meetings, the annual general meeting, special general meetings and committee meetings must be legibly recorded. The minutes must be adopted with such corrections as necessary by a majority of trustees at the following meeting before being certified as correct by the officer assigned responsibility for corporate administration and signed by the chair of the meeting or the chair presiding at the following meeting.

7. The minutes of all meetings must be open to public inspection except for those meetings or parts of meetings that are closed. Meeting minutes where the meeting or parts of meetings are not closed, may be copied for a member of the public by the officer assigned responsibility for corporate administration at a cost of \$ _____ per page.
8. The officer assigned responsibility for corporate administration must maintain the minutes of meetings and keep them safe.

Opening Procedures

9. As soon after the time appointed for the meeting, the chair will call the trustees to order. If the chair does not attend within 15 minutes after the time appointed for the meeting, an acting chair must be appointed from the trustees present and will preside until such time as the chair arrives.
10. If there is no quorum within 30 minutes after the time appointed for the meeting, the officer assigned responsibility for corporate administration must record in the minute book the names of the trustees present and that the meeting did not convene.
11. Immediately after the chair has called the meeting to order, the minutes of the preceding meeting are to be read by the officer assigned responsibility for corporate administration so that any mistakes may be corrected. The reading may be dispensed with if each trustee received a copy of the minutes at least forty-eight hours before the meeting.

Agenda

12. Except for regular board meetings, the agenda must be prepared by [the chair and/or the officer assigned responsibility for corporate administration] and delivered to the place where each trustee has directed notices to be sent, at least forty-eight hours before the meeting. The delivery requirement may be waived by unanimous consent of the trustees.
13. The agenda for regular board meetings is as follows unless otherwise directed by two-thirds of the trustees present at the meeting:
 - A Adoption of the minutes of the previous meeting
 - B Business arising from the minutes and unfinished business
 - C Petitions and delegations
 - D Original communications
 - E Reports
 - F Bylaws
 - G Motions and Resolutions
 - H New business

Rules of Conduct and Debate

14. A Every trustee must address the chair before speaking to any question or motion.
- B Trustees must address the chair as “Mr. or Madam Chair” and refer to each other as “Trustee”.
- C No trustee may speak more than once to the same question without leave of the trustees, except in explanation of a material part of their speech which may have been misconceived, and in doing so they may not introduce any new matter.
- D A reply is allowed to a trustee who has made a substantive motion, but not to a trustee who has moved an amendment.
15. A After a question is finally put by the chair, no trustee may speak to the question, nor may any other motion be made until after the result of the vote has been declared.
- B The decision of the chair as to whether the question has been finally put is conclusive.

Motions

16. Motions other than routine motions (including motions to adopt a report, to receive and file, to refer to a committee or an official, to introduce or pass a bylaw, or adjourn) must be put in writing and seconded before being debated or put from the chair.
17. A motion that has been seconded must be read by the chair or officer appointed responsibility for corporate administration before debate if requested.
18. When a question is under consideration, no motion will be received except for the following to:
- refer to committee
 - amend
 - lay on the table
 - postpone indefinitely
 - postpone to a certain time
 - move the previous question
 - adjourn

19. The seven motions listed in Section 18, above, have precedence in the order in which they are named, and the last five are neither amendable nor debatable.
20. Amendments to a motion must be in writing and must be decided before the main question is put to a vote. Only one amendment is allowed to an amendment.
21. A motion to commit the subject matter to a committee, until it is decided, precludes all amendments of the main question.
22. A motion to adjourn the meeting or the debate is always in order, but if such motion is negative, no second motion to the same effect may be made until some intermediate business or matter has been disposed of.

Voting on Questions

23. If a trustee believes that he or she has a direct or indirect pecuniary interest in a matter before the board of trustees that is not held in common with electors of the improvement district generally, the trustee must:
 - A declare his or her interest in the matter;
 - B not take part in the discussion or vote on any question related to the matter;
 - C immediately leave the meeting or that part of the meeting during which the matter is under consideration; and,
 - D not attempt in any way, whether before, during, or after the meeting, to influence the voting on the question.
24. If a trustee refrains from voting when a question is put, for any reason other than that referred to in Section 23, he or she must be deemed to have voted in the affirmative and his or her vote will be counted accordingly.
25. All acts authorized or required by the *Local Government Act* to be done by the board, and all other questions, including questions of adjournment, that may come before the board must, except where otherwise stated, be done and decided by the majority of the trustees who are present at a meeting.
26. In all cases where the votes of the members present, including the vote of the chair, are equal for and against a question, the question is negative, and it is the duty of the chair to so declare. The names of those who vote for and against the question must be entered upon the minutes whenever a member calls for those in favour and those opposed.

27. When the question under consideration contains distinct propositions, upon request of any trustee the vote upon each proposition can be taken separately.

Points of Order

28. The chair will preserve order and decide all points of order which may arise, but subject to an appeal of the other trustees present.
29. If a trustee appeals the decision of the chair, the question must be immediately put by the trustee, and decided without debate. “Shall the Chair be sustained?” and the chair is governed by the vote of the majority then present (exclusive of himself or herself), and the names of the trustees voting for or against the question “Shall the Chair be sustained?” will be recorded on the minutes.
30. If the chair refuses to put the question “Shall the Chair be sustained?” the trustees must immediately appoint one of its number to preside temporarily in lieu of the chair and the member so temporarily appointed will proceed in accordance with the prior section.
31. Any resolution or motion carried under the circumstances mentioned above is as effectual and binding as if carried under the precedence of the chair.

Bylaws

32. Every bylaw must be read a first time upon motion “that the (bylaw citation) now be introduced and read a first time”. The title and intended object of the bylaw will be given and the question will be decided without amendment or debate.
33. The provisions of a bylaw may be debated upon second reading and such changes as appear necessary may be made. The bylaw may then be passed upon the motion “that the (bylaw citation) be adopted”. [Note: If an improvement district prefers a three reading system, word accordingly]
34. The officer assigned responsibility for corporate administration must maintain all bylaws and keep them safe. Bylaws must be available for public inspection and may be copied by [the officer assigned responsibility for corporate administration] for a member of the public at a cost of \$ per page.

Petitions and Delegations

35. No person or group wishing to appear before the trustees may do so unless they have first notified the officer responsible for corporate administration in writing before the agenda has been prepared and circulated to the members, except on extraordinary occasions declared as such by the chair.
36. Every delegation is allowed a maximum time of [10] minutes to present its petition or submission unless extended by a two thirds vote of the trustees.
37. After presentation by a delegation, the board may dispose of the delegation's submission at that meeting, refer the subject matter of the submission to a committee, or take such other action as the trustees consider appropriate.
38. Every petition presented to the board must include the name of each petitioner with their address and a description of the property of which they are the owner or which they occupy in the improvement district. In the case of a corporation, the authority given by the corporation to sign the petition must be produced.

Standing and Select Committees

39. The board may establish standing and appoint select committees. The chair of a committee will be determined [choose either: by the chair of the board of trustees, by a majority of the trustees, or by a majority of the committee members].

The board of trustees must establish the purpose of a committee by a resolution at the time of the creation of a committee. Upon completion of its assignment, a select committee is automatically dissolved, unless decided otherwise by the board of trustees.

40. In conducting its business, all standing and select committees must adhere as far as possible to the rules established in this bylaw governing board meetings.

Reports

41. A standing or select committee of the board may report at any regular meeting or must report as required by the board.

Unprovided Cases

42. In all situations not provided for in this bylaw regarding the proceedings of a meeting, [Robert's Rules of Order/or cite another authority on parliamentary procedure] must be followed.

DISTRICT

BYLAW NO.

A bylaw to establish miscellaneous service fees and other charges payable to the Improvement District and the terms of payment thereof.

The board of trustees of the _____ Improvement District
ENACT AS FOLLOWS:

1. The following general service fees are hereby fixed and made payable to the district:
 - a. Photocopies will be charged at the rate of \$0.25 per page.
 - b. Any other costs for reproduction, duplication or shipping will be at actual cost of the work.
 - c. A charge of \$10 for each request for information on change of ownership or mortgage registration.
 - d. A charge of \$10 is levied for each time a cheque is processed in payment of an account with the improvement district which does not clear the payer's account due to insufficient funds (or insert whatever charge your financial institution levies you).
 - e. For information requests pursuant to the *Freedom of Information and Protection of Privacy Act*, a maximum fee may be charged for locating and retrieving a record, preparing it for disclosure or producing it manually, as set out in the Regulation to that Act.

2. Where staff or equipment of the district are requested to render service, the party requesting such work, service or materials will pay the following charges:
 - a. For staff, the charge will be at the employees wage rate for that time period plus 10%.
 - b. For equipment, the equivalent to rental rate from an outside agency (or a specific dollar figure if you have one available).
 - c. For materials, at actual cost plus 10%.

3. For all charges in excess of \$10.00, (or set your own minimum) all firms and individuals will be invoiced at month end and terms of payment will be net 30 days. Where possible, for charges less than this, payment is to be at time of service.

4. This by-law may be cited as the “Miscellaneous Service Charge Bylaw”.

INTRODUCED and given first reading by the Trustees on the ____ day
of ____

RECONSIDERED and finally passed by the Trustees on the ____ day
of ____

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer of the Trustees

DISTRICT

OFFICER POSITIONS ESTABLISHMENT BYLAW NO.

A bylaw to establish officer positions and to establish the powers, duties and responsibilities of such officers.

The trustees of the [name of improvement district] enact as follows:

OFFICER POSITIONS

1. The following positions are established as officer positions:
 - (a) Officer responsible for corporate administration under section 738.2 of the *Local Government Act* whose title will be [manager, administrator]
 - (b) Officer responsible for financial administration under section 738.3 of the *Local Government Act* whose title will be [manager, administrator, treasurer]
 - (c) [insert other officer position, if any]

POWERS, DUTIES AND RESPONSIBILITIES [alternatively, these may be established by resolution]

2. The [manager, administrator, or other title] is assigned responsibility for corporate administration of the improvement district under section 738.2 of the *Local Government Act*.
3. The [manager, administrator, treasurer, or other title] is assigned responsibility for financial administration of the improvement district under section 738.3 of the *Local Government Act*.
4. In addition to the powers, duties and functions assigned to an officer in Section 2 and Section 3:
 - (a) the powers, duties and functions set out in Schedule “A” are assigned to the [manager, administrator, or other title];
 - (b) the powers, duties and functions set out in Schedule “B” are assigned to the [manager, administrator, treasurer, or other title]; and,

(c) the powers, duties and functions of those persons appointed to positions of officers, in addition to those prescribed by enactment, may be assigned from time to time by the board of trustees.

5. The powers, duties and responsibilities of the [insert other officer position, if any] are set out in Schedule “C” to this bylaw.

CITATION

6. This bylaw may be cited as the “Officer Positions Establishment Bylaw No. ____”.

INTRODUCED and given first reading by the Trustees on the ____ day of ____, 20 ____.

RECONSIDERED and finally passed by the Trustees on the ____ day of ____, 20 ____.

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

Note: For improvement districts that levy and collect their own tax, the responsibilities for assessor and collector must be assigned to an officer.

SCHEDULE “A”

OFFICER POSITIONS ESTABLISHMENT BYLAW NO.

Additional Powers, Duties and Functions of Officer Responsible for Corporate Administration

SCHEDULE “B”

OFFICER POSITIONS ESTABLISHMENT BYLAW NO.

Additional Powers, Duties and Functions of Officer Responsible for Financial Administration

SCHEDULE “C”

OFFICER POSITIONS ESTABLISHMENT BYLAW NO.

Powers, Duties and Functions of Officer Responsible for [insert other officer position]

DISTRICT

BYLAW NO.

A Bylaw to repeal Bylaw No.

The Trustees of _____ District ENACTS AS FOLLOWS:

- 1. That Bylaw No. ____ cited as “ _____ Bylaw” is hereby repealed.
- 2. This bylaw may be cited as “Repeal Bylaw No. ____ 20 ____ “.

INTRODUCED and given a first reading by the Trustees on the ____ day of _____, 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day of _____, 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No..

Officer

DISTRICT

WHEREAS the question of whether to _____ was put
before the Board of Trustees at a meeting held on the ____ day
of _____, 20 ____ :

AND WHEREAS the Trustees deem it advisable to _____ .

THEREFORE, BE IT RESOLVED that:

Trustee

Trustee

Trustee

Trustee

Trustee

Certified a true copy of the resolution adopted by the Trustees of the _____
_____ District on the ____ day of _____, 20 ____ .

Officer

DISTRICT

BYLAW NO.

A bylaw to authorize the execution of an agreement with

The Trustees of _____ District ENACT AS FOLLOWS:

- 1. That _____, Chair of the Trustees, and _____, Officer, are hereby authorized to execute on behalf of the improvement district an agreement with relating to in the terms of the draft agreement hereto attached.
- 2. That _____, Chair of the Trustees, and _____, Officer, are hereby authorized to execute on behalf of the improvement district all necessary instruments to give effect to the said agreement.
- 3. This bylaw may be cited as the “ _____ Agreement Bylaw”.

INTRODUCED and given first reading by the Trustees on the ____ day of _____, 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day of _____, 20 ____ .

Chair of the Trustees

I hereby certify under that this is a true copy of Bylaw No

Officer

NOTE: The agreement must not be signed by the improvement district representatives until the bylaw has been registered with the Inspector.

SCHEDULE 'A' TO BYLAW NO.

MUTUAL AID AGREEMENT

This agreement made the ____ day of ____, 20 ____ .

BETWEEN:

____ Improvement District
(hereinafter called _____)

OF THE FIRST PART

AND:

____ Improvement District
(hereinafter called _____)

OF THE SECOND PART

WHEREAS _____ and _____ both
maintain their own fire departments;

AND WHEREAS it is possible that the occurrence of a major fire or other incident
may require fire fighting facilities beyond those available to each fire department
individually;

AND WHEREAS the Trustees of each improvement district consider it to be of
mutual benefit to cooperate when additional assistance is required by either fire
department;

NOW THEREFORE the parties hereto covenant and agree as follows:

1. In this Agreement, "other incident" includes those assistance response activities authorized under bylaw by the Trustees in each improvement district. Neither fire department will respond to a request for assistance to activities which it does not have authority to respond under said bylaw in its own improvement district.
2. The Fire Chief, or in their absence, the senior officer in charge, may request the assistance of the fire department under the control of the other party where he deems assistance is required to control a major fire or other incident.

- 3. The Fire Chief, or in their absence, the senior officer in charge, receiving a request for assistance from the other party, may direct this fire department to respond to the request.
- 4. The Fire Chief who requested the assistance of the other party will remain in charge of the fire or other incident but the Fire Chief of the responding fire department will direct the personnel and equipment under his command.
- 5. The Fire Chief of the responding fire department retains the authority to recall the personnel or equipment under his command to this own improvement district when he determines it is necessary.
- 6. No remuneration will be paid to either parties of this agreement.
- 7. Neither fire department will be liable for any loss, damage or injury occasioned to or by the equipment or personnel of the other fire department,
- 8. Either party may terminate its rights and responsibilities under this Agreement following ____ days notice delivered in writing by registered mail to the other party.

The seal of the _____ Improvement District was hereunto fixed in the presence of:

Chair of the Trustees

Officer

The Seal of the _____ Improvement District was hereunto fixed in the presence of:

Chair of the Trustees

Officer

DISTRICT

BYLAW NO.

A bylaw to provide for making the assessment roll of the improvement district and to determine the basis of assessment and the method to be followed in classifying the lands in the improvement district.

The Trustees of _____ District ENACT AS FOLLOWS:

In this bylaw “parcel” means any lot, block or other area in which land is held or into which land is subdivided.

That the basis of assessment for the said assessment roll shall be parcels of land.

That the assessor must classify the parcels of land in the improvement district into groups as follows:

Group 1: Each and every parcel of land to which water can be supplied from the existing works of the improvement district.

Group 2: Each and every parcel of land not classified into Group 1.

That the assessment roll must be completed annually prior to the billing of taxes.

This bylaw repeals Bylaw No. _____

This bylaw may be cited as the “ _____ Assessment Bylaw”.

INTRODUCED and given first reading by the Trustees on the _____ day of _____, 20____.

RECONSIDERED and finally passed by the Trustees on the _____ day of _____, 20____.

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

DISTRICT

BYLAW NO.

A bylaw to provide for making the assessment roll of the improvement district and to determine the basis of assessment and the method to be followed in classifying the lands in the improvement district.

The Trustees of _____ District ENACT AS FOLLOWS:

1. In this bylaw “parcel” means any lot, block or other area, which is the subject of separate registration in the Land Title Office and includes two or more contiguous lots registered in the name of the same person and used as one holding.
2. That the assessor is directed to make the assessment roll of the improvement district.
3. That the basis of assessment for the said assessment roll shall be parcels of land and areas of land.
4. That the assessor must classify the parcels of land in the improvement district into groups as follows:
 - Group 1 Each and every parcel of land in the improvement district upon which is situated a residence to which domestic water is supplied from the improvement district’s works.
 - Group 2 Each and every parcel of land in the improvement district to which is installed a connection to the improvement district’s works for domestic purposes and which is not classified into Group 1.
 - Group 3 Each and every parcel of land in the improvement district which can be supplied water for domestic purposes from the improvement district’s works, but which is not classified into Group 1 or 2.
 - Group 4 Each and every parcel of land in the improvement district upon which is installed a connection to the improvement district’s works through which water is, or can be, supplied for use in a business or commercial establishment.

- Group 5 Each and every parcel of land in the improvement district upon which is installed a connection to the improvement district's works through which water is, or can be, supplied for use in an industrial establishment.
 - Group 6 Each and every parcel of land within the improvement district which is not classified into Group 1, 2, 3, 4 or 5.
5. That the assessor shall classify all lands in the improvement district into grades as follows:
- Grade A All irrigable land, suitable for the commercial production of tree fruits, grapes, and vegetables, within the improvement district to which the improvement district's works are extended, except for one-quarter of one acre where the land is also classified into Group 1, 2, 3, 4 or 5.
 - Grade B All irrigable land suitable for the production of hay or pasture, within the improvement district to which the improvement district's works are extended except for one-quarter of one acre where the land is also classified into Group 1, 2, 3, 4 or 5.
 - Grade C All unimproved irrigable land within the improvement district to which the improvement district's works are extended except that classified into Grade A or B.
 - Grade D All land within the improvement district except that classified into Grade A, B, or C.
6. That the assessment roll must be completed annually prior to the billing of taxes.
7. This bylaw repeals Bylaw No.

8. This bylaw may be cited as the “ _____ Assessment Bylaw”.

INTRODUCED and given first reading by the Trustees on the ____ day
of _____, 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day _____ ,
____ 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No

Officer

DISTRICT

BYLAW NO.

A bylaw to provide for making the assessment roll of the improvement district and to determine the basis of assessment and the method to be followed in classifying the lands in the improvement district.

The Trustees of _____ District ENACT AS FOLLOWS:

1. In this bylaw “parcel” means any lot, block or other area in which land is held or into which land is subdivided.
2. That the basis of assessment for the said assessment roll shall be parcels of land.
3. That the assessor must classify the parcels of land in the improvement district into groups as follows:
 - Group 1: Each and every parcel of land on which is situated a single family dwelling (or residence).
 - Group 2: Each and every parcel of land on which is situated a _____ multiple family dwelling or more than one single-family dwelling.
 - Group 3: Each and every parcel of land on which is situated a commercial building.
 - Group 4: Each and every parcel of land that is vacant.
 - Group 5: Each and every parcel of land on which is situated an institutional building.
4. That the assessment roll must be completed annually prior to the billing of taxes.
5. That this bylaw repeals Bylaw No. _____ passed by the Trustees on the day of _____, 20____.
6. This bylaw may be cited as the “ _____ Assessment Bylaw”.

INTRODUCED and given first reading by the Trustees on the _____ day of _____, 20____.

RECONSIDERED and finally passed by the Trustees on the ____ day
of ____, 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No

Officer

DISTRICT

BYLAW NO.

A bylaw to provide for making the assessment roll of the improvement district and to determine the basis of assessment and the method to be followed in classifying the lands in the improvement district.

The Trustees of _____ District ENACT AS FOLLOWS:

1. That the basis of assessment for the said assessment roll shall be the assessed value of land and improvements taxable, for general municipal purposes, within the improvement district.
2. The classification and values of land and improvements must be the classification and taxable assessed values supplied by BC Assessment.
3. That the assessment roll must be completed annually prior to the billing of taxes.
4. This bylaw may be cited as the “ _____ Assessment Bylaw.”

INTRODUCED and given first reading by the Trustees on the ____ day of _____, 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day of _____, 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No

Officer

DISTRICT 20XX ASSESSMENT ROLL

Number on Roll _____

Names and Addresses of Assessed Owners

Description of Land (Reg Plan, District Lot, Block, Lot)

Classification (Group/Grade)

Area of Parcel

DISTRICT

ASSESSMENT NOTICE 20XX

To:

CLASSIFICATION OF LAND FOR 20XX

The following property has been assessed as owned by you and classified as follows:

Assessment _____ District _____ Classification
Roll No. _____ Lot _____ Block _____ Map _____ Lot _____
(Group/Grade)

Assessor

The definitions of the groups as set out in the current Assessment Bylaw are as follows:

COURT OF REVISION

Section 755(2) of the *Local Government Act* provides as follows: “Any person having an interest in assessed land may file with the court of revision a complaint about the assessment of the person’s land or other assessed land”.

The Court of Revision will be held on the ____ day of _____, 20____, at _____, B. C., from To _____ and if you desire to complain of this assessment, you may file your complaint with the Court of Revision.

DISTRICT

BYLAW NO.

A bylaw to borrow the sum of _____ dollars on the credit of the improvement district.

The Trustees of _____ District ENACT AS FOLLOWS:

- 1. It shall be lawful for the Improvement District to borrow the sum of _____ dollars (\$ _____) or any smaller sum from _____ and to pledge the toll collecting and taxing powers of the improvement district for the repayment of the said sum.
- 2. It shall be lawful for the Trustees to issue promissory notes obligating the improvement district to repay the sum so borrowed and to pay interest thereon at the prime rate per annum in effect, plus no more than one-half percent per annum thereon.
- 3. The sum so borrowed will be repaid on or before the _____ day of _____, 20____.
- 4. This bylaw may be cited as the “ _____ Loan Bylaw”.

INTRODUCED and given first reading by the Trustees on the _____ day of _____, 20____.

RECONSIDERED and finally passed by the Trustees on the _____ day of _____, 20____.

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

DISTRICT

BYLAW NO.

A bylaw to fix a charge for Capital Expenditures on parcels of land and to provide for the time and manner of payment.

WHEREAS pursuant to Section 746(1)(f) of the *Local Government Act* the Trustees may, by bylaw, fix capital expenditure charges under the terms and conditions as set out in the bylaw;

AND WHEREAS the capital expenditure charges may be fixed for the sole purpose of providing funds to the improvement district to pay the capital cost of providing, constructing, altering, or expanding water facilities in order to service directly or indirectly, the development in respect to which the charges are fixed;

AND WHEREAS in the opinion of the Trustees the charges fixed by this bylaw are related to capital costs attributable to projects identified in the capital expenditure program of the improvement district;

The Trustees of the _____ District ENACT AS FOLLOWS:

1. In addition to other charges applicable under other bylaws of the improvement district, every person who develops land must pay the applicable capital expenditure charge as set out in Schedule “A” attached to and forming part of this bylaw.
2. Every person who obtains:
 - a. approval of a subdivision of a parcel of land under the *Land Title Act* or the *Strata Property Act*; or,
 - b. approval of an application for service

will pay at the time of the approval of the subdivision or the approval of the application for service, as the case may be, to the improvement district the applicable capital expenditure charges as set out in Schedule “A” attached to and forming part of this bylaw.

3. A capital expenditure charge is not payable where:
 - a. the development does not impose new capital cost burdens on the improvement district; or,
 - b. a capital expenditure charge has previously been paid for the same development, unless as a result of further development new capital cost burdens will be imposed on the improvement district.

- 4. In fixing capital expenditure charges by this bylaw, the Trustees have taken into consideration future land use patterns and development and the phasing of works and services and whether the charges:
 - a. are excessive in relation to the capital cost of prevailing standards of service in the improvement district; or,
 - b. will deter development in the improvement district; or,
 - c. will discourage the construction of reasonably priced housing or the provision of reasonably priced serviced land in the improvement district.

- 5. All sums of money collected under this bylaw must be deposited in a special reserve fund separate from all other funds of the improvement district. The improvement district must use money deposited in the reserve fund plus all interest or earnings thereon for the purposes for which it was deposited, namely to:
 - a. pay the capital costs of providing, constructing, altering or expanding water facilities included in the capital expenditure program on which the charge was based, in order to serve directly or indirectly, the development in respect to which the charge was collected; or,
 - b. pay principle and interest on a debt incurred by an improvement district as a result of an expenditure referred to in section 5(a).

- 6. Monies must be disbursed by bylaw passed by the Trustees and approved by the Inspector of Municipalities.

- 7. The following bylaws are hereby repealed:

- 8. This by-law may be cited as the “Comprehensive Capital Expenditure Charge (Water) Bylaw 20 ”.

INTRODUCED and given first reading by the Trustees on the ____ day of ____, 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day of ____, 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

SCHEDULE “A”

BYLAW NO.

CAPITAL EXPENDITURE CHARGES (WATER FACILITIES)

Land Use	Basis of Assessment	Charge
A. Residential		
1) Single-family	Per Lot being created	\$
2) Multi-family	Per unit to be constructed	\$
B. Commercial	Per 100 square meters of commercial floor space created	\$
C. Industrial	Per 100 square meters of industrial floor Space created	\$
D. Agricultural	Per hectare being serviced	\$

NOTE: The example set out above is hypothetical and will have to be designed for the particular circumstances of the improvement district.

DISTRICT

BYLAW NO.

A bylaw to authorize the disbursement of monies in the Capital Expenditure Charge Reserve Fund.

WHEREAS there is an unappropriated balance in the Capital Expenditure Charge Reserve Fund of _____ dollars (\$ _____) as at _____ 20 ____ which amount has been calculated as follows:

Balance in Fund at December 31, 20 ____	\$ _____
Add: Additions to fund including interest earnings for current year to date	\$ _____
Deduct: Total of disbursement bylaws for current year to date	\$ _____
Balance in Trust Fund as at _____ , 20____	\$ _____

AND WHEREAS it is deemed desirable to expend a portion of the monies imposed under Bylaw No. ____ (improvement district's Capital Expenditure Charge Bylaw) for the purpose of

The Trustees of the _____ District ENACT AS FOLLOWS:

1. The sum of _____ dollars (\$ _____) is hereby appropriated from the Capital Expenditure Charge Reserve to be expended on
2. The expenditure to be carried out by the monies hereby appropriated shall be more particularly specified and authorized by resolution of the Trustees.
3. Should any of the above amount remain unexpended after the expenditures hereby authorized have been made, any unexpended balance shall be returned to the credit of the said Reserve Fund.
4. This bylaw may be cited as the "20XX Capital Expenditure Charge Reserve Fund Disbursement Bylaw."

INTRODUCED and given first reading by the Trustees on the ____ day of _____ , 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day of _____ , 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

DISTRICT

BYLAW NO.

A bylaw for fixing the connection charge payable to the improvement district and the time of payment thereof.

The Trustees of _____ District ENACT AS FOLLOWS:

1. Definitions:
Service Connection - means the pipeline installation from the improvement district's main to the property line of the property to be served, when such property line coincides with the established road allowance.
2. Application for Water
 - a. Application for water must be made in writing to the improvement district, delivered to the Officer, and must be in such form as the Trustees may, from time to time, prescribe, and must be signed by the applicant who must be the owner or an authorized agent of the owner of the property in respect of which application for water is made.
 - b. Each application for water must be accompanied by the prescribed charges as set in this bylaw.
 - c. No water will be supplied upon any application until all fees and charges for water connection, meter installation or other monies required by the improvement district to be paid have been paid in full.
 - d. Each application must contain the name of the owner, the legal description of the land parcel, specific details of the type and extent of development to be served, and the type of water service required.
3. Connection Charge
Every applicant for a connection to the works must pay to the improvement district the total cost of labour, materials, permits and any other items required to install the service connection, plus an inspection and administration charge of _____ dollars (\$ _____).
4. The Trustees may, subject to the prior payment of the above charges, require the property owner or his representative to carry out the installation of the service connection or any part thereof, subject to the standards set for the improvement district.

- 5. The minimum deposit to be made at the time of application for a connection is dollars (\$ _____).
- 6. Where the cost of labour and materials expended by the improvement district in installing the connection exceeds the minimum deposit against actual cost as set out above, the improvement district will recover the balance to be paid forthwith after the installation of the service connection, and the water will not be turned on until this balance is paid.
- 7. Where the cost of labour and materials expended by the improvement district in installing the connection is less than the minimum deposit against actual cost as set out above, the improvement district will refund the balance to the applicant as soon as practical.
- 8. This bylaw repeals Bylaw No.
- 9. The bylaw may be cited as the “Connection Charge Bylaw”.

INTRODUCED and given first reading by the Trustees on ____ day of _____, 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day of _____, 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

DISTRICT

BYLAW NO.

A bylaw for fixing connection charges payable to the improvement district and the time of payment thereof.

The Trustees of _____ District ENACT AS FOLLOWS:

1. Definition:
Service Connection - means the pipeline installation from the improvement district's main to the property line of the property to be served, when such property line coincides with the established road allowance.
2. Application for Water
 - a. Application for water must be made in writing to the improvement district, delivered to the Officer, and must be in such form as the Trustees may, from time to time prescribe, and must be signed by the applicant.
 - b. Each application for water must be accompanied by the prescribed connection charge as set in this bylaw.
 - c. No connection will be made to any water main, or any water supplied upon any application, until all fees and charges for water connection, meter installation or other monies required by the improvement district to be paid have been paid in full or until alternative arrangements have been made and approved by resolution of the Trustees.
3. Connections
 - a. There is payable to the improvement district by every person making application for connection to the works of the improvement district, a connection charge in accordance with the following scale:
 - b. For standard 3/4" connection, a charge of \$ _____ will be made.
 - c. Where, at the discretion of the Trustees and at the request of the property owner, a service of a larger diameter than 3/4" is required or where, at the discretion of the Trustees a metered service connection is to be installed, the connection charge must be as provided hereunder:

Size	Unmetered	Metered	
1" service	\$	\$	+ cost of meter installation complete
1 1/4" service	\$	\$	+ cost of meter installation complete
1 1/2" service	\$	\$	+ cost of meter installation complete
2" service	\$	\$	+ cost of meter installation complete

Connection charges in respect of services in excess of 2" in diameter will be the actual cost to the improvement district, plus \$ for inspection and administration.

- 4. Upon acceptance by the improvement district of an application for water service and payment of the connection charge by the property owner, the improvement district will install the service connection from the pipeline to the property line of the property to be served when such property line coincides with the established road allowance in which the improvement district pipeline is located. That part of the service pipe from the aforesaid property line to the premises to be served will be installed by the property owner concerned.
- 5. This bylaw repeals Bylaw No.
- 6. This bylaw may be cited as the "Connection Charge Bylaw".

INTRODUCED and given first reading by the Trustees on the ____ day of ____, 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day of ____, 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

LATECOMER AGREEMENT

[It is recommended that legal advice be sought in the completion of this Agreement]

THIS AGREEMENT made this ____ day of ____ .

BETWEEN:

(the “Improvement District”) OF THE FIRST PART

AND:

(the “Developer”) OF THE SECOND PART

WHEREAS:

- A. The Developer proposes to subdivide/develop certain lands within the Improvement District more particularly described in Schedule “A” to this Agreement (the “Land”);
- B. The Improvement District requires that the Developer provide a [select one or more of the following according to the objects in your Letters Patent: water, sewage or drainage system] “the Service” to service the Land, and a portion of the Service will serve land other than the Land being subdivided or developed as set out in Schedule “B” hereto and will be excess or extended capacity under section 747.2(1) of the *Local Government Act* (the Excess Capacity);
- C. The Improvement District considers that its costs to provide the Excess Capacity in whole or in part are excessive, and requires the Developer, as owner of the Land, and the owners of any other land that, in the opinion of the Improvement District, will benefit from the Service, to pay the cost of the Excess Capacity;
- D. This Agreement is authorized and provided for under section 747.2 of the *Local Government Act* and

- E. The Board of Trustees of the Improvement District has by [Latecomer Charge Interest Rate Bylaw No. ____] set the rate of interest referred to in paragraph 6.

NOW THEREFORE in consideration of the mutual covenants and agreements made by each of the parties to the other as set out below, and for other valuable consideration, the receipt and sufficiency of which is acknowledged, the Improvement District and the Developer covenant and agree as follows:

1. The Developer must provide the Service in compliance with the plans and specifications set out in Schedule “B” of this Agreement, to service the proposed subdivision/development of the Land.
2. The Improvement District agrees that a portion of the Service is provided with Excess Capacity as set out in Schedule “B”.
3. The proportion of the total cost of providing the Service, as determined by the Improvement District, that constitutes the Excess Capacity of the Service that will benefit the Parcels other than the Land is ____ % or \$ ____ .
4. The Improvement District will, under section 747.2(4) of the *Local Government Act* impose a Latecomer Charge against each parcel of land that benefits from the Excess Capacity as prescribed in Schedule “C” of this Agreement as a condition of an owner using or connecting to the services provided under the agreement where the Developer has incurred or paid the costs of providing the Excess Capacity.
5. The Improvement District must pay the Developer those charges, collected under paragraph 4, which relate to the costs of providing the Excess Capacity paid by the Developer.
6. Included in the charges imposed by paragraph 4 of this agreement will be interest calculated annually at the rate prescribed by Latecomer Charge Interest Rate Bylaw No. ____, namely, ____ percent, payable for the period commencing when the Service providing the Excess Capacity was completed, as certified under paragraph 7, up to the date that the connection is made or the use commences.
7. No costs for Latecomer Charges under paragraph 4 of this Agreement will be charged beyond a period of 15 years [or another lesser time negotiated with the Developer] commencing on the date of completion of the Service as certified by the Improvement District.

8. Where the Developer constructs the Service:
 - a. construction must be carried out in accordance with the practices standards and specifications prescribed in the Improvement District's Subdivision regulation Bylaw and, where there is no bylaw or the bylaw does not specify a standard, in accordance with the plans, standards and specifications set out in Schedule "D" to the agreement; and
 - b. the Improvement District will be the sole judge of the sufficiency of compliance of the construction of the Service with all standards.
9. The obligation of the Improvement District under this Agreement to pay latecomer's fees is subject to its ability to collect such fees.

Terminology

10. Wherever the singular or the masculine are used in this Agreement, they will be construed as meaning the plural or the feminine or body corporate or politic where the context or the parties require.

Binding Effect

11. This agreement will constitute the entire agreement between these parties and will ensure to the benefit of and be binding upon the parties hereto, their respective heirs, executors and successors and permitted assignees.
12. The headings in this agreement are inserted for convenience only and will not be construed as part of this Agreement for the purpose of interpretation.

IN WITNESS WHEREOF the parties have signed and sealed this Agreement on the day it was made.

THE CORPORATE SEAL of _____ (the Improvement District)

was affixed in the presence of :

THE CORPORATE SEAL of _____ (the Developer)

was affixed in the presence of:

SCHEDULE “A”

THE LAND TO BE SUBDIVIDED OR DEVELOPED

SCHEDULE “B”

**PLANS AND SPECIFICATIONS OF THE SERVICE SHOWING
THE EXCESS CAPACITY**

SCHEDULE “C”

CHARGES PRESCRIBED FOR EACH BENEFITING PARCEL
[can be a percentage of the excess capacity]

I	II	III
Parcel(s) that will benefit excess capacity	Percentage of excess capacity apportioned to benefiting parcel(s)	Amount of from the charged to benefiting parcel(s)

SCHEDULE “D”

WORKS AND SERVICES CONSTRUCTION STANDARDS

DISTRICT

LATECOMER CHARGE INTEREST RATE BYLAW NO

A bylaw to set the interest rate for latecomer charges in relation to extended or excess services.

The trustees of the [name of improvement district] enact as follows:

- 1. Where all or part of an excess or extended service has been paid by the owner of land being subdivided or developed and a latecomer charge is to be collected from an owner connecting to the excess or extended service within the period established under section 747.2 (8) of the *Local Government Act*, the interest to be added to the latecomer charge will be based on the rate of percent calculated annually.
- 2. The interest referred to in Section 1 is to be calculated for the period beginning when the excess or extended services were completed, up to the date that the connection is made or the use begins.
- 3. This bylaw may be cited as the “Latecomer Charge Interest Rate Bylaw No. ____ .”

INTRODUCED and given first reading by the Trustees on the ____ day of ____, 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day of ____, 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

REGULATION BYLAW

DISTRICT

BYLAW NO.

A bylaw for regulating the distribution and use of water and prescribing penalties for non-compliance with the regulations.

The Trustees of _____ District ENACT AS FOLLOWS:

1. In this bylaw, unless the context otherwise requires:
 - (a) “Trustees” means the Trustees of the improvement district or their duly authorized representatives.
 - (b) “Water” means water conveyed through the works operated or maintained by the improvement district.
 - (c) “Works” means anything capable of or useful for diverting, storing, measuring, or conveying, conserving, retarding, confining or using water.
 - (d) “Swimming pool” means an artificially created body of water having a depth of 18” or more used for recreational or physiotherapy purposes.

Service Connections

2. The type and size of service connection and the arrangement of valves and other appurtenances required to regulate the water will be specified in the design guidelines for the improvement district.
3. Where an applicant for a water service requires a quantity, pressure or type of service in excess of that which can be supplied from the works, the improvement district may require the said applicant to pay for all or part of any works considered necessary to augment system capacity in order to meet the water requirements. Alternatively, the said applicant may be required to make a capital contribution towards the future provision of such works. Applicants considered under this section may be required to enter into a formal agreement with the improvement district regarding the special terms and conditions under which water is supplied.
4. Before any person installs or constructs any works, he will apply to the improvement district in writing and obtain a written permit therefore, and if required by the improvement district, he will furnish a plan and specifications which must show:

- (a) The purpose of the size of pipes and the number of outlets related or connected thereto.
 - (b) A description of the material which the applicant proposes to use.
 - (c) The street address and complete legal description of the premises in which the installation or connection is to be made.
5. Immediately after the completion of any works, and before such works or any part thereof has been covered or concealed, the improvement district must be notified that such works are ready for inspection. The works must not be covered until they have been inspected, tested under pressure, and accepted in writing by the improvement district.

Change of Occupancy

6. No agreement between the occupant of premises and the improvement district with respect to water service to those premises may be transferred to another occupant. New occupants of premises must apply in writing to the improvement district for water service and receive permission before they commence to use water.

Turn Off and Turn On

7. Consumers who wish to have their water service discontinued must pay the prescribed turn off charge, and give the improvement district fourteen (14) days notice. The service will be cut off at the end of the month succeeding the termination of the notice. Before the service is again renewed, the tenant or occupant must pay to the improvement district the prescribed turn-on charge for the renewal of the service.
8. The improvement district may order the water be turned off to any premises where tolls have been owing for ninety (90) days or longer.

Trustees Right of Access

9. (a) The Trustees or their designate shall have right of access to all parts of a person's property or premises at all reasonable hours for the purpose of inspecting or testing any works, fittings or appliances related to the use of water, or for the purpose of installing, removing, repairing, reading or inspecting meters.
- (b) No person will obstruct or prevent the Trustees or their designate from carrying out any of the provisions of this bylaw.

Improvement District's Works

10. No person except the Trustees or their designate will open, shut, adjust, draw water from or tamper with any of the improvement district's works.
11. No person will obstruct at any time or in any manner the access to any hydrant, valve, stop cock or other fixture connected with the improvement district's works, and should any person so obstruct access to any said fixture by allowing accumulation of surface water around it or by placing thereon or near thereto any structure or material, the Trustees may remove such obstruction at the expense of the offending person.
12. When a landowner requests that any of the improvement district's works situated within an easement in favour of the improvement district be moved or relocated, the entire cost of moving or relocating the said works will be borne by the landowner unless other arrangements are agreed upon in writing by both parties.

Works on Private Property

13. No person to whose premises water is supplied will make, or permit to be made, any additional connection to his service of either temporary or permanent nature, for the purpose of supplying water to another building, or house trailer on his, or any other property without permission of the improvement district.
14. No person will interconnect any portion of works on private property which are supplied by the improvement district with an external source of water, such as a well, except with written permission of the improvement district. Wherever works on private property which are supplied by the improvement district are connected to a body of contaminated water, such as a swimming pool, in such a way that, if a reverse flow were to be induced, a health hazard could result, the owner of the private property will install and maintain a back flow preventer on every such potentially dangerous cross connection to the approval of the improvement district.
15. No change or addition to the number or type of fixtures on a premises, for the purpose of expanding a commercial or industrial enterprise, will be made until notice thereof has been given in writing to the Trustees and written permission therefore obtained. Any extra charge or higher toll payable due to the change or addition must be paid before the change or addition is commenced.

16. No person will use or permit the use of any pump or other device for the purpose of, or having the effect of, increasing the pressure in any pipe without the written permission of the Trustees, whether such pipe forms part of the improvement district's works or of the works on the said person's premises. The improvement district may, without notice, discontinue service to any person employing such pump or other device.
17. No device designed to introduce another substance into the water in the connection between the building and the water supply main will be installed without written permission of the Trustees who, in consultation with the health inspector, will ensure that the device is so designed and installed that such substance cannot be introduced into the improvement district's works.
18. The property owner will be responsible for the safekeeping, maintenance, repair and replacement of all service pipes and plumbing systems from the outlet of the improvement district's curb stop or standard waterworks valve at his property line and will protect them from frost or other damage, and will promptly repair frozen, leaky or imperfect pipes or fixtures.
19. No reduction in rates will be allowed on account of any waste of water unless the Trustees are satisfied that such waste arose from an accident to the pipes or fittings on the consumer's premises arising from some cause beyond his control and that the consumer used all reasonable diligence to stop such waste.

Water Use Regulations

20. Where, in the opinion of the Trustees, the quantity of water being used or the rate which it is being used from time to time, through any service is in excess of that contracted for or otherwise considered adequate, the improvement district may take such measures as are considered necessary to limit the supply to said service. These measures may include the installation of a meter, partially closing the controlling curb stop or standard waterworks valve, regulating the rate and time at which water may be used, and establishing special charges for water used in excess of a stipulated quantity or rate. The cost of any measures deemed necessary by the improvement district under this section must be paid by the owner or owners concerned. The Trustees may limit the amount of water used by any service in the interests of efficient operation of the improvement district's works and equitable distribution of water.

21. The Trustees may, at any time, substitute a metered service for an unmetered service to any premises. Each dwelling must have a meter separate from any other dwelling, in a position approved by the Trustees. All meters will be the property of the improvement district.
22. No owner or occupant of any premises supplied with water by the improvement district will sell, dispose of, or give away water, or permit the same to be taken away or applied for the benefit of other persons or premises, except by permission of the Trustees.
23.
 - (a) No person will use water for watering stock, filling of swimming pools or reservoirs, or for any purpose other than that required for normal domestic use, except by written permission of the Trustees, which must state the purpose, time of use and quantity of water to be used and additional charges, if any, and any special works required to be altered or installed.
 - (b) An approved swimming pool must be equipped with a recirculation and filtration system as set out in Part V of the swimming pool, spray pool and wading pool regulations under the *Health Act*.
 - (c) No person will use any service as motive power for the purpose of operating machinery without permission of the Trustees, who may terminate or withdraw such permission at any time.
24.
 - (a) The Trustees may, at any time, introduce regulations restricting the use of water for sprinkling or any other purpose. Upon receiving due notice of such restriction, no person will use water for the purposes forbidden by, or in excess of the limits imposed by, such restrictions. Due notice of restrictions will be given either by publication in a newspaper circulating within the improvement district or by mail.
 - (b) Notwithstanding the lack of, or limited form of, sprinkling regulations as hereinbefore provided, no person will, without permission of the Trustees:
 - i) Use water for sprinkling in excess of reasonable requirements; or
 - ii) Use more than two outlets at one time for sprinkling purposes, neither of which said outlets will exceed 1/2" in internal diameter; or
 - iii) Use an open pipe or hose for sprinkling purposes; or
 - iv) Irrigate more than 1/4 acre of land (including that occupied by dwellings).

Liability of Improvement District

- 25. The improvement district does not guarantee a specific pressure or a continuous supply of water quality to meet the special requirements of individual users. The improvement district reserves the right to interrupt water service at any time for the purpose of making repairs or alterations to the works. If service is to be interrupted for more than four consecutive hours, due notice will be given to those water users affected.

Penalties

- 26. The Trustees may, on 24 hours written notice, turn off the supply of water to any person in default of the requirements of this bylaw. The person in default will not be entitled to receive any further water from the improvement district until such person has remedied the default. It will be unlawful for any person whose water has been turned off, pursuant to this section, to turn such water on again, or take any water from the improvement district's works until such time as the Trustees again turn on the water.
- 27. No occupier of land will cause, suffer or allow irrigation water to flow onto or to be released on or to be used on the land which he occupies or any part of such land, unless the water is being lawfully supplied to such land in accordance with the provisions of this bylaw.
- 28. A person who commits an offence under this bylaw is liable on summary conviction to a penalty in accordance with the *Offence Act*.
- 29. This bylaw repeals Bylaw No.
- 30. This bylaw may be cited as the "Water Distribution Regulation Bylaw".

INTRODUCED and given first reading by the Trustees on the ____ day of ____, 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day of ____, 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

SCHEDULE “A”

SCHEDULE “B”

DISTRICT

SUBDIVISION WATER REGULATION BYLAW NO.

A bylaw regulating the subdivision of land that is being proposed for connection to the improvement district's water system.

The trustees of the [name of improvement district] enact as follows:

INTERPRETATION

1. In this bylaw:
 - A "applicant" means the owner of property, or the authorized agent of the owner, who has submitted a completed application for the subdivision of land to which water may be supplied by the District.
 - B "District" means the [name of improvement district].
 - C "subdivision" means a subdivision as defined in the *Land Title Act* or the *Strata Property Act*.
 - D "standards" means the District's water system construction and design standards attached as Schedule "B" to this bylaw.
 - E "District's system" means the water distribution system including all works owned and operated by the District.
 - F "trustees" means the trustees for the District.
 - G "works" means any structures, including pipes, and all attachments, fittings, and facilities for the storage, supply, conveyance, treatment and distribution of water.

OTHER ENACTMENTS

2. Nothing contained in this bylaw will relieve any person from responsibility for seeking out and complying with other enactments applicable to their undertaking.

GENERAL PROHIBITION

3. Land that is connected to the District's system, or is proposed for connection to the District's system, must not be subdivided contrary to this bylaw.

APPLICATION

4. A An owner of land who proposes to subdivide land and wishes to connect one or more parcels to be created by the subdivision to the district's system must apply to the District by delivering to the District:
 - (i) the form prescribed as Schedule "A" to this bylaw.
 - (ii) the plans and other information specified in Schedule "A".
 - (iii) a subdivision application fee of \$ _____.
- B Every application for subdivision of land that will create a parcel to be connected to the District's System must include a calculation of the peak hourly water demand and pressure requirement for the ultimate development of the parcels and sufficient information, plans and drawings for the District to determine whether the proposed works comply with this bylaw.

GENERAL PROVISION

5. A The trustees may refuse to approve the proposed subdivision where:
 - (i) the proposed subdivision does not comply with the provisions of this and other applicable bylaws of the District;
 - (ii) one or more parcels to be created by the subdivision are to be connected to the District's system and the District has an insufficient water supply to provide such parcels with a supply of water.
- B For the purpose of (1)(b), the demand that would be placed on the District's system as a result of the proposed subdivision will be calculated having reference to the peak hourly water demand and pressure requirement for the ultimate development of the parcels or provided under section 4(2). [Optional]

Despite subsection (1), an application may be approved where the owner of the land provides to the District with a reasonable proposal to increase the supply capacity of the District's system so that it is capable of providing the parcels to be created by the subdivision with a sufficient supply of water.

CONSTRUCTION OF WORKS WITHIN SUBDIVISION

6. (A) Subject to section 747.1(3) of the *Local Government Act*, an owner of land who proposes to subdivide the land must:
 - (i) provide, locate and construct a water distribution system within the subdivision; and
 - (ii) connect the water distribution system to the District's system in accordance with the Standards.
- (B) The cost of providing, locating and constructing the water distribution system and connecting the water distribution system to the District's System must be paid completely by the owner of land providing the Works.
- (C) The costs referred to in paragraph (2) include the cost of all permits, inspections, engineering costs and other costs related to the proposed subdivision.

CONSTRUCTION OF WORKS IN ADJACENT HIGHWAYS

7. In addition to the requirements of section 6, the Board of Trustees of the District may also, by resolution, require that an owner of land provide works and services in accordance with the Standards, on that portion of a highway immediately adjacent to the site being subdivided or developed up to the centre line of the highway, in accordance with section 747.1(4) of the *Local Government Act*.

CONSTRUCTION OF EXTENDED SERVICES

8. Where the Board of Trustees requires that an owner of land provide excess or extended services under section 747.2 of the *Local Government Act*, the District will determine the proportion of the cost of the extended or excess service which will be borne by the applicant in accordance with the *Local Government Act* and any policy regarding latecomer charges approved by the Board of Trustees.

EXTENSION OF WORKS AND SERVICES

9. (A) All works required to be installed under section 6 must be installed along the full frontage of the land being subdivided or developed unless the lands beyond the land being subdivided or developed are incapable of further subdivision or development, as determined by the District.
- (B) For the purpose of subsection (1) lands are not incapable of further subdivision or development by reason only that an amendment to an enactment of a local government or the District would be necessary to permit further subdivision or development.

TRANSFER OF WORKS TO DISTRICT

10. (A) An owner of land who has installed works under this agreement must:
- (i) transfer the works to the District and,
- (ii) where any part of the works transferred to the District are located on lands owned by any person other than the District or within a highway, provide a statutory right of way agreement for the works in a form acceptable to the District, naming the District as transferee with priority over any financial encumbrances registered against the title to the land.
- (B) An owner who transfers works to the District must
- (i) remedy all defects in the Works for one year following the date of the transfer; and
- (ii) deposit with the District an irrevocable standby letter of credit valid for at least one year from the date of the transfer in an amount not less than [ten percent] of the cost of the Works as security for the performance of the owner's obligations under (a).

COPIES OF PERMITS

11. The owner required to install Works under this bylaw must provide to the District a copy of the construction permit for the Works, issued by the Ministry of Health.

CONNECTION CHARGES

12. No person may connect any parcel to the District's System without paying all applicable charges in accordance with the District's bylaws.

APPROVAL PERIOD

13. (1) Subject to changes in an enactment which may affect a subdivision, approval of a subdivision under this bylaw will be valid for a period of six months.

(2) An approval under this bylaw must not be interpreted as limiting the function or authority of the Approving Officer under section 87 of the *Land Title Act*.

VIOLATION

14. A person who does any act or suffers or permits any act to be done in contravention of this bylaw or who neglects to do or refrains from doing any act or thing which is required to be done by this bylaw, commits an offence.

PENALTY

15. A person who commits an offence under this bylaw is liable on summary conviction to a penalty in accordance with the *Offence Act*.

SEVERABILITY

16. If any section, subsection, sentence, clause, or phrase of this bylaw is for any reason held to be invalid by the decision of any court, such section, subsection, sentence, clause or phrase may be severed from the remaining portion of this bylaw with the remaining portions of the bylaw remaining valid and of full force and effect.

INSPECTION AND RIGHT OF ACCESS

17. (1) The trustees, or an officer or employee of the District may enter at all reasonable times upon land subject to this bylaw, to ascertain whether the provisions of the bylaw are being obeyed, provided that:
- (a) consent to inspect the land is obtained from the owner or occupier of the land, or;
 - (b) where such consent has been refused, written notice of the intent to inspect is given to the owner or occupier no less than 24 hours prior to the time of inspection.
- (2) No person will obstruct or prevent a person referred to in paragraph (1) from carrying out any of the provisions of this bylaw.

REPEAL

18. Subdivision Water Regulation Bylaw No. ____ is repealed.

CITATION

19. This bylaw may be cited as the “Subdivision Water Regulation Bylaw No. “ ____ “.

INTRODUCED and given first reading by the Trustees on the ____ day of ____, 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day of ____, 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

SCHEDULE "A"

SUBDIVISION WATER REGULATION BYLAW NO.

Application for Water Service to Proposed Subdivision

Property Address(es):

Legal Description of Property(ies):

Registered Owner(s):

Address (Correspondence/calls) to be directed to:

Phone: _____ Fax: _____

THE FOLLOWING MUST ACCOMPANY THIS APPLICATION:

1. Copy of Indefeasible Title(s), dated within 30 days of the date of application.
2. A letter of authorization if the applicant is not the owner.
3. Plan of proposed subdivision with dimensions clearly illustrating lot layout, roads, etc. to a scale of not less than 1:2000. Four copies are required.
4. The layout sketch plan, in metric, must be prepared by a consulting engineer, planner, or land surveyor and show the following:
 - the full legal description of the parcel(s) to be subdivided;
 - the dimensions and area of all proposed lots;
 - the arrangement of parcels and streets which will be created by the subdivision, including the widths of the proposed streets and alteration of lot lines or subdivision of any existing parcels;
 - the location of all existing buildings and structures on the property;
 - existing property lines and highways to be eliminated by the proposed subdivision;
 - the location of all natural features and watercourses;
 - the relationship of the development to neighbouring parcels and highways;
 - intended use of each parcel to be created by the subdivision;

SECTION D – Sample Bylaws and Forms

- topographic information where land affected by the application is steep, irregular, or otherwise difficult to appraise in respect of the proposed development;
 - A plan of the water system to service the subdivision designed in accordance with the District's Standards.
5. An application fee of \$ ____ .
6. Evidence of approval or authorization from other agencies involved in the subdivision process.

PLEASE NOTE THE FOLLOWING:

Personal information collected on this form is collected for the purpose of processing this application and for administration and enforcement of District bylaws related to subdivision. Personal information or business information submitted on this form is not considered to be supplied in confidence.

The District, or their duly appointed representative, are authorized to enter the property for inspection purposes.

Property owner(s) signature(s):

OR:

Authorized agent's signature:

Date of application: _____

Approved this ____ day of _____, 20 ____ .

Authorized Signature

SCHEDULE “B”

SUBDIVISION WATER REGULATION BYLAW NO.

Water System Construction and Design Standards

DISTRICT

BYLAW NO.

A bylaw respecting the installation of water systems, and supply of water to bare-land strata subdivision of land in the area comprising the improvement district.

The Trustees of the _____ District ENACT AS FOLLOWS:

1. For the purpose of this bylaw:
 - (a) “Bare-Land Strata Plan” means a strata plan on which the boundaries of the strata lots are defined on a horizontal plane by reference to survey markers, and not by reference to the floors, walls and ceilings of a building.
 - (b) “Strata Lot” means a lot shown as such in a bare-land strata plan.
 - (c) “Common Property” means so much of the land and buildings designated on the bare-land strata plan, or designated by the strata corporation for the use of the strata lot owners.
 - (d) “Strata Corporation” means the corporation created by the *Strata Property Act*.
 - (e) “Strata Council” means the Council designated or elected pursuant to the bylaws.
 - (f) “Subdivision” means the subdivision of land under the *Strata Property Act* by bare-land strata plan.
2. Every owner of a proposed subdivision must submit for approval to the improvement district, following submission of the same to the Ministry of Transportation for approval of such subdivision plan under the *Land Title Act*, the following:
 - (a) The necessary bare-land strata plan of subdivision of lands, showing each and every lot, including all common property situated therein.
 - (b) A plan of the waterworks system including any and all fire hydrants, sprinklers or swimming pools to be connected to such system within such subdivision.
3. Every owner of a subdivision and every owner of land who subdivides any parcel of land within the improvement district must install, at his own expense and at no cost to the improvement district and under the supervision of the improvement district, or their representative, all watermains, fire hydrants, meters and other fittings and appurtenances deemed necessary by the improvement district construction standards to provide an adequate supply of water for domestic, commercial and fire

protection use as is necessary for present use, and for the future growth or expansion of said subdivision, and must pay for all engineering costs.

- 4. Upon registration of the bare-land strata plan, and completion of the waterworks system, the strata corporation will be subject to all improvement district bylaws, and will be responsible for the payment of all tolls, taxes, or other charges levied by the improvement district, and will operate and maintain the works within the subdivision in a manner satisfactory to the improvement district.
- 5. Following the election or designation of the strata council, all terms and conditions set out in Section 4 above will become the responsibility of the strata council.
- 6. To assure adequate maintenance of the distribution mains, fire hydrants, and other fittings within the subdivision, the improvement district may enter into a legal agreement with the Strata Corporation or strata council respecting maintenance and repair of the works.
- 7. A person who commits an offence under this bylaw is liable on summary conviction to a penalty in accordance with the *Offence Act*.
- 8. This bylaw may be cited as the “Bare-Land Strata Subdivision Water Regulations Bylaw”.

INTRODUCED and given first reading by the Trustees on the ____ day of ____, 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day of ____, 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

DISTRICT

BYLAW NO.

A bylaw to provide for the establishment and operation of a fire department

The Trustees of the _____ District ENACT AS FOLLOWS:

1. In this bylaw, words and phrases will be construed as specified hereunder;

“Apparatus” - means any vehicle provided with machinery, devices, equipment or materials for fire fighting and assistance response as well as vehicles used to transport fire-fighters or supplies.

“Board” - means the Trustees for the improvement district.

“Equipment” - means any tools, contrivances, devices or materials used by the fire department to combat an incident or other emergency.

“Fire Chief” - means the member appointed as head of the fire department

“Fire Protection” - means all aspects of fire safety including but not limited to fire prevention, fire fighting or suppression, pre-fire planning, fire investigation, public education and information, training or other staff development.

“Incident” - means a fire or situation where a fire or explosion is imminent and includes assistance response circumstances described in Section 7 or any other situation presenting a danger or possible danger to life or property and to which the fire department has responded.

“Member” - means any person that is a duly appointed member of the fire department.

2. There is hereby established a fire department to be know as the Fire Department.
3. The Fire Chief must be appointed by the Board.
4. Other officers and members as the Fire Chief deems necessary, may be appointed to the fire department with the approval of the Board.

5. The Fire Chief may appoint other officers of the fire department to act as Fire Chief on their behalf.
6. In addition to any agreement to provide services beyond the boundary of the improvement district, at the direction of the Fire Chief, the fire department may respond to requests for assistance beyond the boundary of the improvement district.
7. The authority in Section 6 may only be exercised in relation to the following services: (pick one or more)
 - a) fire suppression;
 - b) search and rescue;
 - c) assistance where there is a risk of immediate harm to persons or property, including medical emergencies; hazardous material incidents; and traffic accidents.
8. The authority in Section 6 may only be exercised if a local government does not provide the same service in that area.
9. The Fire Chief has complete responsibility and authority over the fire department subject to the direction and control of the Board to which they will be responsible and in particular, is required to carry out all fire protection activities, assistance response and such other activities as the Board directs including, but not limited to:
 - a) first response to medical emergencies
 - b) rescue operations
 - c) mutual aid to other fire services
 - d) response to hazardous material incidents
 - e) public service
10. The Fire Chief, subject to the ratification by the Board, must establish rules, regulations, policies and committees necessary for the proper organization and administration of the fire department, including, but not limited to:
 - a) use, care and protection of fire department property
 - b) the conduct and discipline of officers and members of the fire department, and
 - c) efficient operations of the fire department
11. The Fire Chief, or in their absence, the senior ranking member present, will have control, direction and management of all fire department apparatus, equipment or manpower assigned to an incident and where a member is in charge, he/she will continue to act until relieved by an officer authorized to do so.

12. The Fire Chief will take responsibility for all fire protection matters including the enforcement of the *Fire Services Act* and regulations thereunder and will assume the responsibilities of the Local Assistant to the Fire Commissioner.
13. Officers and members of the fire department will carry out duties and responsibilities assigned to the fire department by the Board, and the Fire Chief must report to the Board on the operations of the fire department or on any other matter in the manner designated by the Board.
14. The Board must determine the remuneration of all members of the fire department.
15. Any member of the fire department may be suspended or discharged by the Fire Chief at any time he may deem such action necessary for the good of the fire department, provided however, that the member so discharged or suspended by the Fire Chief, may within seven days, appeal in writing to the Board who must within two weeks hold a hearing and either order that the member so suspended or discharged be reinstated, or that the action of the Fire Chief be confirmed.
16. The Fire Chief, or any other member in charge at a fire is empowered to cause a building, structure or thing to be pulled down, demolished or otherwise removed if he deems it necessary to prevent the spread of fire to other buildings, structures, or things.
17. The Fire Chief, or any other member in charge at an incident, is empowered to enter premises or property where the incident occurred and to cause any member, apparatus or equipment of the fire department to enter, as he deems necessary, in order to combat, control or deal with the incident.
18. The Fire Chief, or any other member in charge at an incident, is empowered to enter, pass through or over buildings or property adjacent to an incident and to cause members of the fire department and the apparatus and equipment of the fire department to enter or pass through or over building or property, where he deems it necessary to gain access to the incident or to protect any person or property.
19. The Fire Chief, or the member in charge at an incident, may at his discretion, establish boundaries or limits and keep persons from entering the area within the prescribed boundaries or limits unless authorized by the Chief.

20. No person will enter the boundaries or limits of an area prescribed in accordance with section 17 unless he has been authorized to enter by the Fire Chief or the member in charge.
21. The Fire Chief, or member in charge, at an incident may request peace officers to enforce restrictions on persons entering within the boundaries or limits outlined in section 17.
22. The Fire Chief may obtain assistance from other officials of the improvement district as he deems necessary in order to discharge their duties and responsibilities under this bylaw.
23. No person at an incident will impede, obstruct, or hinder a member of the fire department or other person assisting or acting under the direction of the Fire Chief or the member in charge.
24. No person will damage or destroy fire department apparatus or equipment
25. No person at an incident will drive a vehicle over any equipment without permission of the Fire Chief or member in charge.
26. No person will falsely represent themselves as a fire department member.
27. No person will obstruct or otherwise interfere with access roads or streets or other approaches to any fire incident, fire hydrant, cistern or body of water designated for fire fighting purposes.
28. The Fire Chief or the member in charge of an incident may request persons who are not members to assist in extinguishing a fire, removing furniture, goods and merchandise from any building on fire or in danger thereof and in guarding or securing same and in demolishing a building or structure at or near the fire or other incident.
29. The Fire Chief or member in charge of an incident is empowered to commandeer privately-owned equipment which the Chief considers necessary to deal with an incident. Remuneration rates will be set out annually by the Board.
30. Every person who violates any of the provisions of this bylaw, or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this bylaw, or who neglects to do or refrains from doing anything required to be done by any of the provisions of this bylaw, or who does any act or thing or omits an act or thing thus violating any or the provisions in this bylaw will be deemed to have committed an offence, and upon a summary conviction is liable to a penalty in accordance with the *Offence Act*.

31. This bylaw may be cited as the “Fire Department Establishment and Operations Bylaw.”

INTRODUCED and given first reading by the Trustees on the ____ day of ____, 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day of ____, 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

DISTRICT

BYLAW NO.

A bylaw for preventing and suppressing fires and for regulating the conduct of people at fires.

The Trustees of the _____ District ENACT AS FOLLOWS:

1. In this bylaw, unless the context otherwise requires:

The following terms and expressions will have the meanings hereinafter assigned to them, that is to say:

- a) "Animal organic waste" means solid organic waste material of animal origin and includes flesh, carcasses, offal, hides, hair and feathers;
- b) "Approved plastic container" means approved by a recognized testing authority;
- c) "Authorized" means authorized by the chief of the fire department;
- d) "Authorized incinerator" means any metal or masonry container in good condition mounted on a non combustible base, fitted with a metal screen or grill of less than 12.5 mm (1/2") mesh to restrict any sparks or flying debris;
- e) "Board" means the Board of Trustees of the District;
- f) "Building" means any structure or building used or intended to be used for the support, shelter or enclosure of persons, animals or chattels;
- g) "Improvement District" means the District;
- h) "Dwelling" means any building or part of a building occupied or intended to be occupied as the residence of not more than one family;
- i) "Extinguished" means no visible flame, sparks, glowing embers or smoke;
- j) "Fire chief" means the fire chief of the District or any person designated by him to act on his behalf.
- k) "Fire department" will include the fire department of the improvement district and the fire department of any other fire protection district or municipal corporation attending fires within the improvement district;
- l) "Fire hazard" means any condition that is conducive to the destruction of life or property by fire, or will, or is likely to increase the extent or severity of the fire;
- m) "Flash point" means the flash point of a flammable liquid as determined by the Tagliabue Closed Cup Tester or the Abel-Pensky Flash Point Tester methods;
- n) "Garbage" means any animal, vegetable and food wastes or scraps;
- o) "Gasoline" means any product of petroleum or any liquid that will flash or emit a flammable vapour below the temperature of one hundred ten degrees Fahrenheit (110° F), or forty-four degrees Celsius (44° C);

- p) “Occupant” means owner, agent, lessee, licensee or tenant of any building or premises to which any of the provisions of this bylaw will apply;
 - q) “Person” where used in this bylaw means natural persons of either sex, associations, corporations, or co-partnerships, whether acting by themselves or by a servant, agent, or employee, and the heirs, executors, administrators, or assigns or other legal representatives of such persons to whom the context will apply according to law;
 - r) “Private residence” means any dwelling or two-family dwelling;
 - s) “Refuse” means any approximately evenly proportioned mixture of rubbish and animal or vegetable waste material of low moisture content;
 - t) “Rubber” means rubber goods, tires, plastics, and tar and asphalt roofing materials;
 - u) “Rubbish” means any readily combustible inorganic dry waste material, but does not include animal or vegetable wastes;
 - v) “Two-family dwelling” means any building occupied or intended to be occupied as the residence of not more than two families;
 - w) “Vehicle” means every device upon or in which any person or property is, or may be, transported or drawn on or upon a public highway.
2. Unless the context otherwise requires, wording importing the singular number will include the plural and words importing the masculine gender will include the feminine, and the converse will apply.
3. a) Even where this bylaw and any regulations under the *Fire Services Act* deal with the same subject matters, any further or more stringent restrictions in this bylaw on the use of property or fire will have full force and effect.
- b) In the event of any conflict, inconsistency or repugnancy between these bylaws and the *Waste Management Act*, the *Waste Management Act* will, in all cases, prevail.

Right of Entry

4. With the exception of a privately owned and occupied single-family dwelling, the fire chief is hereby empowered to enter upon any land or premises for the purpose of making an inspection or investigation.
- a) to inspect for conditions which may cause a fire, increase the danger of a fire or increase the danger to persons;
 - b) to see that any flammable matter is rendered harmless or suitably safeguarded against fire by requiring:
 - i) the erecting of barricades;
 - ii) the posting of “no admittance signs”; or
 - iii) any other measures deemed necessary by the fire chief.

No Obstruction

5. No person will obstruct the fire chief in making any entry authorized by this bylaw.

No Hindrance

6. No person will, in any way, hinder any member of the fire department or any other person under the direction of the fire chief at any fire or other emergency.

Breaking Blockade

7. Except with the permission of the Fire Chief, no person will be permitted to enter any burning building or within the lines across any alley, lane, street or area marked by ropes or guards.

Driving Over Hose

8. No person will drive or run over any fire hose with any vehicle.

Access to Fire Hydrant

9. No person will place or maintain any object or matter on a sidewalk or street which interferes with free access or approach to any fire hydrant.

Smoking Prohibited

- 10 a) Where, in their opinion, smoking may create a fire or explosion hazard, the fire chief may prohibit smoking in any building, theatre, public hall, assembly hall, dance hall, school auditorium, skating rink, arena, or place used for public amusement, sport or public assembly or any structure or open space in which combustible materials are handled, stored, manufactured or sold;
- b) Where, in the opinion of the fire chief, smoking should be prohibited, he may give notice in writing to the occupant to post suitable signs that smoking is prohibited in or on such premises or buildings and the occupant thereof will prohibit smoking in such premises or buildings. The term "smoking" will include the carrying of a lighted pipe, cigar or cigarette;
- c) Any person violating any such order or notice will be deemed to be guilty of an infraction of this bylaw and will be liable to the penalties herein imposed.

Chimneys

11. a) No owner or occupant of any building will permit any chimney, stovepipe or flue to remain in any condition which may cause or create a fire hazard.
- b) Every owner or occupant of any building will keep all openings in any chimney in such buildings, while such openings are not in use, closed by a proper stopper of metal or other non-combustible material.

Inspection of Chimneys, Flues, Furnaces

12. Where he deems it necessary, the fire chief may examine carefully any chimney, flue, fireplace, hearth, oven, furnace, heater, boiler, stove, steam pipe, funnel or any other equipment he may deem to be a fire hazard.

Notice to Remedy Fire Hazard

13. Where any chimney, flue, fireplace, hearth, oven, furnace, heater, boiler, stove, steam pipe, funnel or any other equipment is found to be a fire hazard, the fire chief will notify the owner or occupant of the building of the condition and indicate the remedy and the time within which the condition will be remedied.

Duty to Comply

14. Where any owner or occupant has received notice under Section 11, he will comply with the notice within the time indicated.

Depositing Ashes or Flammable Material Among Ashes

15. No person will deposit any ashes or allow any ashes to be deposited or remain:
- a) in any combustible container;
- b) on the floor of any building belonging or occupied by that person;
- or,
- c) in any metallic container which is within 300 mm (12 inches) of any woodwork or any other combustible material.

It will be unlawful for any person to deposit, or allow or cause to be deposited, any paper, straw, hay, shavings, or other combustible or flammable material or thing in or among any ashes or other materials or things taken from any stove, furnace, or fireplace.

No Open Flame or Smoking Near Flammable Material

16. No person, within the improvement district, in that part of any building where there is an accumulation of hay, straw, shavings or other readily flammable material, or liquids, will smoke, or have in his possession any lighted pipe, cigar or cigarette, or light or carry any naked light, flame, or light not enclosed in a shade or other non combustible guard.

Metal Receptacles for Flammable Material

17. No person will, within the improvement district, keep any waste, rags, papers, or other substance liable by spontaneous combustion to cause fire, except in a container made of metal or other non-combustible material and with an airtight top or lid of the same type of material.

Control of Combustible Material

18. No person will deposit or allow to collect or be deposited, within the improvement district, any paper, rubbish, or other combustible material likely to cause or promote fire dangerous to buildings or other property.

Clearing of Roof

19. No owner or occupant of any building will allow any paper, wood, debris or other combustible rubbish or material to accumulate upon the roof of the building.

Duty to Safely Store

20. Any person who makes, uses or has charge of shavings, paper bags, litter or other combustible material will, at the close of each day, ensure that they are safely stored or disposed so as to be safe from fire.

Remove Fire Hazard and Secure Unoccupied Buildings

21. a) Any owner or occupant of real property in the improvement district will remove any matter or thing situated in or on any building or premises which, in the opinion of the fire chief, is a fire hazard or increases the danger of fire.
- b) Any owner of any unoccupied building will ensure that it is properly secured against entry by unauthorized persons.
- c) Where, in the opinion of the fire chief, any fire hazardous condition exists or any unoccupied building is not properly secured, the fire chief will give written notice to the owner or occupant at his last known address or by posting a notice in a conspicuous place on the building or premises.
- d) In any notice under this section, the fire chief will indicate the nature of the condition to be remedied, the manner in which the condition may be remedied, and the time within which the owner or occupant must comply.

Burning

22. Except as provided in this bylaw, no person will light, ignite, or maintain any fire or permit or cause any fire to be lit, ignited, or maintained in the “open air” without first obtaining a permit, oral or written, from the fire chief, who may require a written application thereof.

Form of Written Permit

23. A written permit will be in the form set out in the schedule attached hereto, or to like effect, and will not be valid after expiration thereof.

Issuance

24. The Fire Chief may withhold or cancel any permit issued where, in their opinion, the igniting of a fire in any area may create a hazard to persons or property.

No Noxious Odours

25. No persons will burn any rubber, garbage, animal organic waste or any materials which create a noxious odour.

“Open Air” Fires

26. a) A fire in the “open air” means a fire out-of-doors, not contained in an authorized incinerator.
- b) The permit holder or some competent person appointed by him will supervise and keep under control any burning in the “open air” and ensure that any equipment necessary for fire control is available.
- c) The permit holder or some competent person appointed by him will ensure that a fire in the “open air” is located at least:
- i) 3 m (10 feet) from any grass, shrubbery or wooden fence; and
 - ii) 6 m (20 feet) from any building.

Authorized Incinerators

27. The owner of an authorized incinerator will ensure:
- a) that the authorized incinerator is maintained in a condition that provides for proper combustion of any material burned;
 - b) that while it is in use, the permit holder or some competent person appointed by him will supervise any burning and ensure that any equipment necessary for fire control is available;
 - c) that the authorized incinerator is located at least: -
 - i) 2m (6 feet) from any dry grass, shrubbery or wooden fence; and
 - ii) 4.5m (15 feet) from any building.

Restriction, Fires in the “Open Air” or in an Authorized Incinerator

- 28 a) Except a fire lawfully maintained by special written permit from the fire chief, no persons will ignite or have burning any fire in the “open air” or in an authorized incinerator:
- i) between sunset of one day and sunrise of the following day; or
 - ii) between the hours of 12 noon Saturday and sunrise of the following Monday during the months of June, July and August in any year; or
 - iii) on Canada Day, B.C. Day or Labour Day holidays.
- b) Except for the occasional lawful “open air” burning of waste materials resulting from land clearing, agriculture, logging, gardening, demolition or construction, no person will burn any waste material other than in an authorized incinerator.
- c) No person is required to obtain a permit for the occasional burning of waste material from October 1st in any year to April 15th of the following year unless proclaimed otherwise by the fire chief.

Unauthorized Fires

29. No person will light or maintain any fire either in the “open air” or in any form of container on any street, lane or boulevard allowance, without proper authorization.

Fire Escapes

30. Each storey above the ground floor of any building in the improvement district used as a school, hotel, apartment building, duplex or boarding-house, as those defined in the local zoning bylaw, will be provided by the owner with an adequate fire escape or adequate fire escapes, and the owner, and the tenant, if any, will maintain the same in good repair and condition.

Exit Doors to Open Readily

31. No door to any exit leading to a fire escape in any building will be closed or fastened except with a standard panic or exit bolt, which may be readily opened without the aid of a key or other device.

Gasoline Storage

32. Except as authorized by a valid written permit issued by the Fire Chief, no person will store or keep gasoline within the improvement district other than:
- a) gasoline not exceeding 45 litres (10 gallons) in closed metal containers or in approved plastic containers for outdoor storage only;

- b) gasoline in the gasoline tank of an automobile, gasoline engine, motorboat, or airplane, whose tank is permanently connected to and supplies its engine.

Storage of Explosive or Flammable Compound, Liquid or Material in Public Building

- 33. Except in a place especially provided for the purpose and approved by the fire chief, it will be unlawful for any person to keep, store or use any combustible explosive or flammable compound, liquid or material in any part of a building used or maintained as a hotel, apartment house, school or place of public assembly.

Disposal of Gasoline Storage Tanks

- 34. All unused gasoline storage tanks on service station sites will be either filled or be removed.

Enforcement

- 35. The fire chief may enter upon any premises in order to ascertain that the provisions of this bylaw are being obeyed. No person will obstruct the fire chief in the discharge of his duty under this bylaw.

Penalty

- 36. Any person who violates any provisions of this bylaw will be liable, upon conviction, to a maximum penalty as authorized under the *Offence Act*. Where any violation continues, each day in which it continues will be a separate violation for the purpose of prosecution under this bylaw.

- 37. This bylaw may be cited as the "Fire Regulations Bylaw."

INTRODUCED and given first reading by the Trustees on the ____ day of ____, 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day of ____, 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

SCHEDULE

(Form for Permits)
DISTRICT

PERMIT FOR BURNING IN "OPEN AIR"

In case of EMERGENCY, phone

Fire Department, Office Phone:

Subject to the provisions of "Fire Regulations Bylaw", being Bylaw No. and any amendments thereto, permission is hereby granted to:

NAME: _____ PHONE NO. _____

ADDRESS:

to light and maintain a fire in the "open air" at

This permit is valid for ____ days, commencing ____ 20 ____ , and is issued only on condition that the person to whom it is issued and whose signature appears hereunder as applicant assumes all liability for any damage which may occur as a result of such fire. This permit does not negate the responsibility of the applicant to abide by the regulations of the *Waste Management Act*.

A fire in the "open air" means a fire out-of-doors, not contained in an authorized incinerator.

RESTRICTIONS:

1. During the months of June, July and August, fires in the “open air” will be permitted only:
 - a) between sunrise and sunset on Monday, Tuesday, Wednesday, Thursday and Friday; and,
 - b) between sunrise and 12 noon on Saturday in any week. At all other times during these months, all fires must be completely extinguished.
2. Fires in the “open air” are not permitted on Canada Day, B.C. Day or Labour Day holidays.
3. The permit holder or some competent person appointed by him will ensure that a fire in the “open air” is located at least:
 - a) 3 m (10 feet) from any grass, shrubbery or wooden fence; and
 - b) 6 m (20 feet) from any building.
4. The permit holder or some competent person appointed by him will supervise and keep under control any burning in the “open air” and ensure that any equipment necessary for fire control is available.
5. No person will light or maintain any fire in the “open air” on any street, lane, or boulevard allowance without proper authorization.
6. No person will burn any rubber, garbage, animal organic waste, or any materials which create a noxious odour.

This permit must be available for inspection by a member of the fire or police departments and is subject to cancellation at any time.

Additional Special Conditions

DISTRICT

BYLAW NO.

A bylaw to establish a renewal reserve fund for replacement, upgrading or renewal of existing works.

The Trustees of _____ District, in open meeting assembled, ENACT AS FOLLOWS:

- 1. There is hereby established a renewal reserve fund pursuant to the provisions of section 751 of the *Local Government Act*, to be known as the “Capital Works, Renewal Reserve Fund”.
- 2. Money from the sale of improvement district land, current revenue, general revenue fund surplus (to the extent to which it is available) or as otherwise provided in the *Local Government Act* may, from time to time, be paid into the reserve fund.
- 3. The monies set aside will be deposited in a separate account and until required to be used, may be invested in the manner approved by the Inspector of Municipalities, and will be disbursed only by bylaw passed by the Trustees of the improvement district and approved by the Inspector of Municipalities.
- 4. Monies in the Reserve Fund will only be used for expenditures for any upgrading, replacement or renewal of existing works.
- 5. This bylaw may be cited as the “Capital Works, Renewal Reserve Fund Establishment Bylaw”.

INTRODUCED and given first reading by the Trustees on the ____ day of ____, 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day of ____, 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

DISTRICT

BYLAW NO.

A bylaw to authorize the disbursement of monies in the Capital Works Renewal Reserve Fund.

WHEREAS there is an unappropriated balance in the Capital Works Renewal Reserve Fund of ____ dollars (\$ ____) as at ____ 20 ____ , which amount has been calculated as follows:

Balance in Fund at December 31, 20	\$
Add: Additions to fund including interest earnings for current year to date	\$
Deduct: Total of disbursement bylaws for current year to date	\$
Balance in Trust Fund as at ____ , 20 ____	\$

AND WHEREAS it is deemed desirable to expend a portion of the monies imposed under Bylaw No. ____ (improvement district's Capital Works Renewal Reserve Fund Establishment Bylaw) for the purpose of _____ .

The Trustees of the _____ District ENACT AS FOLLOWS:

1. The sum of ____ dollars (\$ ____) is hereby appropriated from the Capital Works Renewal Reserve Fund to be expended on _____ .
2. The expenditure to be carried out by the monies hereby appropriated will be specified and authorized by resolution of the Trustees.
3. Should any of the above amount remain unexpended after the expenditures hereby authorized have been made, any unexpended balance will be returned to the credit of the said Reserve Fund.
4. This bylaw may be cited as the "20 ____ Capital Works Renewal Reserve Fund Disbursement Bylaw."

INTRODUCED and given first reading by the Trustees on the ____ day
of ____ 20

RECONSIDERED and finally passed by the Trustees on the ____ day
of ____ , 20 ____

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

DISTRICT

BYLAW NO.

A bylaw for imposing taxes upon lands in the improvement district and to provide for imposing a percentage addition to encourage prompt payment thereof.

The Trustees of _____ District ENACT AS FOLLOWS:

1. For the year 20 ____ there is hereby levied the following taxes:-
 - (a) A tax of \$ ____ on all parcels of land classified into Group "1".
 - (b) A tax of \$ ____ on all parcels of land classified into Group "2".
2. The aforementioned taxes are due and payable on or before the ____ day of ____, 20 ____ and will have a percentage addition of ____ % added to all taxes remaining unpaid after the said date.
3. In addition, taxes remaining unpaid on the 1st day of March next following the date upon which the taxes are levied will bear interest at the rate prescribed by the Lieutenant Governor in Council under the *Taxation (Rural Area) Act*, as set out under Section 760 of the *Local Government Act*.
4. This bylaw may be cited as the "Taxation Bylaw, 20 ____".

INTRODUCED and given first reading by the Trustees on the ____ day of ____, 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day of ____, 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

DISTRICT

BYLAW NO.

A bylaw for imposing taxes upon land in the improvement district and to provide for imposing a percentage addition to encourage the prompt payment thereof.

The Trustees of _____ District ENACT AS FOLLOWS:

1. For the year 20____, there are hereby levied the following taxes:

Domestic Tax

- (a) A tax of \$ _____ per parcel on all parcels of land classified into Group 1 on the current assessment roll.
- (b) A tax of \$ _____ per parcel on all parcels of land classified into Group 2 on the current assessment roll.
- (c) A tax of \$ _____ per parcel on all parcels of land classified into Group 3 on the current assessment roll.
- (d) A tax of \$ _____ per parcel on all parcels of land classified into Group 4 on the current assessment roll.
- (e) A tax of \$ _____ per parcel on all parcels of land classified into Group 5 on the current assessment roll.

Irrigation Tax

- (a) A tax of \$ _____ per acre on all land classified into Grade A.
- (b) A tax of \$ _____ per acre on all land classified into Grade B.
- (c) A tax of \$ _____ per acre on all land classified into Grade C.
- (d) A tax of \$ _____ per acre on all land classified into Grade D.

2. The aforementioned taxes are due and payable on or before the _____ day of _____, 20____, and will have a percentage addition of _____ % added to all taxes remaining unpaid after the said date.

3. In addition, taxes remaining unpaid on the 1st day of March next following the date upon which the taxes are levied will bear interest at the rate prescribed by the Lieutenant-Governor in Council under the *Taxation (Rural Area) Act*, as set out under Section 760 of the *Local Government Act*.

SECTION D – Sample Bylaws and Forms

4. This bylaw may be cited as the “ _____ Taxation Bylaw, 20 ____ ”.

INTRODUCED and given first reading by the Trustees on the ____ day
of _____, 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day
of _____, 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

DISTRICT

BYLAW NO.

A bylaw for imposing taxes upon lands in the improvement district and to provide for imposing a percentage addition to encourage prompt payment thereof.

The Trustees of _____ District ENACT AS FOLLOWS:

- 1. For the year 20____, there are hereby levied the following taxes:
 - a) A tax of \$ _____ on all parcels of land classified into Group 1.
 - b) A tax of \$ _____ on all parcels of land classified into Group 2.
 - c) A tax of \$ _____ on all parcels of land classified into Group 3.
 - d) A tax of \$ _____ on all parcels of land classified into Group 4.
 - e) A tax of \$ _____ on all parcels of land classified into Group 5.
- 2. The aforementioned taxes are due and payable on or before the _____ day of _____, 20____, and will have a percentage addition of _____ % added to all taxes remaining unpaid after the said date.
- 3. In addition, taxes remaining unpaid on the 1st day of March next following the date upon which the taxes are levied will bear interest at the rate prescribed by the Lieutenant-Governor in Council under the *Taxation (Rural Area) Act*, as set out under Section 760 of the *Local Government Act*.
- 4. This bylaw may be cited as the "Taxation Bylaw, 20____".

INTRODUCED and given first reading by the Trustees on the _____ day of _____, 20____.

RECONSIDERED and finally passed by the Trustees on the _____ day of _____, 20____.

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

DISTRICT

BYLAW NO.

A bylaw for imposing taxes upon land and improvements in the improvement district, and to provide for imposing a percentage addition to encourage prompt payment thereof.

The Trustees of _____ District ENACT AS FOLLOWS:

1. The following taxes (Rates) are hereby imposed and levied for the year 20 ____ :

Property Class	Tax Rates (dollars of tax per \$1000 taxable value)
----------------	---

Residential	
Utility	
Forestry	
Industrial	
Business	
Farm	

2. The minimum amount of taxation upon a parcel of real property will be dollars (\$ ____).
3. The aforementioned taxes are due and payable on or before the ____ day of ____, 20 ____ and a percentage addition of ____ % of the amount thereof will be added to all taxes remaining unpaid after the said date.
4. In addition, taxes remaining unpaid on the 1st day of March next following the date upon which the taxes are levied will bear interest at the rate prescribed by the Lieutenant Governor in Council under the *Taxation (Rural Area) Act*, as set out under Section 760 of the *Local Government Act*.
5. This bylaw may be cited as the "Tax Rates Bylaw, 20 ____".

INTRODUCED and given first reading by the Trustees on the ____ day
of ____, 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day
of ____, 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

DISTRICT

BYLAW NO.

A bylaw for levying taxes on the land and improvements within the District for fire protection/street lighting purposes.

The Trustees of the _____ District in open meeting assembled ENACT AS FOLLOWS:

1. The sum of ____ dollars (\$ ____) is required by the improvement district for fire protection / street lighting in the year 20 ____ .
2. A tax at a rate determined to be necessary to raise the aforesaid sum is hereby levied for the year 20 ____ on all land and improvements as defined in the School Act, within the improvement district in accordance with Section 756 of the *Local Government Act*.
3. The said taxes are due and payable as provided in the *Taxation (Rural Area) Act* and if delinquent will bear interest at the rate set out under the *Taxation (Rural Area) Act* until paid or recovered.
4. This bylaw may be cited as the “Fire Protection/Street Lighting Taxation Bylaw 20 ____”.

INTRODUCED and given first reading by the Trustees on the ____ day of ____, 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day of ____, 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

DISTRICT

TAX NOTICE 20XX

TAKE NOTICE that under Bylaw No. ____ of the _____ District, the following taxes have been levied for the year 20 ____ against property which has been noted as held in your name:

Property Description	Group	Tax
----------------------	-------	-----

Notes:

- 1) Taxes for the year 20 ____ will be payable without discount on or before the day of ____ , 20 ____ .
- 2) A percentage addition of ____ % will be added to all taxes remaining unpaid after the ____ day of ____ 20 ____ .
- 3) Section 760(1) of the *Local Government Act* provides that the taxes payable to an improvement district bear interest at the rate prescribed by the Lieutenant Governor in Council under section 11(3) of the *Taxation (Rural Area) Act* from March 1 next following the date on which they are levied, until paid or recovered.

DISTRICT

BYLAW NO.

A bylaw for fixing tolls and other charges payable to the improvement district and the terms of payment thereof, and providing for a percentage addition to encourage prompt payment thereof.

The Trustees of _____ District ENACT AS FOLLOWS:

The following (monthly, quarterly or annual) tolls are hereby fixed and made payable by all owners of land in the improvement district to which water is delivered from the works of the improvement district:

1. Unmetered Water Rates
 - a) In respect to each single-family dwelling, a toll of \$
 - b) In respect of each single-family dwelling utilized as a multiple-dwelling, boarding house, etc., a toll of \$
 - c) In respect of each additional dwelling, cabin, trailer, or other accommodation on the same parcel of land utilizing one connection, using water from the improvement district's works, a toll of \$
 - d) In respect of each duplex, suite or apartment building, a toll per unit of \$
 - e) In respect of each store, bank, office building, garage, a toll per unit of \$
 - f) In respect of each motel with living quarters attached, a toll of \$
plus a toll for each motel unit of \$
 - g) In respect of each hotel, a toll of \$
 - h) In respect of each restaurant or coffee shop, whether operated separately or in conjunction with a hotel or motel, a toll of \$

- i) In respect of each laundromat or car wash facility, a toll of \$
 - j) In respect of each school, per classroom, a toll of \$
 - k) In respect of each trailer court, camp site, etc., having central washrooms or laundry facilities (does not include mobile home courts), a toll of \$
 - l) In respect of each industrial property having washrooms, lunchrooms or other employee facilities, a toll of \$
 - m) In respect of each fruit packing plant, cannery, etc., a toll of \$
2. The aforesaid tolls are due and payable on _____ and any tolls remaining unpaid _____ after the due date will have added thereto a percentage addition of _____ percent (_____ %).
 3. The improvement district may, on 24 hours written notice, by trustee resolution order the water shut off to any premises on which there are any tolls or other charges owing for ninety days or longer from the due date. Water shut off under this section will be subject to the charges levied under Section 5 of this bylaw.
 4. The Trustees may by resolution reduce any toll fixed in the preceding clauses in respect of any premises not occupied throughout any period by an amount commensurate with the period the premises are unoccupied, provided the owner or occupant notifies the Trustees as to the time the premises become or are to become unoccupied and the water supply is shut off for the period when the premises are not occupied, subject to the charges levied under Section 5 of this bylaw.
 5. In addition to the aforementioned charges, there is fixed and made payable to the improvement district by every owner or occupier of premises in respect to which a request is made for the water supply be turned off, or on the order of the Trustees, that the water supply be turned off, a charge of \$ _____. There is also fixed and made payable to the improvement district by every owner or occupier of premises in respect to which a request is made that the water be turned on, a charge of \$ _____.

SECTION D – Sample Bylaws and Forms

6. This bylaw repeals Bylaw No.

7. This bylaw may be cited as the “ ____ Tolls Bylaw”.

INTRODUCED and given first reading by the Trustees on the ____ day
of ____ , 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day
of ____ , 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

DISTRICT

BYLAW NO.

A bylaw fixing tolls and other charges payable to the improvement district and the terms of payment thereof, and providing for a percentage addition to encourage prompt payment thereof.

The Trustees of _____ District ENACT AS FOLLOWS:

The following tolls are hereby fixed and made payable by all owners of land in the improvement district to which water is delivered from the works of the improvement district:

- 1. Metered Rates
 - a) Minimum (monthly, quarterly, annual) charge for first _____ gallons of \$
 - b) For next _____ gallons per (month, quarter, year) \$ /1,000 gal.
 - c) For next _____ gallons per (month, quarter, year) \$ /1,000 gal.
 - d) Consumption over _____ gallons per (month, quarter, year) \$ _____ /1,000 gal.
- 2. The aforesaid tolls are due and payable on _____ and any tolls remaining unpaid after the due date will have added thereto a percentage addition of percent (_____ %).
- 3. The improvement district may, on 24 hour written notice, by trustee resolution order the water shut off to any premises on which there are any tolls or other charges owing for ninety days or longer from the due date. Water shut off under this section will be subject to the charges levied under Section 5 of this bylaw.
- 4. The Trustees may by resolution reduce any toll fixed in the preceding clauses in respect of any premises not occupied throughout any period by an amount commensurate with the period the premises are unoccupied, provided the owner or occupant notifies the Trustees as to the time the premises become unoccupied and the water supply is shut off for the period when the premises are not occupied, subject to the charges levied under Section 5 of this bylaw.

5. In addition to the aforementioned charges, there is fixed and made payable to the improvement district by every owner or occupier of premises in respect to which a request is made for the water supply be turned off, or on the order of the Trustees, that the water supply be turned off, a charge of \$ ____ for each time the water is turned off. There is also fixed and made payable to the improvement district by every owner or occupier of the premises in respect to which a request is made that the water be turned on, a charge of ____ \$ ____ .

This bylaw repeals Bylaw No.

6. This bylaw may be cited as the “ _____ Tolls Bylaw”.

INTRODUCED and given first reading by the Trustees on the ____ day of ____ , 20 ____ .

RECONSIDERED and finally passed by the Trustees on the ____ day of ____ , 20 ____ .

Chair of the Trustees

I hereby certify that this is a true copy of Bylaw No.

Officer

Note: Metered rates may be based on cubic feet, U.S. or Imperial Gallons, or litres, depending on the type of meter. Initially the minimum rate should be set to insure adequate revenue to meet operation and maintenance costs of the improvement district should no user exceed the minimum quantity allowed.

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WATER METERING

General

Tolls are an important revenue source for those improvement districts that operate water systems. Many boards establish the amount of tolls based on the average costs to supply water to properties with similar types of uses. This fixed-rate approach is the only one possible where water meters are not installed.

In almost all cases, water meters result in both a reduction in water consumption as well as a drop in the basic cost of domestic water. There is also an equity argument in favour of water meters as users pay for the amount of water that they use. In other words, the those using less water are not subsidizing those that use more.

Where water meters have reduced water consumption there are also positive implications for capital infrastructure expenditures. Reductions in water usage may allow improvement districts to defer, or even cancel, plans to develop additional water sources, water reservoirs, treatment plants, or supply line upgrades. Also, an improvement district with water meters can more quickly identify and repair leaks in the system.

Where water meters are used, there are a number of approaches to pricing for the board of trustees to consider. These include:

- **Single Block Rate** – where a constant rate is applied to all water consumed over the billing period. All customers pay the same amount for each unit of water used.
- **Increasing Block Rate** - the unit price of water increases beyond a certain level of consumption. The model can be structured so that the first block rate applies to what may be a desirable (and realistic) level of consumption. Usage beyond that level is charged at a different, higher block rate.
- **Seasonal Charge** - higher volume charges are applied to all water used during the peak water demand season under this approach. High peak-period demand creates the need for over-sizing of water lines and storage facilities relative to what is required to meet demand in non-peak periods. The higher volume charge can be used to transfer more of the infrastructure cost burden to heavy users. The higher seasonal charge may, alternatively, reduce peak-period demand enough to eliminate the need for over-sizing water lines and storage facilities.

- **Combination Fixed and Block Rate** - users are charged a fixed rate to cover the system administration and a separate volume-based rate is charged for actual usage.

The decision to install water meters can be informed by installing a few meters on properties that have different uses, then monitoring the consumption rates. This will help to develop a “water use profile”. Even if an improvement district was only looking to install water meters on non-residential properties, it would be useful to develop a profile for residential usage in order to establish a fair and equitable metered rate based on the different rates of consumption.

The Water Distribution Regulation Bylaw (sample in Section D), allows the board to, at any time, substitute metered service for unmetered service. Each dwelling should have its own water meter, and all water meters are the property of the improvement district. Water meters require maintenance and eventually need replacement, so if borrowing is required to finance a water meter installation program, the term of the loan should not exceed ten years.

Water meters are usually located at the property line at the curb stop. There are different types of water meters, some meters need to be read manually but others can be read electronically. Customers are usually billed quarterly, but bills can be sent out at the improvement district’s discretion.

Education is a vital part of any program to install water meters. Information on water meters is available from a number of sources, including the Ministry.

Other Water Conservation Measures

The adoption of water conservation practices within improvement districts is in keeping with B.C.’s Water Conservation Strategy http://wlapwww.gov.bc.ca/wat/wtr_cons_strategy/toc.html. Water conservation should be addressed during the planning phase of a project, including the confirmation of water demands, usage patterns, areas of potential water loss, of water-saving measures. The United States Environmental Protection Agency (USEPA) Water Use Efficiency Program <http://www.epa.gov/owm/water-efficiency/> may be a useful reference for water conservation planning because it identifies a range of practical water conservation tools. Water conservation measures available include, but are not limited to, public education, low-water use fixtures, universal meters, water rate structuring, irrigation and low water demand landscaping and leak detection programs. Replacement of problem water mains, service connections and property line shut off valves may also assist in conserving water.

The provincial government supports sound water conservation practices. This principle was evident throughout the Canada-BC Infrastructure Program where infrastructure grants for local government water-related projects were dependent upon demonstrated demand-side management practices. Given water conservation policies water quality and water quantity are inextricably linked, it is important for an improvement district to implement coherent water conservation policies.

Using water efficiently is one way of meeting water quality and water quantity goals. The efficient use of water can also prevent pollution by reducing wastewater flows, recycling industrial process water, reclaiming wastewater and using less energy. Conserving water is beneficial in a number of ways and adopting sound water conservation practices can help improvement districts avoid, downsize, or postpone water and wastewater projects. Water resource planning has shifted from supply-side management to demand-side management.

CONSULTANTS AND CONTRACTORS

There are times when a board of trustees may need to seek professional advice from an accountant, lawyer, engineer, contractor, or other specialist. For example, expert advice may be required in relation to a large construction project or the disposal of property.

A lengthy selection process is usually not necessary for small construction projects or short-term contracts. Professional services can be retained on the basis of such things as referrals, general reputation, ability, experience with similar assignments and local knowledge. It is often beneficial to put large construction projects to tender to attract multiple bids and then choose the best one. Tendering is designed to ensure honesty and produce the best price by encouraging qualified bidders to engage in open competition.

Ultimately, the professional retained should have the following qualities:

- a proven track record for similar jobs;
- sensitivity to issues and concerns of the trustees or of the public;
- the resources to be able to undertake the project;
- good two-way communication skills;
- appropriate professional memberships or accreditation; and,
- liability insurance.

Identify Needs

The first step in the process is to undertake a needs assessment. What type of project or service is needed - what is the level and extent of service? Are there sensitive issues or key concerns to be considered? What is a rough estimate of the cost? How is the project to be funded and what approvals are needed before funding can be secured? Answering these questions early in the planning process will result in smoother process.

Approvals

Is there a need to pass a bylaw, obtain landowner approval, or obtain project approval from the Ministry or other agencies prior to hiring the contractor and undertaking the project? If not, is the project of a type that will require approvals later in the process?

Terms of Reference

Having terms of reference is important both for small projects and large ones even if a contractor is being hired that has performed satisfactorily for the improvement district in the past. Defining the project in the terms of reference, including any special conditions, ensures that the contractor can make an accurate estimate of the cost and timeline.

Terms of reference should provide background information on the project and state what the proposal requirements, are including: format; estimated fees; number of copies; and, the closing time and date for submitting proposals. Including details of the improvement district's evaluation process would be useful to the bidders so they can anticipate how much weight will be given to factors such as local knowledge, fees and previous work experience. The terms of reference should state that the lowest bid may not be the one that is ultimately accepted, particularly when a higher weighting is given to other considerations.

Some professional organizations and consultants have information available to help prepare terms of reference. Hiring legal counsel may also be useful in ensuring tender documents are complete and correct. Allow for a reasonable time frame for consultants to complete the proposal. The length of time will depend on the complexity of the proposal. A board of trustees could request expressions of interest from qualified firms in order to limit the number of proposals to be reviewed.

Where a project involves purchase of goods and services worth more than \$100,000, or construction in excess of \$250,000, the provisions of the Agreement on Internal Trade will apply. Information on the Agreement can be found on the Internet at: <http://www.ecdev.gov.bc.ca/ProgramsAndServices/Trade/AIT.htm>

Soliciting Proposals (Tendering)

Once the terms of reference are complete prospective consultants will need to be contacted to bid on the project. Consultants can be found through other improvement districts and local governments, through professional organizations or by word of mouth. Another option is to advertise.

Receive and Review Proposals

When consultants submit a proposal the time and date they were received should be recorded. Proposals cannot be accepted past the time and date established in the terms of reference. Submissions received after the deadline should be returned unopened with a note that it was received late.

Proposal details should be kept confidential throughout the process.

It is not always necessary for the full board of trustees to review each proposal. The board may establish a select committee to short-list the applications and recommend one or more for consideration by the full board. Each proposal should be reviewed separately and then evaluated against the others to develop the short-list. Conflict of interest guidelines should be considered so that no trustee or committee member is involved in relation to a decision for which they have any benefit, perceived or otherwise.

Short Listing

Select two or three submissions for further consideration. It may be beneficial to contact each candidate and set up an interview to clarify any part of the terms of reference and the bid that are unclear to staff or board members.

Once interviews are complete, a second evaluation process may be required to select the appropriate consultant.

Final Approval - Awarding Contract

The successful contractor or consultant should be notified as soon as practical after the board of trustees has made its decision. It is common practice to notify the unsuccessful bidders that they were not chosen, advise them who the successful bidder was, and to thank them for their submission.

A formal agreement is necessary between the improvement district and the contractor or consultant. An agreement about land or works must be authorized by an agreement bylaw, which requires registration with the Inspector of Municipalities. A sample agreement bylaw can be found in Section D of this Manual. Agreements are often signed by the chair and the corporate officer on behalf of the improvement district. The seal of the improvement district should also be affixed to the agreement.

FIRE HYDRANTS

Fire Flows and Liability

There is no legislation, Letters Patent or any court decision that defines an improvement district's responsibility and liability for providing water for fire protection.

Where an improvement district water system has hydrants, it is often assumed by landowners they are there to provide water for fire fighting. However, this is not always the case as the hydrants may only be used to flush the water mains. Some water systems do not have the storage capacity or the pressure necessary to provide water for fire-fighting purposes.

Most community water systems are designed with fire hydrants installed at one thousand foot intervals. This is in recognition that properly pressurized and supplied water hydrants are usually the best source of water for fighting fires in the community. However if there are no hydrants, a fire department can take other steps to secure water for emergencies. Such steps may include placing drop tanks in the area, or obtaining water from nearby watercourses.

If the board of trustees is aware that the improvement district's hydrants cannot provide adequate fire flows and they do not convey this information to either the landowners, or the fire department, they may be exposing themselves and the improvement district to a risk for liability. Insurance companies may be able to provide the board with further advice on this matter, or where the water supply is interrupted temporarily through no fault of the improvement district. The provisions of Section 288 of the *Local Government Act* may also apply to this situation.

Installation and Maintenance

In the case where two public authorities have overlapping boundaries, with one operating the water system and the other providing fire protection, one option is for the water authority to maintain the hydrants because they are located on their water mains. Since the hydrants may also be used for fire protection, the fire authority often agrees to pay for all, or part, of the costs incurred to maintain the hydrants.

While this is the general approach, other arrangements do exist and are a matter to be worked out between the two parties.

In some cases the number and placement of hydrants is the decision of the fire protection agency. The hydrants could be installed by the water agency, and paid for by the fire protection agency. In new subdivisions the placement and type of hydrants should be outlined in the water agency's subdivision regulation standards and arrived at in consultation with the fire department.

A sample draft fire hydrant maintenance agreement is available from the Ministry.

DROUGHT MANAGEMENT

In recent years many communities have faced drought and were not adequately prepared to address the situation. Drought conditions, combined with rapid population growth, have resulted in stressed water supplies in many parts of B.C.

Improvement districts should develop a “Drought Management Plan”. The Dealing with Drought Handbook may prove useful in developing a plan. Information on drought management is available on the Internet at: www.lwbc.bc.ca/03water/overview/drought/index.html