

## Bylaws

---

The Act does not specify the form, content, or order of information contained in bylaws. However, there is a generally accepted format for bylaws that includes such things as using a unique number and name to differentiate one from the other.

Bylaws are an important expression of policy by a board of trustees. Over time, policies may change so conducting a regularly scheduled review of bylaws will ensure they are still relevant.

A board of trustees can only amend or repeal a bylaw by enacting a second bylaw to amend or repeal the first. A bylaw cannot be used to amend a resolution and a resolution cannot be used to amend a bylaw.

A bylaw is deemed to be valid unless it is set aside by a Court of competent jurisdiction, is declared invalid by a Provincial statute, or has been repealed or amended by the board of trustees.

When drafting a bylaw, it is important for a board of trustees to consider factors that could leave a bylaw vulnerable to challenge in the Courts. For example, the intent and wording of the bylaw needs to be clear and its provisions must be applied consistently.

Prior to January, 2009 a bylaw enacted by a board of trustees did not come into effect until it was registered with the Inspector of Municipalities. Following a two-year consultative process, the legislation was changed to allow specific types of bylaws to come into effect as soon as they are enacted by the board of trustees. The following table clarifies when each type of bylaw comes into effect:

<b><i>Bylaws in Effect Upon Registration</i></b>	<b><i>Bylaws in Effect Upon Enactment</i></b>
Taxation	Tolls
Meeting Procedures	Agreements
Capital Expenditure Charge	Reserve Fund Establishment / Disbursement
Indemnification	Capital Expenditure Charge Disbursement
Latecomer Agreements	Assessment
Borrowing	Connection Charge
Regulation	Miscellaneous Charge
Fire Department Operations & Regulations	Officer Position Establishment

A copy of those bylaws listed in the right-hand column of the table *Types of Improvement District Bylaws* (on the previous page) must be filed with the Inspector as soon as possible after they have been enacted by the board of trustees.

Two copies of each bylaw in the left-hand column of the table *Types of Improvement District Bylaws* (on the previous page) must be sent to the Inspector for registration purposes. When the bylaw is registered, one copy is retained by the Ministry and the other copy is returned to the improvement district.

Every bylaw enacted by the board of trustees must be signed by the chair presiding at the meeting and stamped with the improvement district seal. The corporate officer also certifies the bylaw as being correct.

Bylaws are considered public documents and photocopies must be provided upon request. A minor fee for reproducing the bylaw can be charged to the person requesting a copy. The corporate officer of the improvement district is legislatively required to safely maintain all bylaws. Adopting a policy against loaning bylaws to trustees or other individuals will minimize the risk that a bylaw will become damaged or lost.

Bylaws are usually prepared by the corporate officer on direction from the board of trustees. Typically, a bylaw is introduced at a meeting of the trustees, the wording is debated and once it is satisfactory to a majority of the trustees, it is enacted (adopted). If the bylaw is introduced at a meeting but further information is required before the board of trustees is willing to enact it, the enactment can occur at a subsequent meeting. Once a bylaw has been enacted, the wording can only be changed by the enactment of a second bylaw which amends or repeals the first bylaw.

Bylaws can be enacted at any legally convened meeting of the board of trustees and there is no requirement in the Act for any bylaw to be approved by the landowners. However, if a board of trustees intends to enact a bylaw that will have a significant impact on the landowners, such as a substantial tax increase, the board may decide to distribute information to the landowners about the need for the increase and/or hold a special general meeting to discuss the matter.

Where a bylaw requires registration with the Inspector, the Inspector can refuse to register the bylaw or take any other action the Inspector considers is in the interest of the improvement district or the Provincial government. For example, the Inspector could require that a board of trustees undertake a public consultation process prior to registering the bylaw. Public consultation is commonly required for bylaws that have a significant impact on the landowners. An example where public consultation may be necessary is a borrowing bylaw that will require a large increase in taxes to repay the debt.

A bylaw cannot be made retroactive – they are effective upon their enactment or registration. For example, if the board of trustees intends to introduce a toll increase on March 1, the bylaw must be enacted prior to that date.

Bylaws generally have less of an impact unless there are incentives for people to comply with its provisions or there are consequences if they do not. One incentive that the board of trustees can offer is a discount when a tax or toll is paid in advance of the due date. The amount of the discount must be identified in the tax or toll bylaw. However, the most common method for encouraging people to comply with a bylaw requirement is to establish a penalty clause in the bylaw.

When a property owner does not pay their taxes by the deadline established in the tax bylaw, a certain percentage of the tax, as specified in the bylaw, can be added to the outstanding amount as a penalty. Interest on the original tax and the penalty can be charged beginning on March 1 of the following year. If any amount remains unpaid 24 months after the initial deadline, the board of trustees can arrange to sell the property at a tax sale to recover the taxes and penalties, as well as the cost to conduct the tax sale.

In the case of an unpaid toll, a certain percentage of the toll, as specified in the toll bylaw, can be added to the amount owing as a penalty. If the toll remains unpaid for a long period of time, the trustees may decide to discontinue delivering the service to the property for which the toll is owing. Reasonable notice must be given to the property owner or resident before service is terminated.

Every tax, toll, or charge must be established in a bylaw and if unpaid it forms a lien on the land on which it was imposed. However, the lien is generally not recoverable until the property is in the process of being sold. At that time the purchaser, or their realtor, lawyer and/or bank will usually discover the lien by calling the improvement district which is listed on the title of every property in the improvement district as a potential charge holder. The discharge of the lien then becomes a matter of discussion between the property owner and the purchaser.

An alternative method for recovering unpaid charges is for the board of trustees to make an application for payment under the *Small Claims Act*.

A person acting in contravention of a regulatory bylaw must be given an opportunity to comply with its requirements. The first step is for the corporate officer to send the property owner a written notice of the violation, citing the bylaw section being contravened and stating what the owner must do to comply with the bylaw within a stated timeframe.

The notice should be sent by registered mail or be hand delivered. An injunction could be sought to cease the activity or remedy the condition if the property owner does not comply with the notice and immediate action is required because non-compliance might result in damage to property or the water system. Alternatively, steps could be taken to lay a charge under the provisions of the *Offence Act*. A penalty of up to six months in jail or a \$2,000 fine, or both, can be imposed by the Court if a summary conviction is obtained from the Court, .

Where legal action against a person for contravening a bylaw is being considered, evidence of the incident needs to be obtained and documented. The evidence can take the form of notes, observations, names of witnesses, location, dates and time. A legal action will have a greater chance of success if the board of trustees acts on the advice of legal counsel.

Improvement districts cannot use tickets or levy fines to enforce their bylaws.



# Elections

---

Trustees are elected for three-year terms and the election occurs at the AGM. As such, the trustee's term is considered to begin at the AGM at which they were elected and to end at the AGM three years later. If a trustee resigns their position before the end of their three-year term, then a by-election must be held and the person elected to that position serves for the remaining portion of the three-year term.

A by-election does not have to be held if a trustee resigns within the 60 days prior to the AGM. The by-election is held according to the same procedures established in the improvement district's Letters Patent for the annual election of trustees. For many improvement districts, this means that the by-election must be held at a special general meeting.

The three-year terms for trustees are staggered so that the term of at least one trustee expires each year. The intent of this staggered system is to provide continuity on the board of trustees so that knowledge can be passed on to new members.

If there is only one candidate for a position on the board, then that person is elected by acclamation.

Each improvement district's Letters Patent, as well as the Act, establishes the eligibility requirements to be a candidate for a trustee position. Variations in the eligibility requirements do occur between improvement districts. For example, some Letters Patent, set out that when a trustee ceases to be a landowner in the improvement district, they are disqualified from holding office. In other improvement districts, a trustee who ceases to be a landowner can continue to hold office until their term ends, but they are disqualified from being a candidate for trustee again.

One of the underlying principles of a democratic society is the right to choose community representatives in an open, fair and honest process. The Act and Letters Patent contain the election rules improvement districts must follow. They include:

- eligibility requirements;
- notice requirements;
- ability to use statutory declarations;
- time period within which the election must be held; and,
- method for challenging an election within 14 days of holding the vote.

As there are many election procedures that are not identified in the legislation or Letters Patent, it is very important for a board of trustees to decide all other procedures necessary to meet the principles for an open, honest and fair election, such as the:

- appointment of a returning officer;
- establishment of a voters list;
- nomination process;
- conduct of the vote;
- appointment of scrutineers; and,
- safekeeping of ballots.

Adopting clear election procedures can reduce the likelihood of inconsistencies from one election to another and potential allegations of misconduct.

## Letters Patent

---

Improvement districts are brought into existence by the Province through a Cabinet Order that authorizes the enactment of a document known as Letters Patent. The Letters Patent identify the unique characteristics of the improvement district. For example, the Letters Patent commonly contain the following provisions:

- *Improvement district name.* In some cases, the name of the improvement district reflects the service for which it is responsible. Two examples would be the ABC Waterworks District and the ABC Fire Protection District. The words “improvement district” appear in the names of nearly half of all improvement districts.
- *Boundary description.* Every improvement district contains a description of its boundary.
- *Object(s).* These are the public service(s) which the improvement district is responsible for delivering, such as waterworks or fire protection.
- *Voter and trustee eligibility.* While the principle eligibility requirements are stated in the Act, additional eligibility requirements are often included in Letters Patent. The principle eligibility requirements are that a person must be 18 years of age, a Canadian citizen, a resident of British Columbia for six months and a landowner in the improvement district.
- *Number of trustees.* The number of trustees is always an uneven number and varies between three and nine depending on the size of the improvement district and the number of services that it delivers. Half of all improvement districts have three trustees – only 11 improvement districts have more than five trustees.
- *The first election of trustees.* Following the enactment of Letters Patent, the first election is held to fill the trustee positions. The first election establishes staggered terms of office so the terms do not all expire in the same year.
- *Trustee remuneration.* At the AGM, the landowners decide the amount of remuneration to be paid to the trustees as compensation for the time the trustees dedicate to their duties.
- *Incorporation date.* The incorporation date for each improvement district is the date that its Letters Patent were signed by the Lieutenant Governor - unless the Letters Patent specify a subsequent date.

The wording of Letters Patent has changed substantially since improvement districts were first established in the 1920s. Many Letters Patent contain references to legislation that no longer applies to improvement districts, or contain provisions that have since been amended. For example, blanket amendments regarding voter eligibility were made to all improvement district Letters Patent in 1985, 1987 and 1993. Therefore the provisions in some older Letters Patent may no longer be applicable.

Some of the provisions in an improvement district's Letters Patent can be amended if a request from the board of trustees is approved by the Province. The most commonly requested amendment is to re-describe the improvement district's boundary to include additional parcels of land.

The boundary extension process is usually initiated when the owner of a parcel of land located outside an improvement district boundary wants the improvement district's service(s) delivered to that parcel of land. If the service is capable of being delivered at a cost that is acceptable to the property owner, then the board of trustees can submit a request to the Ministry for an amendment to the improvement district's Letters Patent to include that parcel within its boundary. The decision whether to amend the Letters Patent is made by the Provincial Cabinet.

## Dissolution

---

Communities evolve over time depending on the availability of employment, new development, changing populations and housing affordability. A time may occur when there is a lack of volunteers willing to serve as trustees, a lack of resources to manage improvement district service(s), or a need to access capital infrastructure grant programs not available to improvement districts. In these circumstances, the trustees and landowners may decide that there are greater advantages to having a regional district or municipality manage the service(s) for which the improvement district is responsible. In these cases, the Province can revoke the improvement district's Letters Patent and transfer ownership and responsibility for those services to the regional district or municipality. This process is known as "dissolution" or "conversion".

A Provincial Cabinet Order is required to transfer the improvement district's assets, liabilities and bylaws to the municipality or regional district and to revoke the improvement district's Letters Patent. The Act does not require that a vote of the landowners be held. However, Cabinet will consider the opinion of the landowners before making a decision.

The local government taking over responsibility for the improvement district's service(s) is obligated to ensure the funds collected from the landowners of the former improvement district, are used only for the purpose for which they were originally collected.

Further information about the implications and process for conversion can be found in the Ministry's Improvement District Conversion Guide. The Ministry supports the transfer of improvement district services to a municipality or regional district where there is local support to do so.



## Contact Information

---

The Local Government Division of the Ministry of Community, Sport and Cultural Development partners with local governments and their professional organizations to develop advice about the system of local government in British Columbia. A wide range of informative material is available from the Division's website. Division staff are also available to provide advice by phone and email.

Local Government Division contact information:

4th Floor, 800 Johnson Street, Victoria  
Mailing address: P.O. Box 9839, Stn Prov Govt  
Victoria, B.C. V8W 9T1  
Phone: 250 387-4020  
Facsimile: 250 387-7972  
Website: <http://www.cscd.gov.bc.ca/lgd/>

**For toll free access call Enquiry BC:**

Call 604 660-2421 in Vancouver or 1-800-663-7867 elsewhere in B.C.

## Appendix

---

### *Ministry Website*

The Ministry's website contains information about improvement districts, as well as the Improvement District Trustees Handbook and other publications.

Ministry Website: <http://www.gov.bc.ca/cscd/>

Local Government Division: <http://www.cscd.gov.bc.ca/lgd/>

Improvement District Information : <http://www.cscd.gov.bc.ca/lgd/pathfinder-id.htm>

Improvement District Trustees Handbook: [http://www.cscd.gov.bc.ca/lgd/gov\\_structure/library/trustees\\_handbook.pdf](http://www.cscd.gov.bc.ca/lgd/gov_structure/library/trustees_handbook.pdf)

### *Improvement District Manual*

The Manual contains information supplemental to the topics in the Improvement District Trustees Handbook, as well as additional topics and sample documents such as bylaws. A copy of the Manual is provided to every improvement district by the Ministry and additional copies can be ordered from Crown Publications at:

#### [Crown Publications Queen's Printer for British Columbia](#)

PO Box 9452 Stn Prov Govt.

Victoria, B.C., Canada, V8W 9V7

Phone: 250 387-6409

Fax: 250 387-1120

Email: [crown@crownpub.bc.ca](mailto:crown@crownpub.bc.ca)

The Manual is also available online at: [http://www.cscd.gov.bc.ca/lgd/gov\\_structure/improvement\\_districts/improvement\\_district\\_manual.htm](http://www.cscd.gov.bc.ca/lgd/gov_structure/improvement_districts/improvement_district_manual.htm).

### *Improvement District Conversion Guide*

This Ministry publication explains the implications and process for transferring the services operated by an improvement district, to a municipality or regional district. The Improvement District Conversion Guide is available online at:

[http://www.cscd.gov.bc.ca/lgd/gov\\_structure/library/improvement\\_district\\_conversion\\_guide.pdf](http://www.cscd.gov.bc.ca/lgd/gov_structure/library/improvement_district_conversion_guide.pdf)

### *Improvement District Governance Policy*

This publication presents the policies of the Ministry with respect to its responsibilities for overseeing the system of improvement districts in the province. The Improvement District Governance Policy is available online at: [http://www.cscd.gov.bc.ca/lgd/gov\\_structure/library/Improvement\\_District\\_Governance\\_Policy.pdf](http://www.cscd.gov.bc.ca/lgd/gov_structure/library/Improvement_District_Governance_Policy.pdf)

*Water Supply Association of BC*

This Association represent over 50 water suppliers in the Okanagan and Kootenay regions of the province and many of them are improvement districts. The Association is actively involved in water issues by keeping members informed about initiatives, lobbying governments and working with other agencies involved with water issues. The Association can be contacted at:

Water Supply Association of BC  
Box 22022  
Penticton, B.C. V2A 8L1  
Phone/Fax 250 497-5407  
Email: [info@wsabc.ca](mailto:info@wsabc.ca)  
Website: [www.wsabc.ca](http://www.wsabc.ca)

*Coastal Water Suppliers Association*

This Association represents water suppliers in the Coastal and Vancouver Island region. The Association provides ongoing support and awareness to its members and their associates by working in partnership with related Ministry agencies and water related organizations. The Association can be contacted at:

Coastal Water Suppliers Association  
Box 720  
Crofton, B.C., V0R 1R0  
Phone: 250 701-2168  
Email: [coastalwatersuppliers@gmail.com](mailto:coastalwatersuppliers@gmail.com)  
Email: [cwsa@shaw.ca](mailto:cwsa@shaw.ca)  
Website: [www.cwsa.net](http://www.cwsa.net)

*The Local Government Act (and other provincial legislation)*

This information is free to the public and can be accessed through the Internet at: <http://www.bclaws.ca/> The legislation is also available at most local libraries. Copies of the legislation can be ordered for a cost from:

Electronic Publishing  
Queen's Printer for British Columbia  
Phone: 604 927-2914  
Toll Free: 1-866-236-5544  
Fax: 604 927-2025  
Email: [BC.Laws@gov.bc.ca](mailto:BC.Laws@gov.bc.ca)