

Excerpt from Community Charter

Business Improvement Areas

Division 5 — Local Service Taxes

Authority for local area services

210 (1) A local area service is a municipal service that is to be paid for in whole or in part by a local service tax under section 216 [*local service taxes*].

(2) The only services that may be provided as local area services are

(a) services that the council considers provide particular benefit to part of the municipality, and

(b) business improvement area services under section 215 [*business improvement areas*].

(3) Nothing in this Division restricts a municipality from recovering part of the costs of a local area service by means of any other source of municipal revenue.

Requirements for establishing a local area service

211 (1) A municipality must adopt a bylaw to establish a local area service, and may only do this if

(a) the service and its cost recovery methods have been proposed by petition in accordance with section 212 [*petition for local area service*],

(b) the service and its cost recovery methods have been proposed by council initiative in accordance with section 213 [*local area service on council initiative — subject to petition against*], or

(c) the bylaw has received assent of the electors in accordance with section 214 [*local area service on council initiative — subject to elector assent*].

(2) The bylaw establishing a local area service must

(a) describe the service,

(b) define the boundaries of the local service area,

(c) identify the methods of cost recovery for the service, including the form of local service tax and the portion of the costs of the service that are to be recovered by the local service tax, and

(d)if applicable, identify the portion of the costs of the service that are to be recovered by a general property tax.

(3)If the minister exercises authority under section 137 (2) [*power to amend or repeal bylaws*] in relation to a bylaw establishing a local area service, the restriction in subsection (1) of this section does not apply.

Petition for local area service

212 (1)The persons who may petition for a local area service are the owners of parcels that would be subject to the local service tax for the service.

(2)Each page of a petition for a local area service must do the following:

(a)describe the service in general terms;

(b)define the boundaries of the local service area;

(c)provide an estimate of the costs of the service;

(d)if it is proposed that the municipality borrow for the purposes of the service and all or part of the costs of the borrowing are to be recovered by means of the local service tax, indicate

(i)the total amount proposed to be borrowed under the bylaw,

(ii)the maximum term for which the debentures may be issued, and

(iii)the portion of those costs that are to be recovered by a local service tax;

(e)indicate the proposed methods of cost recovery for the service, including the form of local service tax and the portion of the costs of the service that are to be recovered by the local service tax;

(f)if applicable, indicate what portion of the costs are proposed to be recovered by a general municipal tax;

(g)include any other information that council requires.

(3)In order for a petition for a local area service to be certified as sufficient and valid,

(a)the petition must be signed by the owners of at least 50% of the parcels that would be subject to the local service tax, and

(b)the persons signing must be the owners of parcels that in total represent at least 50% of the assessed value of land and improvements that would be subject to the local service tax.

(4)The corporate officer must determine the sufficiency and validity of a petition to a council and must certify this determination.

(5)A certified determination under subsection (4) is final and conclusive.

(6)The following apply for the purposes of a petition under this section:

(a)if 2 or more persons are owners of a parcel,

(i)they must be considered as one owner only,

(ii)they are not entitled to petition unless a majority of them concurs, and

(iii)unless a petition is signed by a majority of them, their signatures must be disregarded in determining whether the petition is sufficient;

(b)a person who would be liable for a local service tax by reason of being the holder or occupier of land held in the manner referred to in Division 8 [*Tax Liability of Occupiers*] of this Part may sign the petition as if the person were the owner;

(c)in relation to persons referred to in paragraph (b), in computing the values of the land and improvements, only the assessed value of the person's interest in them is to be used.

Local area service on council initiative — subject to petition against

213 (1)If a council proposes to undertake a local area service on its own initiative in accordance with this section, it must give notice of this intention

(a)in accordance with section 94 [*public notice*], and

(b)to the owners of parcels that would be subject to the local service tax.

(2)The notice under subsection (1) must include

(a)the information required under section 212 (2) [*information requirements for petition*],

(b)if the council is proposing that all or part of the costs may be waived or reduced in accordance with section 201 (3) [*property subject to parcel tax*], the amount that the property owner will be required to pay for this purpose, and

(c)a statement indicating that the council may proceed with establishing the service unless a petition against the service is presented within 30 days after notice has been given in accordance with this section.

(3)For the purposes of subsection (1) (b), the corporate officer must mail the notice to the applicable address as set out in the last revised assessment roll.

(4) Council may proceed with the local area service in accordance with the notice unless it receives a sufficient petition against the service within 30 days after the second publication under subsection (1) (a).

(4.1) If the notice under subsection (1) (a) is published in accordance with a bylaw adopted under section 94.2 [*bylaw to provide for alternative means of publication*], the second publication is considered to occur on the date when the notice has been published by 2 of the means of publication specified in the bylaw.

(5) Section 212 (3) to (6) [*rules respecting petitions for local service*] applies to a petition under this section.

(6) If a council has been prevented from undertaking a local area service because of a petition under this section, the council must not propose the same service on its own initiative within a period of one year after the presentation of the petition.

(7) As an exception to subsection (6), a council may again propose a local area service on its own initiative within the period referred to in that subsection if the service is varied from or less expensive than that originally proposed to be undertaken.

Local area service on council initiative — subject to elector assent

214 (1) If a council proposes to undertake a local area service on its own initiative in accordance with this section, the bylaw establishing the service may only be adopted with the assent of the electors in the local service area.

(2) As an exception, a council may not undertake a business improvement area service under this section.

Business improvement areas

215 (1) In this section:

"business improvement area" means the local service area for a service under this section;

"business improvement area service" means the provision of grants under subsection (2);

"business promotion scheme" means

(a) carrying out studies or making reports respecting one or more areas in the municipality where business or commerce is carried on,

(b)improving, beautifying or maintaining streets, sidewalks or municipally owned land, buildings or other structures in one or more business improvement areas,

(c)the removal of graffiti from buildings and other structures in one or more business improvement areas,

(d)conserving heritage property in one or more business improvement areas, and

(e)encouraging business in one or more business improvement areas.

(2)A council may grant money to a corporation or other organization that has, as one of its aims, functions or purposes, the planning and implementation of a business promotion scheme.

(3)All or part of a grant paid under subsection (2) must be recovered by means of a local service tax.

(4)The authority under subsection (2) is an exception to section 25 (1) [*prohibition against assistance to business*].

(5)In addition to the requirements under section 211 (2) [*requirements for establishing a local area service*], the bylaw establishing a business improvement area service

(a)must identify the business promotion scheme for which and the organization to which the money will be granted under subsection (2),

(b)must establish the maximum amount of money to be granted and the maximum term over which it may be granted, and

(c)may set conditions and limitations on the receipt and expenditure of the money.

(6)Money granted under this section must be expended only

(a)by the organization to which it is granted,

(b)in accordance with the conditions and limitations set out in the bylaw, and

(c)for the business promotion scheme described in the bylaw.

Local service taxes

216 (1)In all cases, all or part of the costs of a local area service may be recovered, in accordance with the establishing bylaw for the service, by means of either or both of

(a)a property value tax under Division 3 of this Part, which may be imposed on land, on improvements, or on both, and

(b) a parcel tax under Division 4 of this Part,
that are imposed only within the local service area.

(2) In the case of a business improvement area service, in addition to the taxes referred to in subsection (1), all or part of the costs of the service may be recovered by means of a tax, based on any factor set out in the establishing bylaw, that is imposed only within the business improvement area.

(3) A local service tax under subsection (1) or (2) in relation to a business improvement area

(a) may only be imposed on land or improvements, or both, that are

(i) used during the year to operate a business of a class specified in the bylaw, or

(ii) classified as Class 5 [*light industry*] or 6 [*business and other*] property class, and

(b) may have different rates for different classes of business, as those classes are established by the bylaw.

(4) Subject to this section, the other provisions of this Part apply in respect of a local service tax.

(5) Revenue from a local service tax may only be expended for the local area service in relation to which it is imposed.

Borrowing in relation to a local area service

217 (1) If all of the costs of borrowing for the purposes of a local area service are to be recovered by a local service tax, the loan authorization bylaw does not require the approval of the electors under section 180 [*elector approval required for some loan authorization bylaws*], but it may only be adopted if

(a) the borrowing has been proposed by petition in accordance with section 212 [*petition for local area service*],

(b) the borrowing has been proposed by council initiative in accordance with section 213 [*local area service on council initiative — subject to petition against*], or

(c) the bylaw has received assent of the electors in accordance with section 214 [*local area service on council initiative — subject to elector assent*].

(2) If part of the costs of borrowing for the purposes of a local area service are to be recovered by a local service tax,

(a) a separate loan authorization bylaw is required for the borrowing in relation to which costs are to be recovered by the local service tax, with the bylaw adopted in accordance with subsection (1), and

(b) a separate loan authorization bylaw is required for the borrowing in relation to which costs are to be recovered by any other means, with the bylaw adopted in accordance with Part 6 [*Financial Management*].

Enlargement or reduction of local service area

218 (1) This section applies to the amendment of the bylaw establishing a local area service that has the effect of enlarging or reducing the size of the local service area.

(2) The requirements under section 211 (1) [*requirements for establishing a local area service*] apply only in relation to the area to be included or excluded from the local service area and not to the rest of the local service area.

(3) If a local service area has been enlarged or reduced under this section, the liabilities incurred on behalf of the area as it was before enlargement or reduction must be borne by all the owners of parcels of land in the area as enlarged or reduced.

Merging of local service areas

219 (1) A council may, by bylaw, merge 2 or more local service areas into one local service area.

(2) A bylaw under subsection (1) may provide that repayment of any debt of one or more of the merged local service areas that is outstanding at the time of merger is to continue to be borne by the applicable former local service area as if that area continued to exist.

(3) Section 211 (1) [*requirements for establishing a local area service*] does not apply to the bylaw under subsection (1) of this section if

(a) there is no outstanding debt of any of the local service areas being merged,

(b) the outstanding debt of each of those local service areas is kept separate under subsection (2), or

(c) the bylaw establishing the service currently includes a provision for merger with one or more other local service areas and the merger is in accordance with the provision.

(4) If section 211 (1) applies to a bylaw under this section, the approval of the electors must be obtained separately for each local service area being merged.