

Division 7 Local Improvement Tax

Definition

391 In this Division, “local improvement” means a project

- (a) that the council considers to be of greater benefit to an area of the municipality than to the whole municipality, and
- (b) that is to be paid for in whole or in part by a tax imposed under this Division.

Direct benefit to
area and only to
this area

1994 cM-26.1 s391

Petitioning rules

392(1) Sections 222 to 226 apply to petitions under this Division, except as they are modified by this section.

(2) A petition is not a sufficient petition unless

- (a) it is signed by 2/3 of the owners who would be liable to pay the local improvement tax, and

Petition will
be required
by residents

- (b) the owners who sign the petition represent at least 1/2 of the value of the assessments prepared under Part 9 for the parcels of land in respect of which the tax will be imposed.

Will be verified during petition process

(3) If a parcel of land is owned by more than one owner, the owners are considered as one owner for the purpose of subsection (2).

(4) If a municipality, school division or health region under the *Regional Health Authorities Act* is entitled to sign a petition under this Division, it may give notice to the council prior to or at the time the petition is presented to the council that its name and the assessment prepared for its land under Part 9 are not to be counted in determining the sufficiency of a petition under subsection (2), and the council must comply with the notice.

(5) If a corporation, church, organization, estate or other entity is entitled to sign a petition under this Division, the petition may be signed on its behalf by a person who

- (a) is at least 18 years old, and
- (b) produces on request a certificate authorizing the person to sign the petition.

RSA 2000 cM-26 s392;2012 cE-0.3 s279

Proposal of local improvement

393(1) A council may on its own initiative propose a local improvement.

(2) A group of owners in a municipality may petition the council for a local improvement.

1994 cM-26.1 s393

Area residents are requesting the lights

Local improvement plan

394 If a local improvement is proposed, the municipality must prepare a local improvement plan.

1994 cM-26.1 s394

County has an obligation to prepare a plan IF funding is to come from Local Improvement process

Contents of plan

395(1) A local improvement plan must

- (a) describe the proposed local improvement and its location,
- (b) identify
 - (i) the parcels of land in respect of which the local improvement tax will be imposed, and

Plan will include all elements listed below

- (ii) the person who will be liable to pay the local improvement tax,
 - (c) state whether the tax rate is to be based on
 - (i) the assessment prepared in accordance with Part 9,
 - (ii) each parcel of land, Recommend by each Parcel - similar to Roads Local Imp - easiest to calculate and consistent approach
 - (iii) each unit of frontage, or
 - (iv) each unit of area,
 - (d) include the estimated cost of the local improvement, Being Prepared by Engineering Services
 - (e) state the period over which the cost of the local improvement will be spread,
 - (f) state the portion of the estimated cost of the local improvement proposed to be paid
 - (i) by the municipality,
 - (ii) from revenue raised by the local improvement tax, and
 - (iii) from other sources of revenue,Roadway Local Improvements are 100% property owners - can be whatever is agreed upon at time of Council approval
 - and
 - (g) include any other information the proponents of the local improvement consider necessary.
- (2) The estimated cost of a local improvement may include
- (a) the actual cost of buying land necessary for the local improvement,
 - (b) the capital cost of undertaking the local improvement,
 - (c) the cost of professional services needed for the local improvement,
 - (d) the cost of repaying any existing debt on a facility that is to be replaced or rehabilitated, and
 - (e) other expenses incidental to the undertaking of the local improvement and to the raising of revenue to pay for it.

1994 cM-26.1 s395

Procedure after plan is prepared

396(1) When a local improvement plan has been prepared, the municipality must send a notice to the persons who will be liable to pay the local improvement tax.

(2) A notice under subsection (1) must include a summary of the information included in the local improvement plan.

(3) Subject to subsection (3.1), if a petition objecting to the local improvement is filed with the chief administrative officer within 30 days from the notices' being sent under subsection (1) and the chief administrative officer declares the petition to be sufficient, the council must not proceed with the local improvement.

(3.1) The council may, after the expiry of one year after the petition is declared to be sufficient, re-notify in accordance with subsections (1) and (2) the persons who would be liable to pay the local improvement tax.

(4) If a sufficient petition objecting to the local improvement is not filed with the chief administrative officer within 30 days from sending the notices under subsection (1), the council may undertake the local improvement and impose the local improvement tax at any time in the 3 years following the sending of the notices.

(5) When a council is authorized under subsection (4) to undertake a local improvement and

- (a) the project has not been started, or
- (b) the project has been started but is not complete,

the council may impose the local improvement tax for one year, after which the tax must not be imposed until the local improvement has been completed or is operational.

1994 cM-26.1 s396;1995 c24 s58

Local improvement tax bylaw

397(1) A council must pass a local improvement tax bylaw in respect of each local improvement.

(2) A local improvement tax bylaw authorizes the council to impose a local improvement tax in respect of all land in a particular area of the municipality to raise revenue to pay for the local improvement that benefits that area of the municipality.

(2.1) Despite subsection (2), where the local improvement that is the subject of a local improvement tax bylaw of a council of a

Formal Bylaw required to enact - only after the plan created, supported and passes the objection period

municipality is a road to benefit Crown land within an area of the municipality, the local improvement tax bylaw does not authorize the council to impose a local improvement tax to raise revenue to pay for the local improvement unless, before it receives second reading, the bylaw is approved by the Minister responsible for the administration of the Crown land.

(3) Despite section 351(1), no land is exempt from taxation under this section.

RSA 2000 cM-26 s397;2015 c8 s51

Contents of bylaw

398(1) A local improvement tax bylaw must

- (a) include all of the information required to be included in the local improvement plan,
- (b) provide for equal payments during each year in the period over which the cost of the local improvement will be spread,
- (c) set a uniform tax rate to be imposed on
 - (i) the assessment prepared in accordance with Part 9,
 - (ii) each parcel of land,
 - (iii) each unit of frontage, or
 - (iv) each unit of area,based on the cost of the local improvement less any financial assistance provided to the municipality by the Crown in right of Canada or Alberta, and
- (d) include any other information the council considers necessary.

(2) The local improvement tax bylaw may set the uniform tax rate based on estimated average costs throughout the municipality for a similar type of local improvement and that rate applies whether the actual cost of the local improvement is greater or less than the uniform tax rate.

1994 cM-26.1 s398

Start-up of a local improvement

399 The undertaking of a local improvement may be started, the local improvement tax bylaw may be passed and debentures may be issued before or after the actual cost of the local improvement has been determined.

1994 cM-26.1 s399

Person liable to pay local improvement tax

400 The person liable to pay the tax imposed in accordance with a local improvement tax bylaw is the owner of the parcel of land in respect of which the tax is imposed.

1994 cM-26.1 s400

Some owners have multiple parcels and may be subject to higher payments

Paying off a local improvement tax

401(1) The owner of a parcel of land in respect of which a local improvement tax is imposed may pay the tax at any time.

Can pay all at once or over time

(2) If the local improvement tax rate is subsequently reduced under section 402 or 403, the council must refund to the owner the appropriate portion of the tax paid.

1994 cM-26.1 s401

Variation of local improvement tax bylaw

402(1) If, after a local improvement tax has been imposed, there is

- (a) a subdivision affecting a parcel of land, or
- (b) a consolidation of 2 or more parcels of land,

in respect of which a local improvement tax is payable, the council, with respect to future years, must revise the local improvement tax bylaw so that each of the new parcels of land bears an appropriate share of the local improvement tax.

(2) If, after a local improvement tax has been imposed,

- (a) there is a change in a plan of subdivision affecting an area that had not previously been subject to a local improvement tax, and
- (b) the council is of the opinion that as a result of the change the new parcels of land receive a benefit from the local improvement,

the council, with respect to future years, must revise the local improvement tax bylaw so that each benefitting parcel of land bears an appropriate share of the local improvement tax.

1994 cM-26.1 s402

Variation of local improvement tax rate

403(1) If, after a local improvement tax rate has been set, the council

- (a) receives financial assistance from the Crown in right of Canada or Alberta or from other sources that is greater than the amount estimated when the local improvement tax rate was set, or

- (b) refinances the debt created to pay for the local improvement at an interest rate lower than the rate estimated when the local improvement tax rate was set,

the council, with respect to future years, may revise the rate so that each benefitting parcel of land bears an appropriate share of the actual cost of the local improvement.

(2) If, after a local improvement tax rate has been set, an alteration is necessary following a complaint under Part 11 or an appeal under Part 12 that is sufficient to reduce or increase the revenue raised by the local improvement tax bylaw in any year by more than 5%, the council, with respect to future years, may revise the rate so that the local improvement tax bylaw will raise the revenue originally anticipated for those years.

(3) If, after a local improvement tax rate has been set, it is discovered that the actual cost of the local improvement is higher than the estimated cost on which the local improvement tax rate is based, the council may revise, once only over the life of the local improvement, the rate with respect to future years so that the local improvement tax bylaw will raise sufficient revenue to pay the actual cost of the local improvement.

1994 cM-26.1 s403;1999 c11 s21

Unusual parcels

404 If some parcels of land in respect of which a local improvement tax is to be imposed appear to call for a smaller or larger proportionate share of the tax because they are corner lots or are differently sized or shaped from other parcels, those parcels may be assigned the number of units of measurement the council considers appropriate to ensure that they will bear a fair portion of the local improvement tax.

1994 cM-26.1 s404

Municipality's share of the cost

405(1) A council may by bylaw require the municipality to pay the cost of any part of a local improvement that the council considers to be of benefit to the whole municipality.

(2) A bylaw under subsection (1) must be advertised if the cost to be paid by the municipality exceeds 50% of the cost of the local improvement less any financial assistance provided to the municipality by the Crown in right of Canada or Alberta.

(3) If financial assistance is provided to the municipality by the Crown in right of Canada or Alberta for a local improvement, the council must apply the assistance to the cost of the local improvement.

1994 cM-26.1 s405

Land required for local improvement

406(1) If a parcel of land is required before a local improvement can be proceeded with, the council may agree with the owner of the parcel that in consideration of

- (a) the dedication or gift to the municipality of the parcel of land required, or
- (b) a release of or reduction in the owner's claim for compensation for the parcel of land,

the remainder of the owner's land is exempt from all or part of the local improvement tax that would otherwise be imposed.

(2) The tax roll referred to in section 327 must be prepared in accordance with an agreement under this section, despite anything to the contrary in this Act.

1994 cM-26.1 s406

Exemption from local improvement tax

407(1) If a sanitary or storm sewer or a water main is constructed along a road or constructed in addition to or as a replacement of an existing facility

- (a) along which it would not have been constructed except to reach some other area of the municipality, or
- (b) in order to provide capacity for future development and the existing sanitary and storm sewers and water mains are sufficient for the existing development in the area,

the council may exempt from taxation under the local improvement tax bylaw, to the extent the council considers fair, the parcels of land abutting the road or place.

(2) If a local improvement tax is imposed for a local improvement that replaces a similar type of local improvement,

- (a) the balance owing on the existing local improvement tax must be added to the cost of the new local improvement, or
- (b) the council must exempt the parcels of land in respect of which the existing local improvement tax is imposed from

the tax that would be imposed for the new local improvement.

1994 cM-26.1 s407

Sewers

408(1) A municipality may construct a local improvement for sewer if

- (a) the council approves the construction,
- (b) the construction is recommended by the Minister of Health or the medical health officer, and
- (c) the council considers it to be in the public interest to do so.

(2) The owners of the parcels of land that benefit from a local improvement for sewer have no right to petition against its construction.

RSA 2000 cM-26 s408;2013 c10 s37

Private connection to a local improvement

409(1) If a local improvement for sewer or water has been constructed, the municipality may construct private connections from the local improvement to the street line if the council approves the construction.

(2) The cost of constructing a private connection must be imposed against the parcel of land that benefits from it and the owner of the parcel has no right to petition against its construction.

1994 cM-26.1 s409