

BILL 46 – 2023

**HOUSING STATUTES (DEVELOPMENT FINANCING)
AMENDMENT ACT, 2023**

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Local Government Act

1 *Section 25 (1) of the Local Government Act, R.S.B.C. 2015, c. 1, is amended by adding the following paragraph:*

(d.1) provide that Division 19.1 [*Amenity Costs Recovery*] of Part 14 applies to the municipality; .

2 *Section 482 is amended*

(a) *in subsection (2) (a) by adding “subject to subsection (2.1),” before “conditions relating to the conservation or provision of amenities”, and*

(b) *by adding the following subsection:*

(2.1) A zoning bylaw must not establish conditions relating to the conservation or provision of an amenity that is specified in an amenity cost charge bylaw under section 570.7 (1) (b) [*amenities receiving funding from amenity cost charge*].

3 *Section 559 is amended*

(a) *in subsection (2) (a) by striking out “sewage, water, drainage and highway facilities” and substituting “sewage, water, drainage, fire protection, police, highway and solid waste and recycling facilities”, and*

(b) *by adding the following subsections:*

(2.1) For the purposes of subsection (2) (a) and section 566 (2) (a), a reference to a highway facility includes highway facilities that serve provincial and municipal interests if

(a) the municipality and the province have entered into an arrangement to share the costs of the highway facilities,

- (b) the highway facilities directly or indirectly enable the integrated functioning of the provincial and municipal highway systems, and
- (c) the highway facilities, in whole or in part, directly or indirectly service the development.

(2.2) The amount of the development cost charges imposed for a purpose referred to in subsection (2) respecting highway facilities must not exceed the amount of the costs of the highway facilities to be paid by the municipality.

4 Section 560 (2) is amended by adding the following paragraph:

- (a.1) in relation to a development cost charge imposed for a purpose referred to in section 559 (2) respecting highway facilities, the charge does not relate to highway facilities that meet the conditions in section 559 (2.1), .

5 Section 566 (2) (a) is amended by striking out “sewage, water, drainage and highway facilities” and substituting “sewage, water, drainage, fire protection, police, highway and solid waste and recycling facilities”.

6 Section 570 (1) is amended in paragraph (a) of the definition of “works” by striking out “sewage, water, drainage and highway facilities” and substituting “sewage, water, drainage, fire protection, police, highway and solid waste and recycling facilities”.

7 The following Division is added to Part 14:

Division 19.1 – Amenity Costs Recovery

Definitions in relation to this Division

570.1 In this Division:

“**amenity**” means a facility or feature that provides social, cultural, heritage, recreational or environmental benefits to a community, including, without limitation,

- (a) a community, youth or seniors’ centre,
- (b) a recreational or athletic facility,
- (c) a library,
- (d) a day care facility, and
- (e) a public square,

but does not include a facility or feature within a class of facilities or features that are prescribed by regulation not to be amenities;

“**amenity cost charge**” means a charge imposed by an amenity cost charge bylaw;

“**amenity cost charge bylaw**” means a bylaw under section 570.2 (1);

“**capital costs**” includes

- (a) planning, engineering and legal costs directly related to the work for which a capital cost may be incurred under this Division,
- (b) interest costs directly related to the work referred to in paragraph (a), and
- (c) expenditures made to a person or public authority under a partnering agreement in order to pay capital costs incurred by the person or public authority;

“**development**” means those items referred to in section 570.2 (1) (a) and (b) for which an amenity cost charge may be imposed.

Amenity cost charges: imposition and collection

- 570.2** (1) A local government may, by bylaw, for the purpose described in subsection (2), impose amenity cost charges on every person who obtains
- (a) approval of a subdivision, or
 - (b) a building permit authorizing the construction, alteration or extension of a building or structure.
- (2) Amenity cost charges may be imposed under subsection (1) for the purpose of providing funds to assist the local government to pay the capital costs of providing, constructing, altering or expanding amenities to benefit, directly or indirectly,
- (a) the development, and
 - (b) the increased population of residents or workers that results from the development
- for which the charge is being imposed.
- (3) An amenity referred to in subsection (2) must
- (a) be owned by a municipality or regional district, or
 - (b) be owned or operated by a person or public authority that has entered into a partnering agreement with a municipality or regional district in respect of the amenity.
- (4) Subject to subsection (5), an amenity cost charge that is payable under a bylaw under this section must be paid at the time of the approval of the subdivision or the issue of the building permit.
- (5) The minister may, by regulation in respect of all or different classes of developments, authorize the payment of amenity cost charges in instalments and prescribe conditions under which the instalments may be paid.

- (6) If a board has the responsibility of providing a service that includes providing, constructing, altering or expanding one or more amenities referred to in subsection (2) in a participating municipality, the board may, by bylaw under subsection (1), impose an amenity cost charge that is applicable within that municipality.
- (7) The municipality must collect and remit an amenity cost charge imposed under subsection (6) to the regional district in the manner provided for in the applicable amenity cost charge bylaw.

Consultation required for amenity cost charge bylaw

- 570.3**
- (1) During the development of a bylaw that imposes an amenity cost charge, or the development of an amendment to such a bylaw, the proposing local government must provide one or more opportunities it considers appropriate for consultation with
 - (a) the public, and
 - (b) persons, public authorities and organizations that the local government considers will be affected by the bylaw.
 - (2) No consultation is required to repeal a bylaw referred to in subsection (1).
 - (3) The Lieutenant Governor in Council may make regulations respecting consultation under subsection (1), including regulations as follows:
 - (a) establishing notice requirements and the process for consultation;
 - (b) prescribing persons, public authorities and organizations that must be consulted;
 - (c) prescribing circumstances in which no consultation is required.

Circumstances in which amenity cost charges are not payable

- 570.4**
- (1) An amenity cost charge is not payable in relation to a development authorized by a building permit that authorizes the construction, alteration or extension of a building or part of a building that is, or will be, after the construction, alteration or extension, exempt from taxation under either of the following provisions of the *Community Charter*:
 - (a) section 220 (1) (h) [*statutory exemption for places of public worship*];
 - (b) section 224 (2) (f) [*permissive exemptions in relation to places of public worship*].
 - (2) An amenity cost charge is not payable if no increase in the population of residents or workers is expected to result from the development.
 - (3) An amenity cost charge in respect of a particular amenity is not payable if an amenity cost charge in respect of that amenity has previously been paid for the same development, unless further development is expected to result in an increase in the population of residents or workers.

- (4) An amenity cost charge is not payable in respect of a capital cost for which a development cost charge may be imposed.
- (5) An amenity cost charge is not payable in relation to a development for any class of affordable housing prescribed by regulation.

General prohibition against waiving or reducing charges

- 570.5** (1) Except as authorized under section 570.6, a local government must not provide assistance by waiving or reducing an amenity cost charge.
- (2) This section operates as a restriction on
- (a) sections 263 (1) (c) [*regional district corporate powers – providing assistance*] and 274 [*assistance under partnering agreements*] of this Act, and
 - (b) sections 8 (1) [*natural person powers*] and 21 [*partnering agreements*] of the *Community Charter*.

Development for which charges may be waived or reduced

- 570.6** (1) In this section, “**eligible development**” means a development that is eligible in accordance with an applicable bylaw or regulation under this section as being for one or both of the following categories:
- (a) not-for-profit rental housing, including supportive living housing;
 - (b) for-profit affordable rental housing.
- (2) Subject to a bylaw under subsection (3) and an applicable regulation under subsection (6), a local government may waive or reduce an amenity cost charge for an eligible development.
- (3) For the purposes of subsection (2), the local government, by bylaw,
- (a) must establish what constitutes an eligible development or a class of eligible development for the purposes of one or more categories of eligible development described in subsection (1),
 - (b) must establish the amount or rates of reduction for an eligible development, which may be different for different categories of eligible development described in subsection (1) or different classes of eligible development established in the bylaw, and
 - (c) may establish the requirements that must be met in order to obtain a waiver or reduction under subsection (2) and the conditions on which such a waiver or reduction may be granted.
- (4) The authority under subsection (2) is an exception to
- (a) section 273 [*prohibition against assistance to business*] of this Act, and
 - (b) section 25 (1) [*prohibition against assistance to business*] of the *Community Charter*.

- (5) If a local government delegates the power under subsection (2), the person who is subject to the decision of the delegate is entitled to have the local government reconsider the matter.
- (6) The minister may make regulations in relation to subsection (3)
 - (a) establishing,
 - (b) restricting, or
 - (c) establishing criteria for determiningwhat constitutes an eligible development or a class of eligible development for the purposes of one or more categories of eligible development described in subsection (1).

Amenity cost charge bylaw: specifying amenities and setting charges

- 570.7** (1) An amenity cost charge bylaw must specify the following:
- (a) one or more areas in which development is subject to an amenity cost charge;
 - (b) for each area referred to in paragraph (a), the amenities that will receive funding from an amenity cost charge;
 - (c) the amount of the charge or charges imposed in a schedule or schedules of amenity cost charges.
- (2) Amenity cost charges may vary as provided in subsection (3), but must
- (a) be set as a charge
 - (i) per lot or per unit in a development, or
 - (ii) per square metre of floor space in a development, and
 - (b) be similar for all developments that are expected to result in a similar increase in the population of residents or workers.
- (3) Amenity cost charges may vary with respect to one or more of the following:
- (a) different areas specified under subsection (1) (a);
 - (b) different zones;
 - (c) different uses;
 - (d) different sizes or different numbers of lots or units in a development;
 - (e) any other basis for variation prescribed by regulation.
- (4) In specifying, in the amenity cost charge bylaw, the areas in which development is subject to an amenity cost charge and the amenities in each of those areas that will receive funding from the charge, a local government must take the following into consideration:
- (a) an applicable official community plan and other relevant planning documents;
 - (b) expected increases in the population of residents and workers;

- (c) the local government’s financial plan;
 - (d) any other information prescribed by regulation.
- (5) In setting amenity cost charges, a local government must take the following into consideration:
- (a) in each area in which development is subject to an amenity cost charge, the capital costs of amenities that will receive funding from the charge;
 - (b) the phasing of amenities;
 - (c) whether the charges are excessive in relation to the capital cost of prevailing standards of service in the municipality or regional district;
 - (d) whether the charges will, in the municipality or regional district,
 - (i) deter development, or
 - (ii) discourage the construction of reasonably priced housing or the provision of reasonably priced serviced land;
 - (e) any other information prescribed by regulation.
- (6) In setting amenity cost charges, a local government must deduct the following from the estimated capital cost of each amenity in an area:
- (a) the portion of the estimated capital cost to be funded by grants and other sources of funding that are external to the municipality or regional district;
 - (b) the portion of the estimated capital cost to be allocated to the existing population of the area and, as a result, funded by the local government;
 - (c) the portion of the estimated capital cost to be allocated to the development but funded by the local government.
- (7) A local government must make available to the public, on request, the considerations, information and calculations used to determine the schedule or schedules referred to in subsection (1), but any information respecting the contemplated acquisition costs of specific properties need not be provided.
- (8) The Lieutenant Governor in Council may make regulations respecting the setting of amenity cost charges, including regulations as follows:
- (a) adjusting or limiting amenity cost charges;
 - (b) prescribing economic and other analyses that local governments must undertake in setting amenity cost charges;
 - (c) establishing the method for making deductions under subsection (6) (b);
 - (d) requiring that the method for making deductions under subsection (6) (b) be applied by an individual with a professional designation specified in the regulation;
 - (e) specifying a minimum portion that must be deducted for the purposes of subsection (6) (c).

Use of amenity cost charges

- 570.8** (1) An amenity cost charge paid to a local government must be deposited by the local government in a separate special amenity cost charge reserve fund established for each area in which development is subject to an amenity cost charge.
- (2) Money in amenity cost charge reserve funds, together with interest on it, may be used only for the following:
- (a) to pay the capital costs of providing, constructing, altering or expanding amenities specified in the amenity cost charge bylaw under section 570.7 (1) (b);
 - (b) to pay principal and interest on a debt incurred by a local government as a result of an expenditure under paragraph (a);
 - (c) to pay a person subject to an amenity cost charge for some or all of the capital costs the person incurred in completing a project described in paragraph (a) if
 - (i) the project was completed under an agreement referred to in section 570.9 (1) between the person and the local government, and
 - (ii) the project is included in the calculations used to determine the amount of that amenity cost charge.
- (3) Authority to make payments under subsection (2) must be authorized by bylaw.
- (4) The inspector may require a municipality or regional district to provide the inspector with a report on the status of amenity cost charge collections, expenditures and proposed expenditures for a time period the inspector specifies.
- (5) After reviewing a report under subsection (4), the inspector may order the transfer of funds from an amenity cost charge reserve fund under this section to a reserve fund established for a capital purpose.

Provision of amenity instead of all or part of charge

- 570.9** (1) Despite an amenity cost charge bylaw, a local government may, by bylaw and in accordance with this section, enter into an agreement with a person under which the person provides, constructs, alters or expands an amenity, or provides land for an amenity, instead of paying all or part of an amenity cost charge.
- (2) An amenity referred to in subsection (1) must
- (a) be an amenity that is specified in the amenity cost charge bylaw under section 570.7 (1) (b), and
 - (b) have a location acceptable to the local government.

- (3) Without limiting the matters that may be dealt with in an agreement under subsection (1), the agreement must specify the following:
 - (a) the amenity to be provided, constructed, altered or expanded or the land to be provided for the amenity;
 - (b) the location of the amenity or land;
 - (c) who is to provide, construct, alter or expand the amenity or provide the land;
 - (d) when the amenity is to be provided, constructed, altered or expanded or when the land is to be provided;
 - (e) the value of the amenity or land and how the local government and the person determined that value;
 - (f) any remainder of the amenity cost charge to be paid under subsection (4);
 - (g) the payment or crediting to the person of the amount, if any, by which the value of the amenity or land exceeds the amount of the amenity cost charge;
 - (h) any other information prescribed by regulation.
- (4) If partial payment of an amenity cost charge is made by providing, constructing, altering or expanding an amenity, or providing land for an amenity, the remainder must be paid in accordance with the amenity cost charge bylaw.
- (5) If land for an amenity is to be provided under subsection (1), a registrable transfer of the land must be provided to the local government.

Effect of bylaws adopted after application for rezoning, development permit or building permit submitted

- 570.91** (1) In this section, “**in-stream**” and “**precursor application**” have the same meaning as in section 568 (1).
- (2) An initial amenity cost charge bylaw that would otherwise be applicable to the construction, alteration or extension of a building or structure has no effect with respect to that construction, alteration or extension if a precursor application to the building permit authorizing that construction, alteration or extension is in-stream on the date the initial bylaw is adopted.
 - (3) Subject to subsection (4), an amended amenity cost charge bylaw that would otherwise be applicable to the construction, alteration or extension of a building or structure has no effect with respect to that construction, alteration or extension if
 - (a) the building permit authorizing that construction, alteration or extension is issued within 12 months, or any longer period prescribed by regulation, after the date the bylaw is amended, and

- (b) a precursor application to that building permit is in-stream on the date the bylaw is amended.
- (4) Subsection (3) does not apply if the applicant for that building permit agrees in writing that the amended amenity cost charge bylaw should have effect.

Annual amenity cost charges report

- 570.92** (1) Before June 30 in each year, a local government must prepare and consider a report in accordance with this section respecting the previous year.
- (2) The report must include the following, reported for each area in which development is subject to an amenity cost charge in the applicable year:
- (a) the amount of amenity cost charges received;
 - (b) the expenditures from the amenity cost charge reserve funds, including the expenditures made to a person or public authority under a partnering agreement;
 - (c) the balance in the amenity cost charge reserve funds at the start and at the end of the applicable year;
 - (d) any waivers and reductions under section 570.6 (2) [*development for which charges may be waived or reduced*];
 - (e) any amenities provided, constructed, altered or expanded by a person under section 570.9 [*provision of amenity instead of all or part of charge*];
 - (f) any other information prescribed by regulation.
- (3) The local government must make the report available to the public from the time it considers the report until June 30 in the following year.

Information requested by inspector

- 570.93** As requested by the inspector, a local government must provide the inspector with any information respecting amenity cost charges, including information respecting the following:
- (a) the setting of amenity cost charges;
 - (b) the development of the amenity cost charge bylaw and of any amendments to it, including consultations undertaken in that development.

Regulations made for purposes of this Division

- 570.94** In making a regulation for the purposes of this Division, the Lieutenant Governor in Council
- (a) must take into consideration any applicable information provided to the inspector under section 570.93, and

- (b) may make provisions that the Lieutenant Governor in Council considers necessary or advisable for the purpose of preventing, minimizing or otherwise addressing any transitional difficulties encountered in relation to amenity cost charges.

Division does not restrict other powers

570.95 Nothing in this Division restricts or affects any other power of a local government under this or any other Act, subject to

- (a) the exceptions provided in sections 570.5 (2) [*general prohibition against waiving or reducing charges*] and 570.6 (4) [*development for which charges may be waived or reduced*], and
- (b) the condition that the capital costs of any amenity funded by an amenity cost charge must be recovered only once.

8 Section 610 (2) (b) is amended by adding the following subparagraph:

- (vi) a bylaw under Division 19.1 [*Amenity Costs Recovery*] of Part 14; .

9 Section 617 (2) is amended by adding the following paragraph:

- (f) a bylaw under Division 19.1 [*Amenity Costs Recovery*] of Part 14.

Vancouver Charter

10 Section 523D of the Vancouver Charter, S.B.C. 1953, c. 55, is amended

(a) in subsection (1) (a) by striking out “sewage, water, drainage and highway facilities” and substituting “sewage, water, drainage, fire protection, police, highway and solid waste and recycling facilities”, and

(b) by adding the following subsections:

- (1.1) For the purposes of subsection (1) (a), a reference to a highway facility includes highway facilities that serve provincial and city interests if
 - (a) the city and the province have entered into an arrangement to share the costs of the highway facilities,
 - (b) the highway facilities directly or indirectly enable the integrated functioning of the provincial and city street systems, and
 - (c) the highway facilities, in whole or in part, directly or indirectly service the development.
- (1.2) The amount of the development cost levy imposed for a purpose referred to in subsection (1) respecting highway facilities must not exceed the amount of the costs of the highway facilities to be paid by the city.

11 The following Part is added:

**PART XXIV-B —
AMENITY COST CHARGES**

Definitions

523E. In this Part:

“**amenity**” means a facility or feature that provides social, cultural, heritage, recreational or environmental benefits to a community, including, without limitation,

- (a) a community, youth or seniors’ centre,
- (b) a recreational or athletic facility,
- (c) a library, and
- (d) a public square,

but does not include a facility or feature within a class of facilities or features that are prescribed by regulation not to be amenities;

“**amenity cost charge**” means a charge imposed by an amenity cost charge by-law;

“**amenity cost charge by-law**” means a by-law under section 523G (1);

“**capital costs**” includes

- (a) planning, architectural, engineering and legal costs related to the work for which a capital cost may be incurred under this Part,
- (b) the principal and interest related to the work referred to in paragraph (a), and
- (c) expenditures that are made to a person or public authority pursuant to an agreement under which the person or public authority agrees to provide a service on behalf of the city and that are made to pay capital costs incurred by the person or public authority;

“**development**” means the construction, alteration or extension of all or part of a building or structure for which an amenity cost charge may be imposed;

“**public authority**” has the same meaning as in section 1 of the Schedule to the *Community Charter*.

Power to undertake projects

523F. The Council may undertake any projects to provide, construct, alter or expand amenities.

Imposition and collection of amenity cost charge

- 523G.** (1) The Council may, by by-law, impose an amenity cost charge in accordance with this Part for the purpose of providing funds to assist the Council to pay the capital costs of providing, constructing, altering or expanding amenities to benefit, directly or indirectly,
- (a) the development, and
 - (b) the increased population of residents or workers that results from the development
- for which the charge is being imposed.
- (2) Subject to section 523I [*circumstances in which amenity cost charges are not payable*], the amenity cost charge must be imposed on every person entitled to the delivery of a building permit authorizing the construction, alteration or extension of all or part of a building or structure.
- (3) An amenity referred to in subsection (1) must
- (a) be owned by the city, or
 - (b) be owned or operated by a person or public authority that has entered into an agreement with the city in respect of the amenity and under which agreement the person or public authority agrees to provide a service on behalf of the city.
- (4) An amenity cost charge is a condition of the issuance of a building permit and must be paid at the time or times a building permit or permits are issued for the development or redevelopment of property in an area to which an amenity cost charge by-law applies.
- (5) For the purposes of subsection (4), the Council may define what constitutes development or redevelopment of property and may provide that, if a development takes place in stages, each stage is deemed to be part of the development.
- (6) The Council may, in respect of all or different classes of developments, authorize the payment of amenity cost charges in instalments, prescribe conditions under which the instalments may be paid and provide that, if not paid, the instalment must be inserted in the real property tax roll as a charge imposed with respect to the parcel or parcels in relation to which the building permit was issued.

Consultation required for amenity cost charge by-law

- 523H.** (1) During the development of a by-law that imposes an amenity cost charge, or the development of an amendment to such a by-law, the Council must provide one or more opportunities it considers appropriate for consultation with
- (a) the public, and

- (b) persons, public authorities and organizations that the Council considers will be affected by the by-law.
- (2) No consultation is required to repeal a by-law referred to in subsection (1).
- (3) The Lieutenant Governor in Council may make regulations respecting consultation under subsection (1), including regulations as follows:
 - (a) establishing notice requirements and the process for consultation;
 - (b) prescribing persons, public authorities and organizations that must be consulted;
 - (c) prescribing circumstances in which no consultation is required.

Circumstances in which amenity cost charges are not payable

- 523I.**
- (1) An amenity cost charge is not payable if
 - (a) a parcel of land is, or will be after construction, alteration or extension, exempt from taxation under section 396 (1) (c) (iv) [*place of public worship*], or
 - (b) a parcel of land, owned by the Federal or Provincial government, the City of Vancouver or a non-profit organization, is or will be, after construction, alteration or extension, used for social housing and, for the purposes of this paragraph, the Council may define what constitutes social housing.
 - (2) An amenity cost charge is not payable in respect of all or part of any capital project
 - (a) provided to the city pursuant to a by-law passed under section 292 [*subdivision control*],
 - (b) in respect of which an assessment has been imposed under Part XXIV [*Local Improvements*], or
 - (c) in respect of which a development cost levy may be imposed under Part XXIV-A [*Development Cost Levies*].
 - (3) An amenity cost charge is not payable if no increase in the population of residents or workers is expected to result from the development.
 - (4) An amenity cost charge in respect of a particular amenity is not payable if an amenity cost charge in respect of that amenity has previously been paid for the same development, unless further development is expected to result in an increase in the population of residents or workers.
 - (5) An amenity cost charge is not payable in relation to a development for any class of affordable housing prescribed by regulation.

Development for which charges may be waived or reduced

- 523J.** (1) In this section, “**eligible development**” means development that is eligible in accordance with an applicable by-law or regulation under this section as being for for-profit affordable rental housing.
- (2) Subject to a by-law under subsection (3) and an applicable regulation under subsection (5), the Council may waive or reduce an amenity cost charge for an eligible development.
- (3) For the purposes of subsection (2), the Council, by by-law,
- (a) must establish what constitutes an eligible development or a class of eligible development,
 - (b) must establish the amount or rates of reduction for an eligible development, which may be different for different classes of eligible development established in the by-law, and
 - (c) may establish the terms and conditions that must be met in order to obtain a waiver or reduction under subsection (2).
- (4) If the Council delegates the power under subsection (2), the person who is subject to the decision of the delegate is entitled to have the Council reconsider the matter.
- (5) The minister may make regulations in relation to subsection (3)
- (a) establishing,
 - (b) restricting, or
 - (c) establishing criteria for determining
- what constitutes an eligible development or a class of eligible development.

Amenity cost charge by-law – specifying amenities and setting charges

- 523K.** (1) An amenity cost charge by-law must specify the following:
- (a) one or more areas in which development is subject to an amenity cost charge;
 - (b) for each area referred to in paragraph (a), the amenities that will receive funding from an amenity cost charge;
 - (c) the amount of the charge or charges imposed in a schedule or schedules of amenity cost charges.
- (2) Amenity cost charges may vary as provided in subsection (3), but must
- (a) be set as a charge
 - (i) per lot or per unit in a development, or
 - (ii) per square metre of floor space in a development, and
 - (b) be similar for all developments that are expected to result in a similar increase in the population of residents or workers.

- (3) Amenity cost charges may vary with respect to one or more of the following:
 - (a) different areas specified under subsection (1) (a);
 - (b) different zones;
 - (c) different uses;
 - (d) different sizes or different numbers of lots or units in a development;
 - (e) any other basis for variation prescribed by regulation.
- (4) In specifying, in the amenity cost charge by-law, the areas in which development is subject to an amenity cost charge and the amenities in each of those areas that will receive funding from the charge, the Council must take the following into consideration:
 - (a) an applicable development plan as defined in section 559;
 - (b) an applicable official development plan as defined in section 559;
 - (c) other relevant planning documents;
 - (d) future land use patterns in the city;
 - (e) expected increases in the population of residents and workers;
 - (f) reports submitted by the Director of Finance under section 219 [*report on revenue and expenditure*];
 - (g) any other information prescribed by regulation.
- (5) In setting amenity cost charges, the Council must take the following into consideration:
 - (a) in each area in which development is subject to an amenity cost charge, the capital costs of amenities that will receive funding from the charge;
 - (b) the phasing of amenities;
 - (c) whether the charges are excessive in relation to the capital cost of prevailing standards of service in the city;
 - (d) whether the charges will, in the city,
 - (i) deter development, or
 - (ii) discourage the construction of reasonably priced housing or the provision of reasonably priced serviced land;
 - (e) any other information prescribed by regulation.
- (6) In setting amenity cost charges, the Council must deduct the following from the estimated capital cost of each amenity in an area:
 - (a) the portion of the estimated capital cost to be funded by grants and other sources of funding that are external to the city;
 - (b) the portion of the estimated capital cost to be allocated to the existing population of the area and, as a result, funded by the Council;
 - (c) the portion of the estimated capital cost to be allocated to the development but funded by the Council.

- (7) The Council must make available to the public, on request, the considerations, information and calculations used to determine the schedule or schedules referred to in subsection (1), but any information respecting the contemplated acquisition costs of specific properties need not be provided.
- (8) The Lieutenant Governor in Council may make regulations respecting the setting of amenity cost charges, including regulations as follows:
 - (a) adjusting or limiting amenity cost charges;
 - (b) prescribing economic and other analyses that the Council must undertake in setting amenity cost charges;
 - (c) establishing the method for making deductions under subsection (6) (b);
 - (d) requiring that the method for making deductions under subsection (6) (b) be applied by an individual with a professional designation specified in the regulation;
 - (e) specifying a minimum portion that must be deducted for the purposes of subsection (6) (c).

Use of amenity cost charges

- 523L.** (1) An amenity cost charge must be deposited in a separate amenity cost charge reserve fund established for each area in which development is subject to an amenity cost charge.
- (2) Money in amenity cost charge reserve funds, together with interest, may be used only
- (a) to pay the capital costs of providing, constructing, altering or expanding amenities specified in the amenity cost charge by-law under section 523K (1) (b), or
 - (b) to pay a person subject to an amenity cost charge for some or all of the capital costs the person incurred in completing a project referred to in paragraph (a) if
 - (i) the project was completed under an agreement referred to in section 523M (1) between the person and the Council, and
 - (ii) the project is included in the calculations used to determine the amount of that amenity cost charge.
- (3) Payments out of an amenity cost charge reserve fund must be authorized by a resolution of the Council, and one resolution may authorize a series of payments in respect of any amenity.

Provision of amenity instead of all or part of charge

- 523M.** (1) Despite an amenity cost charge by-law, the Council may, by by-law and in accordance with this section, enter into an agreement with a person under which the person provides, constructs, alters or expands an amenity, or provides land for an amenity, instead of paying all or part of an amenity cost charge.
- (2) An amenity referred to in subsection (1) must
- (a) be an amenity that is specified in the amenity cost charge by-law under section 523K (1) (b), and
 - (b) have a location acceptable to the Council.
- (3) Without limiting the matters that may be dealt with in an agreement under subsection (1), the agreement must specify the following:
- (a) the amenity to be provided, constructed, altered or expanded or the land to be provided for the amenity;
 - (b) the location of the amenity or land;
 - (c) who is to provide, construct, alter or expand the amenity or provide the land;
 - (d) when the amenity is to be provided, constructed, altered or expanded or when the land is to be provided;
 - (e) the value of the amenity or land and how the Council and the person determined that value;
 - (f) any remainder of the amenity cost charge to be paid under subsection (4);
 - (g) the payment or crediting to the person of the amount, if any, by which the value of the amenity or land exceeds the amount of the amenity cost charge;
 - (h) any other information prescribed by regulation.
- (4) If partial payment of an amenity cost charge is made by providing, constructing, altering or expanding an amenity, or providing land for an amenity, the remainder must be paid in accordance with the amenity cost charge by-law.
- (5) If land for an amenity is to be provided under subsection (1), a registrable transfer of the land must be provided to the Council.

Effect of by-laws adopted or amended after application for rezoning, development permit or building permit submitted

- 523N.** (1) In this section, “**in-stream**” and “**precursor application**” have the same meaning as in section 523D (8.3) [*development cost levies*].

- (2) An initial amenity cost charge by-law that would otherwise be applicable to the construction, alteration or extension of a building or structure, or part of a building or structure, has no effect with respect to that construction, alteration or extension if a precursor application to the building permit authorizing that construction, alteration or extension is in-stream on the date the initial by-law is adopted.
- (3) An amended amenity cost charge by-law that would otherwise be applicable to the construction, alteration or extension of a building or structure, or part of a building or structure, has no effect with respect to that construction, alteration or extension if
 - (a) the building permit authorizing that construction, alteration or extension is issued within 12 months, or any longer period prescribed by regulation, after the date the by-law is amended, and
 - (b) a precursor application to the building permit is in-stream on the date the by-law is amended,unless the applicant for that building permit agrees in writing that the amended by-law should have effect.

Annual report by Director of Finance

523O. In each year,

- (a) the Director of Finance must prepare and submit to the Council a report for the previous year that includes the following, reported for each area in which development is subject to an amenity cost charge in the applicable year:
 - (i) the amount of amenity cost charges received;
 - (ii) the expenditures from the amenity cost charge reserve funds, including the expenditures made to a person or public authority pursuant to an agreement under which the person or public authority agrees to provide a service on behalf of the city;
 - (iii) the balance in the amenity cost charge reserve funds at the start and at the end of the applicable year;
 - (iv) any waivers and reductions under section 523J [*development for which charges may be waived or reduced*];
 - (v) any amenities provided, constructed, altered or expanded by a person under section 523M [*provision of amenity instead of all or part of charge*];
 - (vi) any other information prescribed by regulation, and
- (b) as soon as practicable after receiving the report, the Council must consider the report and make it available to the public.

Information requested by minister

523P. As requested by the minister, the Council must provide the minister with any information respecting amenity cost charges, including information respecting the following:

- (a) the setting of amenity cost charges;
- (b) the development of the amenity cost charge by-law and of any amendments to it, including consultations undertaken in that development.

Regulations

523Q. (1) The Lieutenant Governor in Council may make regulations respecting any matter for which regulations are contemplated by this Part.

(2) In making a regulation for the purposes of this Part, the Lieutenant Governor in Council

- (a) must take into consideration any applicable information provided to the minister under section 523P, and
- (b) may make provisions that the Lieutenant Governor in Council considers necessary or advisable for the purpose of preventing, minimizing or otherwise addressing any transitional difficulties encountered in relation to amenity cost charges.

Part does not restrict other powers

523R. Nothing in this Part restricts or affects any other power contained in this Act, subject to the condition that the capital costs of any amenity funded by an amenity cost charge must be recovered only once.

12 Section 565.1 is amended

(a) in subsection (2) (a) by adding “subject to subsection (2.1),” before “conditions relating to the conservation or provision of amenities”, and

(b) by adding the following subsection:

(2.1) A zoning by-law must not establish conditions relating to the conservation or provision of an amenity that is specified in an amenity cost charge by-law under section 523K (1) (b) [*amenities receiving funding from amenity cost charge*].

13 Section 592 (2) (b) is amended by adding the following subparagraph:

(ii.1) a by-law under Part XXIV-B, .

14 Section 597 (2) is amended

(a) in paragraph (b) by striking out “bylaw” and substituting “by-law”, and

(b) by adding the following paragraph:

(b.1) a by-law under Part XXIV-B, .

Consequential Amendments

Community Charter

15 Section 188 (2) of the Community Charter, S.B.C. 2003, c. 26, is amended by adding the following paragraph:

(a.1) money received from the imposition of an amenity cost charge, which must be placed to the credit of a reserve fund in accordance with section 570.8 [use of amenity cost charges] of the *Local Government Act*; .

16 Section 189 (5) is repealed and the following substituted:

(5) As a restriction on subsections (2) and (3), a council must not transfer amounts or use money from a fund required under any of the following provisions unless the bylaw is approved by the minister:

(a) section 188 (2) (a) [development cost charge reserve fund];

(b) section 188 (2) (a.1) [amenity cost charge reserve fund];

(c) section 188 (2) (b) [park land acquisition reserve fund].

Islands Trust Act

17 Section 29 (1) (b) of the Islands Trust Act, R.S.B.C. 1996, c. 239, is amended by adding the following subparagraph:

(ii.1) Division 19.1 [Amenity Costs Recovery]; .

Commencement

18 This Act comes into force on the date of Royal Assent.