



## Governance and Priorities Committee Report

### For the Meeting of January 21, 2016

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**To:** Governance and Priorities Committee      **Date:** January 7, 2016  
**From:** Susanne Thompson, Director of Finance & Katie Hamilton, Director of Citizen Engagement and Strategic Planning  
**Subject:** Parking Dispute Adjudication

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#### RECOMMENDATION

1. That Council direct staff to prepare:
  - Bylaw Notice Dispute Adjudication Bylaw,
  - Administration Fees Bylaw, Amendment Bylaw (No. 3)generally in accordance with draft bylaws attached as appendices B and C.

#### EXECUTIVE SUMMARY

In 2004, the Province enacted the *Local Government Bylaw Notice Enforcement Act*. This legislation allows local governments to establish a dispute adjudication system as an alternative to the provincial court system for the resolution of minor bylaw offenses. Since the legislation was passed, approximately 73 local governments have adopted the adjudication model.

At the Council meeting of October 22, 2015, staff was directed to prepare a draft bylaw for the Provincial bylaw dispute adjudication system. Appendix B to this report details the proposed bylaw.

Implementation of the adjudication model would enhance customer service in several ways. Customers who dispute their tickets will benefit from a transparent and fair escalation process. Customers who would historically had to attend provincial court to await for their dispute to be heard will have the opportunity to appear before an independent adjudicator at a specified date and time. Hearings may be conducted via telephone or video conference.

Furthermore, the adjudication model would be consistent with and complement the City's new parking ambassador program. City staff can be designated as Level One screening officers who can cancel unwarranted or inaccurate parking fines.

Incremental operating costs are not expected to exceed \$19,000. The City currently has the staffing required to implement the adjudication model as the parking ticket review office has recently been brought in house. One-time implementation costs are expected to be no more than \$25,000. Other municipalities have experienced an increase of between 5-10% of voluntary payments after five years of implementing the adjudication model. Based on the experience in other municipalities, it is anticipated that the additional operating and one-time implementation costs will be offset by the increase in payments. Implementation could occur as early as March 2016.

## PURPOSE

*The purpose of this report is report back to Council on the details of the parking dispute adjudication model and seek Council approved to proceed with the implementation.*

## BACKGROUND

At the Council meeting of October 22, 2015, staff was directed to prepare a draft bylaw for the Provincial bylaw dispute adjudication system. Appendix B to this report details the proposed bylaw. Furthermore, staff was directed to report back further implementation details of the adjudication system.

In 2004, the Province enacted the *Local Government Bylaw Notice Enforcement Act*. This legislation allows local governments to establish a dispute adjudication system as an alternative to the provincial court system for the resolution of minor bylaw offenses. Since the legislation was passed, approximately 73 local governments have adopted the adjudication model.

## ISSUES & ANALYSIS

### A. Benefits

1. *Customer Service:* Parking customers will benefit from a streamlined adjudication process. A well-defined escalation process for parking disputes will accompany the adjudication model so that all customers have an opportunity to discuss a parking fine in detail. The adjudication model would be consistent with and complement the City's new parking ambassador program. The proposed adjudication program would delegate the authority for parking ambassadors, review officers and other personnel to cancel or reduce tickets. This would help customers from being subject to inaccurate, excessive or unnecessary fines.

The process would remain transparent and fair as the dispute adjudicators are provincially appointed and independent from the City. The dispute timeliness should improve for a number of reasons. Firstly, the dispute process will be well defined and secondly dispute hearings will be efficiently scheduled. Currently, dispute customers are required to wait in provincial court on a specified date until the dispute is heard.

2. *Increased Operational Efficiency:* A parking adjudication model would ensure that staff no longer spend any time in the provincial court system waiting for hearings to occur. Rather, dispute hearings will be scheduled at a specific time and date. Also a systematic and streamlined dispute escalation process would ensure that the appropriate staff can quickly review and respond to disputes.
3. *Increased Collectability:* When a parking fine results in a conviction through the provincial court system, the City has expanded options to collect a parking fine. Without a conviction through the court system, the City must rely on voluntary compliance. The City typically takes between 100 – 400 tickets to court on an annual basis which can occupy between 125 – 500 staffing hours. An undisputed ticket, or a ticket confirmed by an adjudicator becomes collectible in the same way as a fine conviction in the provincial court system.

In 2014 there were over 156,000 parking tickets issued (approximately 30,000 were later cancelled). Of this amount, approximately 35,000 (or \$1.57M) were sent to collections and fewer

than 400 were taken to court. Therefore the bylaw adjudication model would expand the City's options for the collection of approximately 35,000 tickets annually.

4. *Financial Considerations:* There will be additional operating and implementation costs if Council approves the parking adjudication model. Such costs are detailed below.

| Incremental Annual Operating Expenses | Cost     |
|---------------------------------------|----------|
| Independent Adjudicator               | \$10,000 |
| Facility Rental                       | 6,000*   |
| Hearing Security                      | 3,000    |
|                                       |          |
| Total                                 | \$19,000 |

\*Hearings could potentially be hosted free of charge using City owned facilities.

| Incremental Implementation Expenses |          |
|-------------------------------------|----------|
| Software upgrade                    | \$15,000 |
| Reformatting of parking tickets     | 10,000   |
|                                     |          |
| Total                               | \$25,000 |

It is difficult to predict at what rate the City's collection of parking fines will increase with the implementation of the adjudication model. Based on the experience in other municipalities, it is anticipated that the additional operating and one-time implementation costs will be offset by the increase in payments. In addition, the City's ability to collect becomes significantly more cost effective under the adjudication model because the delay and cost of attending Provincial court can be avoided.

It is also proposed that a \$25 adjudication fee be introduced for tickets that are unsuccessful in their appeal. This fee will help offset the ongoing incremental operating costs. This fee would be included in the proposed bylaw (section 7(2) in appendix B).

## B. Proposed Bylaw

1. *Bylaw designation:* Under Section 2 of the *Local Government Bylaw Notice Enforcement Act*, the bylaw must designate the bylaw contraventions to be dealt with by bylaw notice. Staff recommend that the parking-related contraventions of the *Streets and Traffic Bylaw* that are enforced by the City's parking ambassadors be dealt with by bylaw notice. The specific sections are set out in Schedule "A" of the proposed bylaw.
2. *Significant components:* Significant components of the proposed bylaw are detailed below:

| Feature        | Recommendation | Comment   | Bylaw Section |
|----------------|----------------|---|---------------|
| Dispute Period | 14 days        | When the dispute period elapses, a customer can no longer request an adjudication. If, however, a customer indicates that they did not obtain their original parking ticket, the dispute period can be reset. This dispute period is consistent with most other municipalities. | 6(5)          |

|                          |         |  |                     |
|--------------------------|---------|--|---------------------|
| Discount Period & Amount | 14 days | It is recommended that the discount period be harmonized with the dispute period for streamlined administration. Furthermore, this timeline encourages a quick resolution to disputes. | 5(b) and Schedule A |
| Adjudication Fee         | \$25    | An adjudication fee would be added to all unsuccessful disputes. This is the maximum fee permitted under the Act and is to help offset the cost of administering the program.          | 7(2)                |

3. *Screening officer:* The Act permits the City to designate one or more screening officer positions in the adjudication process. This position, if established, must review the parking ticket before the dispute can proceed to adjudication. After reviewing the ticket, the screening officer may cancel or confirm the ticket.

Staff recommend that two levels of screening officers be established so that front line and parking ambassador staff may cancel unwarranted or inaccurate tickets without delay. This will reduce customer frustration in cases where a ticket has erroneously been issued.

Level One screening officers would include parking ambassadors, customer service ambassadors, public service centre representatives, parking service clerks, and the parking review representative. Level Two screening officers would include the parking services supervisor, the Manager-Parking Services, the Manager-Revenue, the Director of Finance, and the Director of Citizen Engagement and Strategic Planning.

#### C. Adjudication Program Details

1. *Independent adjudication:* Bylaw adjudicators are independent adjudicators appointed by the Province through a competitive process. Currently there are two adjudication firms appointed. The City is free to enter into a contract with one or both of the firms.
2. *Process Diagram:* The proposed bylaw and program is summarized in a process diagram found in Appendix A.
3. *Location:* The City has a wide range of options regarding venue for the adjudication hearing. Hearings can be held at City hall or an alternative location. Furthermore, customers can attend via teleconference or video conference.

#### D. Administrative Fee Bylaw Amendment

In conjunction with the parking ticket adjudication program, staff is recommending that the administrative fee bylaw be amended to include a fee to offsets the cost of sending unpaid tickets to collections. The collection agency that works on behalf of the City collects a commission on all revenues collected. The proposed bylaw in Appendix C of this report outlines such an amendment.

### OPTIONS & IMPACTS

#### Option 1: Implement the Bylaw Adjudication Program:

With the implementation of the program, the City will be able to improve customer service by streamlining the dispute process and providing more options for customers to attend. Furthermore, the City will expand its ability to collect on legitimate infractions.

## Option 2: Do not implement the Bylaw Adjudication Program

The City and its customers would not be able to benefit from the streamlined adjudication process. The City continues to improve customer service related to the issuance and administration of parking fines. Nevertheless, to certify parking fines as debt, the City must take parking fine customers to provincial court. The provincial court system can be a frustration for some customers as hearing times are not specifically scheduled. Furthermore, the adjudication program allows the City to collect undisputed or confirmed parking fines in the same manner as had they been certified in provincial court.

### *2015 – 2018 Strategic Plan*

The proposed bylaw adjudication program is aligned with the Strategic Plan objective to build the financial capacity of the organization.

### *Impacts to 2015 – 2018 Financial Plan*

Implementation costs of the bylaw adjudication program have been included in the 2016 Financial Plan. Incremental operating costs will likely be offset by increased operating revenues. Both costs and revenues will be represented in the parking division budget.

### *Official Community Plan Consistency Statement*

Not Applicable.

Respectfully submitted,



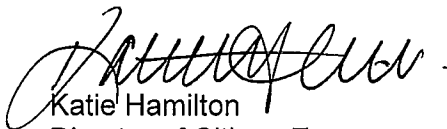
Christopher Paine  
Manager-Revenue



Ismo Husu  
Manager-Parking Services



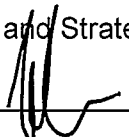
Susanne Thompson  
Director of Finance



Katie Hamilton  
Director of Citizen Engagement and Strategic Planning

**Report accepted and recommended by the City Manager:** \_\_\_\_\_

**Date:** \_\_\_\_\_

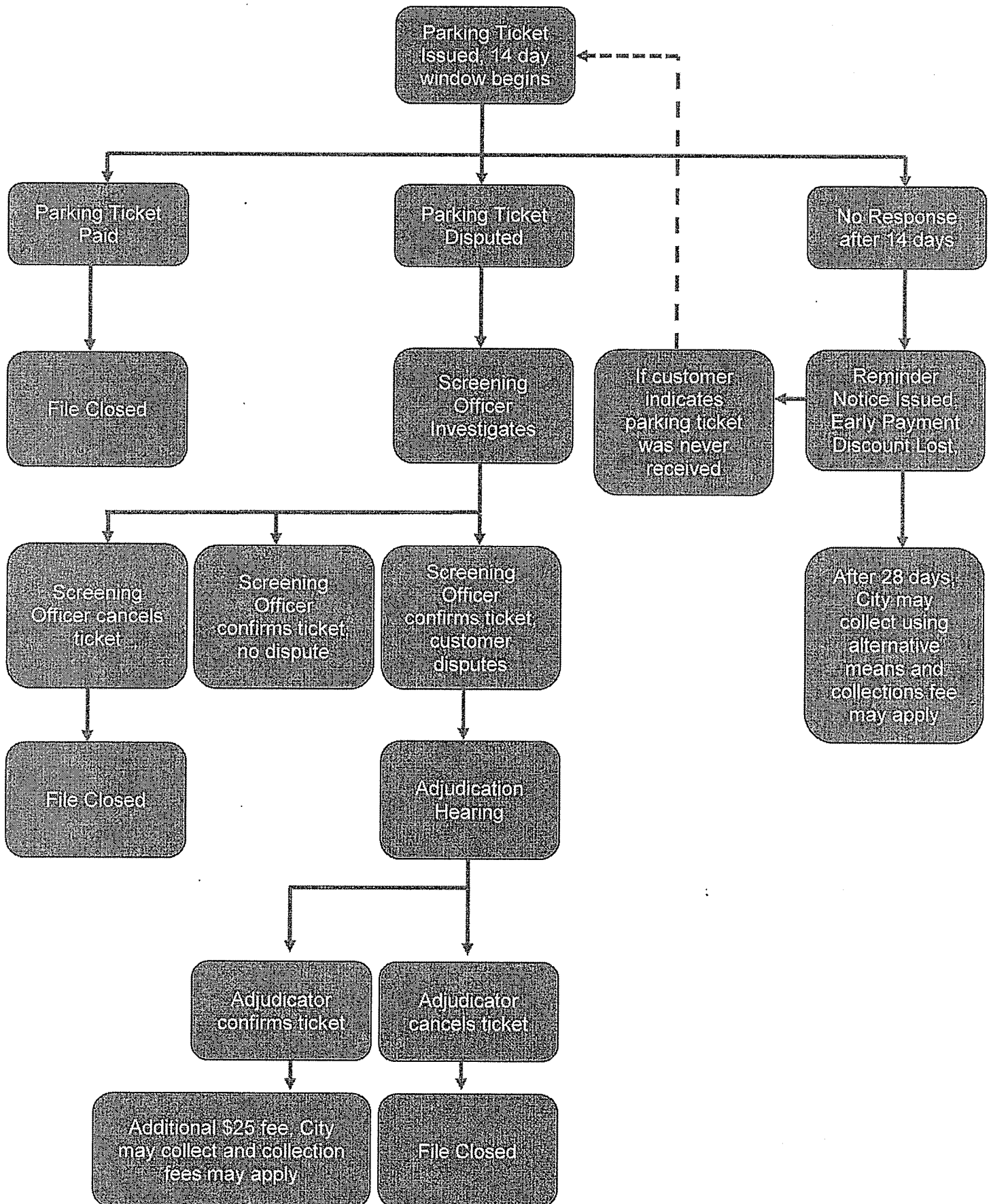


Jan 14, 2016

### **List of Attachments**

- Appendix A: Proposed Parking Adjudication Process Diagram
- Appendix B: Proposed Parking Dispute Adjudication Bylaw
- Appendix C: Proposed Administrative Fee Bylaw, Amendment Bylaw
- Appendix D: List of municipalities who have implemented Bylaw Notice Dispute Adjudication

## Appendix A: Proposed Parking Adjudication Process Diagram



# Appendix B: Proposed Bylaw Notice Dispute Adjudication Bylaw

NO. 16-XXX

## BYLAW NOTICE ADJUDICATION BYLAW A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to establish a bylaw notice dispute adjudication system and designate bylaw contraventions that are to be enforced by bylaw notice under the *Local Government Bylaw Notice Enforcement Act*.

Under its statutory powers, including sections 2, 4, and 14 of the *Local Government Bylaw Notice Enforcement Act*, the Council of The Corporation of the City of Victoria, in a public meeting assembled, enacts the following provisions:

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| 8  | Screening Officers  |
| 9  | Severability  |
| 10 | Effective Date  |

Schedule "A" Designated Bylaws, Bylaw Contraventions and Penalties

#### 1 Title

- (1) This Bylaw may be cited as the "BYLAW NOTICE ADJUDICATION BYLAW"

#### 2 Definitions

- (1) In this Bylaw,

"**Act**" means the *Local Government Bylaw Notice Enforcement Act*;

"**Bylaw notice**" means a bylaw notice referred to in section 4 of the Act and issued under this bylaw;

"**City**" means the Corporation of the City of Victoria

"**Council**" means the Council of the Corporation of the City of Victoria

"**Screening officer**" means a person designated and appointed under section 8 of this bylaw to act as a Screening Officer I or Screening Officer II.

### **3 Schedules**

- (1) The schedule attached to this bylaw forms part of this bylaw.

### **4 Bylaw Contraventions**

- (1) The bylaws and bylaw contraventions designated in Schedule "A" may be enforced by bylaw notice.

### **5 Penalty**

- (1) The penalty for a contravention referred to in section 4 is:
  - (a) subject to paragraph (b), the penalty amount set out in column A of Schedule "A"
  - (b) if payment is received by the City within 14 days of the person receiving or being presumed to have received the bylaw notice, the penalty set out in column A is reduced by the discount amount set out in column B of Schedule "A".

### **6 Paying or Disputing Notice**

- (1) A bylaw notice may be delivered:
  - (a) in person to the named person,
  - (b) by mailing a copy of the bylaw notice,
    - (i) if the bylaw notice is in respect of a contravention involving a vehicle, to the address for each registered owner of the vehicle involved;
    - (ii) to the actual or last known address of the named person; or
    - (iii) if the named person is a corporation or a business, to the registered office or head office,
  - (c) if the bylaw notice is in respect of a parking contravention, by leaving the bylaw notice on the vehicle involved.
- (2) A bylaw notice delivered under paragraph 6(1)(b) is presumed to have been received by the person to whom it is addressed on the 7<sup>th</sup> day after mailing.
- (3) A bylaw notice delivered under paragraph 6(1)(c) is presumed to have been received by each registered owner of the vehicle on the day it is left on the vehicle.
- (4) A person who receives a bylaw notice, or their authorized agent, must, within 14 days of the date on which the person received or is presumed to have received the bylaw notice:
  - (a) pay the penalty; or



(b) request dispute adjudication;

by following the appropriate instructions on the bylaw notice.

- (5) A person may pay the indicated penalty after 14 days of receiving a bylaw notice, but no person may dispute a bylaw notice after 14 days of receiving the bylaw notice.

## **7 Bylaw Notice Dispute Adjudication System and Notice Dispute Fee**

- (1) A bylaw notice dispute adjudication system in accordance with Part 3 of the Act is hereby established in order to resolve disputes in relation to bylaw notices.
- (2) Every person who is unsuccessful in a dispute adjudication in relation to a bylaw notice under the dispute adjudication system established under this section shall pay an administrative fee of \$25.00, in addition to any other penalty amount imposed under this bylaw.

## **8 Screening Officers**

- (1) The positions of Screening Officer I and Screening Officer II are hereby established.
- (2) Council hereby designates all persons employed by the City as a Customer Service Ambassador, Public Service Centre Representative, Parking Services Clerk, Parking Review Representative and Parking Ambassador, as persons that may be appointed as a Screening Officer I, and hereby appoints them as Screening Officers I.
- (3) Council hereby designates all persons employed by the City as a Manager-Parking Services, Supervisor – Parking Services, Manager-Revenue, Director of Finance, and Director of Citizen Engagement and Strategic Planning as persons that may be appointed as Screening Officer II, and hereby appoints them as a Screening Officers II.
- (4) Every Screening Officer I and Screening Officer II has the power to review disputed bylaw notices, including the power to cancel a bylaw notice if in the opinion of the screening officer:
- (a) the contravention did not occur as alleged;
  - (b) the bylaw notice does not comply with section 4(4) of the Act; or
  - (c) cancellation is otherwise in accordance with the City's policies and procedures established from time to time by the Manager of Parking Services with respect to the cancellation of a bylaw notice.

## **9 Severability**

- (1) If any provision of this bylaw is found to be invalid by a Court of competent jurisdiction it may be severed from the bylaw and the remainder of this bylaw is

deemed to have been adopted with the severed section, subsection, paragraph, subparagraph, clause or phrase.

**10 Effective Date**

(1) This Bylaw comes into force on March 1, 2016.

READ A FIRST TIME the                      day of                      2016.

READ A SECOND TIME the                      day of                      2016.

READ A THIRD TIME the                      day of                      2016.

ADOPTED on the                      day of                      2016.

CORPORATE ADMINISTRATOR

MAYOR

## SCHEDULE "A"

### DESIGNATED BYLAWS, BYLAW CONTRAVENTIONS AND PENALTIES

| Bylaw and<br>Bylaw Section                | Description                                   | A<br>Penalty | B<br>Discount |
|---|---|--------------|---------------|
| Street and<br>Traffic Bylaw<br>No. 09-079 |   |              |               |
| 48  | Stopping where prohibited                     | 60           | 30            |
| 49  | Parking where prohibited                      | 40           | 20            |
| 50  | Parking in City lane                          | 40           | 20            |
| 51  | Parking in limited time zone                  | 40           | 20            |
| 53  | Parking in a residential zone                 | 60           | 30            |
| 54  | Parking without a residential permit          | 60           | 30            |
| 55  | Parking in a truck loading zone               | 60           | 30            |
| 56  | Parking in a hotel zone                       | 40           | 20            |
| 57  | Parking in a general loading zone             | 40           | 20            |
| 58  | Parking in school loading zone                | 40           | 20            |
| 59  | Parking in a church loading zone              | 40           | 20            |
| 60  | Parking in a handicapped persons loading zone | 150          | 75            |
| 61  | Parking in a taxi stand                       | 40           | 20            |
| 62  | Parking in a bus zone                         | 80           | 40            |
| 63  | Parking in a shuttle bus zone                 | 40           | 20            |
| 65  | Parking in a safety zone                      | 60           | 30            |
| 66  | Improper parking in an angle parking zone     | 40           | 20            |
| 67  | Parking in a reserved parking area            | 40           | 20            |
| 68  | Parking in a special parking zone             | 40           | 20            |

|   |   |        |       |
|---|---|--------|-------|
| 69  | Parking in a compact parking spot                         | 40     | 20    |
| 70  | Parking in a passenger zone                               | 40     | 20    |
| 71  | Parking in a metered zone                                 | 40     | 20    |
| 75  | Trailer parking in metered zone                           | 40     | 20    |
| 76  | Parking in a temporarily reserved zone                    | 40     | 20    |
| 77  | Improper objects inserted in pay station                  | 350    | 175   |
| 78  | Parking in ticket controlled parking zone                 | 40     | 20    |
| 79  | Parking in a sightseeing stand                            | 100    | 50    |
| 80  | Parking in horsedrawn sightseeing stand                   | 100    | 50    |
| 81  | Parking in a tourist parking zone                         | 40     | 20    |
| 82  | Unloading merchandize or freight                          | 40     | 20    |
| 83  | Prohibited parking at night                               | 60     | 30    |
| 84  | Sleeping in a parked vehicle overnight                    | 40     | 20    |
| 85  | Parking with inadequate space between vehicles            | 40     | 20    |
| 86  | Parking on a one way street                               | 40     | 20    |
| 87(2)(b), (c),<br>(e) to (k), (n),<br>(o) | Miscellaneous stopping, standing and parking prohibitions | 40     | 20    |
| 87(2)(d),(l),<br>(m)                      | Miscellaneous stopping, standing and parking prohibitions | 60     | 30    |
| 88  | Parking in relation to a curb                             | 40     | 20    |
| 90  | Parking adjacent to yellow curb lines                     | 60     | 30    |
| 95  | Parking commercial vehicles in residential zones          | 40     | 20    |
| 96  | Parking trailer left on street                            | 40     | 20    |
| 102(1)                                    | Prohibited items on street and sidewalk                   | 102.50 | 51.25 |
| 110                                       | Parking, stopping, standing on sidewalk                   | 60     | 30    |
| 117                                       | Chalk on vehicle  | 102.50 | 51.25 |

# Appendix C: Proposed Administrative Fees Bylaw, Amendment Bylaw

NO. 16-XXX

## ADMINISTRATION FEES BYLAW, AMENMENT BYLAW (NO. 3) A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to amend the Schedule "A" of the Administration Fees Bylaw to include a fee for turning over unpaid accounts to a collection agency.

Under its statutory powers, including sections 194 of the *Community Charter*, the Council of The Corporation of the City of Victoria enacts the following provisions::

1. This Bylaw may be cited as the "ADMINISTRATION FEES BYLAW, AMENDMENT BYLAW (NO. 1)".
2. Schedule "A" of the Bylaw No. 04-40, the Administration Fees Bylaw, is deleted and the Schedule "A" attached to this bylaw is substituted for it.

|                        |        |       |
|------------------------|--------|-------|
| READ A FIRST TIME the  | day of | 2016. |
| READ A SECOND TIME the | day of | 2016. |
| READ A THIRD TIME the  | day of | 2016. |
| ADOPTED on the         | day of | 2016. |

**Schedule "A"**

### Administration Fees

| Matter to which fee applies   | Administration Fee   |
|---|--|
| - processing information requested by mortgagee in relation to property that is subject to a mortgage held by that person   | \$10.00 per folio  |
| - request for special utility billing of a fee or charge under the Waterworks Bylaw, the Sanitary Sewer and Stormwater Utilities Bylaw, or the Solid Waste Bylaw              | \$30.00 per request  |
| - returned cheque or dishonoured credit card in respect of the payment of a fine, penalty, fee, or charge prescribed by or under a City bylaw or the <i>Community Charter</i> | \$25.00 per returned item  |
| - Account turned over to a Collection Agency  | Additional 50% of amount outstanding prior to being turned over to a Collection Agency |
| - Bylaw Notice issued under the Bylaw Notice Adjudication Bylaw turned over to a Collection Agency.   | Additional 50% of amount outstanding prior to being turned over to a Collection Agency |

## Appendix D: Municipalities who have implemented Bylaw Notice Dispute Adjudication

|  |   |
|--|---|
| City of North Vancouver                      | Saturna Island Local Trust Committee        |
| District of North Vancouver                  | Town of Oliver                              |
| District of West Vancouver                   | Town of Gibsons                             |
| City of Chilliwack                           | City of Vernon                              |
| City of Coquitlam                            | Corporation of the City of Nelson           |
| City of Richmond                             | Sun Peaks Mountain Resort Municipality      |
| District of Hope                             | Sunshine Coast Regional District            |
| District of Kent                             | Town of Creston                             |
| Fraser Valley Regional District              | City of Vancouver                           |
| City of Duncan                               | District of Maple Ridge                     |
| The Municipality of the Village of Lions Bay | Gabriola Island Local Trust Committee       |
| Bowen Island Municipality                    | Hornby Island Local Trust Committee         |
| District of Pitt Meadows                     | Lasqueti Island Local Trust Committee       |
| District of Squamish                         | Mayne Island Local Trust Committee          |
| Village of Harrison Hot Springs              | South Pender Island Local Trust Committee   |
| City of Abbotsford                           | Thetis Island Local Trust Committee         |
| Township of Langley                          | Northern Rockies Regional Municipality      |
| City of Burnaby                              | Peace River Regional District               |
| City of Port Coquitlam                       | The Corporation of Delta                    |
| Greater Vancouver Regional District          | Village of Valemount                        |
| Cariboo Regional District                    | District of Sechelt                         |
| Corporation of the City of New Westminster   | City of Nanaimo                             |
| City of Cranbrook                            | Town of Golden                              |
| City of Parksville                           | Regional District of Central Okanagan       |
| District of Tofino                           | Thompson-Nicola Regional District           |
| City of Kelowna                              | District of Coldstream                      |
| City of Penticton                            | Regional District of Central Kootenay       |
| District of West Kelowna                     | City of Williams Lake                       |
| District of Summerland                       | The Corporation of the Village of Fruitvale |
| District of Peachland                        | Corporation of the Township of Esquimalt    |
| Regional District of Okanagan-Similkameen    | City of Port Alberni                        |
| Denman Island Local Trust Committee          | District of Wells                           |
| District of Lake Country                     | City of Dawson Creek                        |
| Galiano Island Local Trust Committee         | Squamish-Lillooet Regional District         |
| Gambier Island Local Trust Committee         | Corporation of the City of Enderby          |
| North Pender Island Local Trust Committee    | Corporation of the City of Victoria         |
| Salt Spring Island Local Trust Committee     |   |