

Report

Date November 5, 2025

File: SPP00113

Subject Analysis of the Large Project Surcharge for OCP Amendments

PURPOSE

To present options regarding the Large Project Surcharge (LPS) for Official Community Plan (OCP) amendments in Fees and Charges Bylaw No. 3784 (2020).

BACKGROUND

Development Application and Correspondence to Council

On May 27, 2025, Council received [correspondence](#) from Jim Dias, on behalf of Ken and LeeAnne Nickell, regarding a development application for 3037 & 3047 Westhill Place (PID: 017-831-105), a 2.04-hectare property to enable a two-lot subdivision. The application sought:

- an OCP amendment (from 'Agriculture, Forestry & Conservation (Rural)' to 'Rural Residential'), and,
- a zoning amendment (from A2 [Rural] to A3 [Rural Restricted]).

The applicant described the proposal as creating no immediate increase in residential density, since each of the two existing dwellings would remain on its own lot. However, by enabling subdivision and rezoning to A3 (Rural Restricted), the application did introduce density potential, permitting up to four units (two per lot) under the new zoning, which is a requirement under recent amendments to the *Local Government Act (Housing Statutes (Residential Development) Amendment Act, 2023 [Bill 44])*.

June 4, 2025 Council Meeting

At its [June 4, 2025 meeting](#), Council considered the applicability of the \$5,000 LPS to the OCP amendment associated with this subdivision. The applicant described the proposal as a "simple subdivision" and raised concerns regarding the proportionality of the surcharge, citing the minimal scale and negligible impact of the application on municipal services.

Council subsequently directed staff to explore options for modifying the LPS when applied to "low-complexity" applications, ensuring the fee is proportional to staff effort.

DISCUSSION

Part 1 – Statutory Framework and Fee Amendment Rationale

Legislative Context

Under *Community Charter s.194* and *Local Government Act s.462(2)*, municipal fees must be set by bylaw and must not exceed the estimated average processing cost. Amendments to fees, such as surcharges, reductions, or refunds, require supporting cost documentation and a formal bylaw amendment. Staff cannot waive or adjust fees unless expressly authorized through existing provisions or Council-approved changes. In this regard, the agent's request that the Fees & Charges Bylaw is

amended to “... provide staff with a degree of flexibility [with respect to the Large Surcharge]” is fundamentally problematic. A fee bylaw cannot, and should not, be subjective and discretionary.

As a result of the statutory context for Local Government fee-setting whereby a fee “...must not exceed the estimated average costs of processing, [...]” it is necessary to determine “average”. By definition, the actual cost of processing will fall below the average for some individual applications, and above the average for others. The agent’s letter contends that their application is “straightforward” in nature and would therefore fall into the “below average” group of applications relative to the fee.

2022 Comprehensive Review of Development Application Fees

A [2022 fee review](#) confirmed that development application fees were significantly below actual processing costs, resulting in the unintended subsidization of private development through general revenue. This finding contradicted North Cowichan’s policy direction favouring [cost recovery](#) from direct beneficiaries.

Key Findings:

- Processing time varies significantly with complexity; “basic” files require approximately [20-30 staff hours](#), while complex applications may exceed 100 hours.
- OCP amendments cost an estimated [\\$4,000 - \\$30,000](#) to process.
- A [60% cost-recovery model](#) was recommended, balancing applicant benefit with broader community value.
- Graduated fees and surcharges were proposed to align cost recovery with administrative complexity.

These findings led to the implementation of the [LPS](#), designed to more accurately reflect actual processing costs generally associated with larger application sites. Currently, under *Fees & Charges Bylaw No. 3784*, a [\\$5,000 surcharge](#) applies to OCP or rezoning applications involving parcels between 1.5 and 3.0 hectares. OCP amendments typically involve substantive policy analysis, multiple departments, and public engagement. Even seemingly “minor” OCP amendments may have knock-on implications elsewhere in the OCP, such that the document has to be reviewed as a whole in the context of every proposed amendment. For this reason, it is difficult to pre-determine whether an application is “basic” or not. The lot size was therefore chosen as a proxy, as larger sites typically recruit more complexity and issues, noting that this correspondence is an average and will not necessarily be reflected in every individual instance.

The current LPS fee structure from *Fees & Charges Bylaw No. 3784*, Schedule C is shown below:

SCHEDULE C – DEVELOPMENT AND PERMITTING FEES

(Section 3, Development Application Fees) [BL3793, B:3839, BL3894; BL3954; BL3960, BL3993]

6. The large project surcharge [Items 5, 6 and 7] excludes Zoning Bylaw text amendment applications for Agricultural and Institutional Zones (A1, A2, A3, A4, A5, PI, PU, and PC) and Zoning Bylaw amendment applications to increase residential density by 3 or fewer units.
7. The large project surcharge [Items 5, 6 and 7] for OCP or Zoning Bylaw amendments applies where an applicant has requested changes to land use designations.

Official Community Plan (OCP) and Zoning Bylaw Amendment Fees:

5	OCP or Zoning Bylaw Amendment – Large Project Surcharge ^{6, 7} Site Area >1.5 ha and <3.0 ha	\$5,000
6	OCP or Zoning Bylaw Amendment – Large Project Surcharge ^{6, 7} Site Area >3.0 ha and <6.0 ha	\$10,000
7	OCP or Zoning Bylaw Amendment – Large Project Surcharge ^{6, 7} Site Area > 6.0 ha	\$15,000

Part 2 – Comparative Regional Practices

The jurisdictional review in Attachment 1 confirms that North Cowichan's tiered, parcel-size-based fee model is not only common but represents a balanced choice. The scan demonstrates that while more nuanced models exist, they introduce significant administrative burden and potential for dispute. The summary table below captures the core idea, advantages, and recurring drawbacks of the four common model families observed in practice, illustrating the trade-offs involved.

Model Type	Core Idea	Advantage	Drawback
Flat-Fee Models	One price per application type.	Predictable and easy to administer for staff and applicants.	Misaligns with actual effort; often significantly under-charges complex files and over-charges simple ones.
Tiered Models	Uses parcel size or basic lot-yield bands as a proxy for complexity.	Adds a degree of nuance while remaining relatively simple to administer.	Can overcharge low-impact applications on large parcels and undercharge high-impact applications on small parcels; still a coarse proxy for effort.
Complexity-Based Models (e.g., Minor vs Major)	Aligns fees with expected workload by creating different fee levels for minor and major amendments.	Links fees to known workload signals without speculative yield.	Requires a clear, defensible Minor/Major distinction; invites classification disputes and intake delays.
Intensity-Based Models (development yield)	Scales fee to proposed development yield (e.g., units) rather than parcel size.	Aims for proportionality to project scale.	Speculative at OCP stage; yield often unknown, negotiation-prone; reduces predictability and adds admin work.

Part 3 – Analysis of Options for Refining the Large Project Surcharge

Following Council's direction, staff analyzed two pathways to refine the LPS for OCP amendments. Each option balances the goals of fee proportionality, policy integrity, administrative efficiency, and equity. A detailed analysis of each option is provided in Attachment 2. The following table offers a high-level comparison of options for refining the LPS.

Option	Core Idea	Key Advantage	Primary Drawback	Evaluation of Trade-Offs
Status Quo (Tiered Model)	Maintains the current LPS structure without any change.	Consistent, predictable, low administrative overhead; aligns with the 2022 cost-recovery approach.	May not address perceived inequity for low-impact files.	Optimizes for predictability and administrative Simplicity. Accepts that perfect proportionality is unattainable without creating significant downsides, as demonstrated by the regional scan.
Minor OCP Amendment Fee Model	New "Minor OCP Amendment" fee category exempt from the LPS. Applications not meeting the "Minor" criteria default to the standard fee structure.	Provides a pathway for low-impact files that seeks to align fees with the potential complexity.	Requires precise, defensible criteria; does not legally prevent later intensification (policy risk remains). Defining "minor" is very difficult.	Aims for better proportionality but sacrifices administrative simplicity (requires defensible criteria, potential for disputes) and can reduce predictability for applicants unsure of their classification.
Intensity Based Model	New fee category contingent on the potential development yield arising from the amendment.	Aligns the fee with the scale of future development.	Adds legal and administrative complexity during the initial setup and application intake. Increases processing time and administrative load.	Seeks better proportionality but at a high cost to administrative simplicity and predictability (complex rules for applicants). Development intensity is not necessarily a significantly better proxy for complexity than lot size.

Both alternative models seek a proxy for complexity other than lot size. The difficulty inherent in any of these approaches is that OCP amendments are policy-based and require contemplation of how a proposal aligns with the entire framework; a determination that may be largely independent of the scale of development. In this regard, it is almost impossible to predict in advance (and in readily objective terms that could be captured by a fees bylaw) whether an OCP amendment will involve a significant amount of thought and work.

This problem can be illustrated by way of example, using two OCP amendment files considered by Council since 2022:

- OCP00026 [1771 Robert Street] adopted July 17, 2024
- OCP00033 [3499 Henry Road, Morgan Maples] denied August 20, 2025

At first glance, the Morgan Maples application appeared “simple,” seeking only a tenure change for development otherwise permitted. In contrast, 1771 Robert Street appeared “complex,” proposing a substantial number of new lots and housing units.

In practice, however, Morgan Maples required far more analysis to generate options that could reconcile the request with the OCP. The effort - reflected in the length and complexity of the staff reports - stemmed from a fundamental misalignment between the proposal (and its implications) and the OCP’s growth hierarchy.

The Robert Street application, on the other hand, conceptually aligns with the OCP’s own terms. Despite the level of development intensity, the proposal was not a radical departure from the growth strategy; the amendment ultimately amounted to a relatively straightforward adjustment to the Urban Containment Boundary consistent with Council direction.

The above example demonstrates that the complexity of a development concept that is subject to an OCP amendment is a poor predictor of processing time and cost. Arguably, using site area in the tiered approach is a little better, but it is much simpler to determine. Against the alternatives, the Status Quo option preserves a defensible, predictable framework grounded in the [2022 cost-recovery work](#), avoids creating new boundary cases and classification disputes, and protects staff capacity for higher-value work.

While either refinement could improve proportionality for a narrow set of files, each adds administrative load (legal drafting/monitoring or criteria design/enforcement) with limited public benefit. On balance, the incremental advantage from either refinement is outweighed by the implementation, monitoring, and precedent risks at this time. Efforts to recognize non-complexity become self-defeating when that process itself adds complexity. If a change is pursued, despite these risks, it should be through one clearly defined pathway, which are presented as alternative options in preference order below.

OPTIONS

1. **(Recommended Option – Status Quo)** THAT Council takes no further action regarding the proposed amendments to the Large Project Surcharge, thereby retaining the existing fee structure under “*Fees and Charges Bylaw No. 3784.*”
 - *This option maintains the current tiered surcharge model for all applicable OCP and rezoning amendments.*
2. **(Alternative Option – “Minor” Fee Category)** THAT Council directs staff to bring forward a Fees & Charges Amendment Bylaw defining a “minor” category of Official Community Plan amendment.

- *This option would seek to identify types of OCP amendment that may have a greater likelihood of being straightforward, categorized as "minor" and carrying a lower fee.*
- *However, "minor" is defined, it may not ultimately present any lesser degree of arbitrariness than the tiered approach according to site area.*

3. **(Alternative Option – Intensity-Based Amendment Fee Model)** THAT Council directs staff to bring forward a Fees & Charges Amendment Bylaw providing an intensity-based fee scale.

- *This option would replace the parcel-size-based surcharge with a fee calculated on the potential development yield (e.g., number of units or lots) enabled by the OCP amendment.*
- *Requires a speculative analysis of future development potential at the early OCP policy stage, which can lead to disputes and fee uncertainty for applicants.*

IMPLICATIONS

Implication	Status Quo (Retain Current LPS)
Financial	No new revenue risk or leakage from exemptions. Avoids ongoing legal/administrative costs tied to covenants or classification disputes.
Policy/Legislation	Any move towards discretionary or conditional categories undermines the legally defensible 'average cost' principle that the entire fee structure is built upon.
Strategic Priority	Preserves transparent, predictable fees without building alternative fee schemes on the basis of a single perceived edge case. Keeps the fee signal that larger or more consequential amendments generally require more staff effort.
Governance/Risk	Avoids creating a new regime that would generate fresh marginal cases and follow-on requests. Reduces risk of challenges over criteria, monitoring, or near-miss files.
Precedent/Equity	Treats similar applications similarly under an established framework; does not open the door to ad hoc relief for one landowner that others will seek to replicate.
Workplan/Capacity	Prevents diversion of limited staff and legal time into designing and administering a new system, potentially on more subjective and time-consuming terms. Capacity remains available for higher-value projects already on the workplan.
Sustainability	No direct impacts anticipated.
Communication	Message remains simple and consistent: fees reflect average processing costs and are applied uniformly; avoids complex explanations about covenants or Minor/Major thresholds.
Staffing	No new training, templates, or monitoring protocols required; eliminates the need for intake screening against new criteria or covenant enforcement.

RECOMMENDATION

THAT Council takes no further action regarding the proposed amendments to the Large Project Surcharge, thereby retaining the existing fee structure under "Fees and Charges Bylaw No. 3784."

Report prepared by:



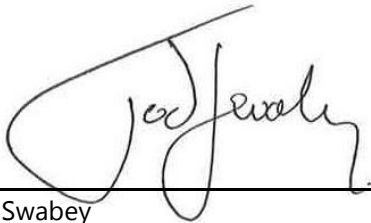
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Attachments:

- (1) Regional Approaches to Fees & Charges
- (2) Options for the Large Project Surcharge