



TSAWWASSEN FIRST NATION
s'cəwaθən məsteyəx^w

Land Use Planning and Development Act

**LATECOMER DEVELOPMENT COST RECOVERY
REGULATION**

Date Enacted: 8 August 2012

Order Number: O.036-2012

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Authority

1 This regulation is made pursuant to section 95 of the *Land Use Planning and Development Act*.

Definitions

2 (1) In this regulation,

“**Act**” means the *Land Use Planning and Development Act*;

“**developer**” means the owner of land being subdivided or developed;

“**excess or extended services**” means

- (a) a portion of a road or pathway system, including any land acquisition required to develop the road or pathway system, that will provide access to land other than the land being subdivided or developed, and
- (b) a portion of a water, sewage, energy or drainage system that will serve land other than the land being subdivided or developed; and

“**qualified professional**” means a professional engineer who is registered with the Association of Professional Engineers and Geoscientists of British Columbia.

(2) Unless specifically provided otherwise in these regulations, the terms used have the same meaning as defined in the Act.

Excess or extended services and latecomer payments

3 (1) Tsawwassen Government may require that a developer provide excess or extended services.

(2) If a developer, in accordance with servicing requirements under the *Subdivision and Development Regulation*, as amended from time to time, and those servicing requirements provide road or water, sewage, energy or drainage facilities that serve land other than the land being subdivided or developed, then the cost of providing those servicing requirements may be recovered pursuant to this section.

(3) If Tsawwassen Government makes a requirement under subsection (1), then part or all of the cost of providing the excess or extended services must be paid for by a developer.

(4) If the developer is required under subsection (3) to pay all or part of the costs of excess or extended services, the Tsawwassen Government must

- (a) determine the proportion of the cost of providing the highway or water, sewage, energy or drainage facilities that it considers constitutes the excess or extended service,
- (b) determine which part of the excess or extended service that it considers will benefit each of the parcels of land that will be served by the excess or extended service, and
- (c) impose, as a condition of an owner connecting to or using the excess or extended service, a latecomer charge related to the benefit determined under paragraph (b).

(5) If the Tsawwassen Government imposes a latecomer charge under section (4) (c), the director of lands may

- (a) require that the developer responsible for the cost of providing excess or extended services must have the necessary documentation required under subsection (4) prepared by a qualified professional, and

- (b) if the developer is required to prepare the documentation, then the director of lands, may use the information in order to calculate the latecomer charge, provided that the documentation has been reviewed and approved by an independent qualified professional selected by the director of lands.
- (6) If the Tsawwassen Government pays all or part of the costs of excess or extended services, it may recover costs by a latecomer charge under subsection (4) (c).
- (7) If the developer pays all or part of the costs of excess or extended services, Tsawwassen Government will pay the owner
 - (a) all the latecomer charges collected under subsection (4) (c), if the owner pays all the costs, or
 - (b) a corresponding proportion of all charges collected, if the owner pays a portion of the costs, provided that the developer has entered into a latecomer agreement with Tsawwassen Government that sets out the terms and conditions under which latecomer charges will be paid under this subsection.
- (8) A charge payable under subsection (4) (c) will include interest calculated annually at a rate of 5% per annum, payable for the period beginning when the excess or extended services were completed, up to the date that the connection is made or the use begins.
- (9) Tsawwassen Government shall collect latecomer charges payable for latecomer connections or use under subsection 4 (c) beginning when the excess or extended services are completed, up to a date specified by agreement between Tsawwassen Government and an owner, but no charges are payable beyond 20 years from the date the service is completed.

Waiver

- 4** Where the developer does not enter into a latecomer agreement, the director of lands may require the owner to sign a waiver acknowledging that he or she or they are not entitled to compensation from latecomers who may benefit from services that the developer has financed.

Fees

- 5** Prior to the execution of a latecomer agreement, a developer who wants to participate in the latecomer process, will be required to pay a non-refundable latecomer agreement administration fee of \$1,500 plus applicable taxes for each excess or extended service.