

Bylaw 127

SUBDIVISION WATER REGULATION BYLAW NO. 127 – A bylaw regulating the subdivision of land that is being proposed for connection to the District’s water system. (Repeals 113)

Adopted: April 22, 2009

- (a) “Applicant” means the owner of property, or the authorized agent of the owner, who has submitted a completed application for the subdivision of land to which water may be supplied by the District.
- (b) “District” means the Qualicum Bay – Horne Lake Waterworks District.
- (c) “Subdivision” means a subdivision as defined in the *Land Title Act* or the *Strata Property Act*.
- (d) “Standards” means the District’s water system construction and design standards according to local government standards.
- (e) “District’s System” means the water distribution system including all works owned and operated by the District.
- (f) “Trustees” means trustees for the District.
- (g) “Works” means any structures, including pipes, and all attachments, fittings, and facilities for the storage, supply, conveyance, treatment and distribution of water.

OTHER ENACTMENTS

2. Nothing contained in this bylaw shall relieve any person from responsibility for seeking out and complying with other enactments applicable to their undertaking.

GENERAL PROHIBITION

3. Land that is connected to the District’s System, or is proposed for connection to the District’s System, must not be subdivided contrary to this bylaw.

APPLICATION

4. (1) An owner of land who proposes to subdivide land and wishes to connect one or more parcels to be created by the subdivision to the District’s System must apply to the District by delivering to the District:

- (a) the form prescribed as Schedule “A” to this bylaw.
- (b) the plans and other information specified in Schedule “A”
- (c) a subdivision application fee of \$ 200.00 per lot.

(2) Every application for subdivision of land that will create a parcel to be connected to the District’s system must include a calculation of the peak hourly water demand and pressure requirement for the ultimate development of the parcels and sufficient information, plans and drawings for the District to determine whether the proposed works comply with this bylaw.

GENERAL PROVISION

5. (1) The trustees may refuse to approve the proposed subdivision where:

- (a) the proposed subdivision does not comply with the provisions of this and other applicable bylaws of the District;
- (b) one or more parcels to be created by the subdivision are to be connected to the District's System and the District has an insufficient water supply to provide such parcels with a supply of water.

(2) For the purpose of (1)(b), the demand that would be placed on the District's System as result of the proposed subdivision will be calculated having reference to the peak hourly water demand and pressure requirement for the ultimate development of the parcels or provided under section 4(2).

(3) Despite subsection (1), an application may be approved where the owner of the land provides the District with a reasonable proposal to increase the supply capacity of the District's system so that it is capable of providing the parcels to be created by the subdivision with a sufficient supply of water.

CONSTRUCTION OF WORKS WITHIN SUBDIVISION

6. (1) Subject to section 747.1(3) of the *Local Government Act*, an owner of land who proposes to subdivide the land must:

- (a) provide, locate and construct a water distribution within the subdivision; and
- (b) connect the water distribution system to the District's System in accordance with the Standards.

(2) The cost of providing, locating and constructing the water distribution system and connecting the water distribution system to the District's System must be funded completely by the owner of land providing the Works.

(3) The costs referred to in paragraph (2) include the cost of all permits, inspections, engineering costs and other costs related to the proposed subdivision.

CONSTRUCTION OF WORKS IN ADJACENT HIGHWAYS

7. In addition to the requirements of section 6, the Board of Trustees of the District may also, by resolution, require that an owner of land provide works and services in accordance with the Standards, on that portion of a highway immediately adjacent to the site being subdivided or developed up to the center line of the highway, in accordance with section 747.1(4) of the *Local Government Act*.

CONSTRUCTION OF EXTENDED SERVICES

8. Where the Board of Trustees requires that an owner of land provide excess or extended services under section 747.2 of the *Local Government Act*, the District will determine the proportion of the cost of the extended or excess service which will be borne by the applicant in accordance with the *Local Government Act* and any policy regarding latecomer charges approved by the Board of Trustees.

EXTENSION OF WORKS AND SERVICES

9. (1) All works required to be installed under section 6 must be installed along the full frontage of the land being subdivided or developed unless the lands beyond the land being subdivided or developed are incapable of further subdivision or development, as determined by the District.

(2) For the purpose of subsection (1) lands are not incapable of further subdivision or development by reason only that an amendment to an enactment of a local government or the District would be necessary to permit further subdivision or development.

TRANSFER OF WORKS TO DISTRICT

10. (1) An owner of land who has installed works under this agreement must:

- (a) transfer the works to the District and,
- (b) where any part of the works transferred to the District are located on lands owned by any person other than the District or within a highway, provide a statutory right of way agreement for the works in a form acceptable to the District, naming the District as transferee with priority over any financial encumbrances registered against the title to the land.

(2) An owner who transfers works to the District must:

- (a) remedy all defects in the Works for one year following the date of the transfer; and
- (b) deposit with the District an irrevocable standby letter of credit valid for at least one year from the date of the transfer in an amount not less than [*ten percent*] of the cost of the Works as security for the performance of the owner's obligations under (a).

COPIES OF PERMITS

11. The owner required to install Works under this bylaw must provide to the District a copy of the construction permit for the Works, issued by the Ministry of Health.

CONNECTION CHARGES

12. No person may connect any parcel to the District's System without paying all applicable charges in accordance with the District's bylaws.

APPROVAL PERIOD

13. (1) Subject to changes in an enactment which may affect a subdivision, approval of a subdivision under this bylaw will be valid for a period of six months.

(2) An approval under this bylaw must not be interpreted as limiting the function or authority of the Approving Officer under section 87 of the *Land Title Act*.

VIOLATION

14. A person who does any act or suffers or permits any act to be done in contravention of this bylaw or who neglects to do or refrains from doing any act or thing which is required to be done by this bylaw, commits an offense.

PENALTY

15. A person who commits an offense under this bylaw is liable on summary conviction to a penalty in accordance with the *Offense Act*.

SEVERABILITY

16. If any section, subsection, sentence, clause, or phrase of this bylaw is for any reason held to be invalid by the decision of any court, such section, subsection, sentence, clause or phrase may be severed from the remaining portion of this bylaw with the remaining portions of the bylaw remaining valid and of full force and effect.

INSPECTION AND RIGHT OF ACCESS

17. (1) The trustees, or an officer or employee of the District may enter at all reasonable times upon land subject to this bylaw, to ascertain whether the provisions of the bylaw are being obeyed, provided that:

(a) consent to inspect the land is obtained from the owner or occupier of the land, or;

(b) where such consent has been refused, written notice of the intent to inspect is given to the owner or occupier no less than 24 hours prior to the time of inspection

(2) No person shall obstruct or prevent a person referred to in paragraph (1) from carrying out any of the provisions of this bylaw.

REPEAL

18. Subdivision Water Regulation Bylaw No. 113 is repealed.

CITATION

19. This bylaw may be cited as the "Subdivision Water Regulation Bylaw No. 127".

INTRODUCED and given first reading by the Trustees on the **22nd day of April 2009**

RECONSIDERED and finally passed by the Trustees on the **22nd day of April 2009**.