

THE CORPORATION OF THE DISTRICT OF SUMMERLAND

BYLAW NUMBER 2000-194

A BYLAW TO IMPOSE DEVELOPMENT COST CHARGES

WHEREAS the Municipal Council of the Corporation of the District of Summerland under authority provided by the Local Government Act, R.S.B.C. 1996, c. 323, as amended and the general provisions of the Community Charter, S.B.C. 2003, c. 26, may, by bylaw, impose development cost charges for the purposes of providing funds to assist the District of Summerland to pay the capital costs of providing, constructing, altering or expanding water facilities, highway facilities, sewer facilities, drainage facilities, providing park land and improving park land, to service, directly or indirectly, the development for which the charge is being imposed;

AND WHEREAS the Municipal Council has taken into consideration the provisions of Section 934 of the Local Government Act;

AND WHEREAS the charges to be imposed by this Bylaw are related to capital costs attributable to projects included in the District's capital expenditure program and are consistent with the District of Summerland's Official Community Plan.

NOW, THEREFORE, Municipal Council of the Corporation of the District of Summerland, in open meeting assembled, enacts as follows:

1. Repeal of Existing Bylaws

On the Effective Date, all previous bylaws which impose development cost charges are repealed, including without limitation, Development Cost Charge Bylaw No. 2330 and all amendments thereto, in their entirety with respect to those developments for which subdivision applications or building permit applications are received after the date of the coming into force of this bylaw. Development Cost Charge Bylaw 2330 as amended will continue in force with respect to any development to which the provisions of Section 8 apply until such time as any development cost charges due under that bylaw has been paid in full to the District or Section 8 is no longer applicable.

2. Definitions

"Approving Officer" means an approving officer as defined in the Land Title Act;

“Building Permit” means the document authorizing the carrying out of any development, alteration or other work in accordance with the District of Summerland Official Community Plan, Zoning Bylaw, Building Regulations Bylaw, the BC Building Code or any other applicable statute or regulation;

“Bylaw” means this bylaw and any subsequent amendments hereto;

“Civic Use” means a use providing for public functions that is not otherwise included in the definition of Commercial Use and Industrial Use as provided in this Schedule, including

(a) government offices,

(b) public schools and private schools operated by duly incorporated federal or provincial societies exclusively as non-profit, charitable organizations,

(c) public colleges and universities and non-profit colleges operated by duly incorporated federal or provincial societies exclusively as non-profit, charitable organizations,

(d) public hospitals and private hospitals operated by duly incorporated federal or provincial societies exclusively as non-profit, charitable organizations,

(e) community centres,

(f) courts, police stations and jails,

(g) libraries and museums, and

(h) buildings associated with public parks, public playgrounds, cemeteries and works yards;

“Commercial Use” means a use providing for

(a) the sale or rental of goods or services or the servicing and repair of goods,

(b) retail sales,

(c) wholesaling in conjunction with retail sales,

(d) commercial offices,

(e) personal services, including without limitation, physiotherapy services, whether in a commercial or institutional zone as defined by the Zoning Bylaw,

(f) recreation or extensive recreation (as defined in the Zoning Bylaw) facilities,

(g) commercial schools, including, without limitation, facilities which include instruction in the arts, sports, business, self-improvement, academics and trades,

(h) household services and household repairs,

(i) service stations,

(j) tourist accommodations and facilities, including, without limitation, accommodations for the transient public in Dwelling Units or Sleeping Units, provisions for tents, trailers, motor homes (but not including mobile homes intended for permanent residency) and recreational vehicles,

(k) restaurants, drive-ins and food outlets,

(l) adult or child day care centres,

(m) Sleeping Units,

(n) uses ancillary to any Commercial Use described herein, including, without limitation, storage and warehouse areas and manufacturing, processing, fabricating, assembling, servicing and repairing facilities located within a building on the same Parcel that serve or enhance the Commercial Use,

(o) any Commercial Use permitted in any of the Institutional (“I”) zones created pursuant to the Zoning Bylaw, and

(p) without limiting the generality of the foregoing, includes any uses other than for Dwelling Units permitted in any Neighbourhood Commercial, Commercial Tourist, Central Business or Heavy Commercial zones created pursuant to the Zoning Bylaw;

“**DCC**” means the Water DCC, the Highway DCC, the Drainage DCC, the Sewer DCC, the Park Land Acquisition DCC and the Park Improvement DCC;

“**Development**” means any use or change in use, construction, building, erection, installation, repair, alterations, addition, enlargement, moving, locating, relocating, reconstruction, demolition, removal, excavation or shoring to which the District’s Building Bylaw applies or Development Permit Approval is required;

“**Dwelling**” means a residence providing sleeping, washrooms and a kitchen intended for domestic use by a household. A dwelling shall not include more than one room or area which, due to its design, plumbing or wiring, equipment and furnishings, may be used as a kitchen. This does not include rooms in a motel;

“**Effective Date**” means the date on which this Bylaw is given fourth and final reading;

“**Gross Floor Area**” means the total floor area of all stories of all buildings or structures with a clear ceiling height of 1.8 meters or more, measured from the outside face of the exterior walls or glazing line of windows. The gross floor area measurement does not include enclosed or open parking areas, garbage or loading rooms, floor areas devoted exclusively to mechanical or electrical equipment, basements, lofts, carports, unenclosed balconies, decks and stairways;

“**Household**” means:

- a) a person; or
- b) two or more persons related by blood, marriage or adoption/foster care agreement; or
- c) group of not more than five persons, including boarders, who are not related by blood, marriage, or adoption/foster care agreement; all living together as a single household using common cooking facilities.

d) This does not include an approved group home or an approved bed & breakfast home;

“Housing, Apartment” means a building comprised of more than four dwellings intended to be occupied by separate households, having common corridors, staircases and shared entrance and exit facilities which does not conform to any other housing definition;

“Housing, Duplex” means a building containing two dwellings intended to be occupied by separate households, divided horizontally or vertically by a common party wall, having separate at grade entrances. This does not include secondary suites;

“Housing, Fourplex” means a building containing four dwellings intended to be occupied by separate households, divided by a combination of horizontal and vertical party walls, having separate at grade entrances, which does not conform to any other housing definition;

“Housing, Manufactured” means a building containing one dwelling for occupancy by one household, built in an enclosed factory environment in one or more sections, intended to be occupied in a place other than its manufacture. All manufactured homes shall be constructed to either the CAN/CSA Z240 (Mobile Homes) or CAN/CSA A277 (Modular Home) standard;

“Housing, Row” means a building comprised of three or more dwellings intended to be occupied by separate households, in which the dwellings share no more than two vertical party walls with adjacent dwellings, each dwelling having a separate at grade entrance;

“Housing, Single Detached” means a building containing one dwelling designed for occupancy by one household. A secondary suite can be accommodated under this housing definition where specifically defined as a secondary use in this Bylaw. This use does not include manufactured housing;

“Housing, Stacked Row” means row housing except that the dwellings may be arranged two deep, either vertically so that the dwellings are placed over others or horizontally so that the dwellings may be attached at the rear as well as the side. Each dwelling will have a separate, but not necessarily, an at grade entrance;

“Housing, Triplex” means a building containing three dwellings intended to be occupied by separate households, divided by a combination of vertical and horizontal party walls, each dwelling having a separate, but not necessarily, an at grade entrance;

“Industrial Use” means a use that is not otherwise included in the definition of Commercial Use as provided in this Section, including uses providing for the manufacturing, processing, fabricating, assembling, storing, transporting, distributing, wholesaling, testing, servicing, repairing, wrecking or salvaging of goods, materials or things, and includes the operation of truck terminals, body shops, docks, railways, bulk loading facilities, storage facilities and abattoirs and, without limiting the generality of the foregoing, includes all uses permitted in any Industrial (“M”) zones created by the Zoning Bylaw;

“Land Title Act” means the Land Title Act, R.S.B.C. 1996, c. 250, as amended;

“Lot” means a parcel of land, including Crown Land, which is legally defined by registered plan or description at the Provincial Land Titles Office, but does not include a highway;

“Minister” means the Minister of Community, Aboriginal & Women’s Services for the Province of British Columbia;

“Park Land Acquisition DCC” means development cost charges imposed pursuant to this Bylaw for the purposes of providing the park land described in Part “I” of Schedule “E” to this Bylaw”;

“Park Improvement DCC” means the development cost charges imposed pursuant to this Bylaw for the purposes of providing the park land improvements described in Part “II” of Schedule “E” to this Bylaw;

“Park DCC” means Park Land Acquisition DCC and Park Improvement DCC;

“Roads DCC” means the development cost charges imposed pursuant to this Bylaw for the purposes of providing, constructing, altering or expanding the highway facilities described in Schedule “D” to this Bylaw;

“Secondary Suite” means a self-contained, second dwelling located within a single detached house having a separate outside entrance. This use does not include duplex housing;

“Sewer DCC” means the development cost charges imposed pursuant to this Bylaw for the purposes of providing, constructing, altering or expanding the sewer facilities described in Schedule “B” to this Bylaw;

“Sleeping Units” means one or more rooms that do not contain cooking facilities, used for the lodging of persons;

“Stormwater Drainage DCC” means the development cost charges imposed pursuant to this Bylaw for the purposes of providing, constructing, altering or expanding the stormwater drainage facilities described in Schedule “C” to this Bylaw;

“Strata Property Act” means the Strata Property Act, S.B.C. 1998, c. 43, as amended;

“Subdivision” means the division of land into two or more Parcels, whether by plan, apt descriptive words or otherwise, under the Land Title Act or the Strata Property Act;

“Water DCC” means the development cost charges imposed pursuant to this Bylaw for the purposes of providing, constructing, altering or expanding the water facilities described in Schedule “A” to this Bylaw;

“Zoning Bylaw” means the District of Summerland Zoning Bylaw No. 99-001, as amended or superceded from time to time.

3. Schedules

Schedules “A” through and including “F” annexed to this Bylaw are hereby incorporated into and form an integral part of this Bylaw.

4. Application of DCC

Subject to Section 5, every person who obtains:

- (a) approval of a Subdivision from the Approving Officer for the District, or
- (b) a Building Permit from the District,

for any Parcel must pay to the District the applicable DCC set out in Schedule "F" to this Bylaw in accordance with the provisions of Section 6.

5. Exemption from DCC

(a) DCC are not payable:

- (i) where the Building Permit 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 Section 220 (1)(h) or Section 224 (2)(f) of the Charter;
 - (ii) where a Building Permit authorizes the construction, alteration or extension of a building that will, after the construction, alteration or extension,
 - (1) contains less than 4 self-contained Dwelling Units, and
 - (2) be put to no other use other than the residential use in those Dwelling Units;
 - (iii) where the value of the work authorized by a Building Permit does not exceed \$50,000 or such other amount as the Minister may, by regulation, prescribe, and does not add Gross Floor Area to the existing building provided that, where the Building Inspector for the District, acting reasonably, believes that a construction estimate of less than \$50,000 provided in an application for a Building Permit in accordance with The District of Summerland Building Bylaw No. 92-081 is not reflective of the work described in the permit application, the Building Inspector may request that the applicant provide a construction estimate certified by a professional engineer in good standing with the Association of Professional Engineers and Geoscientists of the Province of British Columbia;
 - (iv) where the Development does not impose new capital cost burdens on the District; or
 - (v) where development cost charges have been previously paid for the Development unless, as a result of further development, new capital cost burdens will be imposed on the District.
- (b) If an owner of a Development has, with the approval of the District, provided or paid the cost of providing specific works and services outside the boundaries of the Development that are included in the calculations used by the District to determine the DCC, the cost of such works and services will be deducted from the class or classes of DCC which are applicable to the works and services.

6. Calculation of DCC

The DCC imposed by this Bylaw will be calculated in accordance with the charges set out in Schedule “F”. The charges specified differ with respect to different uses, but the charges are similar for all Developments that impose similar capital cost burdens on the District. Unless otherwise specifically provided in Schedules “A” or “F” to this Bylaw, where a Development to which DCC apply contains two or more uses, the DCC to be paid will be calculated separately for each use within the Development and the total DCC to be paid will be the sum of the DCC for all uses within the Development. If a Development would otherwise be subject to DCC where a Building Permit application or applications received concurrently for the entire Development or for phases of the Development containing three or more Dwelling Units each then, notwithstanding that an exemption might otherwise be available under Section 5(a) and (b) if the owner chooses to make only one Building Permit application at a time for each Dwelling Unit within the Development, DCC will be payable for each such Building Permit application.

7. Payment of DCC

- (a) Subject to Section 7(b), DCC imposed under this Bylaw must be paid in full to the District as follows:
 - (i) immediately before the approval of the final plan of Subdivision by the Approving Officer where the Subdivision creates One Family Residential Use or Two Family Residential Use, Parcels or bare land strata lots under the Strata Property Act; or
 - (ii) for all other types of Development to which this Bylaw applies, immediately before the issuance of a Building Permit for the Development by the District.
- (b) DCC that would otherwise be payable in full at the times indicated in Section 7(a) may be payable in installments provided that the Minister has, by regulation made pursuant to Section 933(6) of the Act, authorized the payment of the DCC in installments and prescribed the conditions under which such installments may be paid.

8. Grandfathering Provisions

- (a) In accordance with Section 943 of the Act and the decision of the British Columbia Court of Appeal in *Coho Creek Estates Ltd. v. Maple Ridge (District)* (1996), 34 M.P.L.R. (2d) 6, this Bylaw will not apply to any Subdivision or Building Permit for which the application was received by the District before the Effective Date provided that:
 - (i) the application is complete on its face at the time of submission and accompanied by all applicable fees of the District;
 - (ii) the owner of the Development to which the application relates has not otherwise agreed in writing to be bound by this Bylaw pursuant to Section 943 of the Act;
 - (iii) the final plan of Subdivision is approved by the Approving Officer and released to the applicant not more than 12 months after the Effective Date; and

(iv) the Building Permit is issued for the Development, as applicable, not more than 6 months after the Effective Date.

(b) In the event that a Subdivision plan is not registered in the applicable Land Title Office within 60 days of the date of execution of the plan by the Approving Officer, any request for re-execution of the plan by the Approving Officer will be deemed to be a new subdivision application and Section 8(a) will not apply to exempt the Subdivision from the DCC otherwise applicable under this Bylaw. Similarly, if a Building Permit expires for any reason pursuant to the provisions of The District of Summerland Building Bylaw No. 92-081 as amended from time to time or superceded, any subsequent Building Permit issued by the District will be subject to this Bylaw.

9. Name of the Bylaw

This bylaw may be cited as “Bylaw Number 2000-194, Development Cost Charges.”

Read a first, second and third time this 8th day of November, 2004.

Approved by the Inspector of Municipalities this 7th day of February, 2006.

Adopted by the Municipal Council of the Corporation of the District of Summerland this 13th day of February, 2006.

‘Bruce Hallquist’

Acting Mayor

‘Gillian Matthews’

Corporate Officer

Schedule "A"
to
Development Cost Charges Bylaw No. 2000-194

Water DCC

1. Trout Creek System Upgrade as per UMA Study

**Schedule “B”
to
Development Cost Charges Bylaw No. 2000-194**

Sewer DCC

1. Wastewater Treatment Plant Expansion as per Earthtech Study

**Schedule “C”
to
Development Cost Charges Bylaw No. 2000-194**

Stormwater Drainage DCC

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|----------------------------------|----------------------------------------------------------------------|
| 1. Jubilee Trunk | Jubilee at Cartwright to Henry, Wharton to Prairie Valley |
| 2. Prairie Valley Trunk | Prairie Valley at Prairie Creek (Phinney) to Brown at Prairie Valley |
| 3. Prairie Creek Upgrade | Giants Head School to Sinclair (Natural Drainage Course) |
| 4. Prairie Creek Upgrade | Highway 97 to West End of Butler (Natural Drainage Course) |
| 5. Munroe Stream | Victoria at Simpson to Canyon View (Natural Drainage Course) |
| 6. Deer Ridge Channel
Upgrade | Deer Ridge to Prairie Creek |
| 7. Bentley Road Trunk | West side of Bentley and across Bentley near Highway 97 |
| 8. Morrow Avenue | Morrow, Prairie Valley to East of Sutherland |

Schedule "D"
to
Development Cost Charges Bylaw No. 2000-194

Roads DCC

1. Jubilee Road Cartwright to Sinclair
2. Jubilee Road Sinclair to Rosedale
3. Peach Orchard Road Rosedale to Rose
4. Peach Orchard Road Rose to Lakeshore
5. Lakeshore Drive Peach Orchard to Fisher Close
6. Lakeshore Drive Fisher Close to 708 meters north of Highway 97
7. Lakeshore Drive 708 meters north of Highway 97 to Highway 97
8. Prairie Valley Road Wharton to Cartwright

**Schedule “E”
to
Development Cost Charges Bylaw No. 2000-194**

Parks DCC

I. Park Land Acquisition DCC

The acquisition of two land parcels on the water front along Lakeshore Drive and 4.27 hectares of land for community and neighbourhood parks in accordance with the District Of Summerland Recreation Master Plan, December 2001.

II. Park Improvement DCC

The provision of park land improvements to existing parks and to parks acquired after the Effective Date of this Bylaw pursuant to any of the Park Land Acquisition DCC Program, the subdivision process or other means, such as improvements to be:

(a) recreation buildings, such as

- (i) washrooms,
- (ii) washroom accessibility upgrades,
- (iii) change rooms, and
- (iv) change room upgrades; and

(b) outdoor recreation facilities, such as

- (i) sports fields,
- (ii) playgrounds,
- (iii) casual use facilities and amenities, and
- (iv) trails, fencing, landscaping, drainage and irrigation.

Schedule "F"
to
Development Cost Charges Bylaw No. 2000-194

Description	Water DCC	Sewer DCC	Stormwater Drainage DCC	Roads DCC	Parks DCC	Total DCC
Assist Factor	1%	1%	70%	50%	50%	
Single Family Residential – per dwelling unit	\$1,257	\$1,387	\$534	\$4,187	\$1,247	\$8,613
Multi Family Residential – per large dwelling unit *	\$1,257	\$1,387	\$353	\$4,187	\$1,247	\$8,431
Multi Family Residential – per small dwelling unit	\$880	\$971	\$353	\$2,931	\$873	\$6,008
Commercial – per square meter of gross floor area	\$5.14	\$5.68	\$1.98	\$13.97	\$0.00	\$26.77
Industrial – per square meter of gross site area	\$0.87	\$0.96	\$1.22	\$1.03	\$0.00	\$4.09
Institutional – per square meter of gross floor area	\$5.14	\$5.68	\$1.98	\$13.97	\$0.00	\$26.61

* Large dwelling is greater than 850 square feet of gross floor area