

	Policy Title: Excess or Extended Services – Latecomer Policy, 2023	Policy No: CO-023
	Authority: Council	Classification: Development
	Date Adopted: May 15, 2023	Motion No: 2023-142
Historical Changes:		

Purpose:

To set out how the latecomer legislation contained in the *Local Government Act* fits into the District of Sooke’s development process, and the key roles and responsibilities for all parties involved. It provides key details on: when a project is latecomer eligible; how a benefitting area is determined; how costs are apportioned; how exemptions and exclusions are determined, and other impacts.

Scope:

This policy applies to development applications where the Developer is required to construct and pay for Excess or Extended services beyond those required for subject property.

Definitions

In this Policy, the following definitions shall apply:

Defined word	Definition
Benefitting Lands	means the lands, other than the lands being subdivided and developed, deemed by the District of Sooke to directly benefit from the construction of Excess or Extended Services, whether the lands directly front the Excess or Extended Services or not.
Completion	means the date of issuance of a Certificate of Completion signed by the District of Sooke’s Municipal Engineer certifying that the Excess or Extended Services have been completed to the standards and specifications set out in the bylaws of the District of Sooke, such that the Excess or Extended Services have been fully tested, are functional and can be used for their intended purpose when the system becomes operational, all to the satisfaction of the District of Sooke’s Municipal Engineer.
Consulting Engineer	means the professional engineer of record hired by the Developer to design and inspect the construction of the Excess or Extended Services.
DCC Bylaw	means the District’s Development Cost Charges Bylaw as amended or replaced from time to time.
Designated Land Use	means land use at the time of the imposition of the Latecomer Charges, as designated by the current most detailed version of the District of Sooke’s Official Community Plan or by the Zoning Bylaw, whichever provides for the highest land use.
Developer	is the person who constructs and pays for the Excess or Extended Services.

EDU	means equivalent development units, being the number of equivalent single family residential units that a property is deemed to have. The total number of equivalent development units for a property is calculated in accordance with Appendix A to this Policy and the total developable area of the property.
Exempt Lands	are lands that directly front the extended services, but which cannot be assessed a latecomer fee as determined by the Municipal Engineer.
Excess or Extended Services	means that portion of a highway system that will provide access to land other than the Developer's Lands and that portion of a water, sanitary sewer or storm drainage system that will serve land other than the Developer's Lands and which are not included in the District of Sooke's DCC Bylaw.
Latecomer	is the registered owner of lands that front and directly benefit from the construction of the excess or extended services.
Latecomer Agreement	means an agreement as prescribed by the Municipal Engineer or designate between the District of Sooke and a Developer regarding the collection of Latecomer Charges.
Municipal Engineer	means the person appointed from time to time by the District of Sooke to perform in that role, or any other person authorized to act on their behalf.
Non-benefitting Lands	are lands that directly front the Excess or Extended Services, but which have been previously developed or have no future development potential. These may include but are not limited to ALR lands, dedicated parklands, environmentally protected lands, and Exempt Lands as determined by the District of Sooke.
Parcel	means any lot, block or other area in which land is held or into which land is subdivided, including strata lots created by strata plan.
Servicing Agreement	means an agreement pursuant to the <i>Subdivision and Development Standards Bylaw</i> for the installation of works and services, which may include Excess or Extended Services, by the Developer.
Subdivision and Development Standards Bylaw	means the District's Subdivision and Development Standards Bylaw as amended or replaced from time to time.

Principles

1. Where a Developer of land that is to be subdivided or developed is required by the District of Sooke to construct and pay for Excess or Extended Services, the Developer may enter into a Latecomer Agreement with the District of Sooke in accordance with this Policy.
2. Under the Latecomer Agreement, the District of Sooke shall impose a Latecomer Charge on Latecomers who are deemed by the District of Sooke to benefit from the Excess or Extended Services. The Latecomer Charges will be collected and paid to the Developer in accordance with this Policy.

3. Where there are no Excess or Extended Services being provided by the Developer, or where a Developer does not wish to take part in the latecomer process, a standard “waiver” clause will be added to the Servicing Agreement between the District of Sooke and the Developer confirming that the Developer does not wish to take part in the latecomer process and has agreed to pay all costs relating to the proposed works, including the Excess or Extended Services.

Administration

4. Latecomer Charges will be determined as follows:
 - 4.1 Preliminary Latecomer Charges will be calculated at the of time of the initial development application, based on the estimated construction costs as prepared by the Consulting Engineer and reviewed and accepted by the Municipal Engineer. The estimated construction costs will be used to prepare the Servicing Agreement, and for initial development inquiries for properties within the Benefiting Lands.
 - 4.2 Actual Latecomer Charges will be calculated at the time of certificate of completion and only after the final construction costs, as certified by the Consulting Engineer, have been reviewed and accepted by the Municipal Engineer. The actual Latecomer Charges will be applied to all of the Benefitting Lands identified in Schedule B, as appropriate.
5. Latecomer Agreements are valid for a period of fifteen (15) years from the date of Completion of the Excess or Extended Services.
6. In the event that the use of or connection to an Excess or Extended Service subject to Latecomer Charges and a Latecomer Agreement is made prior to Completion of the said service, Latecomer Charges shall be collected by the District of Sooke and held in trust pending Completion.
7. Upon the imposition of Latecomer Charges and the execution of a Latecomer Agreement, the District of Sooke will provide notice to owners of all Parcels affected by the Latecomer Charge in the form set out in Schedule C.
8. Latecomer Charges will be collected by the District of Sooke upon a connection to or use of an Excess or Extended Service. In the case of an existing building, connection to or use of an Excess or Extended Service is deemed to be at the time of application for connection to the Excess or Extended Service. In the case of a Parcel being developed, connection to or use of Excess or Extended Services is deemed to be at the time of application for a building permit.
9. Latecomer Charges, once collected, will be forwarded to the Developer by mail sent to the Developer’s last known address on or before the next June 1st or November 1st, whichever comes first. The Developer is responsible for notifying the District of Sooke of any change of address. In the event that Latecomer Charges are returned to the District of Sooke due to a failure on the part of the Developer to notify the District of Sooke of a change of name or address, the District of Sooke will hold the Latecomer Charges for a period not exceeding 12 months from the date of expiry of the Latecomer Agreement. Collected Latecomer Charges which remain unclaimed beyond this 12-month period, including any interest that may have accrued, shall be forfeited to the District of Sooke.

Fees

10. Prior to the execution of a Latecomer Agreement, the Developer must pay a non-refundable Latecomer Agreement administration fee in the amount of \$5,000.00 for each Excess or Extended Service. These fees are collected by the District of Sooke to offset the District of Sooke's administration costs for the term of each Latecomer Agreement.

Developer's Submission Requirements

11. The Consulting Engineer shall provide the following information for review and acceptance by the District of Sooke prior to the determination and imposition of Latecomer Charges and the execution of a Latecomer Agreement:
 - 11.1 A reproducible, scaled plan for each Excess or Extended Service showing the size, length and service catchment boundaries of the service required to serve the proposed development in accordance with the requirements of the Subdivision and Development Bylaw.
 - 11.2 Where the development includes Excess Services, the size(s) of the service(s) required to serve the entire catchment or design area shall be shown in brackets beside the size required to service only the land being subdivided or developed.
 - 11.3 For each Excess or Extended Service, the Consulting Engineer must submit the final construction costs of the Excess or Extended Service in a tabular format, detailing quantity, size, and costs, all under professional seal and signature.
 - 11.4 The cost of the Excess or Extended Service(s) shall only include the following and shall not include any costs for individual service connections, financing, or legal fees:
 - a) land or rights-of-way acquisition costs (only those incurred outside the Developer's lands);
 - b) design costs;
 - c) actual construction costs; and
 - d) inspection costs.
 - 11.5 For clarity, design costs may include all costs directly relevant to the design of Excess or Extended Services. These may include installation costs for works to be completed by the Capital Regional District Integrated Water Services (~~IWS~~) or the District of Sooke at the Developer's expense, such as permanent patches, tie-ins, testing and chlorination as well as engineering design fees relating to provision of certified record drawings and the District of Sooke's administration fees but does not include the latecomer agreement administration fee. Design costs shall not exceed 10% of the total construction costs accepted by the District of Sooke for each Excess or Extended Service and may be subject to a requirement for supporting documentation.
 - 11.6 The final costs of the works subject to Latecomer Charges and a Latecomer Agreement must be reviewed and accepted by the District of Sooke prior to the imposition of the Latecomer Charges and execution of a Latecomer Agreement.
12. The information required to be submitted to the District of Sooke pursuant to Section 11 must be provided in the following format and standard or as otherwise prescribed by the Municipal Engineer:

- 12.1 1:2500 scale depicting legal and topographic information on a standard letter size (8.5" x 11") paper, or as approved by the District of Sooke.
- 12.2 Excess or Extended Services must be shown in a bold, clear format.
- 12.3 Each Excess or Extended Service must be presented on a separate sheet.
- 12.4 Catchment Areas must be defined for sanitary and storm sewer services and, where applicable, must reflect the advanced street plan, the accepted lot grading plan and the sanitary catchment and storm water control plans.
- 12.5 Each sheet shall be clearly labelled and include the following:
 - a) proposed development (type, use, zoning, etc.);
 - b) area in hectares of land being subdivided or developed;
 - c) District of Sooke project number;
 - d) area of each Parcel of Benefiting Lands in hectares;
 - e) scale and date;
 - f) Consulting Engineer's professional seal and signature;
 - g) Developer's full name, address and telephone number;
 - h) all existing and proposed mains;
 - i) legend for existing and proposed mains, Developer's lands and Benefiting Lands;
 - j) excluded areas; and
 - k) a border line around proposed development area.

Cost Allocation

13. Where a Developer provides Excess or Extended Services, the District of Sooke will, in accordance with this Policy and upon acceptance of the documents required in Sections 11 and 12:
 - 13.1 Determine the proportion of the cost of providing the highway, water, sewage or drainage facilities that it considers constitutes the Excess or Extended Service.
 - 13.2 Determine the extent of the Benefiting Lands.
 - 13.3 Determine which part of the Excess or Extended Service that it considers will benefit the Benefiting Lands.
 - 13.4 Impose, as a condition of an owner of Benefiting Lands connecting to or using the Excess of Extended Service, a Latecomer Charge.
14. Design, construction and inspection costs of Excess and Extended Services shall be apportioned to Benefiting Lands by means of EDUs calculated in accordance with Schedule A to this Policy. The Cost per EDU shall be calculated in accordance with Schedule B to this Policy, and shall be based on the Designated Land Use.
15. Applicants within the Benefiting Lands wishing to develop will be required to remit the corresponding Latecomer Charges in its entirety, with interest as appropriate, prior to approval of the first unit of development. This is irrespective of the number of phases proposed for the development.

16. The total amount of Latecomer Charges to be paid to the Developer shall not exceed the total cost of the Excess or Extended Services plus accumulated interest.

Interest

17. Interest shall be payable on Latecomer Charges at a rate prescribed by the District's Latecomer Interest Rate Bylaw as amended from time to time. Interest charges shall accrue from the date of Completion and shall be paid to the Developer with each Latecomer Charge collected.

Exemptions

18. Latecomer Charges do not apply to works or portions of works the costs of which are included in the calculations used to determine the amount of a development cost charge under the DCC Bylaw.
19. Latecomer Charges do not apply to a property owner whose lands were connected to an existing District of Sooke road, water, sewage or drainage system which was of an adequate size and capacity for the intended land use prior to the date of a Latecomer Agreement unless the lands are developed to a higher density.
20. Latecomer Charges are not payable by Non-Benefiting Lands or Exempt Lands, as determined by the District of Sooke.
21. Properties that are exempt or excluded from Latecomer Charges shall not be taken into account when calculating the EDU.

General

22. Latecomer Charges are not subject to Goods and Services Tax (GST). This is based on the assumption that parties completing Excess or Extended Services are GST registrants and will be completing GST self-assessments.
23. No provision of this Policy shall be deemed to exempt any land from payment of frontage taxes, development cost charges or any like charges or fees imposed by any Bylaw of the District of Sooke of Sooke.
24. No provision of this Policy shall be deemed to limit or restrict the District of Sooke of Sooke from exercising full jurisdiction and control over the operations of the Excess or Extended Services.

References

Policy Number:	CO-023
Policy Owner:	Engineering
Endorsed by:	Leadership
Final Approval:	Council
Date Approved:	May 15, 2023
Review Date:	May 15, 2028
Revision Date:	

Related Policies:	Development Cost Charge Bylaw Development Cost Charge Policy Background Report Project List Development Cost Charge Frontender Policy
Related Publications:	

Contact Information

Position: Director of Operations

Schedule A to Latecomer Policy 8.7
Equivalent Development Units (Per Hectare)

Zoning Designation	Water	Sewage	Drainage	Roads
Resource and Rural (RU1, RU2, RU3)	0.5	0.5	8.2	0.5
Single Family Residential (up to 15 units/ha.)	15.0	15.0	15.0	15.0
Multi-Family Residential (16 to 44 units/ha)	38.0	25.5	17.7	29.3
Multi-Family Residential (45 to 74 units/ha)	59.7	40.0	20.5	51.0
Multi-Family Residential (more than 74 units/ha)	61.5	41.2	21.8	56.3
Commercial Zones (CN1, CS-1, C-2 to C-4, CM-1, CR-1, CR-2, C5)	85.5	34.5	24.5	48.0
Institutional Zones (P-1, P-2, P-3)	85.5	34.5	21.8	18.0
Industrial Zones (M-1, M-2, M-3, M-4)	95.4	25.8	23.2	14.6

Notes

1. Schedule "A" is a table of Equivalent Development Units ("EDUs") for various District of Sooke zoning categories, to be used in the calculation of the total number of EDUs for any given Parcel.
2. EDUs are established on the basis of net Developable Area and provide for the removal of road and park dedication, as well as non-buildable steep slopes and environmentally sensitive areas, subject to review and acceptance by the District of Sooke.
3. EDUs when calculated for a Parcel are always rounded to one decimal place and shall always be a minimum of 1.0.
4. The EDUs for Comprehensive Development (CD) zones shall be the same as those for Single-Family Residential and Multi-Family Residential, based on the number of units/ha.

Schedule B to Latecomer Policy

Latecomer Calculations Worksheet

Excess of Extended Service _____

Developer's Name: _____

Project Location: _____

Municipal File No.: _____

No.	Legal Description of Benefiting Lands	Tax Roll	Designated Land Use	Area in Ha.	EDUs per Ha.	EDUs per parcel	Cost per EDU
1							
2							
3							
4							
5							
6							
7							
8							
Total EDUs (Outside Proposed Development)							

1							
2							
3							
4							
Total EDUs (Inside Proposed Development)							
Total EDUs (Inside and Outside)							

A. Total Cost of Excess or Extended Services \$ _____

B. Total EDUs as per this sheet (above) _____

C. Total Cost per EDU (A/B) \$ _____

Consulting Engineer's Professional Seal and Signature: _____

Schedule C to Latecomer Policy
Notice to Owner of Benefiting Lands

Date:

District of Sooke File No.:

Dear:

Re: Latecomer Charges Property Address:
Folio No.:

Pursuant to the provisions of the *Local Government Act* and the District of Sooke's *Subdivision and Development Standards Bylaw*, the Developer of a proposed development project at [insert address] is required to install municipal services which will provide benefit to other areas, including the above referenced parcel(s) of land.

The cost of providing these services will be paid by the Developer. The *Local Government Act* provides that a portion of that cost be returned to the Developer by the owners of those benefiting properties if they connect to or use the services installed by the Developer. Accordingly, should you choose to connect to or use these services within a 15-year period from the date of completion of the services, as determined by the District of Sooke, you will be required to pay a charge, plus interest, to the District of Sooke at the time of connection to or use of these services (the "Latecomer Charge"). The said Latecomer Charge, which will be collected by the District of Sooke and forwarded to the Developer, is a pro-rated share of the cost of the excess or extended services which the District of Sooke has deemed will benefit the referenced parcel(s) of land.

The Latecomer Charge(s) that has/have been established as a result of this development is/are shown in the table below. This/These Latecomer Charge(s) are in addition to any others which may have been established as a result of previous developments.

Excess / Extended Services	Unit Latecomer Charge	Total EDUs¹	Maximum Latecomer Charge on this Parcel
-----------------------------------	------------------------------	-------------------------------	--

Water System:

Sanitary System:

Storm System:

Highways System:

¹ EDU means Equivalent Development Unit. The method of calculating EDUs varies depending on the land use designation in accordance with the latest OCP.

Should you decide that you wish to connect to or use these services, the Latecomer Charge(s) will be payable at the time of connection to or use of the service(s). If you do not connect to or use the services, you will not have to pay a Latecomer Charge. You are advised that health and local government regulations may require connection to sanitary sewer when available.

In addition to the Latecomer Charge(s) shown in this letter, connection to the sewer, drainage, or water system will require the payment of connection fees to the District of Sooke, plus any other fees that may be available at the time of connection.

For more information regarding this letter, please contact the District of Sooke's Engineering Department at (250) 642-1634.

Yours truly,

Municipal Engineer
District of Sooke