

# KEMP LAKE WATERWORKS DISTRICT

## BYLAW NO. 156

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### **A bylaw regulating the subdivision of land in the area comprising the improvement district.**

The Trustees of Kemp Lake Waterworks District ENACTS AS FOLLOW:

#### **1. DEFINITIONS**

In this bylaw:

- (1) "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.
- (2) "bare-land strata plan" means a strata plan on which the boundaries of the strata lots are defined on a horizontal plane by reference to survey markers, and not by reference to the floors, walls and ceilings of a building.
- (3) "common property" means so much of the land and buildings designated on the bare-land strata plan, or designated by the strata corporation for the use of the strata lot owners.
- (4) "District" means the Kemp Lake Waterworks District.
- (5) "District's system" means the water distribution system including all works owned and operated by the District.
- (6) "multiple occupancy" means a parcel of land having more than one unit of any combination of types of units.
- (7) "parcel" means any lot, block, strata lot or other area, which is the subject of separate registration in the Land Title Office.
- (8) "standards" means the District's Design Standards, Engineering Specifications and Standard Drawings document attached as Schedule B of this bylaw.
- (9) "strata corporation" means the corporation created by the Strata Property Act.
- (10) "strata council" means the Council designated or elected pursuant to the bylaws.
- (11) "strata lot" means a lot shown as such in a bare-land strata plan.
- (12) "subdivision" means a subdivision as defined in the *Land Title Act* or a subdivision under the *Strata Property Act* by bare-land strata plan.

- (13) “transfer of works” means the assumption of ownership by the district at the time of the registration of the subdivision in the Land Titles Office or in the case of works within an existing right of way, at the time of sign off by the District.
- (14) “trustees” means the trustees of the District or their duly authorized representatives.
- (15) “works” means any structures, including pipes, and all attachments, fittings, fire hydrants, service connections, meters and facilities for the storage, supply, conveyance, treatment and distribution of water.

## **2. OTHER ENACTMENTS**

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

## **3. GENERAL PROHIBITION**

Land that is within the District must not be subdivided contrary to this bylaw.

## **4. APPLICATION**

- (1) An owner or an authorized agent of the owner of land who proposes to subdivide land within the District 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) an application fee of \$75.
- (2) Every application for subdivision of land that will create a parcel 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.

## **5. GENERAL PROVISION**

- (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) 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 a 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 as provided under section 4(2).

- (3) Despite subsection (1), an application may be approved where the owner of the land provides to the District 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.

## **6. CONSTRUCTION OF WORKS WITHIN SUBDIVISION**

- (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 works for a water distribution system within the subdivision in accordance with the Standards; and
  - (b) arrange with the District for connection of 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 paid 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.

## **7. CONSTRUCTION OF WORKS IN ADJACENT HIGHWAYS**

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 pay the costs of providing works and services in accordance with the Standards, on that portion of a highway immediately adjacent to the site being subdivided or developed.

## **8. CONSTRUCTION OF EXTENDED SERVICES**

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.

## **9. EXTENSION OF WORKS AND SERVICES**

- (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.

## **10. TRANSFER OF WORKS TO DISTRICT**

- (1) An owner of land who has installed works under this bylaw 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 of works; and
  - (b) deposit with the District an Irrevocable Letter of Credit or cash deposit valid for a one year period from the date of transfer of works. The amount shall be determined as follows:
    - 20% of the contract price or Engineer's estimate (whichever is greater) for price or estimate of \$10,000 or greater
    - \$2,000 for any contract price or Engineer's estimate (whichever is greater) for price or estimate of less than \$10,000 but greater than \$2,000
    - the contract price or Engineer's estimate (whichever is greater) for price or estimate of \$2,000 or less.

## **11. COPIES OF PERMITS**

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.

## **12. CONNECTION CHARGES**

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

## **13. PRELIMINARY APPROVAL PERIOD**

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

## **14. FINAL APPROVAL**

- (1) Final approval will be granted only after all required works have been completed and all monies owing under this or other bylaws of the District have been paid to the District.
- (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*.

**15. BARE-LAND STRATA REGISTRATION**

Upon registration of a bare-land strata plan, and completion of the waterworks system, the strata corporation shall be subject to all District bylaws, and shall be responsible for the payment of all tolls, taxes, or other charges levied by the District, and shall operate and maintain the works within the subdivision in a manner satisfactory to the District.

**16. RESPONSIBILITY OF A STRATA COUNCIL**

Following the election or designation of a strata council, all terms and conditions set out in Section 15 above shall become the responsibility of the strata council.

**17. STRATA MAINTENANCE AGREEMENT**

To assure adequate maintenance of the distribution mains, fire hydrants, and other fittings within a bare-land strata subdivision, the District may enter into a legal agreement with the strata corporation or strata council respecting maintenance and repair of the works.

**18. VIOLATION**

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 offence.

**19. PENALTY**

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

**20. SEVERABILITY**

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.

**21. INSPECTION AND RIGHT OF ACCESS**

- (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.

**22. REPEAL**

Subdivision Water Regulation Bylaw No. 15 as amended by Amendment Bylaw No. 58 is hereby repealed.

**23. CITATION**

This bylaw may be cited as the “Subdivision Water Regulation Bylaw No. 156 .”

INTRODUCED and given a first reading by the Trustees on the 17th day of November, 2004.

RECONSIDERED and finally passed by the Trustees on the 17th day of November, 2004.

**SCHEDULE A**

**SUBDIVISION WATER REGULATION BYLAW NO. 156**

**KEMP LAKE WATERWORKS DISTRICT**

P.O. Box 465, Sooke, BC, V0S 1N0 Telephone: (250) 642-2875

Property Address(es): \_\_\_\_\_

Legal Description of Property (ies): \_\_\_\_\_

Registered Owner(s): \_\_\_\_\_

Address (Correspondence/calls to be directed to): \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**THE FOLLOWING MUST ACCOMPANY THIS APPLICATION:**

1. Copy of Indefeasible Title(s), dated within 30 days of the date of application.
2. A letter of authorization if the applicant is not the owner.
3. Plan of proposed subdivision with dimensions clearly illustrating lot layout, roads, etc. to a scale of not less than 1:2000. Four copies are required.
4. The layout sketch plan, in metric, must be prepared by a consulting engineer, planner, or land surveyor and show the following:
  - the full legal description of the parcel(s) to be subdivided;
  - the dimensions and area of all proposed lots;
  - the arrangement of parcels and streets which will be created by the subdivision, including the widths of the proposed streets and alteration of lot lines or subdivision of any existing parcels;
  - the location of all existing buildings and structures on the property;
  - existing property lines and highways to be eliminated by the proposed subdivision;
  - the location of all natural features and watercourses;
  - the relationship of the development to neighbouring parcels and highways;
  - intended use of each parcel to be created by the subdivision;
  - topographic information where land affected by the application is steep, irregular, or otherwise difficult to appraise in respect of the proposed development;
  - A plan of the water system to service the subdivision designed in accordance with the District's Standards.

- 5. An application fee of \$ 75.00.
- 6. Evidence of approval or authorization from other agencies involved in the subdivision process.

**PLEASE NOTE THE FOLLOWING:**

Personal information collected on this form is collected for the purpose of processing this application and for administration and enforcement of District bylaws related to subdivision. Personal information or business information submitted on this form is not considered to be supplied in confidence.

The District trustee(s), or their duly appointed representative, are authorized to enter the property for inspection purposes.

By signing this application, I/we acknowledge our responsibility for all costs incurred by the district in relation to this proposed subdivision.

Property owner(s) signature(s) : \_\_\_\_\_

OR:

Authorized agent's signature: \_\_\_\_\_

Dated this day \_\_\_ of \_\_\_\_\_, 200\_\_

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Approved this day \_\_\_ of \_\_\_\_\_, 200\_\_ .

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Authorized Signature



**SCHEDULE B**

**SUBDIVISION WATER REGULATION BYLAW NO. 156**

**Kemp Lake Waterworks District**  
**Design Standards,**  
**Engineering Specifications and**  
**Standard Drawings**