



## COUNCIL POLICY

**Subject: Latecomer**

<b>Policy No:</b>	<b>07-353</b>
<b>Previous Policy No:</b>	<b>07-402</b>
<b>Approved by Council:</b>	<b>2005-06-27</b>
<b>Revised by Council:</b>	<b>2008-06-23</b>
<b>Revised by Council:</b>	<b>2016-05-30</b>

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### 1. Purpose

- 1.1 To establish the principles governing the construction of Excess or Extended Services by Applicants in the Township of Langley and the reimbursement of Applicants for the cost of constructing such Excess or Extended Services through the collection and payment of Latecomer Charges.

### 2. Background

- 2.1 Pursuant to section 507 of the *Local Government Act*, the Municipality may require the owner of land that is to be subdivided or developed to provide an Excess or Extended Service at the owner's cost. If the Municipality imposes such a requirement, it must:
  - a) determine which part of the Excess or Extended Service that it considers will benefit the owners of Parcels of land that will be served by the Excess or Extended Service;
  - b) impose, as a condition of an owner connecting to or using the Excess or Extended Service, a Latecomer Charge; and
  - c) pay the owner who constructed the Excess or Extended Service the Latecomer Charges collected in connection with the Excess or Extended Service.
- 2.2 The Municipality is committed to the management of growth in an environmentally and fiscally responsible manner. To this end, a latecomer program can encourage land development and public infrastructure investments, minimize public risk and result in improved customer service.

### 3. Related Policies

- 3.1 07-230 Subdivision Policy
- 3.2 07-354 Development Cost Charges (DCCs) Policy

### 4. Policy

#### 4.1 Definitions

- 4.1.1 In this Policy, capitalized terms have the meanings set out in the Municipality's Latecomer Procedures Manual, which is available in print at the Municipality's Civic Facility or in digital format on the Municipality's website.

#### 4.2 **Responsibility for Costs of Excess or Extended Services**

4.2.1 If the Municipality obligates an Applicant to construct an Excess or Extended Service, the General Manager of Engineering may, in his sole discretion:

- a) obligate the Applicant to pay for all or a portion of the cost of constructing the Excess or Extended Service; or
- b) subject to funding availability, commit the Municipality to pay for all or a portion of the cost of constructing the Excess or Extended Service.

#### 4.3 **Applicant Waives Right to Latecomer Charges**

4.3.1 If an Applicant is obligated to pay for all or a portion of the cost of constructing an Excess or Extended Service and wishes to waive their right to Latecomer Charges in relation to such Excess or Extended Service, this waiver will be confirmed in writing in the Servicing Agreement entered into between the Applicant and the Municipality.

#### 4.4 **Latecomer Agreements**

4.4.1 If an Applicant is obligated to pay for all or a portion of the cost of constructing an Excess or Extended Service, the Applicant may apply to the General Manager of Engineering to enter into a Latecomer Agreement for reimbursement of the Excess or Extended Service construction costs it is obligated to pay.

4.4.2 Prior to the execution of a Latecomer Agreement, an Applicant must pay to the Municipality a non-refundable administration fee of \$2,500.00 plus applicable taxes, as determined by the General Manager of Engineering. This fee is collected to offset the cost to the Municipality of administering the Latecomer Agreement.

4.4.3 If an Applicant:

- a) fails to apply to the General Manager of Engineering to enter into a Latecomer Agreement, or
- b) applies to the General Manager of Engineering to enter into a Latecomer Agreement but fails to finalize and execute a Latecomer Agreement within 60 days of Substantial Completion of the Excess or Extended Service covered by the Latecomer Agreement,

the Applicant shall be deemed to be a party to a one day Latecomer Agreement which waives the Applicant's right to Latecomer Charges in relation to the Excess or Extended Service.

4.4.4 Subject to section 4.4.5, the term of a Latecomer Agreement shall be 15 years from Substantial Completion of the Excess or Extended Service covered by the Latecomer Agreement, or a shorter period specified in writing in the Latecomer Agreement.

4.4.5 A Latecomer Agreement shall automatically terminate when Latecomer Charges for the Excess or Extended Service covered by the Latecomer Agreement, together with accrued Interest on the Latecomer Charges, have been paid in full to the Applicant.

#### 4.5 **Calculation of the Costs of Constructing Excess or Extended Services**

4.5.1 Subject to section 4.5.2, the costs of constructing an Excess or Extended Service shall only include the following:

- a) the actual cost of acquiring land (other than the Applicant's land) or a right-of-way over land (other than the Applicant's land) which is required to construct the Excess or Extended Service;
- b) the estimated cost of constructing the Excess or Extended Service in accordance with the standards prescribed in the Bylaw; and
- c) the estimated cost of designing and inspecting the Excess or Extended Service,

all as certified by the Consulting Engineer and as approved by the General Manager of Engineering (collectively, the "**Construction Costs**").

4.5.2 The Construction Costs may include GST if:

- a) the Applicant is not a GST registrant;
- b) the Applicant provides the Municipality with written confirmation of the Applicant's non-registered status prior to the Municipality's calculation of the Construction Costs; and
- c) the GST is shown as a separate line item on the Consulting Engineer's estimate of Construction Costs.

#### 4.6 **Calculation of Latecomer Charges**

4.6.1 Latecomer Charges shall be calculated on a per metre basis in accordance with the following formula:

(Construction Costs, calculated in dollars)

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(The portion of the Benefiting Land, the Waived Land and Frontender Land which fronts the Excess or Extended Service, measured in metres)

4.6.2 Interest will accrue on Latecomer Charges from the date of Substantial Completion of the Excess or Extended Service.

#### 4.7 **Assessment of Latecomer Charges**

4.7.1 Subject to section 4.7.2, Latecomer Charges, and Interest accrued on Latecomer Charges, will be assessed against a Parcel of Benefiting Land when the owner of the Parcel of Benefiting Land:

- a) applies to the Municipality to connect to the Excess or Extended Service; or
- b) executes a Servicing Agreement for the Parcel of Benefiting Land.

4.7.2 The Municipality may, in its sole discretion:

- a) assess a portion of Latecomer Charges, and Interest accrued on Latecomer charges, against a Parcel of Benefiting Land when the owner of the Parcel of Benefiting Land applies to the Municipality to connect to the Excess or Extended Service; and
- b) assess the remaining portion of Latecomer Charges, and Interest accrued on the remaining portion of the Latecomer charges, against the Parcel of Benefiting Land when the owner of the Parcel of Benefiting Land executes a Servicing Agreement for the Parcel of Benefiting Land.

#### 4.8 **Payment of Latecomer Charges to the Applicant**

4.8.1 Latecomer Charges collected by the Municipality, together with Interest accrued on such Latecomer Charges, shall be reimbursed to the Applicant during the term of the Latecomer Agreement, and as they are received from the owners of Benefiting Lands. For certainty, Latecomer Charges shall not be reimbursed to the Applicant after the term of the Latecomer Agreement has expired.

4.8.2 In the event that collected Latecomer Charges are returned to the Municipality due to a failure on the part of the Applicant to notify the Municipality of a change of name or address, the Latecomer Charges collected on the Applicant's behalf will be held by the Municipality 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 thereon, shall be forfeited to the Municipality.

#### 4.9 **Pre-Servicing Works**

4.9.1 Parcel owners who do not connect to or use an Excess or Extended Service but who wish to pre-service their lands with more than one service connection, relocations, upsizing or stubbed Excess or Extended Services to the Excess or Extended Service while it is under construction, must make arrangements directly with the Applicant.

4.9.2 The Consulting Engineer must submit as-built drawings of all such pre-servicing works to the General Manager of Engineering and must verify in writing under seal and signature that the costs relating to such pre-servicing works have been excluded from their estimate of the Construction Costs.

#### 4.10 **Connections to Excess or Extended Service**

4.10.1 An Applicant must, at its sole cost and expense, connect all Parcels which are connected to a municipal service that will be replaced by an Excess or Extended Service, to the replacement Excess or Extended Service. For certainty, Parcels with private on-site services (e.g. well, septic system, drainage disposal system) shall not be entitled to this free connection.

**4.11 No Exemption From Charges, Taxes or Fees**

4.11.1 No provision of this Policy shall be deemed to exempt any land from payment of any charge, tax, or fee imposed by the Municipality.

**4.12 No Prejudice to Municipality's Powers**

4.12.1 Nothing contained or implied in this Policy will prejudice or affect the Municipality's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Local Government Act*, the *Community Charter* or any bylaw or resolution of the Municipality, including with respect to the management and operation of Excess and Extended Services.