

	Title: Latecomer <b>Policy</b>	Policy No: CO-82
	Category: Council Policy	Section: Engineering
	Authority: Council	
	Date Adopted: XXX(Month) XX(day), 2023	

## Purpose:

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

## Scope:

This policy outlines the procedure to be followed for processing of Latecomer Charges pursuant to the provisions set out in sections 507 and 508 of the Local Government Act.

## Definitions:

### “Applicant”

means an owner of land who undertakes the design and construction of Excess and/or Extended Services.

### “Benefiting Lands”

means lands, other than the Frontender’s Lands, Waived Lands, and Excluded Lands that have subdivision/development potential, and in the City Engineer’s sole opinion and in accordance with the City’s Latecomer Policy will obtain physical access to, connect to, front or benefit from an Excess or Extended service.

### “Council”

means the duly elected officials of the City, being the Mayor and Councilors.

### “Council Policy”

means Policy statements that provide strategic direction on programs and services delivered by the City which impact or affect citizens or customers, and/or Policy statements that require Council’s approval because of legislative or regulatory requirements.

### “City”

means the City of Langley.

### “City Engineer”

means the Director of Engineering, Parks & Environment or that person’s designate.

### “Consulting Engineer”

means a registrant, as defined in Section 5 of Schedule 1 of the Professional Governance Act, hired by the Applicant to design and inspect the construction (i.e., Field Review) of the Excess or Extended Services.

**“DCCs”**

means Development Cost Charges which are levied against developments pursuant to the City of Langley Development Cost Charges Bylaw, 2010, No. 2845, as amended or replaced from time to time, to offset some of the costs related to provision of infrastructure.

**“Developer”**

means the Owner, or the Owner’s duly authorized agent of land being subdivided or developed.

**“Excess Service”**

means the oversizing built into a sanitary sewer system in order to provide excess capacity to service Benefiting Lands. A service is not considered to be oversized if it does not exceed the minimum size as defined in the City’s Design Criteria Manual, as amended, even though it may be capable of servicing parcels other than the lands being subdivided or developed. A sanitary sewer pump station and/or forcemain system will be considered to provide Excess Service.

**“Excluded Lands”**

are lands that directly front the Excess Services or Extended Services, but which cannot be assessed a Latecomer fee as determined by the City Engineer. These may include, but are not limited to, Federal, Provincial, First Nations and Railway lands, plus lands that have previously paid a cash-in-lieu of construction contribution.

**“Extended Service”**

means a Highway, water, sanitary or storm sewer system that is not an Excess Service (oversized) but in the opinion of the City Engineer is capable of extending its service to Benefiting Lands that are adjacent to or fronting the service.

**“Field Review”**

is a professional obligation mandated in section 7.3.3 of the Bylaws of Engineers and Geoscientists BC and further described in the *EGBC’s [Guide to the Standard for Documented Field Reviews During Implementation or Construction](#)* and applies to those engineering projects that have been designed by the Consultant Engineers in the *City*.

Field reviews must be completed during the construction, implementation, testing, or commissioning of Works and Services related to the regulated practice by a Professional of Record, or a subordinate under the professional’s direct supervision, in a manner that is appropriate to the level of risk that has been assessed through a documented Risk Assessment.

**“Frontender Land”**

means land that is to be subdivided or developed by an Applicant.

**“Highway”**

means:

- A roadway which provides direct access to Benefiting Lands and may include pavement structure, active transportation, curb and gutter, sidewalk; and
- A roadwork within a roadway (that provides direct access to Benefiting Lands) which facilitates road safety to the Benefiting Lands connected to that roadway and may include:
  - Traffic signals;
  - Undergrounding BC Hydro;

- Streetlighting;
- Traffic calming measures; and
- Paint marking.

**“Latecomer”**

means an owner of Benefiting Lands.

**“Latecomer Administration Fee”**

means a fee, collected to offset the cost to the City for administering the Latecomer Agreement from its commencement to expiration date.

**“Latecomer Agreement”**

means an agreement between the City and an Applicant regarding the collection of Latecomer Charges for an Excess or Extended Service.

**“Latecomer Charge”**

means a charge imposed on Benefiting Lands by the City Engineer, which will be collected by the City as a condition of a Latecomer connecting to or using Excess or Extended Services, or on execution of a Servicing Agreement for the Benefiting Lands.

**“Minimum Size”**

means minimum allowable size, as set in the City’s Design Criteria Manual, as amended, for water, sanitary sewer, or storm sewer system.

**“OCP”**

means the City of Langley Official Community Plan Bylaw, 2021, No. 3200, as amended from time to time.

**“Owner”**

means an Owner or Owners of land undertaking subdivision/development.

**“Parcel”**

means any lot, block or other area in which land is held into which the land is subdivided, including strata lots created under the Strata Property Act.

**“Policy”**

means general statements or guidelines that are high-level in nature, as opposed to being operationally oriented, which direct a plan, course of action or decision, according to a standard or performance outcome.

**“Required Service Size”**

Means the minimum size of a sanitary pipe required to service the Frontender Land only. In all cases, the Required Service Size shall meet the minimum allowable sanitary pipe size (i.e., 200 mm), as per the City’s Design Criteria Manual.

### **“Servicing Agreement”**

means an agreement pursuant to the City of Langley Subdivision and Development Servicing Bylaw, 2021, No. 3126, as amended, or the Local Government Act for the installation of services by the Developer.

### **“Trail”**

means an improved public pathway that is often a part of a park or environmentally significant area and is proposed as Trail in the OCP or the Parks, Trail and Bicycle Plan.

### **“Waived Lands”**

are lands within the Benefitting Area, that the Applicant has chosen to waive or eliminate from Latecomer Charges.

### **“Works and Services”**

means any public service, facility or utility which is required under the Subdivision and Development Servicing Bylaw, as amended, plus what is described in the City’s Design Criteria Manual, including, without limitation services, facilities, systems or utilities: the supply and distribution of water for domestic use and fire hydrant system; collection and disposal of sanitary sewage; collection and disposal of surface drainage and other waters; grading, erosion and sediment control; streetlighting; Highways; Roadways; curbs; gutters; sidewalks; Trails; traffic control signs and devices; Roadway markings; Landscaping; supply and installation of electrical power plant and communications plant; and all incidental associated works.

## **Policy Provisions:**

### **1. Language**

- While the use of the singular is usually preferred, this Latecomer Policy uses plural to avoid a gender-specific pronoun when its use does not create ambiguity.
- Different words are used throughout this Policy to emphasize the degree to which a warrant or criterion requires adherence too. The following defines the intent of the commonly used word:
  - Shall: Describes a mandatory condition.
  - May: Describes a permissive condition - it refers to situations where upon approval of the City Engineer, other options or methods can be accepted.

### **2. Policy Statement**

The City 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.

This Policy sets the required process for determining and collecting Latecomer fees.

### **3. General**

- 3.1 This policy shall be considered as a guideline to assist in implementing Latecomer Charges. The provisions of sections 507 and 508 of the Local Government Act shall govern.
- 3.2 Latecomer Charges do not apply to offsite Works and Services which:

- Their costs, in the sole opinion of the City Engineer, are not excessive; or
  - Are voluntarily installed by a Developer pursuant to approval of the rezoning of their lands.
- 3.3 This policy applies to Excess or Extended Services required as part of the subdivision or development approval process and to the extension of Works and Services.
- 3.4 Latecomer Charges shall apply to the following services:

<b>Excess Service</b>	<b>Extended Service</b>
<ul style="list-style-type: none"> <li>• Sanitary Sewer system.</li> </ul>	<ul style="list-style-type: none"> <li>• Sanitary Sewer system;</li> <li>• Storm Sewer system;</li> <li>• Highway; and</li> <li>• Watermain</li> </ul>

- 3.5 Where the required Works and Services or portions thereof are included in the calculations to create DCCs, the servicing cost used to calculate Latecomer Charges shall be net of any credit given by the City towards DCCs payable.
- 3.6 A parcel with existing service connection(s) or Highway access(es) will be re-connected, at the Applicant's cost, to the new service(s) or access(es) without a Latecomer Charge. However, any additional development potential will be included in the calculation to determine what part of the Excess or Extended service benefits the parcel, and any further development will be subject to Latecomer Charges.
- 3.7 The City Engineer is authorized to determine Latecomer eligibility and entitlements.
- Eligible Excess or Extended Services may include Highway, sanitary, water or storm services.
- 3.8 The City Engineer is authorized to implement this Latecomer Policy.
- 3.9 All Latecomer Agreements are subject to the approval of the City Engineer.
- The City Engineer may approve variations in the required procedures to address specific circumstances.

#### **4. Administration Process**

- 4.1. If a Developer is obligated to pay for all or a portion of the cost of constructing an Excess or Extended Service, they may apply to the City Engineer to enter into a Latecomer Agreement for reimbursement of the Excess or Extended Service construction costs it is obligated to pay.
- If the Applicant 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 City.
- 4.2. If a Developer has entered into a Servicing Agreement or has commenced construction of works prior to the application for Latecomer Agreement, they shall be deemed to have forfeited their right to receive Latecomer benefits.
- 4.3. To execute a Latecomer Agreement, an Applicant must pay to the City a non-refundable Latecomer Administration Fee, plus applicable taxes, as per City of Langley Fees and Charges Bylaw, No. 2837, as amended.
- 4.4. Before applying for Latecomer Agreement, the Applicant shall prepare and submit detailed engineering drawings for the Excess Service, Extended Service, or both to the City

Engineer for review and approval. The Applicant's Consulting Engineer shall subsequently calculate Latecomer Charges and submit their draft to the City Engineer for review and approval of the calculation process.

4.5. For each Excess Service or Extended Service, the Applicant's Consulting Engineer shall provide a detailed cost estimate (Class B or better) to the City Engineer for review and approval.

- The Applicant's Consulting Engineer shall certify (sign and seal) their estimated cost of the Works and Services that are eligible for Latecomer Charges.
- The City Engineer will review the submitted costs and may require the Applicant's Consulting Engineer to revise cost items to reflect the latest market prices more accurately.
- The City Engineer reserves the right to require three public tender prices (i.e., Class A cost estimate) for any of the above-mentioned cost items submitted by the Applicant's Consulting Engineer. The submitted tender prices shall be sufficiently detailed for the City Engineer's review to verify the estimated costs, prior to acceptance of the construction cost estimates.

4.6. Latecomer Charge Calculations:

- Eligible Excess Service, Extended Service, or both costs for Latecomer Charges shall only include:
  - Estimated construction costs provided by the Applicant's Consulting Engineer.
  - Engineering design, subconsultant's cost (where approved by the City Engineer), and Applicant's Consulting Engineer's Field Review cost (during construction).
    - The total cost of the works under this item shall not exceed 10% of the total Latecomer Charges;
  - Land or Statutory Rights-of-Way acquisition costs (only those incurred outside the Frontender lands); and
  - City's Latecomer Administration Fee (as described in section 4.3).

Notes:

(1) Applicant's Consulting Engineer shall include the following declaration in their proposed cost estimates:

*"The seal and signature of the undersigned on this cost estimate report certifies that I have confirmed the accuracy of the proposed unit cost rate within the last 3 months and as such the provided costs reflect latest construction costs accurately."*

(2) Contractors' increased implementation/construction costs or estimates will not be considered by the City Engineer once Latecomer Charges have been imposed.

- Ineligible costs include:
  - Legal, planning, and City fees;
  - City Administration Cost (a cost item required for all Servicing Agreement, regardless of applying for Latecomer Charges);
  - Construction delays and interest;
  - Costs associated with any temporary works;

- Advertising and communication costs; and
- Service connection costs.

- 4.7. Latecomer Charges will be collected by the City for a period of fifteen years from the date of issuance of the Latecomer Agreement. Latecomer Charges will be levied against all Latecomers who apply for subdivision or development of Benefiting Lands or to connect to or use the Excess or Extended services prior to expiration of the fifteen-year period.

The City will maintain a record of Latecomer Charges collected and disbursed.

- 4.8. Latecomer Charges collected by the City shall be reimbursed to the Applicant on an annual basis by mail to their last known address. The Applicant is responsible for notifying the City of any change of address. The Applicant may assign their right to receive Latecomer Charges only by the submission of a letter in the form of that shown in **Appendix A**.

Should Latecomer payments be returned to the City due to a failure on the part of the Applicant to notify the City of a change of address or assignment of rights, these payments and all subsequent Latecomer Charges collected pursuant to this policy shall be kept in trust by the City.

- 4.9. Latecomer Agreement applications and processing shall be administered and be subject to the procedures and requirements detailed in the City of Langley "Latecomer Procedure" as amended from time to time.
- 4.10. No provision of this Policy shall be deemed to exempt any land from payment of any charge, tax, or fee imposed by the City.

## 5. Technical Process

- 5.1 All Excess and Extended Services shall be designed to meet the requirements set in the City of Langley Development and Subdivision Servicing Bylaw, 2021, N0. 3126 and Design Criteria Manual, as amended.
- 5.2 The Applicant's Consulting Engineer shall submit their final detailed design drawings for the proposed subdivision/development for review and acceptance by the City Engineer prior to the determination and imposition of Latecomer Charges and the execution of a Latecomer Agreement:
- 5.3 The Applicant shall provide the following information with their submission of the detailed engineering drawings for the proposed development:
- (a) A plan for each Excess Service and Extended Service, showing Required Service Size(s) and length(s).
  - (b) Where the Frontender Land includes Excess services, the size(s) of the oversized service(s) required to adequately service the entire catchment area under its OCP designated land uses therein shall be shown in brackets beside the Required Service Size(s).
  - (c) Calculations supporting the size(s) determined in (a) and (b) above shall be submitted by the Applicant's Consulting Engineer. For each Excess or Extended Service, a detailed cost estimate, prepared by the Applicant's Consulting Engineer, shall be provided to the City Engineer for review and approval.
- 5.4 Permission to construct, pursuant to this Policy will not be issued for Works and Services which are subject of a Latecomer Charges until the Latecomer Agreement and the

Servicing Agreement have been executed.

## **6. Financial Process**

- 6.1. Latecomer Charges shall be collected before signing a Servicing Agreement with a Latecomer.
- 6.2. The collected Latecomer Charges shall be paid annually to the Applicant on or before the end of June 30<sup>th</sup> of each year. No additional interest shall be payable from the time the Latecomer Charge is received to the time the City makes the payment to the Applicant.
- 6.3. No Latecomer Charge shall be collected after the Latecomer Agreement has expired.
- 6.4. The total amount paid to the Applicant shall not exceed the total estimated cost of the Excess or Extended Services plus accrued interest.
- 6.5. Interest shall be calculated annually at a rate prescribed in the City of Langley Development and Subdivision Servicing Bylaw, 2021, No. 3126, as amended, and shall be calculated from the date that the Excess Service or Extended Service was completed to the date on which the Latecomer connects to the service or makes use of the service. Interest for partial years shall be prorated to the nearest month. Interest collected shall be paid to the Applicant with each Latecomer Charge paid.
- 6.6. A Latecomer Agreement shall become null and void on the earlier of:
  - The fifteenth anniversary of the date of the Latecomer Agreement execution, at which time the City shall pay to the Applicant any remaining Latecomer Charges collected by the City; and
  - When all Excess Service and Extended Service costs, as estimated by the City, have been paid to the Applicant.
- 6.7. Latecomer Charges are payable as a condition of connecting to or using the Excess or Extended Service and prior to a Servicing Agreement is executed with the Latecomer.



# APPENDIX "A"

## ASSIGNMENT OR TRANSFER OF RIGHTS

**Date:**

**City of Langley Latecomer File Number:**

**To:** Director of Corporate Services, City of Langley,  
20399 Douglas Crescent, Langley, BC V3A 4B3

**Re:** Assignment or Transfer of Rights to Receive Latecomer Payments

**Applicant's Name:**

**Development Address:**

Dear Sir/Madam:

This is to inform you that any right to payment of Latecomer Charges, pursuant to the Latecomer Agreement for the above noted development dated Day/Month/Year has been duly assigned to:

Name of Assignee: \_\_\_\_\_

Address of Assignee: \_\_\_\_\_

Payment of any Latecomer Charges accruing due under the said Latecomer Agreement to the above-named Assignee shall constitute valid performance under the provisions of the said Latecomer Agreement as if the said Latecomer Charges had been paid to the undersigned.

**Attachment:** Latecomer Agreement for (*add development property address*)

Yours truly,

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title of the Authorized Signatory

**Notarized by:**