

This Act is Current to October 14, 2009

RESORT MUNICIPALITY OF WHISTLER ACT

[RSBC 1996] CHAPTER 407

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Schedule B

Definitions

- 1** In this Act, unless the context otherwise requires:

"inspector" means the inspector of municipalities appointed under the *Local Government Act*;

"municipality" means the Resort Municipality of Whistler continued as a corporation under section 2.

Municipality continued

- 2** The area of land within the boundaries set out in Schedule A and the residents in that area are continued as the corporation of the municipality known as the Resort Municipality of Whistler.

***Community Charter and Local Government Act* apply**

- 3** (1) Subject to this Act, the *Community Charter* and the *Local Government Act* apply to the municipality unless they are inconsistent with this Act or the regulations.
- (2) For the purposes of the *Community Charter* and the *Local Government Act*, the municipality is deemed to be a district municipality with all the powers under those Acts.

Boundaries of municipality

- 4** The boundaries of the municipality may be extended, redefined, altered or reduced by letters patent under the *Local Government Act*.

Size of council

- 5** Despite section 118 [*size of council*] of the *Community Charter*, the council of the municipality consists of a mayor and 6 councillors, unless this is varied by a regulation under section 10 (1) (b).

Borrowing and local service areas

- 6** (1) Section 174 [*limit on borrowing and other liabilities*] of the *Community Charter* does not apply to the municipality.
- (2) Section 180 [*elector approval required for some loan authorization bylaws*] of the *Community Charter* does not apply to the municipality, but the inspector may direct that the council must obtain the approval of the electors respecting a loan authorization bylaw.
- (3) Section 211 (1) [*requirements for establishing a local area service*] of the *Community Charter* does not apply to the municipality, but the inspector may direct that the council must obtain the assent of the electors or the approval of the electors respecting a bylaw for a local area service.

Borrowing requirement

- 7 The inspector may specify the sum that may be borrowed to meet the current lawful expenditure of the municipality in the year of incorporation and for the year next following, if the inspector considers it necessary or advisable.

Development charges

- 8 (1) In this section "**development**" means
- (a) subdivision of land,
 - (b) construction, alteration or extension of a building or other structure, and
 - (c) connection to a water or sewage system.
- (2) The municipality may construct, replace, acquire, operate and maintain one or more of the following:
- (a) a sewage collection, conveyance, treatment and disposal system;
 - (b) a water supply, treatment, conveyance, storage and distribution system, including water reservoirs;
 - (c) highway and transportation works and services, including off-street parking;
 - (d) transit works and services;
 - (e) recreational facilities;
 - (f) parks;
 - (g) other works and services prescribed by the minister.
- (3) In addition to rates, taxes and charges under the *Community Charter* or the *Local Government Act*, for the purpose of assisting the municipality to construct, replace, acquire, operate or maintain one or more of the works and services under subsection (2), the council may, by bylaw
- (a) impose charges on the owners of land for which or on which developments are undertaken, and
 - (b) provide for the collection of charges so imposed.
- (4) Charges imposed under subsection (3) may be made
- (a) on the value of land or improvements or both,
 - (b) on the area of buildings and structures on land,
 - (c) on the value of work permitted under a permit,

- (d) as a flat rate per parcel or unit, or
 - (e) on another basis approved by the minister.
- (5) Charges under subsection (3) may vary with respect to different
- (a) zones or other defined areas,
 - (b) uses,
 - (c) classes of building,
 - (d) classes of development,
 - (e) sizes or numbers of parcels or units, and
 - (f) works or services.
- (6) A bylaw that imposes charges under subsection (3) must specify the amount of the charges in a schedule or schedules.
- (7) The municipality must prepare a written report stating in detail the considerations, information and calculations used to determine the schedule referred to in subsection (6) and must make this available to the inspector on the inspector's request.
- (8) A charge imposed under subsection (3) is payable at the time
- (a) the subdivision is approved,
 - (b) the building permit is issued,
 - (c) connection to a water or sewage system is made, in respect of charges for those works and services, or
 - (d) that is specified in the bylaw, subject to the minister's approval.
- (9) Despite subsection (8), the council may, in a bylaw under subsection (3),
- (a) authorize payment of a charge by instalments and set terms under which the instalments may be paid,
 - (b) subject to the minister's approval, provide for refund of a charge, and
 - (c) impose on any portion of a charge that is overdue a penalty not greater than 10% of the overdue amount.
- (10) If the council authorizes the payment of a charge by instalments, it must, in the bylaw under subsection (3), require the owner to post security for payment in the manner specified.
- (11) A charge under this section is not payable

(a) if a charge has previously been paid for the same development unless, as a result of further development, new cost burdens will be imposed on the municipality, or

(b) in respect of a building permit authorizing 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) [*statutory exemptions for places of public worship*] or 224 (2) (f) [*permissive exemptions in relation to places of public worship*] of the *Community Charter*.

(12) Despite a bylaw under subsection (3), if the municipality has imposed a charge or made a requirement under

(a) section 729 or 965 of the *Municipal Act*, R.S.B.C. 1979, c. 290, before those sections were repealed,

(b) section 194 [*municipal fees*] of the *Community Charter*, or

(c) Division 11 [*Subdivision and Development Requirements*] of Part 26 of the *Local Government Act*

for park land or for specific works and services outside the boundaries of land being subdivided or developed, that are included in the calculations used to determine the amount of a charge, the amount of the charge imposed or the value of the requirement made under any of the provisions referred to in paragraphs (a) to (c) must be deducted from a charge that is applicable to the types of works and services or the park land for which the charge was imposed or the requirement was made.

(13) Despite a bylaw under subsection (3), if an owner has, with the approval of the municipality, provided or paid the cost of providing specific works and services that

(a) are outside the boundaries of land being subdivided or developed, and

(b) are included in the calculations used to determine the amount of a charge,

the cost of those works and services must be deducted from those charges that are applicable to the works and services provided by the owner.

(14) A bylaw under subsection (3) must not be adopted until approved by the inspector.

(15) The inspector may refuse approval under subsection (14) on the same grounds as the inspector may refuse approval under section 937 (1) and (2)

of the *Local Government Act*, and section 937 (3) to (6) of that Act applies.

Community plan

- 9** (1) The minister must, by regulation, enact an official community plan for the municipality.
- (2) An official community plan under subsection (1) has the same effect as if it were adopted by council under Division 2 of Part 26 of the *Local Government Act* and may be amended in accordance with the provisions of that Division or by a regulation made by the minister.

Power to make regulations

- 10** (1) Without limiting sections 1 to 9, the minister may make regulations as follows:
- (a) exempting the municipality from any Act applying to municipalities or modifying the application of any Act to the municipality;
 - (b) varying the number of council members established by section 5;
 - (c) prescribing additional works and services which may be undertaken by the municipality under section 8 (2),
 - (d) respecting the imposition and collection of rates and charges referred to in section 8,
 - (e) enacting or amending an official community plan under section 9, and
 - (f) respecting any other matter required to carry out the intent and purpose of this Act.
- (2) A regulation of the minister prevails over a bylaw of the municipality in the event of conflict.

Approval of bylaw by minister

- 11** (1) An official community plan does not take effect until it is approved in writing by the minister.
- (2) Subsection (1) may be repealed by regulation of the Lieutenant Governor in Council.

Definitions

12 In sections 12 to 20:

"**association**" means the association as a corporation under section 13;

"**bylaws**" means the bylaws of the association;

"**owner**" means

(a) the owner of an estate in fee simple registered, or

(b) the holder of an agreement for sale last registered under the *Land Title Act* and includes the holders of Crown leases and rights of way described in Schedule B;

"**registrar**" means a registrar as defined in the *Land Title Act*;

"**resort land**" means the land described in Schedule B and land deemed to be resort land under section 15 (3) or a lot, strata lot or other parcel into which the land is subdivided.

Corporation continued

13 The corporation known as the Whistler Resort Association is continued.

Purpose and powers

14 (1) The purpose of the association is to promote, facilitate and encourage the development, maintenance and operation of the resort land.

(2) The association may acquire and dispose of real and personal property.

Membership

15 (1) The owners of resort land and persons admitted under subsection (2) constitute the members of the association.

(2) A person who

(a) owns or carries on business on the resort land,

(b) is an occupier of resort land, or

(c) is an agent of an owner of resort land

may in accordance with the bylaws become a member of the association.

(3) An owner of land in the municipality that is not described in Schedule B may in accordance with the bylaws become a member of the association and on becoming a member the owner's land is deemed to be resort land.

Application of Acts

- 16** (1) The *Business Corporations Act* does not apply to the association.
- (2) The Lieutenant Governor in Council may order that specified provisions of the *Business Corporations Act* and the *Society Act* apply to the association.
- (3) The association is deemed to be a reporting society under the *Society Act* in respect of those provisions of the *Society Act* specified under subsection (2).

Bylaws

- 17** (1) The association may make bylaws, including bylaws that provide for one or more of the following:
- (a) classes of membership;
 - (b) admission of members under section 15 (2) and (3);
 - (c) voting rights of members;
 - (d) levying of assessments on members.
- (2) The first bylaws of the association are those recommended by the municipality and approved by the Lieutenant Governor in Council and must be filed under the *Society Act*.
- (3) The bylaws may only be added to, amended or repealed in accordance with their provisions and with the approval of the municipality and the minister.
- (4) The bylaws bind the association and its members to the same extent as if the bylaws had been signed and sealed by the association and each member and contained covenants on the part of the association with each member and on the part of each member with every other member and with the association to observe and perform all the provisions of the bylaws.

Oppressive acts

- 18** A member of the association may apply to the Supreme Court for relief if the member alleges
- (a) that the affairs of the association are being conducted or the powers of the association are being exercised in a manner oppressive to one or more members, including the member, or
 - (b) that an act of the association has been done or is proposed or that a resolution of the members has been passed or is proposed that is unfairly prejudicial to one or more members, including the member.

Notation on title

19 (1) In addition to the exceptions, reservations or limitations set out in section 23 (2) of the *Land Title Act*, the resort land is subject to sections 12 to 20 of this Act and the bylaws, without special endorsement on the indefeasible title.

(2) The registrar of land titles may, and on application of the association must, make the following notation on every indefeasible title of resort land issued on or after the coming into force of this Act:

"This land may be subject to sections 12 to 20 of the *Resort Municipality of Whistler Act* and the bylaws of the Whistler Resort Association filed under the *Society Act*."

Levies

20 (1) An assessment levied under the bylaws constitutes a debt.

(2) If an owner of resort land defaults in the payment of an assessment levied against the owner under the bylaws, the association may,

(a) in respect of the Crown leases and rights of way described in Schedule B, file with the ministry assigned responsibility for this purpose a certificate showing the amount owing, and

(b) in respect of other resort land, register in the land registry office a certificate showing the amount owing and the legal description.

(3) If a certificate is filed or registered under subsection (2), it is a charge for the amount owing in favour of the association, in priority to every other lien or charge of whatever kind except those created under the *Builders Lien Act* and those of the government, other than mortgages in favour of the government.

(4) On satisfaction of the debt, the association must file with the registrar a release in a form acceptable to the registrar.

(5) An owner or other person claiming an estate or interest in or charge on resort land may apply to the Supreme Court to require the association to show cause why a certificate filed or registered under subsection (2) should not be removed.

(6) On an application under subsection (5) the court may make any order the court considers appropriate.

Appropriation

- 21** Money required for the administration of, or any of the purposes of, this Act may be paid out of the consolidated revenue fund out of money appropriated by the Legislature for those purposes.

Property tax exemption

- 22** All land, improvements or both, within the municipality, of which Whistler Village Land Company Ltd. or W.L.C. Developments Ltd. is the owner, is exempt from real property taxes imposed under any enactment, until December 31 of the year in which Whistler Village Land Company Ltd. or W.L.C. Developments Ltd. ceases to be the owner.

Schedule A

Resort Municipality of Whistler

Commencing at the northwest corner of Lot 4755, New Westminster District; thence easterly along the northerly boundary of said Lot 4755 to the northeast corner thereof; thence northerly and easterly along the westerly and northerly boundaries of Lot 3861 to the northeast corner thereof; thence easterly in a straight line to the southwest corner of Lot 4104; thence northerly, easterly, northerly, easterly and southerly along the westerly, northerly, westerly, northerly and easterly boundaries of said Lot 4104 to the northwest corner of Lot 3363; thence easterly along the northerly boundary of said Lot 3363 to the northEast corner thereof; thence southerly along the easterly boundary of Lot 3363 for a distance of 1320 feet; thence East to a point which lies due North of the point of intersection of the easterly boundary of Lot 1940 and the northerly limit of the British Columbia Railway right of way as constructed on the ground; thence South to said point of intersection; thence in a general Southerly direction along the easterly boundary of Lot 1940 to the most southerly corner thereof; thence northerly, westerly, northerly, westerly and northerly along the westerly, southerly, westerly, southerly and westerly boundaries of Lot 1940 to the point of intersection with the southerly limit of the aforesaid British Columbia Railway right of way as constructed on the ground; thence northwesterly in a straight line to the southeast corner of aforesaid Lot 3363; thence westerly along the southerly boundary of Lot 3363 to the northeast corner of Lot 3674; thence southerly along the easterly boundary of said Lot 3674 to the southeast corner thereof; thence South to the point of intersection with the northerly boundary of Garibaldi Provincial Park; thence westerly, southerly, westerly, southerly and westerly along the boundaries of said Garibaldi Provincial Park to a point, said point being an internal angle on the boundary of Garibaldi Provincial Park situated approximately 2.5 miles South and 0.125 of a mile East of the southeast corner of Lot 5316; thence West to a point which lies due South of the southeast corner of Lot 2291; thence North

to a point which lies one mile South of the said southeast corner of Lot 2291; thence West for a distance of 3 miles; thence North for a distance of 1.25 miles; thence northeasterly in a straight line to the northwest corner of Lot 2246; thence North to a point which lies due West of the aforesaid northwest corner of Lot 4755; thence East to said northwest corner of Lot 4755 being the point of commencement and containing by admeasurement 22 669 acres of land, more or less and 870 acres of foreshore and land covered by water more or less.

Schedule B

Resort Land

1 District Lots 3866 and 3903 Group 1 New Westminster District.

2 All land formerly described as or formerly included in: Block B District Lot 3020 and District Lots 1902 and 3865 All of Group 1 New Westminster District.

3 Block A District Lot 5316 Group 1 New Westminster District.

4 District Lot 4751 except parts included in: Plans 5608, 6495 and 10785 Group 1

5 The lands leased under Crown leases issued under the *Land Act* and recorded with the Ministry of Environment, Lands and Parks under numbers 27918, 29848 and 30473.

6 The lands within Crown rights of way issued under the *Land Act* and recorded with the Ministry of Environment, Lands and Parks under numbers 1290, 643, 1957, 1868, 771, 1941, 2339 and 2505.