

RESORT MUNICIPALITY OF WHISTLER

CONSOLIDATED BYLAW NO. 1507, 2000

A BYLAW TO ESTABLISH AND IMPOSE CHARGES FOR MUNICIPAL EMPLOYEE HOUSING SERVICES

WHEREAS Section 8 of the *Resort Municipality of Whistler Act*, S.B.C. 1996, c. 407 as amended, empowers Council to establish charges to be imposed on land and improvements in the Resort Municipality of Whistler for municipal works and services and empowers the charges to be levied and collected by the Resort Municipality;

NOW THEREFORE the Municipal Council of the Resort Municipality of Whistler, in open meeting assembled, enacts as follows:

Citation

1. This Bylaw may be cited as “Employee Housing Service Charge Bylaw No. 1507, 2000”.

Interpretation

2. In this Bylaw:

“bed and breakfast” means the use of a detached dwelling as the residence of the operator of a business renting no more than three guest rooms and the use of common living and dining areas for the temporary lodging of paying guests;

“charging event” means each of the events specified in Section 4 of this Bylaw;

“college” means a college or Provincial institute designated under the College and Institute Act; or a non-profit, public access, independent college established either by a specific act of the Provincial Legislature or under the Society Act;

“commercial development” means any building or structure used or intended for commercial, retail or institutional use but does not include indoor recreation facilities or hotel: guest rooms, lobby and entrance areas, auxiliary hotel office, common and storage areas, meeting rooms and any portion of a kitchen serving only meeting rooms;

“crawl space” means a portion of a building with a height between ceiling and floor of less than 1.5 metres, or of any height where a covenant pursuant to Section 219 of the Land Title Act has been registered in favour of the Municipality to prohibit use of the space for any purpose;

“development” means the construction, alteration or extension of a building or structure and a change of use of a building or structure;

“dwelling unit” means a self-contained set of habitable rooms in a building, including not more than one set of cooking facilities;

“employee” means a natural person who is employed within the boundaries of the Municipality;

“employee bed unit” means

- (a) one unit for each sleeping room with an area less than 10.0 square metres measured within the interior of the walls that contains no cooking facilities; or
- (b) one unit for each half of a sleeping room 10 or more square metres in floor area measured within the interior of the walls that contains no cooking facilities; or
- (c) one unit for each self-contained sleeping room of any area which contains cooking facilities;

restricted to residential use by employees, under a housing agreement pursuant to Section 905 of the Local Government Act or which is controlled by a registered ground lease with the Municipality under Part 3 of the Condominium Act;

“employee housing services” includes, without limitation, the acquisition and servicing of land and the acquisition, construction, replacement, operation and maintenance of buildings used or intended for the accommodation of employees, undertaken by the Municipality or its agent;

“Employee Housing Service Charge Bylaw” means this bylaw, “Employee Housing Service Charge Bylaw No. 1186, 1996”, “Employee Housing Service Charge Bylaw No. 1145, 1995”, “Employee Housing Service Charge Bylaw No. 1114, 1995”, “Employee Housing Service Charge Bylaw No. 1071, 1994”, “Employee Housing Service Charge Bylaw No. 984, 1993”, “Employee Housing Service Charge Bylaw No. 927, 1992”, “Employee Housing Service Charge Bylaw No. 873, 1991” and “Employee Housing Service Charge Bylaw No. 811, 1990”;

“extension” means the addition of floor space to a building;

“gross floor area” means the total area of all floors of the construction authorized by a building permit, measured to the outside surface of the exterior walls of a proposed building, including stairwells, basements and cellars but excluding crawl spaces, parking areas, elevators, waste storage and recycling compounds and areas occupied by fixed machinery or equipment essential for building operation;

“guest room” means not more than three habitable rooms (which may also include one or more bathroom(s) and one set of cooking facilities) in a self-contained unit used for tourist accommodation or used subject to a rental pool covenant;

“hostel” means a building used as a temporary place of lodging containing one or more dormitories and includes common areas for washing, cooking, dining and socializing, bathroom, kitchen, dining and social facilities, and which may contain an auxiliary residential dwelling unit;

“hotel” means a hotel, lodge or inn;

“indoor recreation facilities” means an area fully enclosed within a building and used only for sports, games and other recreational activities, including without limitation bowling alleys, squash courts, racquetball courts and exercise rooms, or used only for

storage, maintenance and administration purposes supporting outdoor sports, games and recreational activities;

‘industrial development’ means any development in Section 9 Industrial Zones, CH Zone, or LF Zone of Zoning and Parking Bylaw No. 303, 1983, as amended from time to time, or any public utility development. (Bylaw 2078)

“Municipality” means the Resort Municipality of Whistler;

“pension” means tourist accommodation which rents at least four guest rooms and not more than eight guest rooms and the use of common living and dining areas for the temporary lodging of paying guests;

“public institutional development” means a court of law, federal, provincial or municipal building, fire hall, jail and prison, library, museum, public hospital and place of worship;

“public utility development” means a building or structure, or a portion of a building or structure, used exclusively for operations or administration of a public utility as defined in the Utilities Commission Act;

“rental pool covenant” means a covenant, registered in the Land Title Office in favour of the Resort Municipality of Whistler pursuant to Section 219 of the Land Title Act, requiring a dwelling unit to be available for tourist accommodation and restricting the use of the dwelling unit by its owner or the use of the dwelling unit when not occupied by the owner;

“school” means a public school or a Provincial school as those terms are defined in the School Act or a building or structure, or a portion of a building or structure, operated as an independent school by an incorporated institution of learning that is regularly giving children instruction accepted as equivalent to that given in a public school as defined in the Independent School Act;

“temporary” means a total of less than four consecutive weeks in a calendar year; and

“tourist accommodation” means the temporary lodging of paying guests.

Imposition of Charges

3. The Council of the Resort Municipality of Whistler hereby imposes those charges specified in Schedule “A” of this Bylaw (the “Employee Housing Charges”).

Charging Events

4. Each owner of land in the Resort Municipality of Whistler shall pay the applicable Employee Housing charges to the Municipality each time that:

CONSOLIDATED Employee Housing Service Charge Bylaw No. 1507, 2000
October 2015

- (a) a building permit is issued which authorizes construction of a new building or structure or extension to an existing building or structure;
- (b) a building permit is issued which authorizes construction which would result in a change of use of a building or structure (or portion of it) to the extent that the new use generates more employees under Schedule "A" than the previous use would generate under Schedule "A"; or
- (c) a business license is issued for the commencement of a new business in premises on the land, to the extent that the new business will generate more employees under the Schedule "A" than the previous use of the same premises;

where the building permit or business license is issued for one of the following types of development:

- (d) commercial development;
- (e) residential development which is, in whole or in part, subject to a rental pool covenant;
- (f) industrial development; or
- (g) any other development not exempted under Section 7.

Collection of Charges

- 5. The owner of the land in respect of which the building permit or business license is issued must pay the Employee Housing Charge at the time the building permit or business license is issued.
- 6. Employee Housing Charges shall be paid by the owner of land notwithstanding that development has previously occurred and no Employee Housing charge, or only part of it, was collected at the time.

Exemption from Charges

- 7. No Employee Housing charges are payable:
 - (a) in respect of a parcel of land owned or controlled by the Municipality;
 - (b) in respect of public institutional development, schools and colleges;
 - (c) in respect of a detached single family or duplex residential dwelling unit, hostel, pension or bed and breakfast;
 - (d) where the owner of the land has, constructed, or undertaken to construct one employee bed unit for each employee deemed by this law to be generated and has provided security as required under Section 8;
 - (e) where the owner of the land acquires one rent equity share for every employee deemed to be generated under this Bylaw, in an employee housing

program owned or operated by the Municipality or its agent, evidenced by a rent equity agreement as described in Schedule "C" of this Bylaw;

- (f) in respect of any development undertaken directly by the Whistler Resort Association for the purposes of encouraging development, maintenance and operation of resort land pursuant to Section 14 of the Resort Municipality of Whistler Act, excluding any development for commercial purpose or for the purposes of producing revenue, directly or indirectly, from non-members of the Whistler Resort Association; or
- (g) in respect of any development of real estate sales trailers that are approved, by the Municipality, for occupation for a limited time period (not to exceed one year) and where the Municipality holds security guaranteeing removal of the structure after the specified period of time;
- (h) where the owner of the land has created one employee bed unit for each employee deemed to be generated by this Bylaw to be generated by way of acquiring and converting an existing unrestricted dwelling unit to a dwelling unit restricted to residential use by employees under a housing agreement pursuant to the Local Government Act.

Security for Construction

- 8. If the owner of the land has not already constructed the employee bed units referred to in Section 7(d), no building permit shall be issued unless the owner delivers to the Municipality a cash deposit or an unconditional, irrevocable letter of credit with the minimum content of Schedule "B" of this Bylaw, in the amount of 120% of the Employee Housing Charges which would otherwise be payable to the Municipality, which letter of credit shall not expire for at least 2 years from the date of issuance of the building permit.
- 9. The Municipality will return the letter of credit, unused, to the owner if the owner constructs and has been issued an occupancy permit for all the required employee bed units within 2 years of the date of issuance of the building permit; otherwise the Municipality may draw down and retain the security in an amount equivalent to the number of required employee bed units which have not been constructed. An amount of the security equivalent to 20% of the amount drawn down will be retained by the Municipality as an administrative charge.
- 10. If the owner of land chooses to provide a letter of credit in accordance with Section 8 then the owner may, upon delivering to the Municipality a cash deposit or an unconditional, irrevocable letter of credit in the amount of 10% of the employee housing charges per year, which letter of credit will be held in accordance with Section 9, extend the Letter of Credit for up to two additional years provided that notice is given in writing, together with the payment of a cash administrative charge in the amount of \$500.00 for each year that the letter of credit is to be extended, within 22 months of the date of issuance of the building permit.

Adjustment

- 11. The amount of Employee Housing Charges payable under this Bylaw will be adjusted after construction is complete, but prior to the issuance of an occupancy permit for

the development, as necessary to account for the development actually constructed.

Credit

12. An owner of land will receive a credit toward Employee Housing Charges for any employee housing service charges previously paid or provided to the Municipality for the same development under any Employee Housing Service Charge Bylaw of the Municipality, based on the number of employees represented by the previous charge.

No Refund

13. Under no circumstances will any Employee Housing Charges collected under this Bylaw be refunded. If no construction is commenced pursuant to an issued building permit, the Employee Housing Charges collected will be credited toward future development on that land.

Use of Charges

14. Employee Housing Charges shall be deposited into a reserve account and used only for purposes directly or indirectly related to employee housing services, including payment of principal and interest on existing or new debt incurred by the Municipality or its agents in providing employee housing services regardless of whether or not the expenditure of the charges results in any ascertainable benefit to the parcel of land in respect of which they were paid.
15. Money deposited in such a reserve account may be used for temporarily financing any capital or operating purposes of the Municipality and shall be repaid to the reserve account together with interest at the prime rate of interest of the Royal Bank at the time of withdrawal from the reserve account, less 3% per annum.

Severance

16. If any provision of this Bylaw is held invalid by a court, the invalid portion shall be severed and the invalidity shall not affect the validity of the remainder of the Bylaw.

Interpretation

17. No satisfaction of any requirement of this Bylaw shall be interpreted as creating a right to the issuance of a building permit if a person would otherwise not be entitled to a permit.

Repeal

18. "Employee Housing Service Charge Bylaw No. 1186, 1996" is repealed.

**CONSOLIDATED Employee Housing Service Charge Bylaw No. 1507, 2000
October 2015**

This copy of "Employee Housing Service Charge Bylaw No. 1507, 2000" has been consolidated and printed by the authority of the Corporate Officer of the Resort Municipality of Whistler pursuant to Section 139 of the *Community Charter* and Bylaw Consolidation and Revision Bylaw No. 1957, 2010.

Dated this 13 day of October, 2015.

Signed original on file

Shannon Story
Corporate Officer

RESORT MUNICIPALITY OF WHISTLER
BYLAW NO. 1507, 2000

SCHEDULE “A”

Establishment of Charges

The following charge is established toward the provision of employee housing services in the Municipality:

\$5,908.00 per employee.

The number of employees deemed to be generated shall be calculated according to the following employee generation formula:

<u>Intended Use of Building or Structure referred to in Building Permit or Business License</u>	<u>Employees Deemed to be Generated</u>
Commercial	1 employee per 50.0 square metres of gross floor area
Industrial	1 employee per 250.0 square metres of gross floor area
Residential development which is subject to a rental pool covenant	0.2 employees per guest room
Any other development	1 employee per 50.0 square metres of gross floor area

Where the number of employees generated by this formula results in a fraction, the number of employees deemed to be generated shall be rounded to the nearest tenth decimal point for the purpose of establishing the monetary charge and to the nearest whole number for the purpose of establishing the number of employees generated where an exception under Section 7(d) or (e) of this Bylaw is applied.

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SCHEDULE "B"

Letter of Credit

Date: _____

Bank: _____

Resort Municipality of Whistler
4325 Blackcomb Way
Whistler, B.C.
V0N 1B4

Dear Sirs:

Re: Irrevocable Letter of Credit No. _____

Upon instructions of _____ (the "Developer") we hereby establish in your favor our irrevocable credit for the sum of _____ dollars in Canadian currency. This credit shall be available to you on demand by sight drafts drawn on the Bank of _____ when supported by your written demands for payment made upon us.

This Letter of Credit is required in connection with an undertaking by the Developer to satisfy the employee housing requirements of the Municipality.

We undertake not to refuse to honour any sight draft that you present to us for payment under this Letter of Credit.

You may make partial drawings or full drawings at any time.

We shall honour your demand without inquiring whether you have a right as between yourself and the Developer.

This Letter of Credit shall remain in force until 12:00 midnight _____, 200_ .

Bank of _____

Authorized Signatory _____

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SCHEDULE “C”

Rent Equity Share

In this Schedule, “rent equity share” means the right to house one employee in an employee bed unit owned or operated by the Municipality or its agent for a term of not less than ten years from the date the employee bed unit becomes available.

Where development occurs and the owner of the parcel acquires one rent equity share in an employee housing program owned or operated by the Municipality or its agent for each employee deemed by this Bylaw to be generated by the development, no charges are payable provided that:

- (a) the owner is a member of the Whistler Valley Housing Society;
- (b) the owner executes a rent equity agreement with the Municipality or its agent including the following provisions:
 - (i) the consideration paid by the owner for a rent equity share in respect of each employee bed unit shall comprise:
 - (A) the pro-rated cost net of mortgage costs of supplying the employee bed unit, including the pro-rated portion of land value based on assessed value as of the date of issuance of the building permit, such that the actual cost is without profit to the Municipality or its agent, to be paid on the date of execution of the rent equity agreement; and
 - (B) a monthly rental charge equal to the actual cost of maintaining, operating and administering without profit the employee bed unit, including mortgage payments, taxes and contingencies; and
 - (ii) the owner may at its option renew the agreement every ten years for a total of 100 years in return for payment in advance of the actual cost without profit of refurbishing the unit plus a monthly rental charge equal to the actual cost of maintaining, operating and administering the employee bed unit including mortgage payments, taxes and contingencies;
- (c) the owner shall enter into a rent equity agreement directly with the Municipality or its agent and not by assignment, transfer, assumption or otherwise from any person other than the Municipality or its agents;
- (d) in the event an owner applies to the Municipality to acquire a rent equity share in respect of an employee housing bed unit and the Municipality has not on the date of the application prepared a bed unit pro forma and a required prospectus

or disclosure statement, the owner may elect to acquire a rent equity share in respect of an employee bed unit proposed to be constructed, by delivering to the Municipality an executed rent agreement and an unconditional, irrevocable letter of credit in the amount of 120% of the Employee Housing Charges, provided that in the event:

- (i) the Municipality or its agent completed the employee bed unit pro forma and required prospectus or disclosure statement within two years of the application, then pursuant to the employee bed unit pro forma the owner shall as of the date of delivery of a required prospectus or disclosure statement by the Municipality to the owner, pay the consideration for the employee bed units under paragraph (b)(i) by:
 - (A) directing the Municipality to draw down the letter of credit and apply it as consideration for the required employee bed units; and
 - (B) paying to the Municipality any excess amount required under the pro forma in addition to the 120% security;
- (ii) the owner within 30 days of receipt of the bed unit pro forma and a prospectus or disclosure statement, fails to pay the consideration under the paragraph (d)(i), then the Municipality may draw down the letter of credit and apply the proceeds as a charge under this Bylaw, and any amount of the letter of credit in excess of the charge payable is payable to the Municipality as an administrative charge, unless the owner within 30 days:
 - (A) satisfies Section 7(d); or
 - (B) extends the letter of credit for a third year only, to afford the owner an extension period to satisfy Section 7(d),
- (e) consideration paid under this Schedule is not refundable, provided that an owner may at any time opt to pay the cash amount of the charges imposed by this Bylaw and in such case the security under this Section shall be returned, pro-rated in accordance with the amount of cash provided; and
- (f) if the Municipality is unable to provide the owner with a rent equity share, the owner shall within 30 days of written notice from the Municipality or its agent pay the cash amount of the charges imposed by this Bylaw (plus interest at the prime rate of the Royal Bank from the date of development approval to the date of payment) or provide employee housing as permitted by this Bylaw, whereupon the security provided by the owner under this Schedule shall be returned to the owner.