



REPORT

Report Date: October 5, 2021
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Meeting Date: October 19, 2021
[Submit comments to Council](#)

TO: Vancouver City Council
FROM: General Manager of Engineering Services
SUBJECT: Latecomer Policy

RECOMMENDATION

- A. THAT Council adopt the Latecomer Policy attached as Appendix A.
- B. THAT Council authorize the Director of Legal Services to execute Latecomer Agreements when excess or extended services are a condition of rezoning enactment, development permit issuance or subdivision approval.
- C. THAT, pursuant to section 561A of the *Vancouver Charter*, where excess or extended services are a condition of rezoning enactment, development permit issuance or subdivision approval, as determined by the General Manager of Engineering Services, Council has considered and concluded that the City's cost of providing all or part of those excess or extended services is excessive, and as such the cost must be paid for by the owner of the land being subdivided or developed.
- D. THAT Council approve in principle the Latecomer Charge Interest Rate By-law with an interest rate on latecomer charges of 5.5%, generally as set out in Appendix B.
- E. THAT Council instruct the Director of Legal Services to bring forward for enactment the by-law referenced in Recommendation D.
- F. THAT Council approve in principle the funding strategy for the Latecomer Program as follows:
 - One-time implementation cost estimated at \$0.5 million to be managed within the 2019-2022 capital plan, with the costs to be recovered over time from Latecomer Program revenues;

- Ongoing annual program administration cost estimated at \$0.6 million to be funded from Latecomer Program revenues;

FURTHER THAT the above be incorporated in the 2022 budget for Council consideration in December 2021.

REPORT SUMMARY

This report seeks the approval of the Latecomer Policy [Appendix A], as well as the applicable interest rate and latecomer agreement resolutions. Upon approval by Council, the Latecomer Policy and resolutions will be used as a framework to secure individual latecomer agreements with private developers. These agreements set the terms for developers to recover costs associated with infrastructure improvements that benefit properties beyond their own, leveraging the municipality's ability to levy and collect charges from neighbouring owners and remitting those back to the initial developer. The charges are subject to interest over the term of the agreement, which may not exceed 15 years, at a rate recommended by staff and approved by Council.

The Latecomer Program is revenue neutral to the City. The City's primary role is to administer the program, collects funds from subsequent developers, and remit collected funds to the initial developer who incurred the upfront cost of the infrastructure. The City does not guarantee recovery of any funds as any such payments are dependent on subsequent developments occurring in the benefiting area within the 15 year timeframe.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

In February 2004, Council adopted the Financing Growth Policy that sets the framework for the collection and allocation of DCLs to help pay for eligible amenities and infrastructure needed for growth: parks, housing, childcare, and various engineering infrastructure.

In July 2017, Council approved the Vancouver City-wide Development Cost Levy Update (2017-2026) which adjusted rates and reset allocation of DCL revenues.

In July 2018, Council approved the establishment of the Vancouver Utilities DCL to fund sewer, water, and drainage infrastructure.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

REPORT

Background/Context

Developments often require amenities and infrastructure improvements to meet the needs of new residents and businesses. As stated in the 2004 Financing Growth Policy, new development should contribute towards the infrastructure and amenity costs that result from growth. In addition to City contributions (e.g. property taxes, utility fees) and Partner contributions (e.g. Federal and Provincial funding), the City uses development contributions to

fund growth-related infrastructure and amenities, primarily through the following tools (Appendix E):

- Development Cost Levies (DCL and Utilities DCL) fund citywide and programmatic infrastructure
- Community Amenity Contributions fund amenities
- Density Bonus Zoning fund amenities
- Conditions of Development are developer triggered and funded infrastructure may be subject to Latecomer provisions

To offset impacts that are directly tied to various types of development applications, sites are required, through conditions of development, to upgrade utility and transportation infrastructure. In some cases, these upgrades may also benefit future development in the area. As part of the development process, the City may require that a property developer construct infrastructure (called "excess or extended services") that not only benefit their development, but also other lands in the neighbouring area (referred to as the "benefiting area"). Historically, the first developer in was typically required to solely fund and deliver infrastructure works, as the City had no means to enforce cost sharing with future benefiting property owners. This was problematic for several reasons: it was inequitable, bearing the full cost of upgrades could impact project viability, and it deterred developers from being "the first one in". However, the latecomer agreement tool provides the City with the ability to allow developers to recover costs for infrastructure that benefits multiple sites.

A latecomer agreement is a development finance agreement between a municipality and a land or property owner that results from developing their land. These agreements allow developers to recover costs associated with excess or extended services for up to 15 years, leveraging the municipality's ability to levy and collect charges from owners and remit those back to the initial developer. The charges are also subject to interest over the term of the agreement, at a rate determined by the municipality.

Other municipalities also have latecomer provisions available to them under the *Local Government Act*, but until recently, these did not exist in the *Vancouver Charter*. In the late 2000s, with strong support from the development industry, the City started to advocate to the Province for an amendment to the *Vancouver Charter* to enable cost sharing provisions similar to those available to other municipalities. On March 5, 2020, the Province amended the *Vancouver Charter* to add the latecomer provisions.

Now that the City has the ability to use latecomer agreements, staff are seeking Council's endorsement of the proposed latecomer policy.

Jurisdictional Scan

Staff reviewed latecomer agreement policies and other similar tools across several municipalities in British Columbia, Ontario, and Washington State, and also interviewed staff from select municipalities to understand standard or best practice around latecomer agreements. The review found that latecomer agreements are primarily used in a greenfield context and that most latecomer programs aim to be simple so they are easy to administer and provide transparency and predictability to the industry. There were other common aspects around determining the benefiting area, cost apportionment method, and property exemptions that are largely reflected in the City's proposed Latecomer Policy attached in this report. More details on the jurisdictional scan can be found in Appendix C.

Strategic Analysis

Eligible Infrastructure

The latecomer provisions in section 561A (1) of the *Vancouver Charter* define two types of infrastructure that may be eligible:

- (a) a portion of a street system that will provide access to land other than the land being subdivided or developed, and
- (b) a portion of a water, sewage or drainage system that will serve land other than the land being subdivided or developed.

In order to provide clarity to applicants, staff have further refined these concepts and set out in the policy document in Appendix A how benefitting areas and charges will be determined.

As noted above, development conditions are set to address infrastructure impacts due to development applications. As such, projects or upgrades in the Development Cost Levy (DCL) or Utilities Development Cost Levy (UDCL) or Layered DCL are ineligible for a latecomer agreement.

Staff have also considered where exemptions and exclusions may be used. Exemptions occur when a parcel does not pay a latecomer charge but is still included in the benefitting area. Staff propose exempting low-density development through a development density credit. Exclusions are when a parcel does not pay a latecomer charge and is excluded from the benefitting area. Staff propose excluding Parks and recently developed parcels.

Calculating Interest

Under the latecomer provisions of the *Vancouver Charter*, a latecomer charge must include interest calculated annually at a rate established by by-law, payable for the period from when the relevant infrastructure was completed up to the date that the connection is made or use begins. The proposed interest rate for latecomer charges is 5.5% which is comparable to the rate currently applied for deferred cash CAC balances.

Public/Civic Agency Input

Industry Consultation

Staff consulted on the proposed Latecomer Policy via a series of three (3) workshops held with a working group of five development industry representatives from the Urban Development Institute (“UDI”) Pacific Region membership.

The workshops were held to solicit feedback on various elements of the Latecomer Policy from the development community, with the following topics discussed at each workshop:

1. Workshop #1 (February 24, 2021) – Overview of latecomers and application eligibility
2. Workshop #2 (March 29, 2021) – Benefitting area and cost apportionment approaches
3. Workshop #3 (May 4, 2021) – Tools for compensating the initial developer

The comments received at workshops were generally positive regarding the proposed Latecomer Policy. While indicating general support, many participants had thoughtful questions and concerns which have been considered in the final policy brought forward to Council. These questions fell into four general categories:

- Ability of the initial developer to recover the costs of fronting a latecomer-eligible asset
- Determination of who should initiate the work if multiple developments are in similar stages of the application process
- Impact of latecomer agreements on CAC negotiations

- Exemptions from paying into the latecomer scheme for certain land uses

In September 2021, staff conducted additional development industry outreach via a Latecomer Policy information session, which was attended by 29 people. UDI has provided a letter of support contained in Appendix G.

Implications/Related Issues/Risk

In developing the Latecomer Policy, staff have considered impacts to each stage of the development process due to the introduction of the latecomer scheme to the *Vancouver Charter*. Staff have reviewed various procedural options in developing the policy to reduce the impact on processing permits, recognizing the corporate goal of reduced permit processing time. Staff have created internal process changes and training tools, drafted an external procedural document (i.e. the Latecomer Manual), drafted latecomer agreements with standard terms, and proposed an Administrative Cost Recovery Payment (“Administrative Payment”) for entering into latecomer agreements (see Appendix D for more details). The approach also leverages technology, where feasible to increase automation. Finally, the jurisdictional scan allowed staff to learn from the development of other latecomer programs in peer municipalities.

If Council approves the proposed Latecomer Policy, staff will monitor the implementation of the Policy (i.e. the Latecomer Program) and report back to Council should any improvements or changes be considered necessary.

Financial

The Latecomer Program is revenue neutral to the City. The City’s primary role is to administer the program, collect funds from subsequent developers, and remit funds collected to the initial developer who incurred the upfront cost of the infrastructure. The City does not guarantee recovery of any funds as any such payments are dependent on subsequent developments occurring in the benefiting area within the 15 year timeframe.

The requirement for initial developers to pay an Administrative Payment to settle their latecomer agreement is intended to ensure that the City recovers the new incremental costs associated with administering the Latecomer Program, including staff and technology resources.

Ongoing program administration is estimated to cost \$0.6 million per year for each of the first two years, comprised of staffing (90%) and IT operating costs and overhead (10%); the proposed Administrative Payment will be the source of funding for the Latecomer Program. In year three and subsequent years, the ongoing program administration costs are anticipated to reduce to \$0.4 million annually as the backlog is cleared and staffing is anticipated to be reduced.

The initial implementation and roll-out of the Latecomer Program is estimated to cost \$0.5 million for IT implementation costs, to be managed within the 2019-2022 Capital Plan. The costs will be incurred upfront, and the proposed Administrative Payment, over and above the annual administration costs, will provide the ultimate source of funding for the initial implementation of the Latecomer Program.

The above will be incorporated in the 2022 budget for Council consideration in December 2021.

Staff will monitor revenues and the program administration and implementation costs over the first four years, and may suggest adjustments to the charge to maintain revenue neutrality of the program. More details on the Latecomer Program can be found in Appendix D.

Program Benefits

The latecomer scheme provides potential for a more equitable distribution of the costs of required infrastructure upgrades amongst the initial and subsequent developers benefiting from the upgrade. This can improve development project viability for the initiating developer delivering the required upgrade.

Human Resources/Labour Relations

The recommendations in this report will require additional resources to support the successful implementation of the new Latecomer Policy. The initial resource requirements are embedded in Appendix D Latecomer Program Requirements.

Legal

The Province amended the *Vancouver Charter* on March 5, 2020 to allow the City to administer Latecomer Agreements. The requirements for latecomers are set out in sections 561A and 561B of the *Vancouver Charter*, included in Appendix F. In order to introduce Latecomer Agreements, Council must enact a by-law setting out the interest rate to be charged. No other by-laws are required, but staff recommend that Council adopt a policy setting out the details of the program.

CONCLUSION

Latecomer Agreements apply to conditions of development undertaken by the initial developer that also benefit other developments anticipated to occur in the area. Historically, the first developer in was typically required to solely fund and deliver excess or extended services that benefit neighbouring areas. However with the introduction of the latecomer provisions, these upgrade costs can now be equitably shared costs with surrounding developments.

* * * * *

Policy

Latecomer Policy

Approved by Council Month Day, Year

Table of Contents

Table of Contents.....	2
Glossary of Terms	Error! Bookmark not defined.
Intent.....	4
Background and Context	4
Policies	7

Definitions

For the purposes of this Policy only, the following terms have the following meanings:

- “24 hour Agreement” means a Latecomer Agreement where parcels in the Benefitting Area only pay a Latecomer Charge if they connect to the upgrade within 24 hours of Completion of the Upgrade. It is effectively a waiver by the Initial Developer for the collection of any Latecomer Charges from Subsequent Developments.
- “Benefitting Lands” or “Benefitting Area” means the lands that may connect to, or use, or benefit from, Excess or Extended Services (including works that would have otherwise been required by the Subdivision and Development) as determined by the City.
- “Completion of the Upgrade” means the date the General Manager of Engineering Services accepts the Upgrade.
- “Consultant” means the supervising Professional Engineer acceptable to the General Manager of Engineering Services who is a member in good standing of the Association of Professional Engineers and Geoscientists of British Columbia (EGBC) and who is employed or retained by an owner.
- “Cost” means the value accepted by the General Manager of Engineering Services upon Completion of the Upgrade.
- “Cost Estimate” means the estimated cost provided or accepted by the General Manager of Engineering Services to provide the Upgrade.
- “Excess or Extended Service” means a portion of a street system that will provide access to land other than the land being subdivided or developed, and/or a portion of a water, sewage or drainage system that will serve land other than the land being subdivided or developed.
- “Exclude” means to not include a parcel in the boundaries of the Benefitting Area. These are typically lands that receive little to no benefit from the Upgrade.
- “Exempt” means the City determines not to require payment of all or part of a Latecomer Charge by the owner of a parcel which is included in the Benefitting Area, based on specified criteria.
- “Initial Developer” means the owner of the initiating development who delivers the Upgrade in accordance with the Services Agreement.
- “Latecomer Agreement” means the written agreement between the Initial Developer and the City, entered into at rezoning, subdivision, or development permit, whereby the Benefitting Area is laid out, and the Latecomer Rate is specified. The Latecomer Agreement sets the terms for developers to recover costs associated with certain infrastructure works by cost-sharing with neighbouring properties that are developed within a maximum period of 15 years.
- “Latecomer Charge” means a charge on a parcel located in the Benefitting Area which is imposed as a condition of connecting to or using an Upgrade by a Subsequent Developer.
- “Latecomer Manual” means an administrative and procedural document, prepared by the General Manager of Engineering Services that outlines details on how the City will administer and settle Latecomer Agreements.
- “Latecomer Rate” means the \$/sq.ft. rate set out by the General Manager of Engineering Services, generally calculated from the Cost divided by the Total Developable Floor Area within the Benefitting Area, taking into account Exemptions, Exclusions and credits.
- “Occupied” means the issuance of an occupancy permit.
- “Parks” means any fee-simple parcel or group of parcels that are referred to in Section 488 of the *Vancouver Charter* as either permanent public park, temporary public park or are under the custody, care and management of the Board of Parks and Recreation
- “Services Agreement” means an agreement between the Initial Developer and the City concerning, *inter alia*, the construction of the Works.
- “Subsequent Developers” means the owner of the subsequent developments within a Benefitting Area which may be subject to a Latecomer Charge.
- “Total Developable Floor Area” means the total projected or Council approved Gross Floor Area within a Benefitting Area, as determined by the General Manager of Engineering Services for the purposes of infrastructure planning.

- “Upgrade” means the infrastructure asset required as a condition of rezoning, subdivision, or DP issuance, and which serves or benefits parcels in addition to the Initial Developer’s parcel.

Intent

The intent of the Latecomer Policy is to set out how the latecomer legislation introduced to the *Vancouver Charter*¹ fits into the City of Vancouver development process, and the key roles and responsibilities of all parties involved. It provides key details on: when a project is latecomer eligible; how a benefitting area is determined; how costs are apportioned; how exemptions and exclusions are determined, and other impacts.

The Policy also outlines standing council resolutions related to the cost of Excess or Extended Services in connection with latecomer agreements for rezoning, development permit and a subdivision approvals, as well as delegation of signing authority for latecomer agreements.

Background and Context

As the City develops into more densified neighbourhoods, the impacts to our infrastructure have grown. As development applications intensify there are broader impacts to infrastructure directly stemming from development applications. The methods to mitigate these impacts through upgrades can benefit other development properties in the vicinity, but the *Vancouver Charter* did not previously include the latecomer provisions to help ensure costs could be shared equitably. Over time, the City has expanded the various tools available to address infrastructure impacts due to development, and endeavoured to find the most equitable way to share costs amongst developers.

What is a Latecomer Agreement?

A Latecomer Agreement is a cost recovery tool for works that are triggered and funded by an Initial Developer; the agreement is entered into by a municipality and a land or property owner. The agreement sets the terms for Initial Developers to recover costs associated with certain types of infrastructure (called “Excess or Extended Services”) by charging future developers (called “Subsequent Developers”), within a defined neighbouring area (called the “Benefitting Area”), a proportional share of the cost of the Upgrade. Under the *Vancouver Charter*, the Latecomer Charges are limited to a maximum of 15 years and are subject to interest, at a rate determined by the City. The City will levy and collect the Latecomer Charges from Subsequent Developers and remit the Latecomer Charges to the Initial Developer at a reasonable interval.

Need for Latecomer Agreement Provisions

Prior to March 5, 2020, Initial Developers that were required to construct Excess or Extended Services were solely responsible for funding and delivering infrastructure costs. This was problematic because bearing the Cost of Upgrade could impact a project’s viability, and also provided a financial incentive to be a Subsequent Developer. The City’s Financing Growth Strategy outlines the following financial tools: Community Amenity Contributions (CACs), Utility Development Cost Levies (DCLs), Density Bonusing and Conditions of Development; the first three are not intended to address application specific impacts on infrastructure and no cost sharing mechanisms were available for Conditions of Development. In the late 2000s, with the

¹ Refer to Appendix F for the applicable sections from the *Vancouver Charter*

encouragement of the development community, the City started to advocate to the Province for a change that would enable cost sharing provisions similar to other municipalities. This culminated in the Province amending the *Vancouver Charter*, effective March 5, 2020. The amendments introduced Latecomer Agreements as an option to address application specific infrastructure requirements, but did not consider the redevelopment context or provide a transition period for in-stream applications.

Conditions of Development

Development applications are required to mitigate their impact to existing City infrastructure, and provide new infrastructure where it does not already exist. The *Vancouver Charter* provides the City Engineer with the ability to restrict occupancy or use of land or building unless due provision is made for public safety and infrastructure servicing. The *Vancouver Charter* also allows the City to create by-laws or policy to support this. Different types of applications vary in authority and impact. The discussion below outline the City's approach to reviewing and conditioning for development impacts to infrastructure.

- **Rezoning Applications**

The City has the authority to impose conditions on a rezoning application for core infrastructure and servicing, as well as enhancements and policy initiatives. In completing a rezoning review, the General Manager of Engineering Services may require the following types of infrastructure and services:

- Provision of net new streets, lighting, intersections, utilities and public realm enhancements
- Provision of upgrades and/or mitigating measures to existing assets
- Provision of other core infrastructure such as but not limited to flood protection, pump stations, transit infrastructure, district energy, etc.
- Revisions to application design on site

- **Subdivision Applications**

The City has the authority to impose conditions on a subdivision application through the *Land Title Act*, the *Vancouver Charter* and the City's Subdivision By-law. The City may require dedications or rights of way, on-site infrastructure and off-site infrastructure extensions or upgrades as they pertain to the subdivision application, including those in excess of the specific application at hand. In completing a subdivision review, the General Manager of Engineering Services will determine the application's impact on infrastructure or how infrastructure may need to be extended to facilitate the subdivision.

- **Development Permit Applications**

The City has the authority to impose conditions on a development permit application where the conditions are directly attributable to the application or where an existing system may be worsened or depleted by development, as outlined in several City by-laws. In completing a development permit review, the General Manager of Engineering Services may require the development to provide or improve access (signals, sidewalks, bike lanes, roads) and in some cases provide or improve sanitary, drainage or water servicing to mitigate the direct impacts from development.

- Building Permit Applications

The City has the authority to recover costs due to a building permit application through several City by-laws. The technical information to determine impacts to existing infrastructure may not be available during the review phases mentioned above (i.e. rezoning and/or development permit) and can only be determined at building permit or connection stage.

Policies

1.0 Application of this Policy

- 1.1 This Policy shall apply to rezoning, subdivision and development permit applications where Excess or Extended Services are imposed on an Initial Developer.
- 1.2 If the General Manager of Engineering Services determines pursuant to the criteria set out in section 7.0 to 7.2 that Excess or Extended Services will be a condition of rezoning enactment, development permit issuance or subdivision approval, then such a determination is also evidence that Council has considered and concluded that the City's cost of providing all or part of those excess or extended services is excessive, and as such the cost must be paid for by the owner of the land being subdivided or developed, as more particularly contemplated in a Latecomer Agreement. This section 1.2 applies to any such determination of Excess or Extended Services that occurred on or after March 5, 2020.
- 1.3 Latecomer Agreements shall be settled and administered subject to the procedures and requirements detailed in the "Latecomer Manual" as prepared and as determined by the General Manager of Engineering Services and published externally.
- 1.4 The City Solicitor is authorized to execute and deliver, on behalf of the City, all Latecomer Agreements contemplated in this Policy, provided the agreement is also approved by the General Manager of Engineering Services. This delegation applies to any Latecomer Agreements executed and delivered on or after March 5, 2020.
- 1.5 In the case of a rezoning with a negotiated CAC, the proportionate share of the Latecomer Charge related to the Initial Developer or the Subsequent Developer, as the case may be, will be accounted for in the determination of the applicable CAC, as may be required, pursuant to the City's CAC Policy.

2.0 Payment of Costs

- 2.1 The Initial Developer shall pay all costs associated with the Excess or Extended Services and is required to enter into a Latecomer Agreement with the City in accordance with this Policy.
 - (a) When considering the Costs of an Upgrade, the City will use the cost in delivering the Upgrade, including any replacement cost.
 - (b) In determining the Cost, the City may specify a maximum cost for the Upgrade that will be eligible for remittance to the Initial Developer.
 - (c) The City may, under special circumstances, pay all or part of the Cost of upsizing the road, water, sanitary sewer or storm sewer systems, subject to funding availability and at the discretion of the General Manager of Engineering Services.
 - (d) The Initial Developer is required to pay an Administrative Cost Recovery Payment ("Administrative Payment") to ensure the City recovers costs associated with settling and administering the latecomer agreement. The General Manager of Engineering Services will identify the amount of the Administrative Payment in the Latecomer Agreement and the Latecomer Manual.
- 2.2 The Cost used to determine the Latecomer Charges payable by properties located in the Benefitting Area shall be based on the Cost of the Excess or Extended Services as required of the Initial Developer, in accordance with this Policy, the City's design and construction standards and any other requirements deemed applicable by the General Manager of Engineering Services.
 - (a) The Cost will be determined upon the Completion of the Upgrade. The Cost will be determined by the General Manager of Engineering Services based on the

submission of required documentation by the Initial Developer; or if the Upgrade is delivered by the City, the Cost will be determined by the General Manager of Engineering Services based on the actual costs of construction incurred by the City.

- (b) In determining the Cost of the Upgrade, only the following items may be submitted by the Initial Developer, subject to certification by a Consultant:
 - (i) Actual construction costs, including costs incurred by the City
 - (ii) Design and inspection costs, including costs incurred by the City
 - (iii) Specialist consulting services, where pre-approved by the General Manager of Engineering Services
 - (iv) If the Upgrade or part thereof is delivered by the City, all costs incurred by the City, including design, inspection, specialty services costs and City overhead
- (c) The following will not be eligible costs:
 - (i) Land or rights-of-way acquisition costs that are incurred on or outside the developer's land
 - (ii) Financing costs
- (d) The City may request, at the expense of the Initial Developer, an external review by a Consultant of the cost breakdown in 2.2(b) that was submitted by the Initial Developer, or the provision of three public tender prices.

3.0 Subsequent Developer Latecomer Charges

- 3.1 The City shall charge Subsequent Developers upon connection to or use of an Upgrade that constitutes Excess or Extended Services based on the provisions in the Latecomer Agreement with the Initial Developer.
 - (a) The Latecomer Agreement with the Initial Developer will define the Latecomer Rate, which is the Cost divided by the Total Developable Floor Area projected within the Benefitting Area, taking into account any Exemptions, Exclusions and credits.
 - (b) Subsequent Developers will be charged using the following equation:

$$\text{Latecomer Charge} = \text{Latecomer Rate} \times (\text{SD's GFA} - (1\text{FSR} * \text{SD's parcel site area}))$$

Where:

SD = Subsequent Developer

GFA = Gross Floor Area

FSR = Floor Space Ratio

- (c) The charge will be based on the Costs determined in the Section 2.0 or a Cost Estimate approved by the General Manager of Engineering Services.
 - (i) When using a Cost Estimate to determine the Latecomer Charge amount, the General Manager of Engineering Services will notify the Subsequent Developer that security, in a form satisfactory to the General Manager of Engineering, must be provided. The value may include contingency in the amount determined by the General Manager of Engineering Services. Should the final Latecomer Charge amount plus interest be less than the

security collected by the City, the difference will be returned to the Subsequent Developer.

- (d) Security for the Latecomer Charge will be collected as a condition of issuance of an eligible building permit for development on a benefitting property.
- (e) If the final Latecomer Charges are known at the time of building permit issuance, security will be collected in an amount determined by the General Manager of Engineering Services, equal to the final Latecomer Charge shown in the Latecomer Agreement, plus anticipated interest payable.
- (f) Following completion of the Excess and Extended Services by the Initial Developer, finalization of the Latecomer Charges, and connection to or use of the Upgrade by a Subsequent Developer, the City will remit the applicable Latecomer Charge plus interest to the Initial Developer.
- (g) Following remittance to the Initial Developer, the City will refund to a Subsequent Developer any amounts still held by the City as security.
- (h) Any security held by the City at the end of the term of the Latecomer Agreement for which the Initial Developer is not entitled to receive remittance will be refunded to the Subsequent Developers.

4.0 Interest

- 4.1 Interest will apply to the Latecomer Charges at the rate approved by by-law
 - (a) The City may adjust the interest rate from time to time.
 - (b) The accumulation of interest shall be compounded annually on the anniversary date of the Completion of the Upgrade.

5.0 Remittance to Initial Developer

- 5.1 The City will remit the Latecomer Charges to the Initial Developer on an annual basis.

6.0 Excess or Extended Services Eligibility

- 6.1 The General Manager of Engineering Services is authorized to determine which assets meet the definition of Excess or Extended Services.
 - (a) Excess or Extended Service is defined in section 561A (1) the *Vancouver Charter* as:
 - (i) A portion of a street system that will provide access to land other than the land being subdivided or developed, and
 - (ii) A portion of a water, sewage or drainage system that will serve land other than the land being subdivided or developed.
 - (b) The General Manager of Engineering Services has further defined eligible infrastructure as follows:

Sewers	Construction of a new sewer or drainage system where a sewer or drainage system did not previously exist
	Upgrade of an existing sewer or drainage system and the City requests that the developer oversize the system to provide servicing capacity greater than the needs of the initial development
	Sewer separation of an existing system
Water	Construction of a new water main where a water main did not previously exist
	Upgrade of an existing water mainline

Street System	Construction of wider sidewalks or new sidewalks where they previously did not exist that extend beyond the frontage of the property
	Construction of improved cycling facilities (e.g. wider or separated) or new cycling facilities where they previously did not exist that extend beyond the frontage of the property
	Net-new vehicle lanes or road structure upgrade that extend beyond the frontage of the property
	Major geometric changes
	Signal and Intersection Improvements, such as: a. Net-new traffic signals b. Signal improvements, such as left-turn arrows c. Net-new pedestrian signals d. Pedestrian signal improvements, such as accessible pedestrian signals (APS) e. Cycling signal improvements Note: Lighting improvements and other supportive infrastructure such as kiosks or power supply that are part of an eligible intersection upgrade will be included in the Cost of the Upgrade

- (c) The General Manager of Engineering Services has further defined ineligible infrastructure as follows:

General	Projects or upgrades in the Development Cost Levy (DCL) or Utilities Development Cost Levy (UDCL) or Layered DCL
	Upgrades that are internal to the development site property lines, as shown on the original application by the Initial Developer
Sewers	Green infrastructure is considered ineligible
Street System	Upgrades directly fronting the subject development
	Road rehabilitation
	Minor geometric changes (e.g. corner bulges)
	Traffic Calming
	Signal equipment modifications
	Changing street lighting fixtures to LED
	Other works that do not provide new or improved access for vehicles, pedestrians or cyclists.

7.0 Determination of Benefitting Area

- 7.1 The General Manager of Engineering Services is authorized to determine the Benefitting Lands for a Latecomer Agreement and how Costs will be apportioned
- 7.2 The following will be excluded from Benefitting Lands:
- (a) Parks.
 - (b) Properties for which a development permit has been issued in the 15 years prior to the date of the Initial Developer's development application that resulted in

the requirement for a Latecomer Agreement, as determined by the General Manager of Engineering Services.

- 7.3 The following will be Exempted from Benefitting Lands:
- (a) A 1.0 Floor Space Ratio (“FSR”) density credit will be applied to all properties which will reduce the Benefitting Area’s Total Developable Floor Area.

8.0 Term of the Latecomer Agreement

- 8.1 The term of the Latecomer Agreement shall not exceed 15 years from Completion of the Upgrade, unless a shorter period is specified and agreed upon by the City and the Initial Developer in the Latecomer Agreement.
- (a) The Latecomer Agreement shall terminate if and when the Cost of the Upgrade (not including the cost attributable to the Initial Developer) is collected and remitted by the City to the Initial Developer. Accumulated interest will also be collected and remitted by the City to the Initial Developer.
 - (b) The Initial Developer may effectively waive their rights to receive latecomer charges by entering into a 24 hour Latecomer Agreement, whereby the Initial Developer will only receive Latecomer Charges if a Subsequent Developer connects to the Upgrade within 24 hours of its completion.
 - (i) The City may require that an Initial Developer enter into a 24 hour Latecomer Agreement as a condition of approval.
 - (ii) If an Initial Developer agrees to enter into a 24 hour Latecomer Agreement and is subject to a negotiated CAC, the Cost of the Upgrade, including the Initial Developer’s proportionate share, may be reflected in the initial development pro forma.
 - (c) Some parcels located in the Benefitting Area may be identified by the General Manager of Engineering Services as Exempt, whereby the remaining parcels in the Benefitting Area would share the cost of the Excess and/or Extended Services as specified in the Latecomer Agreement.

9.0 Authority of the General Manager of Engineering Services

- 9.1 The General Manager of Engineering Services is authorized to use discretion and, if required, make exceptions to this Policy based on special considerations, such as large or unique sites, special Upgrade or servicing requirements, and implications of subdivision or consolidations on Benefitting Areas.

Latecomer Policy Jurisdictional Scan

To determine best practices around the policy and implementation of Latecomer Agreements, staff conducted a jurisdictional scan of municipalities and agencies that have a history of utilizing Latecomer Agreements or other similar tools. The jurisdictional scan included reviewing latecomer agreement policies and materials, as well as interviewing staff from select municipalities and agencies.

The jurisdictions reviewed primarily focused on BC municipalities, but also included Ontario and Washington. The full list of municipalities reviewed can be found in the list below:

- Surrey
- Richmond
- Maple Ridge
- Coquitlam
- New Westminster
- Burnaby
- Central Okanagan
- Langford
- Mission
- West Kelowna
- Victoria
- Province of Ontario
- Seattle
- Bellingham

The jurisdictions were assessed on a number of criteria, including the urban context where latecomers are used, policy considerations including eligible services, benefitting area, proportion of costs, and exemptions, as well as administration processes.

In regards to the urban context, most municipalities analyzed use latecomers in a greenfield context, with the exception of Surrey and Seattle which use latecomers in an infill context. Most BC municipalities also use Development Cost Contributions and Community Amenity Contributions to fund amenities and infrastructure.

Municipality	Population	Context of Latecomer use	Other development contribution tools
Vancouver	631,500	Infill	DCL, CAC
Surrey	517,887	Infill/Greenfield	DCC, CAC
Richmond	198,309	Greenfield	DCC
Coquitlam	139,284	Greenfield	DCC, CAC
Maple Ridge	82,256	Greenfield	DCC, CAC
Mission	38,833	Greenfield	DCC, CAC
West Kelowna	32,655	Greenfield	DCC
Seattle	704,352	Infill	Development impact fees, bonds, excise taxes, land improvement taxes, capital levies
Bellingham	87,038	Greenfield	

Looking at the services eligible for Latecomer Agreements, most municipalities use latecomers for water, sewer and drainage, and road/sidewalk infrastructure. Some municipalities were seen to allow latecomers for bike lanes and signals as Vancouver is proposing.

Jurisdiction	Water	Sewer & Drainage	Road / Sidewalk	Bike lane	Signal	Traffic calming	Transit	Lighting
Vancouver (proposed)	✓	✓	✓	✓	✓			
Surrey	✓	✓	✓					
Richmond	✓	✓	✓					
Coquitlam	✓	✓	✓		✓			
Maple Ridge	✓	✓	✓					
Mission	✓	✓	✓		✓			✓
West Kelowna	✓	✓	✓					
Seattle	✓	✓						
Bellingham	✓	✓	✓	✓	✓			✓

For other policy considerations, jurisdictions were also reviewed in how the benefitting area and cost sharing is calculated. Many jurisdictions calculated the benefitting area based on developments that front onto the piece of infrastructure. Others, similar to what Vancouver is

proposing, used both a frontage and a site area approach, often using the frontage approach for linear infrastructure (e.g. roads, water) and the area approach for area-based infrastructure (e.g. drainage). For allocating the share of costs between benefitting parcels, there was a mix of approaches with the majority of jurisdictions using the site area or density-based metric, with Vancouver proposing to use density as a means of distributing the costs.

Jurisdiction	Benefitting Area		Share of Costs	
	Frontage	Site Area/ Density	Frontage	Site Area/ Density
Surrey	✓	✓		
Richmond	✓	✓		✓
Coquitlam	✓		✓	
Maple Ridge		✓		✓
Mission	✓	✓		✓
West Kelowna	✓		✓	✓
Seattle	✓			✓
Bellingham	✓		✓	✓

In regards to exempting properties from latecomer agreements, many BC jurisdictions appear to exempt Federal, Provincial, Indigenous, and railway lands from benefitting areas, as well as redevelopments under existing zoning.

From the jurisdictional scan, staff were able to provide a summary on some of the standard latecomer agreement practices:

- The majority of latecomer agreements, particularly in BC, are used in a greenfield context
- Almost all jurisdictions use latecomers for roads, water, and sewer/drainage infrastructure
- Most latecomer benefitting areas are determined by using a frontage approach
- There were a mix of approaches for cost allocation, with more jurisdictions utilizing the site area or density-based approach

The interviews with select municipalities also provided some lessons learned as Vancouver developed its own Latecomer Policy:

- Keep the Latecomer Policy simple to support transparency and predictability, and reduce staff time administering latecomer agreements
- Ensure definitions and clear, easy to understand, and well documented
- Set the Latecomer administration fee at an appropriate rate to account for amount of administration, often at a flat fee

Staff have incorporated most of the best practices and lessons learned into the proposed Latecomer Policy and procedures, with some changes to reflect the infill nature of development in Vancouver.

Latecomer Program Details

Staff have analyzed the current development process and identified where it will be impacted by the legislated latecomer program. Introducing the ability to share costs via latecomer agreement creates new steps in the development process. Recognizing current challenges with the administration of the development process and a heightened focus on processing permits more efficiently, several resources have been identified to mitigate the impact. These are shared between IT system resources and new staff resources.

IT system resources:

Configuration changes to POSSE (permits), GIS (mapping), and SAP (finance) as well as some new reporting capacity are required to support the program. The costs of the IT system resources is approximately \$0.5M one time capital investment with \$0.03M ongoing annually.

Staff resources:

Department	Proposed staff increase
Engineering	1 RFT
Finance	1 RFT
Legal	1x2yr TFT
Planning	1x4yr TFT
Total	2 RFT + 2 TFT

Program Costs and revenues

The intent of the program is to be revenue neutral to the City. The requirement for initial developers to pay an Administrative Payment to settle their latecomer agreement is intended to ensure that the City recovers the new incremental costs associated with administering the Latecomer Program, including staff and technology resources. The proposed Administrative Payment per standard Latecomer Agreement will be in the range of \$6,000 to \$18,000. Staff are determining whether the Administrative Payment will be based on the complexity of the asset being delivered, the complexity of the latecomer agreement and the number of benefitting parcels impacted; simpler agreements will be closer to \$6,000 while complex agreements may reach \$18,000. If such a tiered approach is not recommended, then the Administrative Payment for each agreement will range from \$8,500 to \$9,500.

Should Council adopt the policy, the new Latecomer Program is anticipated to generate a total of \$1.9M to \$2.4M in incremental revenue over four years starting in 2022.

Ongoing program administration is estimated to cost \$0.6 million per year for each of the first two years, comprised of staffing (90%) and IT operating costs and overhead (10%); the proposed Administrative Payment will be the source of funding for the Latecomer Program. In year three and subsequent years, the ongoing program administration costs are anticipated to reduce to \$0.4 million annually as the backlog is cleared and staffing is anticipated to be reduced.

The initial implementation and roll-out of the Latecomer Program is estimated to cost \$0.5 million for IT implementation costs, to be added to the 2019-2022 Capital Plan. The costs will be incurred upfront, and the proposed Administrative Payment, over and above the annual administration costs, will provide the ultimate source of funding for the initial implementation of the Latecomer Program.

Recognizing this is a new cost recovery program, it will take at least 5 years to ramp up to requiring full program administration (i.e. when operating at full capacity of agreements to administer). Due to the latecomer legislation being added to the *Vancouver Charter* in March 2020 and the ongoing development approvals that have eligible conditions that have occurred since, there is currently a backlog of latecomer agreements to settle. Additionally, the technology enhancements need to start immediately in order to be ready for the first infrastructure upgrades to be completed in 12-18 months.

Background Information on Other Development Contribution Tools

1. Development Cost Levies
2. Community Amenity Contributions
3. Density Bonus Zoning

1. Development Cost Levies (DCLs)

Development Cost Levies (DCLs) are a growth-related charge collected from most new development and are a significant source of funding for public amenities and infrastructure needed to serve new residents and workers. DCLs help relieve a financial burden that would otherwise fall onto property taxes and other City funding.

DCLs are applied on a per square foot basis and payment is due at Building Permit issuance. DCL revenues pay for specific growth-related capital projects (as permitted by the *Vancouver Charter*). The City-wide DCL is allocated by Council as follows:

- park development and improvements (18%);
- replacement (affordable) housing (36%);
- childcare facilities (13%);
- transportation (25%); and
- utilities (affordable housing) (8%).

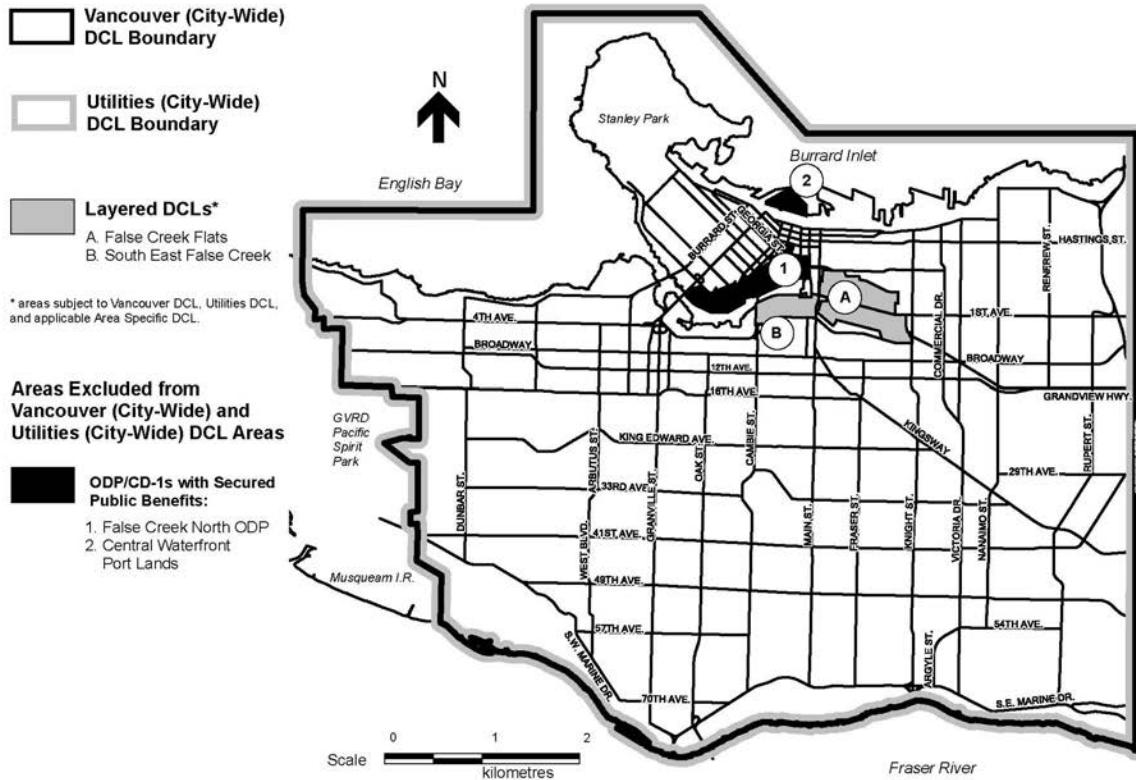
The Utilities DCL is fully allocated to utility infrastructure (sewer, water, and drainage).

The current DCL system consists of 4 DCL Districts (each with its own rates) and 2 additional planning areas excluded from DCLs. The Vancouver (City-wide) and Utilities DCL Districts apply to most of the city and the 2 Area Specific DCL Districts apply to smaller planning areas across Vancouver.

DCL By-laws establish area boundaries of each DCL district. Levies collected within each district must be spent within the area boundary, except for DCLs collected for replacement housing which can be spent city-wide. DCL districts are divided into two general categories:

1. Base DCL Districts: This includes the City-wide DCL District and the Vancouver Utilities DCL District. These districts apply across the city and most developments are subject to both DCLs.
2. Layered DCL Districts: These are specific geographic areas in which the Area Specific DCL, the City-wide DCL, and Utilities DCL all apply. There are two such areas shown on the map as A and B (False Creek Flats and Southeast False Creek). These are or were industrial areas where new plans identified potential for significant redevelopment and a higher need for facilities than could be covered by the City-wide DCL and Utilities DCL alone.

Current DCL Districts



note: boundaries of highlighted areas are approximate and shown for illustrative purposes only.

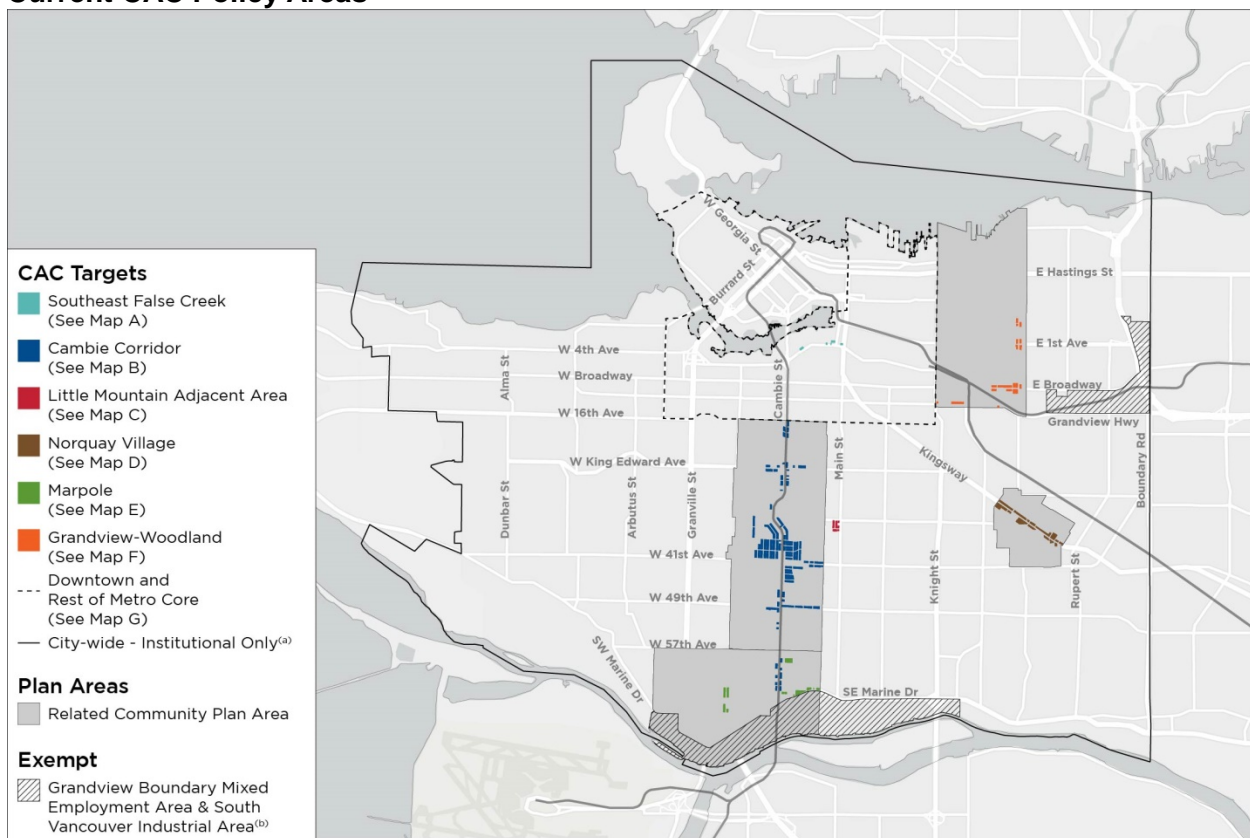
2. Community Amenity Contributions (CACs)

CACs are voluntary in-kind or cash contributions provided by development when City Council grants additional development rights through rezonings. CACs can help address the increased demands that may be placed on City facilities as a result of a rezoning (from new residents and/or employees), as well as mitigate the impacts of a rezoning on the surrounding community.

In a rezoning, CACs can be part of a public benefits package offered by the developer. In-kind (or on-site) amenity contributions can include affordable and non-market housing, childcare facilities or park space. CAC payments in-lieu may be put toward these benefits as well, but also include libraries, community centres, cultural facilities and neighbourhood houses. CAC payments in-lieu are generally applied to off-site benefits in the surrounding community. CACs are in addition to DCLs.

As new area-specific plans are approved, these areas are excluded from the City-wide CAC policy. Many of these areas have a blend of negotiated CAC and CAC target contributions from rezonings, and they are based on local public benefit needs and development economics.

Current CAC Policy Areas



3. Density Bonus Zoning Contributions

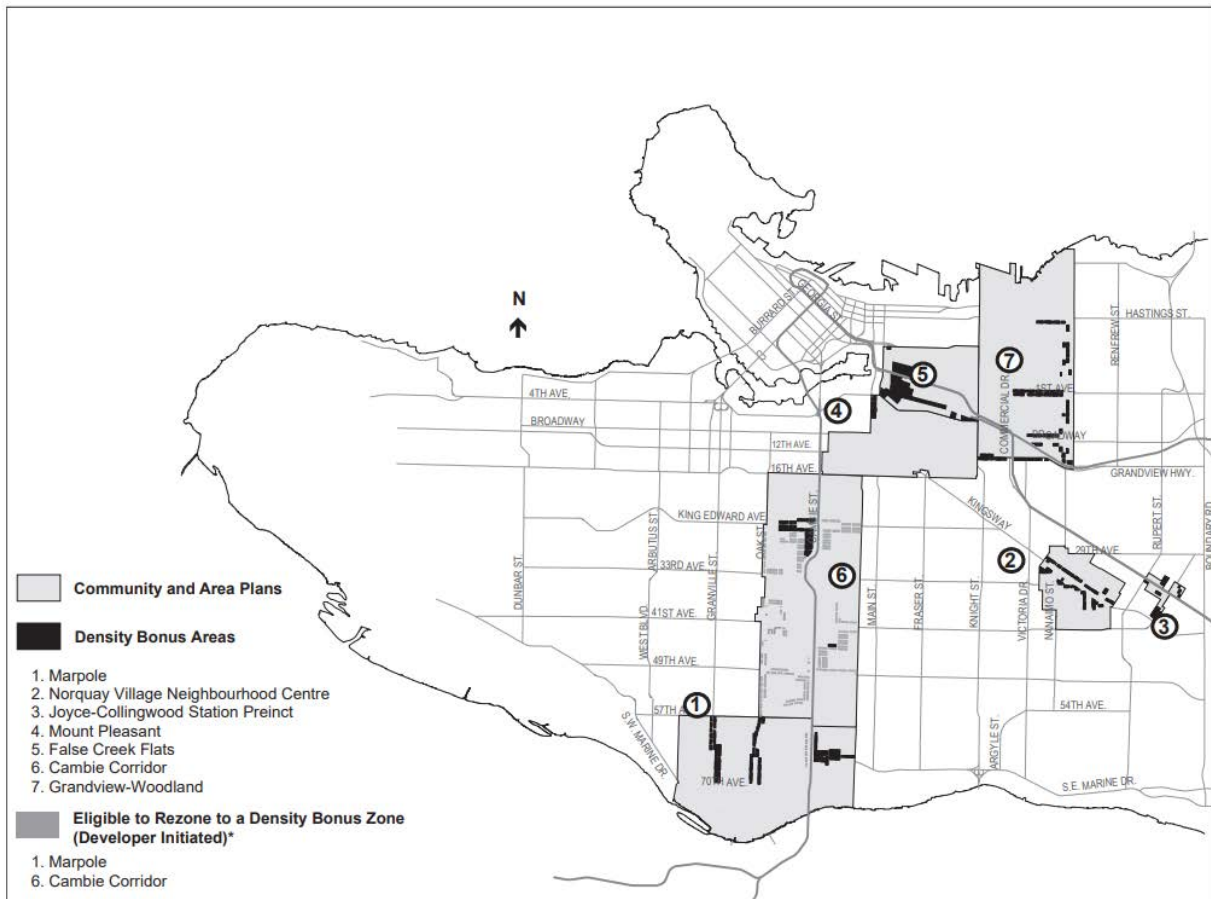
Density bonus zoning contributions are used as a zoning tool that permits developers to build additional floor space, in exchange for amenities and/or affordable housing needed by the community. Amenities can include community centres, libraries, parks, childcare centres, infrastructure and more.

Density bonus zones allow for:

- Outright density (or base density) with no density bonus contribution.
- Additional density, up to a limit set in a zone, with a contribution towards amenities and affordable housing.

Financial contributions are determined by the ‘affordable housing and amenity share’ contribution rate set out in Schedule F of the Zoning & Development By-law. New community plan areas are actively pursuing new Density bonus zoning contributions areas. Density bonus zoning contributions are currently approved in select zones in Norquay, Marpole, Joyce-Collingwood, Mount Pleasant Industrial Area, False Creek Flats, Grandview-Woodland, and Cambie Corridor.

Current Density Bonus Zoning Contribution Areas



* For more information on developer-initiated rezonings to a RM-8A/RM-8AN, please see the Apply to Rezone Your Property to RM-8A, RM-8AN, or I-1C website.

Vancouver Charter Latecomer Provisions

Requirements for excess or extended services

- 561A** (1) For the purposes of this section and section 561B, "excess or extended services" means
- (a) a portion of a street system that will provide access to land other than the land being subdivided or developed, and
 - (b) a portion of a water, sewage or drainage system that will serve land other than the land being subdivided or developed.
- (2) The Council may require that the owner of land that is to be subdivided or developed provide excess or extended services.
- (3) If the Council makes a requirement under subsection (2), the cost of providing the excess or extended services must be paid for
- (a) by the city, or
 - (b) if the Council considers its costs to provide all or part of these services to be excessive, by the owner of the land being subdivided or developed.

Latecomer charges and cost recovery for excess or extended services

- 561B** (1) For the purposes of this section, "latecomer charge" means a charge under subsection (2) (c).
- (2) If the owner is required under section 561A (3) (b) to pay all or part of the costs of excess or extended services, the city must
- (a) determine the proportion of the cost of providing the street or water, sewage or drainage facilities that it considers constitutes the excess or extended services,
 - (b) determine which part of the excess or extended services that it considers will benefit each of the parcels of land that will be served by the excess or extended services, and
 - (c) impose, as a condition of an owner connecting to or using the excess or extended services, a charge related to the benefit determined under paragraph (b).
- (3) If the owner pays all or part of the costs of excess or extended services, the city must pay the owner
- (a) all the latecomer charges collected under subsection (2) (c), if the owner pays all the costs, or
 - (b) a corresponding proportion of all latecomer charges collected, if the owner pays a portion of the costs.
- (4) If the city pays all or part of the costs of excess or extended services, it may recover costs
- (a) by a latecomer charge under subsection (2) (c), or

(b) by a tax imposed in accordance with Part XXIV [*Local Improvements*], other than section 506 [*process for initiating local improvements*].

(5) A latecomer charge must include interest calculated annually at a rate established by bylaw, payable for the period beginning when the excess or extended services were completed, up to the date that the connection is made or the use begins.

(6) Subject to subsection (7), latecomer charges must be collected during the period beginning when the excess or extended services are completed, up to

(a) a date to be agreed on by the owner and the city, or

(b) if there is no agreement, a date determined under the [Arbitration Act](#).

(7) No latecomer charges are payable beyond 15 years from the date the services are completed.

(8) If an owner, in accordance with a bylaw under section 292, provides a street or water, sewage or drainage facilities that serve land other than the land being subdivided or developed, this section applies.



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October 4, 2021

Chalys Joseph, P. Eng, MBA
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Re: City of Vancouver Latecomer Agreement Framework

The Urban Development Institute (UDI) would like to thank Council and City staff for seeking the ability under the *Vancouver Charter* to allow latecomer agreements, and Engineering Services for engaging with our members to build an efficient and fair regulatory framework for these agreements. We are very supportive of the proposals that were developed through extensive consultations with builders.

UDI has long advocated for latecomer agreements in the City of Vancouver. In 2017, we requested that the City and Province work with the building sector to allow these types of agreements under the *Vancouver Charter*, as they are allowed in every other municipality in the Province under the *Local Government Act*. We were very pleased that Council supported this initiative and the City was able to obtain changes in March 2020.

Latecomer agreements will allow capital infrastructure projects to proceed more quickly, as the City and its builder partners will be able to negotiate the funding of capital works earlier than scheduled. Builders who are willing to front-end the cost of infrastructure in an area to allow their project to proceed, will now have a cost recovery mechanism to charge future builders with adjacent sites to pay back some of the costs of that infrastructure. The cost recovery will remove road blocks that currently delay housing projects and new commercial spaces.

We thank Engineering Services' staff for being diligent, transparent and collaborative with our members in developing the proposed latecomer agreement regulatory framework. UDI appreciated the opportunity to establish a small working group to review Vancouver's approach to latecomer agreements, as well as the broader discussions with our membership.

UDI supports the proposed recommendations by staff for the latecomer agreement framework, and we look forward to working with the City on implementing these agreements, if the framework is approved by Council. We thank staff and Council for their efforts to advance this important initiative.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Anne McMullin".

Anne McMullin
President & CEO, UDI