



Policy Municipal Servicing Agreements and Reimbursement of Road Servicing Costs

1 Purpose

To establish municipal policy for the re-imbusement of front end road servicing costs, in part, to a developer who has been required under the provisions of a servicing agreement to pay servicing agreement fees for costs of road improvements to a proposed subdivision. In the course of providing for the required road, the developer will be providing a benefit to other land owners in the area that may subsequently decide to subdivide their land. A municipality may include re-imbusement provisions in a servicing agreement with the first in developer first-in developer or current land owner, as appropriate, to recover a proportionate share of road improvement costs through servicing agreement provisions with latecomer developers. Such fees will be paid to the municipality by the latecomer developer and reimbursed to the first in developer or current land owner, as appropriate.

2 Authority

Section 172(3)(b) of The Act provides that a municipality may require a servicing agreement prior to subdivision approval to provide for the payment of fees by the applicant for payment in whole or part for the capital cost of providing infrastructure within or outside the proposed subdivision that directly or indirectly serves the proposed subdivision.

Section 173 (d) of The Act provides that a servicing agreement may provide for re-imbusement of servicing agreement fees collected by a municipality under a servicing agreement (together with any accrued interest on the money collected) from the payment of servicing agreement fees by a subsequent developer whose land benefits from the provision of infrastructure provided under a previous servicing agreement.

3 Definition of Terms

Benefitting Area:

means any land which receives access via a road improved pursuant to a servicing agreement, and may include land that will be accessed by the construction of an extension of the improved road.

Cost of Road Improvements:

shall include:

- a) land or right of way acquisition costs;
- b) actual construction costs; and,
- c) design and inspection costs by a certified professional engineer.

The cost of road improvements shall not include any road enhancements provided by the municipality subsequent to the construction of the road under the provisions of a servicing agreement with a first-in developer.

First-in Developer:

means a subdivision applicant or developer who is required, under the provisions of a servicing agreement, to pay for the construction of a road to provide access from the existing municipal road system to the proposed subdivision.

Current Land Owner:

Means the owner of the land, which was subdivided by the First-in Developer, on the date the Council approves the servicing agreement with the Latecomer Developer.

Latecomer Developer:

means a subdivision applicant or developer who subsequently proposes to subdivide land in the benefitting area and is required under the provisions of a serving agreement to pay Latecomer Charges to re-imburse the First-in Developer or Current Land Owner, as appropriate, for a proportionate share of The Cost of Road Improvements.

Per Metre Latecomer Charge:

shall be calculated based on the cost of road improvements divided by the total frontage of all land in the benefitting area on the improved road. The total frontage, noted above, shall include the frontage of the land being subdivided as well as the frontage of the remainder of the land in the original title of the land being subdivided. Where land is subsequently subdivided that will be accessed by the construction of an extension of the improved road, and which hasn't originally been included in the Benefitting Area, the Per Metre Latecomer Charge will be pro-rated to reflect the inclusion of the additional frontage.

EXAMPLE: The Benefitting Area was originally calculated to have a frontage of 4,000 metres. The Cost of Road Improvements was \$500,000 resulting in a latecomer charge of \$125 per metre. At the time the Benefitting Area was originally calculated, it was not contemplated that the road would be extended to accommodate a future subdivision. However, a subdivision is subsequently submitted which would benefit from the original road improvement and would require an extension to the improved road. As a result, the frontage of the Benefitting Area is increased from 4,000 metres to 5,000 metres and the per metre latecomer charge would be pro-rated to reflect the additional frontage. This would result in a reduction of the latecomer charge to \$100 per front metre. Note, the extension of the improved road is calculated and charged separately.

Latecomer Charge:

shall be calculated for land in the benefitting area based on the per metre latecomer charge multiplied by the total frontage of lots in the proposed subdivision.

4 Servicing Agreement Reimbursement Provisions

A servicing agreement that provides rights to re-imbursement of a proportionate share of road improvement costs to the first-in developer or current owner, as appropriate, shall include the following provisions:

a) *Identification of Benefitting Area*

A map which identifies all properties in the benefitting area including a list of legal descriptions and the names of registered owners shall be furnished by the developer.

b) *Cost of Road Improvement*

The municipal engineer will confirm the cost of road improvement for the municipality at the developer's expense for inclusion in the agreement. Where the developer constructs the road, the developer shall submit copies of all invoices which have been paid for this construction to the municipality. The municipal engineer shall review these invoices to confirm that they are reasonable and apply only to the cost of road improvements as defined herein.

c) *Time Period for Reimbursement*

The agreement shall state a specific time period (e.g. 10 to 15 years), to which the rights to reimbursement will apply based on the recommendation of the municipal engineer furnished at the developer's expense. An option for extending the agreed upon time period may be included in the agreement under the same terms as noted above should the life expectancy of the road exceed initial expectations.

d) *Per-metre Latecomer Charges*

The identification of the per-metre latecomer charges for the benefitting area will be identified by the municipality in the agreement.

5 Other Considerations

There are a number of additional considerations that the municipality may wish to address in relation to enacting a reimbursement policy in servicing agreements:

a) *Exceptions to Policy*

All existing properties in the benefitting area including all agricultural holdings and any existing farmstead or country residential site, will be unaffected by the latecomer servicing agreement policy unless they choose to subdivide their property. All subdivisions in the benefitting area subsequent to a first in servicing agreement will be subject to latecomer charges. The only exemption will be granted by the municipality for the subdivision of an existing farmstead for residential retirement purposes

b) *Appeal Provisions*

The reimbursement provisions in either a first-in or latecomer servicing agreement shall constitute a term or condition of a servicing agreement as authorized pursuant to Section 172 of the Act. A subdivision applicant has the right of appeal to the Saskatchewan Municipal Board pursuant to Section 176(1) of the Act concerning a dispute arising out of the terms or conditions of a servicing agreement.

c) *Municipality Not Liable*

The Municipality shall not be liable to the first-in developer or current land owner, as appropriate, should the Municipality be unable to collect a Latecomer Charge for any reason whatsoever.

Prepared by Crosby Hanna & Associates, August 2015