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Strata Property Act

BARE LAND STRATA REGULATIONS

[includes amendments up to B.C. Reg. 4/2010, January 14, 2010]

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Interpretation

Definitions

1 (1) In these regulations:

"access route" means those portions of the common property in a bare land strata plan intended to provide vehicular access to the strata lots in the bare land strata plan;

"code" means

(a) a bylaw adopted by a council under section 306 of the *Vancouver Charter* or under section 697 of the *Local Government Act*, or by the trustees of any improvement district under the *Water Act*,

(b) regulations made by the Lieutenant Governor in Council under section 692 of the *Local Government Act*, and

(c) regulations made under the *Health Act*, *Gas Safety Act* or the *Electrical Safety Act*¹;

"development" means land that has been, or is intended to be, divided into 2 or more strata lots by the registration of a bare land strata plan in a land title office;

"highway" includes a street, road, lane, bridge, viaduct and any other way open to the use of the public, but does not include a private right of way on private property;

"improvement district" means an improvement district as defined in the *Water Act*;

"medical health officer" means the medical health officer as defined in the *Health Act*;

"municipality" means a municipality as defined in the *Local Government Act* and includes the City of Vancouver;

"potable water" means water which is approved for drinking purposes by a medical health officer under the *Health Act*;

"professional engineer" means a person who is registered or duly licensed as such under the *Engineers and Geoscientists Act*;

"regional district" means a regional district as defined in the *Local Government Act*;

"registrar" means a registrar of titles within the meaning of the *Land Title Act*;

"zoning bylaw" means a zoning bylaw within the meaning of the *Local Government Act* and includes a provision in any other bylaw of a municipality or regional district regulating the area, shape, dimensions or use of land but does not include an official community plan or an official settlement plan.

(2) For the purposes of these regulations, a reference in a zoning bylaw to **"lot"** or **"parcel"** includes a strata lot in a bare land strata plan.

[am. B.C. Reg. 137/84.]

General

Approval of plan

- 2 (1) No bare land strata plan shall be approved by an approving officer unless
- (a) it conforms to the relevant municipal or regional district zoning bylaws and development permits, and
 - (b) it complies with the Act, this regulation and rules made under section 75 of the *Land Surveyors Act*.

(2) Notwithstanding subsection (1) (a), where a zoning bylaw sets out minimum lot or parcel sizes, the approving officer may approve a bare land strata plan containing strata lots of less than the permitted size so long as

- (a) the total area of the land in the bare land strata plan (exclusive of those portions intended to provide access routes) divided by the number of strata lots intended to be created is not less than
 - (i) where the bylaw specifies a minimum lot size but no average lot size, the minimum lot size so specified, or
 - (ii) where the bylaw specifies a minimum lot size and an average lot size, the average lot size so specified, and
 - (b) the approving officer is satisfied that a building or structure appropriate to the intended use can be constructed on each of the strata lots in compliance with the zoning bylaw, or in compliance with a development permit, where a development permit has been issued by the municipality or regional district.
- (3) Nothing in this section authorizes the approving officer to approve a bare land strata plan containing a strata lot that is of a size less than the minimum size prescribed under the *Local Services Act*, where the land intended to be included in the bare land strata plan is subject to that Act.

[am. B.C. Regs. 307/83; 137/84; 207/2004, s. (c).]

Requirements for approval

3 (1) In considering an application for the approval of a bare land strata plan, the approving officer may

(a) at the cost of the owner-developer, personally examine or cause an examination and report to be made on the land intended to be included in the bare land strata plan,

(b) hear from all persons who, in his opinion, are affected by the bare land strata plan,

(c) require an owner-developer to state in writing the intended use of the strata lots being created by a bare land strata plan,

(d) require the owner-developer to provide such plans, designs, specifications and reports as the approving officer may reasonably require in order to consider the bare land strata plan for approval,

(e) refuse to approve the bare land strata plan, if he considers that

(i) the anticipated development would injuriously affect the established amenities of adjoining or reasonably adjoining properties,

(ii) the deposit of the bare land strata plan is against the public interest,

(iii) the bare land strata plan does not comply with the provisions of these regulations relating to access and the sufficiency of highways required to be dedicated pursuant to these regulations,

(iv) the highways required to be dedicated prior to the approval of the bare land strata plan by the approving officer are not cleared, drained, constructed and surfaced to his satisfaction, or unless, in such circumstances as he considers proper, security in an amount and in a form acceptable to him is provided by the owner-developer,

(v) it contains land that because of inadequate drainage is not suitable for the intended use or any other prospective use the approving officer considers likely,

(vi) the land is subject or could reasonably be expected to be subject to flooding, erosion, land slip or avalanche,

(vii) the cost of providing the public utilities or other works or services would be excessive, or

(viii) the development would adversely affect the natural environment to an unacceptable level.

(2) If land in respect of which a bare land strata plan is submitted for approval is subject to any of the conditions described in subsection (1) (e) (v) or (vi),

the approving officer may approve it if the owner-developer agrees in writing to enter into such covenants registrable under section 182 of the *Land Title Act* as the approving officer considers advisable.

(3) Repealed. [B.C. Reg. 497/2003, s. 1 (b).]

[am. B.C. Regs. 310/85; 109/2002, s. 3; 497/2003, s. 1.]

Improvement districts to be notified of approval

- 4 Where the land intended to be included in a bare land strata plan is situated in an improvement district, the approving officer shall, within 7 days after the bare land strata plan is received by him for approval, notify the trustees of the improvement district.

Highways

Highways and highway access must be considered

- 5 (1) Where the approving officer considers that portions of the land intended to be included in a bare land strata plan are or may be necessary

(a) for the construction of highways within the municipality or regional district in accordance with any existing Provincial or municipal highway network, plans or policy,

(b) to provide necessary and reasonable access by means of a highway to land lying beyond the land intended to be included in the bare land strata plan, or

(c) to provide suitable lanes in continuation of existing lanes,

he may refuse to approve the bare land strata plan unless

(d) the owner-developer has, subject to the limitations in section 945 of the *Local Government Act* or sections 2 (1) (a) and (f) and (2), 8 to 11 and 43 of the *Transportation Act*, as the case may be, dedicated those portions, by registering a subdivision plan in the land title office, and

(e) the owner-developer has constructed the highway or lane or, in such circumstances as the approving officer considers appropriate, the owner-developer has furnished to the municipality, regional district or improvement district security for its construction in an amount and in form satisfactory to the approving officer.

- (2) In considering the sufficiency of a highway to be dedicated prior to the approval of a bare land strata plan, the approving officer shall consider

(a) the location and width of the highway,

(b) the configuration of the land intended to be included in the bare land strata plan,

- (c) the relation of the highway to be dedicated to an existing highway or approach, whether by land or water, and local circumstances,
- (d) on the question of width, the extent of the use, present and future, to which the highway may be put, and
- (e) the likely or possible role of the highway in a future highway network serving the area in which the land in the bare land strata plan is situate.

[am. B.C. Regs. 180/88, s. (a); 546/2004, App. s. 26.]

Access Routes

No approval if access routes insufficient

- 6** (1) The approving officer may decline to approve a bare land strata plan if, where he considers access routes are necessary, he considers that
- (a) the width of the access routes are not sufficient to meet police and fire protection requirements,
 - (b) the access routes are not sufficient to provide practical and reasonable access to the strata lots, or
 - (c) the access routes have not been designed or are not capable of being constructed in accordance with standards generally accepted as good engineering practice.
- (2) In considering the sufficiency of the access routes, the approving officer may consider
- (a) reports from local fire protection and police authorities,
 - (b) engineering studies or reports of a professional engineer on the design and construction of the access routes,
 - (c) the proposed use of the land in the bare land strata plan and whether or not the access routes are suited to the use intended,
 - (d) the configuration of the land in the bare land strata plan, and
 - (e) the relation of the intended access routes to an existing highway or approach outside the bare land strata plan,

and the approving officer may, at the cost of the owner-developer, require an engineering study on the sufficiency of the access routes to be prepared by a professional engineer.

No approval if access routes encroach on lots

- 7** No bare land strata plan shall be approved by an approving officer unless he is satisfied that the access routes he considers necessary will not encroach on a

strata lot.

Access Generally

General requirements

8 (1) A bare land strata plan shall comply with the following:

(a) where the land intended to be included in a bare land strata plan borders

(i) on a body of water, the bed of which is owned by the Crown,

(ii) on the boundary of a strip of land established as the boundary of a water reservoir, and the strip of land and reservoir are owned by the Crown, or

(iii) on a strip of land 20 m or less in width contiguous to a natural boundary as defined in the *Land Act*,

access shall be given by highways 20 m wide to the body of water and to the strips at distances not greater than 200 m between centrelines, or, in unorganized territory where the land intended to be included in the bare land strata plan exceeds 0.5 ha, at distances not greater than 400 m between centrelines;

(b) where

(i) the land intended to be included in a bare land strata plan borders on a body of water, the bed of which is owned by a person other than the Crown, and

(ii) in the case of a lake or pond, where the surface area of the body of water at mean annual high water is at least 1.5 ha, and the mean depth at mean annual high water is at least 0.6 m, or

(iii) in the case of a river, creek or watercourse, where the average width of that portion within the bare land strata plan at mean annual high water is at least 6 m and the average depth of that portion at mean annual high water is at least 0.6 m,

access shall be given by highways 20 m wide to the body of water at distances not greater than 200 m between centrelines, or in unorganized territory where the land intended to be included in the bare land strata plan exceeds 0.5 ha, at distances not greater than 400 m between centrelines; but subparagraph (ii) does not apply to a reservoir or pond where the bed is owned by a public body other than the Crown and used for the purpose of domestic or industrial water supply.

(2) The Minister of Transportation and Infrastructure may, on application supported by an affidavit and, where the approving officer is not an employee of the Ministry of Transportation and Infrastructure, the written recommendation of the approving officer, grant relief from a strict compliance with this section.

(3) The grant of relief under subsection (2) may be evidenced by a certificate endorsed on the bare land strata plan and signed by the Minister of Transportation and Infrastructure or by an approving officer of the Ministry of Transportation and Infrastructure.

If plan land adjoins body of water

9 (1) Where the land intended to be included in a bare land strata plan adjoins a lake, river, stream or other body of water, the approving officer may refuse to approve it unless the owner-developer has provided by dedication without compensation a strip of land not exceeding 7 m in width along the bank or shore for the purpose of providing public access, if, in his opinion, it is in the public interest to do so.

(2) Land dedicated under this section shall be measured from

- (a) the high water mark,
- (b) the controlled high water mark, or
- (c) the natural boundary of the lake, river, stream or other body of water as defined by the *Land Act*,

whichever is applicable.

(3) The amount of land provided for public access under this section shall not exceed 5% of the land in the bare land strata plan.

(4) This section does not apply where the smallest strata lot intended to be created by the bare land strata plan exceeds 2 ha.

Registration of plan dedicates highway access land

10 A dedication of land for public access by highways or otherwise under section 8 or 9 of this regulation shall be effected by the registration of a subdivision plan in the land title office.

Controlled access highways

11 Except in the case of a municipality that has adopted an official community plan and

- (a) the official community plan has been approved by the minister responsible for the administration of the *Transportation Act*, and
- (b) the land in a bare land strata plan is in an area of the

municipality covered by the official community plan,
the approving officer shall not approve that bare land strata plan if it deals with land in the municipality adjacent to a controlled access highway, as defined in the *Transportation Act*, unless and until it has first been approved by an approving officer for unorganized territory.

[am. B.C. Regs. 546/2004, App. s. 27; 4/2010, s. 2.]

Off-site Services

Water and sewers

12 Where land in a bare land strata plan would, if subdivided under the *Land Title Act*, be required to be connected by water, sewer or storm drainage mains to a water utility, community water system, sewage collection and disposal system or a drainage system operated by a municipality, regional district, improvement district, water district or any other public authority pursuant to a bylaw regulating the subdivision of land under the *Local Government Act* or *Water Act*, the approving officer shall not approve the bare land strata plan unless

(a) the water, sewer and storm drainage mains connecting the land to the utility or systems have been constructed in accordance with the standards and procedures set out in the bylaw, or

(b) the owner-developer has, in such circumstances as the approving officer considers appropriate, furnished security to the municipality, regional district or improvement district for the cost or his portion of the cost of constructing the water, sewer and storm mains in form satisfactory to the approving officer.

[am. B.C. Reg. 546/2004, App. s. 28.]

On-site Services

Water, sewers and drainage

13 (1) Where land intended to be included in a bare land strata plan is required to be connected to a water utility, community water system, sewage collection and disposal system or a drainage system pursuant to a bylaw enacted under section 746, 747 or 938 of the *Local Government Act*, the approving officer shall not approve the bare land strata plan unless he is satisfied that a water distribution system, sewage collection system and drainage system serving all the strata lots can be constructed on the land in accordance with the standards set out in the codes, or where the codes do not provide standards, in accordance with standards generally accepted as good engineering practice.

(2) Where the land intended to be included in a bare land strata plan is not required to be connected to a water utility or community water system, the approving officer shall not approve the bare land strata plan unless

(a) he is satisfied that each strata lot intended to be created has an adequate proven source of potable water or will have a supply of potable water adequate for its use or any prospective use the approving officer considers likely, or

(b) a water distribution system connecting all the strata lots to an adequate proven source of potable water has been constructed on the land in accordance with the standards set out in the codes, or where the codes do not provide standards, in accordance with standards generally accepted as good engineering practice.

(3) Where the land intended to be included in a bare land strata plan is not required to be connected to a sewage collection and disposal system, the approving officer shall not approve the bare land strata plan unless

(a) he is satisfied that a sewage disposal system can be constructed on each strata lot in accordance with the standards set out in the codes, or

(b) a sewage collection system connecting each strata lot to a common or other sewage disposal facility has been constructed on the land in accordance with the standards set out in the codes, or where the codes do not provide standards, in accordance with standards generally accepted as good engineering practice.

(4) Where

(a) the land or any part of the land intended to be included in a bare land strata plan is not suitable for its intended or any other likely use because of inadequate drainage, and

(b) the owner-developer has agreed to install a drainage system that will, in the opinion of the approving officer, provide adequate drainage,

the approving officer shall not approve the bare land strata plan unless the drainage system has been constructed on the land in accordance with standards generally accepted as good engineering practice, and provides adequate drainage.

(5) In such circumstances as the approving officer considers appropriate, he may approve a bare land strata plan where the requirements of subsection (2), (3) or (4) are not met if the owner-developer agrees in writing to enter into such covenants registrable under section 182 of the *Land Title Act* as the approving officer considers advisable.

(6) For the purpose of this section, the approving officer may rely upon a certificate of a professional engineer as evidence of standards generally accepted as good engineering practice.

[am. B.C. Reg. 180/88, s. (b).]

Water and sewer easements, licences and permits

14 (1) Where the source of potable water intended to supply the development is on land not intended to be included in the bare land strata plan, the approving officer shall not approve it unless he is satisfied that the owner-developer has obtained all rights-of-way or easements necessary to transport water from the source to the development.

(2) Where the owner-developer intends to supply the development with water from a source regulated under the *Water Act*, the owner-developer shall obtain a licence to divert and use the amount of water required to serve the development prior to the approval of the bare land strata plan by the approving officer.

(3) Where a discharge of sewage from or within a development is within the terms of the *Environmental Management Act*, the owner-developer shall obtain a provisional permit for that discharge prior to the approval of the bare land strata plan by the approving officer.

Easements for water, sewer and drainage required

15 Where

(a) an owner-developer intends or is required to provide the development with a water distribution system, sewage disposal system or drainage system, and

(b) if any of the pipes or lines comprised in the systems are intended to be laid on or under a strata lot,

the approving officer shall not approve the bare land strata plan unless the owner-developer agrees, in writing, to register such easements as the approving officer considers sufficient to ensure that the strata corporation will have the right to enter on the strata lots affected and to install, repair, maintain or replace the pipes or lines.

Exemption from requirements of section 13

16 Notwithstanding section 13 of this regulation, where

(a) a water distribution system, sewage collection system or drainage system is required to be constructed prior to the approval of a bare land strata plan by the approving officer, and

(b) the required systems have not been constructed on the land intended to be included in the bare land strata plan at the time it is submitted to the approving officer for approval,

the approving officer may, in such circumstances as he considers appropriate, approve the bare land strata plan if the owner-developer has furnished security for the cost of constructing the systems in an amount and form satisfactory to

the approving officer.

Vehicle Parking

Common parking property

17 A bare land strata plan shall provide as common property, limited common property or otherwise, such areas for the parking of automobiles as the approving officer considers necessary to meet the normal parking requirements of the development, having regard to the number and size of the strata lots intended to be created, the width of the access routes intended to be provided and the intended use of the strata lots.

Approval

Form of approval

18 On the approval of a bare land strata plan, the approving officer shall write on it "Approved as a bare land strata plan under the *Strata Property Act*" with the date of approval and shall sign it and append below his signature the title [*Municipal, or as the case may be*] Approving Officer for [*Name of municipality, or as the case may be*]..... .

Submission of Plans for Approval

Submission and inspection of plans

19 (1) A bare land strata plan shall be tendered for examination and approval by the approving officer

(a) where the land affected is within a municipality, to the municipal clerk, and

(b) where the land affected is within an unorganized territory, to the district highway manager of the Ministry of Transportation and Infrastructure, or where an employee of a regional district is the approving officer, to the secretary-treasurer of the regional district.

(2) The bare land strata plan shall be accompanied by

(a) an examination fee, if the bare land strata plan is tendered under subsection (1) (b) to a district highway manager, of \$100 plus \$100 for each strata lot to be created under the bare land strata plan, and

(b) a certificate that all taxes assessed on the land have been paid, and where local improvement taxes, rates or assessments are payable by instalments, that all instalments owing at the date of the certificate have been paid.

(3) Where a bare land strata plan is tendered for examination and approval after the expiration of 3 months after the date the survey is completed, the approving officer may require the surveyor who carried out the survey to inspect the survey and

(a) satisfy himself that

(i) all posts and monuments are in place, and

(ii) the survey has not been affected by an intervening survey or a registration, deposit, or filing under the Act or the *Land Title Act*, and

(b) write on the plan "Inspected under the *Strata Property Act*", with the date of the inspection and his signature.

(4) The surveyor may inspect and certify under subsection (3) before the plan is tendered for approval.

(5) In the event of the death or disability of the surveyor, the Surveyor General may appoint another British Columbia land surveyor to make the inspection.

[am. B.C. Reg. 36/94.]

Deposit of plans

20 (1) A bare land strata plan shall be tendered for deposit to the registrar within 2 months after it has been approved by the approving officer, or within such further time as the registrar, on application made to him before the expiration of the 2 months, may allow for sufficient cause.

(2) Where the bare land strata plan is not tendered to the registrar within the time allowed, the approval of the plan shall be conclusively deemed to be revoked.

Conditional approval

21 (1) Where the approving officer approves a bare land strata plan on the condition that a covenant or easement benefiting or burdening the land or any adjacent land be registered in the land registry office, he shall endorse the condition on the bare land strata plan.

(2) No registrar shall deposit a bare land strata plan until he is satisfied that all conditions endorsed on it by the approving officer have been met.

1. see now *Public Health Act and Safety Standards Act*

[Provisions of the *Strata Property Act*, S.B.C. 1998, c. 43, relevant to the enactment of this regulation: sections 292 and 243]

