

**CAPITAL REGIONAL DISTRICT (CRD)
BYLAW NO. 2312**

(As amended by Bylaws No. 3028, 3319)

*Consolidated version authorized in accordance with Bylaw No. 3014,
CRD Consolidation Authorization Bylaw No. 1, 2002*

***LIQUID WASTE MANAGEMENT CORE AREA AND WESTERN
COMMUNITIES SERVICE ESTABLISHMENT BYLAW NO. 1, 1995***

*A Bylaw to Convert the Authority for Liquid Waste Management to a Service for the
Core Area and Western Communities*

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CAPITAL REGIONAL DISTRICT

BYLAW NO. 2312

A BYLAW TO CONVERT THE AUTHORITY FOR LIQUID WASTE MANAGEMENT TO A SERVICE FOR THE CORE AREA AND WESTERN COMMUNITIES

WHEREAS:

- A. By Supplementary Letters Patent, Division VII dated December 28, 1967, as amended by further Supplementary Letters Patent, the Capital Regional District was granted the function of the acquisition, design, construction, operation, maintenance, renewal and administration of trunk sewers and sewage disposal facilities within all member municipalities of the Regional District except the District of Sooke and the Southern Gulf Islands;
- B. The Board of the Capital Regional District wishes to exercise the function granted to it by the Letters Patent in accordance with Part 24 of the *Local Government Act* subject to all the terms and conditions contained in the Letters Patent and including all the powers granted by the Letters Patent within all member municipalities except the District of Sooke and the Southern Gulf Islands;
- C. The Board of the Capital Regional District wishes to proceed under section 774.2 of the *Local Government Act* and convert the service to a service exercised under the authority of a bylaw for a portion of the Regional District by bylaw under sections 774.2(3) and 796 of the *Local Government Act*;
- D. The Board of the Capital Regional District has obtained the consent on behalf of the electors under section 801.4 of the *Local Government Act*;

NOW THEREFORE, the Regional Board of the Capital Regional District in open meeting assembled enacts as follows:

Service

1. The collection, conveyance, treatment and disposal of sewage is established as a service.

Boundaries

2. The boundaries of the service area shall be coterminous with the boundaries of the municipalities of Saanich, Victoria, Oak Bay, Esquimalt, View Royal, Colwood and Langford.

Participating Areas

3. The municipalities of Saanich, Victoria, Oak Bay, Esquimalt, View Royal, Colwood and Langford include the participating areas for this service.

Cost Recovery

4. (1) The annual operating costs and annual debt costs for the service shall be recovered by one or more of the following:
 - (a) property value taxes imposed in accordance with Division 4.3 of Part 24 of the *Local Government Act*;

- (b) fees and charges that may be imposed under section 797.2 of the *Local Government Act*;
 - (c) revenues raised by other means authorized by the *Local Government Act*; and
 - (d) revenue received by way of agreement, enterprise, gift, grant or otherwise.
- (2) The amount of the requisition for any participating area shall not exceed the amount calculated under section 5 less any amount received from the participating area under section 4(1)(d) by way of agreement negotiated with that participant.

Apportionment*(Bylaw 3028)**(Bylaw 3319)*

5. (1) In this Bylaw:

- (a) "annual debt cost" means the principal and interest payable in each calendar year for the amortization of debenture and other debt;
- (b) "annual operating cost" includes all costs of operating, maintaining and administering all participating area facilities and programs, excluding annual debt costs;
- (c) "design capacity benefit" means a benefit to one or more participants that results from any new construction of, or capital additions or improvements to sewage conveyance facilities or their ancillary facilities. To the extent that the benefit is the provision of, or the creation of conditions to allow, additional conveyance capacity, then the design capacity shall be calculated only on the extent to which each participant gains an increase in maximum allocated capacity. Where the benefit is not an increase in capacity, then the design capacity benefit shall be calculated on the existing maximum allocated capacity of each participant in the facility being altered, added to or affected by the change;
- (d) "East Coast Interceptor Trunk" means the sewer facilities and functions located in the municipalities of Saanich, Oak Bay and Victoria, comprising all Regionally operated facilities from the Finnerty Outfall diversion works to the Ross Bay trunk sewer at Dallas Road and Cemetery Road, as particularly set out in the East Coast Interceptor Operating Agreement, dated December 1993, and shown on Drawing No. 8-S184-2, including but not limited to:
 - (i) that portion of the original Northeast Trunk Sewer from Currie Pump Station to McMicking Outfall;
 - (ii) the McMicking Outfall;
 - (iii) the Finnerty Cove diversion works and Outfall;
 - (iv) the Humber Pump Station;
 - (v) the Rutland Pump Station; and
 - (vi) the Penrhyn and Currie Lift Station and Currie and Hood Pump stations;
- (e) "participating area facilities" means all facilities that serve the participating areas, including but not limited to: trunk sewers, pumping stations, treatment plants, outfalls and other works required for the conveyance, measurement, treatment, control, handling and disposal of sewage as shown on the latest revision of master drawing(s) on file at the CRD Environmental Services office;

- (f) "maximum allocated capacity" means that part of the maximum operating capacity of a trunk sewer, pump station, treatment plant or other system allocated to a participating area to accommodate peak sewage flows from that participating area as shown on Drawing Nos. 8-S184-1 and 8-S184-2 attached hereto as Schedule "A";
 - (g) "program" means investigations to assess the marine environment and shoreline discharges and contaminant sources and the coordination of these programs among all levels of government to enhance marine environmental quality;
 - (h) "Spill Regulation" includes the *Fisheries Act (Canada)* and regulations, the *Environmental Management Act (British Columbia)* and regulations, and any other enactment of a Federal or Provincial government governing the discharge of or report of a discharge of wastewater into the environment.
- (2) (a) The capital cost and net annual debt cost of participating area facilities constructed prior to December 31, 2002 shall be apportioned on the basis of the proportion of the maximum allocated capacity of that part of the respective facilities within a participating area and downstream from the participating area allotted to the participating area.
- (b) The capital cost and net annual debt cost of participating area facilities constructed after December 31, 2002 shall be apportioned on the basis of the design capacity benefit that each participating area derives from each particular facility.
- (c) The capital cost and net annual debt cost of acquiring land for sewage treatment after December 31, 2002 shall be apportioned on the basis of long-term (50 to 100 years) annual flows expected from each participant, as determined at the time the land is acquired.
- (3) (a) In the event that:
- (i) a spill occurs from any of the participating area facilities;
 - (ii) the spill resulted from the capacity of the trunk sewer being exceeded, and by measurement it could be determined that flows from one or more participating areas exceeded maximum allocated capacity as set out in Schedule "A" attached hereto; and
 - (iii) a fine is imposed against the CRD following a conviction under a Spill Regulation or the CRD is liable for damages as a result of the spill;
- then the amount of the fine, damages or other liability and associated legal costs directly attributable to the spill shall be allocated to that participating area determined to have caused the spill;
- (b) If more than one participating area jointly caused the spill, then the amount of the fine, damages or liability and legal costs shall be apportioned on the average annual flow among those participating areas determined to have caused the spill or on the amount of overflow contributed by each participating area where flow records indicate the percentage of overflow contribution.
- (4) Notwithstanding Section 5 (2), the net annual debt cost of the East Coast Interceptor, for portions constructed prior to December 31, 2002, shall be apportioned among the participating areas on the basis of the net taxable value of land and improvements for Regional Hospital District purposes within that part of each participating area that is within the

benefiting or sewer catchment area of the East Cost Interceptor trunk after calculating the conversion on an annual basis of 100% of the current year's property assessment values for Regional Hospital District tax purposes by a factor equivalent to the variable tax rates, established for various classes of assessment by each of the participating member municipalities, for the taxation year immediately preceding the date of the apportionment of the capital cost and annual debt charges.

- (5) The annual operating cost for participating area facilities shall be apportioned among participating areas connected to each facility on the basis of the total annual flow into those facilities in proportion to the annual average flow from that participating area to the total annual average flow of sewage from all participating areas connected to those facilities.

Maximum Requisition

6. The maximum amount that may be requisitioned under section 800.1(1) of the *Local Government Act* for the service shall be the greater of:
 - (a) twenty million (\$20,000,000) dollars; or
 - (b) an amount equal to the amount that could be raised by a property value tax of one dollar and six cents (\$1.06) per one thousand (\$1,000.00) dollars which when applied to the net taxable value of land and improvements within the service area will yield the maximum amount that may be requisitioned under sections 803(1)(a) and (b) for the service.

Powers

7. In providing the service established by this bylaw, the Regional District may, without limiting the generality of Section 1:
 - (a) acquire, design, construct, operate, maintain, renew and administer trunk sewers and sewage disposal and treatment facilities and buildings;
 - (b) enter into an agreement with a member municipality on such terms as are mutually agreed upon providing that the municipality may undertake on behalf of the Regional District the design, construction, operation and maintenance of any of the facilities of the Regional District within that municipality;
 - (c) make interim provision for sewage disposal;
 - (d) at any time enter upon any lands, streets, waters or water courses, without the consent of the owner, for the purpose of making surveys and other examinations to determine whether or not the lands, streets, waters or water courses are required in the carrying out of the service;
 - (e) carry any sewer or other works through, across or under any street in such manner as not unnecessarily to obstruct or impede travel and may enter upon and dig up any street for the purpose of laying sewers or other works and of maintaining, repairing and renewing the works in accordance with the following:
 - (i) in entering upon and digging up any street, the Regional District shall be subject to such reasonable terms and conditions as may be made by the authority having jurisdiction over such street;
 - (ii) before entering upon any street for the purpose of laying, maintaining, repairing or renewing a sewer or other works, the Regional District gives at least 30 days' notice of

its contemplated action to the authority having jurisdiction over the street, but the authority may waive the giving of such notice or shorten the notice period; and

- (iii) whenever the Regional District digs up any street for any of the purposes set out above, it shall, so far as practicable, restore the street to as good a condition as the street was in before such digging began, and the Regional District shall at all times indemnify and save harmless the municipality within which such digging occurred against and from all damage which may be recovered against such municipality by reason of anything done or omitted by the Regional District, and shall reimburse the municipality for all expenses which the municipality may incur by reason of any defect or want of repair of any street caused by the construction, maintenance, repair or renewal of any of the sewers, drains or other works. No compensation other than as provided in this subsection shall be made by the Regional District in respect of anything done by the Regional District under this subsection;
- (f) make regulations for the purpose of:
 - (i) minimizing the entry of surface and rainwater taking into account the condition of the sewers;
 - (ii) controlling the quantity and quality of sewage discharging into its facilities;
- (g) carry out investigations to assess the marine environment and shoreline discharges and contaminant sources; and
- (h) coordinate programs among all levels of government to enhance marine environmental quality.

Negotiation, Mediation and Arbitration

- 8. (1) The participating areas shall make all reasonable efforts to resolve by negotiation a dispute regarding the proportions in which the facilities or the several parts of a facility are allocated under subsections 5(2) or 5(5).
- (2) In the event that negotiations under subsection (1) fail to resolve a matter in dispute, a Director representing a participating area affected or likely to be affected by the matter in dispute shall declare at a meeting of the Board at which it is intended to deal with any such question that he or she unwilling to accept the Board's determination with respect to the matter, and the Board shall not decide the question, but shall appoint a mediator under subsection (5) and refer the question to the mediator.
- (3) In the event that a question has not been resolved by the mediator within 120 days of the appointment of a mediator under subsection (5), the mediator can terminate the negotiations by giving notice in writing to all affected participating areas. *(Bylaw 3319)*
- (4) Following termination of the mediation under subsection (3), the matter in dispute shall be referred to an arbitrator appointed under subsection (5) by the Board as soon as reasonably practicable following the expiry of the time period referred to in subsection (3).
- (5) A mediator appointed under subsection (2) and an arbitrator appointed under subsection (4) shall be:
 - (a) a Professional Engineer; and

- (b) appointed by unanimous vote of all the Directors of the Board present at the meeting of the Board at which the selection is made and, failing such vote, by a Judge of the Supreme Court of the Province of British Columbia;
- (6) The decision of the arbitrator shall be final and binding on the Board and on all participating areas affected by the arbitrator's decision.

Participating Area Facilities*(Bylaw 3028)**(Bylaw 3319)*

- 9. (1) With respect to the participating area facilities, where a participating area:
 - (a) uses 95% or more of either the average annual flow or the maximum allocated capacity allocated to that participating area as set out in Schedule "A" to this Bylaw, based on either:
 - (i) measured flows, or;
 - (ii) where such flows are not available, as determined by the General Manager of the CRD Environmental Services department based on the best available information and sound engineering practice;
 - and;
 - (b) desires additional capacity;

then such participating area shall commence negotiations with the Regional District and with the other participating areas for the reallocation of capacity and the reapportionment of the annual debt cost of participating area facilities for providing increased capacity.
- (2) In the event that the participating areas cannot agree on a reapportionment of the annual debt costs and/or on arrangements for increased capacity within six months of the date of notice to the General Manager and/or the General Manager's determination under subsection (1), then a Director on the Board of the Regional District representing a participating area may, at a meeting of the Board, require that the matter be settled by mediation and/or arbitration in accordance with Section 8 of this Bylaw and subject to Subsection (3).
- (3) The decision of the arbitrator or mediator under Subsection (2) shall not increase the cost to any participating area which is not using 95% or more and which does not expect to use more than 100% of its allocated capacity, nor shall a participating area be forced to give up allocated capacity against its wishes.
- (4) New participants may purchase excess capacity from existing participants, subject to the approval of the affected existing participants.

Sole Authority

- 10. (a) The Regional District is the sole authority with jurisdiction to construct the works referred to in paragraph 7(a), provided that a member municipality may proceed on its own initiative with any such work within its own boundaries that the Regional Board is unable or unwilling to construct at that time, the design of such work having been approved by the Regional Board;

- (b) Despite paragraph (a), the Regional District and a municipality which includes a participating area may agree that the construction and operation of works referred to in paragraph 7(a) are within the powers of the municipality.

Continuing Authority

11. Nothing in this bylaw shall be interpreted as affecting or impairing in any way the rights and powers of the Regional District under the Supplementary Letters Patent, Division VII, dated December 28, 1967, as amended by further Supplementary Letters Patent, in relation to that part of the Regional District not contained within the service area created by this bylaw, or the District of Sooke or the Southern Gulf Islands.

Citation

12. This Bylaw may be cited for all purposes as the "Liquid Waste Management Core Area and Western Communities Service Establishment Bylaw No. 1, 1995."

READ A FIRST TIME THIS	12th day of	July	1995
READ A SECOND TIME THIS	12th day of	July	1995
READ A THIRD TIME THIS	11th day of	July	2001
APPROVED BY THE INSPECTOR OF MUNICIPALITIES THIS	18th day of	July	2002
ADOPTED THIS	14th day of	August	2002

Christopher M. Causton
CHAIR

S. M. Norton
SECRETARY

FILED WITH THE INSPECTOR OF MUNICIPALITIES THIS 19th day of August 2002

This Bylaw is a copy of *Liquid Waste Management Core Area and Western Communities Service Establishment Bylaw No. 1, 1995*, consolidated under Section 139 of the *Community Charter* and is printed on the authority of the Corporate Secretary of the CRD.



Carmen I. Thiel, Corporate Secretary



