



## GUIDELINES FOR SECTION 219 COVENANTS

The following steps will assist you in obtaining a building permit without any unnecessary delays:

1. Choose a registered Professional Engineer with experience in geotechnical engineering. This Engineer must evaluate your proposal with respect to Community Charter Section 56 concerns (see excerpt portion of Section 56 noted below) and prepare a report verifying that the land may be used safely for the use you have intended.
2. With that report in-hand, contact a Notary Public or a Solicitor and have him/her draft a Section 219 Covenant, incorporating the above-mentioned Professional Engineer's report as an **annexed schedule**. For purposes of clarity we have attached a summary of the Section 219 for you or your legal representative's to use as a reference.
3. Provide the District of Maple Ridge Building Department with a **draft** of that Covenant for our review and acceptance.
4. Once the Building Department has accepted the Covenant wording, the applicant or owner's representative can then attend to having the Covenant duly executed (in triplicate) and returned for Municipal execution. The Covenant will then be made available to the applicant or owner's representative for registration at the New Westminster Land Title Office.
5. Please note that the Building Permit **will not** be issued until the Building Department has been provided with a copy of the registered Covenant. A copy of the State of Title Certificate, confirming proof of order of registration, is to be provided when available.

**NOTE: The Covenant must be registered with priority over any/all Mortgages (and any Assignment of Rents, thereof) that are shown on title.**

### Excerpt portion of Community Charter Section 56:

(2) If

- (a) a bylaw regulating the construction of buildings or other structures is in effect, and
- (b) a building inspector considers that construction would be on land that is subject to or is likely to be subject to flooding, mud flows, debris flows, debris torrents, erosion, land slip, rockfalls, subsidence or avalanche,

the building inspector may require the owner of land to provide the building inspector with a report certified by a qualified professional that the land may be used safely for the use intended.

(3) If a qualified professional determines that the land may not be used safely for the use intended, a building inspector must not issue a building permit.

(4) A building inspector may issue a building permit in accordance with subsection (5) if a qualified professional certifies that the land may be used safely for the use intended if the land is used in accordance with the conditions specified in the professional's report.

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(5) A building permit under subsection (4) may only be issued on the following conditions:

- (a) the owner of the land covenants with the municipality to use the land only in the manner certified by the qualified professional as enabling the safe use of the land for the use intended;
- (b) the covenant contains conditions respecting reimbursement by the owner for any expenses that may be incurred by the municipality as a result of a breach of a covenant under paragraph (a);
- (c) the covenant is registered under section 219 of the *Land Title Act*.

(6) If a building inspector is authorized to issue a building permit under subsection (4) but refuses to do so, the council may, on application of the owner, direct the building inspector to issue the building permit subject to the requirements of subsection (5).

### Summary of the required conditions to be contained in the Section 219 Covenant:

1. The Covenanter acknowledges:

- (a) That there is a potential danger in respect of the Lands in that the Lands are subject to, or likely to be subject to, flooding, mud flows, debris flows, debris torrents, erosion, land slip, subsidence or avalanche (the "Hazards:");
- (b) That the District has made no representations as to the imminence, extent or degree of the Hazards to which the Lands are or may be subject; and
- (c) That the District has made no representations, nor given any assurances that persons, property, buildings and improvements will not be damaged or injured by the Hazards, regardless of compliance by the Covenanter with this Covenant.

2. The Covenanter has independently retained a qualified professional engineer (the "Engineer") to investigate the Hazards relating to the Lands and the covenanter has read and received that Engineer's report and recommendations, a copy of which is annexed to this Covenant as Schedule "A" (the "Engineer's Report").

3. The Covenanter covenants and agrees to use the Lands only in the manner determined and certified to be safe by the Engineer in the Engineer's Report and, in particular, the Covenanter agrees in building, siting or constructing any new building or structure on the Lands, in adding to, or structurally altering any existing building or structure on the Lands, and in altering the grade or configuration of the Lands, to do so only in accordance with and consistent with the Engineer's Report.

4. The Covenanter agrees to indemnify and to save harmless the District from all loss, damages, costs, actions, suits, debts, accounts, claims and demands which the District may suffer or incur or be put to arising out of or in connection with any breach of any of the covenants or agreement herein on the part of the Covenanter contained in this Agreement regardless of whether this Covenant is breached, arising out of or in connection with any personal injury, death, or of loss or damage to the Lands, or to any building, modular home, mobile home, improvement, chattel or other structure, including the contents of any of them, built, constructed or placed on the Lands caused by the Hazards, or some such similar cause.

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5. The Covenanter does remise, release and forever discharge the District from all manner of actions, cause of actions, suits, debts, accounts, covenants, contracts, claims and demands which the Covenanter for and by reason of any personal injury, death or of loss or damage to the Lands, or to any building, modular home, mobile home or unit, improvement, chattel or other structure, including the contents of any of them, built, constructed or placed on the Lands caused by the Hazards.
6. Subject to the provisions of Section 219 of the Land Title Act, the Covenanter's covenants contained in the Agreement shall burden and run with the land and shall enure to the benefit of the District and be binding upon the Covenanter and successors in title.
7. Nothing in the Agreement shall prejudice or affect the rights, powers and remedies of the District in relation to the Covenanter, or the Lands under any law, bylaw, order or regulation or in equity all of which rights, power and remedies may be full and effectively exercised by the District as if this Agreement had not been made.
8. The Covenanter will do or cause to be done at their expense all acts reasonably necessary for the District to gain priority for this Agreement over all liens, charges and encumbrances which are or may be registered against the Lands save and except those in favor of the District and those specifically approved in writing by the District.
9. The Covenanter shall do or cause to be done all things and execute or cause to be executed all documents and give such further and other assurance which may be reasonably necessary to give proper effect to the intent of his Agreement.
10. Wherever the singular or masculine or neuter is used herein, the same shall be construed as meaning the plural, feminine, body corporate or politic unless the context requires otherwise.
11. If any section or any part of this Agreement is found to be illegal or unenforceable, then such section or parts shall be considered to be separate and severed from this Agreement and the remaining sections or parts of this Agreement, as the case may be, shall be unaffected thereby and shall remain and be enforceable to the fullest extent permitted by law as though the illegal or unenforceable parts or sections had never been included in this Agreement.
12. Every reference to the District herein includes the District's Officers and Employees.