

FORM 17

(Sections 151, 152(1), 220)

APPLICATION

Charge: Section 219 Restrictive Covenant

True Value: Nil

Herewith Fees of: \$

Address of person)
entitled to be registered)
as owner if different than)
shown in instrument)
Full name, address and)
telephone number of person)
presenting application)

Signature of applicant,
solicitor or authorized agent

THIS AGREEMENT made this _____ day of _____,

BETWEEN:

(hereinafter called the "Grantor")

OF THE FIRST PART AND:

HER MAJESTY THE QUEEN IN RIGHT OF
THE PROVINCE OF BRITISH COLUMBIA,
as represented by the Minister of
Environment, Parliament
Buildings, Victoria,
British Columbia, V8V 1X4

(hereinafter called the "First Grantee")

OF THE SECOND PART

AND:

(name of Regional District)

(where Regional District party to Clause 6)

having an office at (address)

British Columbia (OR OTHER)

(hereinafter called the "Second Grantee")

OF THE THIRD PART

WHEREAS the Grantor is the registered owner in fee simple of the following lands in the Province of British Columbia,

more particularly known and described as:

(legal description)

(hereinafter called the "Lands");

AND WHEREAS the Grantor proposes to subdivide the Lands, according to a plan of subdivision completed and certified correct on the day of _____, 20_____, by _____ British Columbia Land Surveyor, a

copy of which is attached hereto as Schedule 'A', into the following lots:

(hereinafter called the "Lots");

AND WHEREAS a covenant under Section 219 of the Land Title Act is required as a condition of the consent to approval of the subdivision of the Lands by the Minister of Environment under section 82 of the Land Title Act;

AND WHEREAS Section 219 of the Land Title Act provides that there may be registered as a charge against the title to any land a covenant in favour of the First Grantee and a municipality that land is to be used in a particular manner or that land is not to be subdivided except in accordance with the covenant;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of ONE (\$1.00) DOLLAR of lawful money of Canada and other good valuable consideration paid by the First and Second Grantees to the Grantor, the receipt of which is hereby acknowledged, the Grantor does hereby covenant and agree with the First and Second Grantees under Section 219 of the Land Title Act of the Province of British Columbia as follows:

1. The Grantor is aware of and, on behalf of himself and his heirs, executors, administrators, successors and assigns, hereby acknowledges that there is a potential flood danger to the Lots.
2. The Grantor, on behalf of himself and his heirs, executors, administrators, successors and assigns, hereby covenants and agrees with each of the First Grantee and Second Grantee, as a covenant in favour of each of the First Grantee and Second Grantee pursuant to Section 219 of the Land Title Act, it being the intention and agreement of the Grantor that the provisions hereof

be annexed to and run with and be a charge upon the Lots, that from and after the date hereof:

- a. No building, mobile home or unit, modular home or structure shall be constructed, reconstructed, moved, extended or located within _____ metres of the natural boundary of (name of watercourse).

 - b. No area used for habitation, business or storage of goods damageable by floodwaters and no furnace or other fixed equipment damageable by floodwaters shall be located within any building, modular home or structure at an elevation such that the underside of the floor system is less than _____metre(s) above the natural boundary of _____ or elevation metres Geodetic Survey of Canada datum or metre(s) above the natural ground elevation taken at the perimeter of the building. In the case of a mobile home or unit, the ground level or top of concrete or asphalt pad on which it is located shall be no lower than the above described elevation.
3. Where landfill is used to raise the natural ground elevation, the toe of the landfill slope shall be no closer to the natural boundary than the setback requirement given in paragraph (2) above. The face of the landfill slope shall be adequately protected against erosion from flood flows (wave action, ice, or other debris). The required elevation may be achieved by structural elevation of the

said habitable, business, or storage area or by adequately compacted landfill on which any building, modular home or structure is to be constructed or mobile home or unit located, or by a combination of both structural elevation and landfill, provided, that no area below the required elevation shall be used for the installation of furnaces or other fixed equipment damageable by floodwaters.

4. The Grantor, on behalf of himself and his heirs, executors, administrators, successors and assigns, acknowledges that the First and Second Grantees do not represent to the Grantor, nor to any other person that 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 Lots will not be damaged by flooding or erosion and the Grantor, on behalf of himself and his heirs, executors, administrators, successors and assigns, with full knowledge of the potential flood or erosion danger and in consideration of the approvals given by the First Grantee hereby:
 - a. agrees to indemnify and to save harmless the First and Second Grantees and their employees, servants or agents from all loss, damage, costs, actions, suits, debts, accounts, claims and demands which the First and Second Grantees or any of their employees, servants or agents, may suffer or incur or be put to arising out of or in connection with any breach of any covenant or agreement on the part of the

Grantor or his heirs, executors, administrators, successors and assigns contained in this Agreement or arising out of or in connection with any personal injury, death or loss or damage to the Lots, 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 Lots (including existing non-conforming buildings)*, caused by flooding, erosion or some such similar cause; and

* To be inserted where Procedure 5.5.3 applies

- b. does remise, release and forever discharge the First and Second Grantees and their employees, servants or agents from all manner of actions, cause of actions, suits, debts, accounts, covenants, contracts, claims and demands which the Grantor or any of his heirs, executors, administrators, successors and assigns may have against the First and Second Grantees and their employees, servants or agents for and by reason of any personal injury, death or loss or damage to the Lots, 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 Lots, caused by flooding, erosion or some such similar cause.
5. Subject to the provisions of Section 219 of the Land Title Act, the

Grantor's covenants contained in this Agreement shall burden and run with the Lots and shall enure to the benefit and be binding upon the Grantor, his heirs, executors, administrators, successors and assigns and the First and Second Grantees and their assigns.

6. Nothing in this Agreement shall prejudice or affect the rights, powers and remedies of the First and Second Grantees in relation to the Grantor, including his heirs, executors, administrators, successors and assigns, or the Lots under any law, bylaw, order or regulation or in equity all of which rights, powers and remedies may be fully and effectively exercised by the First and Second Grantees as if this Agreement had not been made by the parties.
7. The Grantor will do or cause to be done at his expense all acts reasonably necessary for the First and Second Grantees to gain priority for this Agreement over all liens, charges and encumbrances which are or may be registered against the Lots save and except those in favour of the First and Second Grantees and those specifically approved in writing by the First and Second Grantees.
8. The parties agree that this Agreement shall not be modified or discharged except in accordance with the provisions of Section 219(5) of the Land Title Act.

9. The Grantor 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 this Agreement.

10.
 - a. The Owner or any of his heirs, executors, administrators and assigns, as the case may be, shall give written notice of this Agreement to any person to whom he proposes to dispose of one of the Lots, which notice shall be received by that person prior to such disposition.

 - b. For the purposes of this paragraph the word "dispose" shall have the meaning given to it under section 29 of the Interpretation Act, R.S.B.C. 1979, c.206.

11. Wherever the singular or masculine or neuter is used herein, the same shall be construed as including the plural, feminine, body corporate or politic unless the context requires otherwise.

12. If any section or any part of this Agreement is found to be illegal or unenforceable, then such sections or parts shall be considered to be separate and severable 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.

13. This agreement shall be interpreted according to the laws of the Province of British Columbia.

14. Where there is a reference to an enactment of the Province of British Columbia in this agreement, that reference shall include a reference to any subsequent enactment of the Province of British Columbia of like effect, and unless the context otherwise requires, all statutes referred to herein are enactments of the Province of British Columbia.

15. Every reference to the Minister of Environment in this Agreement shall include the Minister of Environment and Parks, the Deputy Minister of Environment and any person designated by either of them to act for or on their respective behalf with respect to any of the provisions of this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and year first above written.

Signed by
in the presence of:)
_____)
Witness _____)
_____)
Address _____)
_____)
Title or Occupation _____)

Grantor

Signed on behalf of Her Majesty
the Queen in Right of the
Province of British Columbia by
the Minister of Environment
or his duly authorized
designate in the presence of:

Witness

Address

Title of Occupation

The common seal of _____)

was hereunto affixed in the
presence of:

Authorized Signatory

The Corporate Seal of _____)

was hereunto affixed in the
presence of:

Minister of Environment
or his duly authorized
designate

This is the instrument creating the condition of Covenant pursuant to
Section 219 of the Land Title Act by the Grantor referred to herein and shown
on the Print and Plan annexed hereto as Schedule 'A' and initialled by me.

Approving Officer,
Ministry of Transportation
and Highways

CONSENT AND PRIORITY AGREEMENT

(liens, charges and encumbrances)

THE BANK OF _____ being the holder of the following registered charge, HEREBY CONSENTS TO the granting of the within Restrictive Covenant and agrees that the same shall be binding upon and take priority over its interest in or charge upon the Lands and the Lots:

Type of Charge _____ Registration Number of Charge _____

IN WITNESS WHEREOF the _____, by its attorneys, has caused these presents to be signed this day of _____, 20____.

Witness: (_____) THE BANK OF (_____)

Address: _____) by its lawful attorneys:
Occupation: _____)
_____)

(Alternatively, Form 24 shown on the following page may be used. In either case, the 'Note' to Form 24 applies to the use of these forms. If the municipality is signatory to Form 17, then it must also be signatory to this agreement.)