

# **Birkenhead Lake Estates Land Use Contract Bylaw No. 122, 1977**

**Adopted February 20, 1978**

## **IMPORTANT NOTICE**

**THIS IS AN UNOFFICIAL CONSOLIDATION OF BYLAW NO.122 WHICH HAS BEEN PREPARED FOR CONVENIENCE ONLY.**

Although the Squamish-Lillooet Regional District is careful to assure the accuracy of all information presented in this consolidation, you should confirm all information before making any decisions based on it. Information can be confirmed through the SLRD Planning Department.

SQUAMISH-LILLOOET REGIONAL DISTRICT

BY-LAW NO. 122, 1977

A by-law to authorize the entering into  
of a Land Use Contract.

WHEREAS pursuant to the provisions of Subsection 1 of Section 798A of the Municipal Act, and the provisions of Section 702A of the Municipal Act, the Regional Board may by by-law enter into a Land Use Contract containing such terms and conditions for the use and development of the lands as may be mutually agreed upon;

AND WHEREAS a Public Hearing as required pursuant to Section 702A has been held;

AND WHEREAS this by-law has been approved by the Minister of Municipal Affairs and Housing;

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

1. The Squamish-Lillooet Regional District is hereby authorized and empowered to enter into a Land Use Contract with Birkenhead Lake Estates Ltd., in accordance with the form of contract designated as Schedule A attached hereto and forming part of this by-law;
2. The Chairman and Secretary-Treasurer of the Squamish-Lillooet Regional District are hereby authorized and empowered to execute the said Land Use Contract with Birkenhead Lake Estates Ltd. and to register the said Land Use Contract at the Land Registry Office, and to do all things necessary in relation thereto;
3. This by-law may be cited as "Land Use Contract Authorization By-law No. 122, 1977".

READ A FIRST TIME this 26th day of September, 1977.

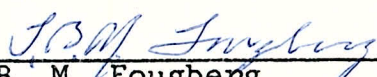
READ A SECOND TIME this 26th day of September, 1977.


READ A THIRD TIME this 19th day of December, 1977.

APPROVED BY THE MINISTER OF MUNICIPAL AFFAIRS AND HOUSING this 20th  
day of January, 1978.


APPROVAL NO. 78 065

RECONSIDERED, FINALLY PASSED AND ADOPTED this 27th day of  
February, 1978.

  
T. B. M. Fougberg  
Chairman

  
I. R. Knowles  
Secretary-Treasurer

I hereby certify the foregoing to be a true and correct copy of By-law No. 122, 1977 cited as "Land Use Contract Authorization By-law No. 122, 1977" as read a third time at a regular meeting December 19th, 1977.

  
I. R. Knowles  
Secretary-Treasurer

122, 1977.

T. R. Knowles

THIS AGREEMENT made this            day of

**BETWEEN:**

SQUAMISH-LILLOOET REGIONAL DISTRICT, a body incorporated by Letters Patent of the Province of British Columbia, having its principal offices at Pemberton in the Province aforesaid

(hereinafter called the "District")

OF THE FIRST PART

**AND:**

BIRKENHEAD LAKE ESTATES LTD., a body corporate  
of Box 70, Pemberton, in the Province aforesaid  
(Inc. date: Inc. No.

(hereinafter called the "Developer")

OF THE SECOND PART

WHEREAS the District, pursuant to Sections 702A and 798(1) of the "Municipal Act", may, notwithstanding any by-law of the District, or Sections 712 or 713 of the "Municipal Act", upon the application of an owner of land within a development area designated as such by by-law of the District, enter into a Land Use Contract containing such terms and conditions for the use and development of the land as may be mutually agreed upon and thereafter the use and development of that land shall be in accordance with such Land Use Contract;

AND WHEREAS the "Municipal Act" requires that the Regional Board, in exercising the powers given by Section 702A, shall have due regard to the considerations set out in Section 702(2) and Section 702A(1) in arriving at the use and development permitted by any land development contract and the terms, conditions and considerations thereof;



AND WHEREAS the Developer has presented to the District a scheme of use and development of the within-described lands and premises and has made application to the District to enter into this Land Use Contract under the terms, conditions and for the consideration hereinafter set forth;

AND WHEREAS the Board of the District having given due regard to the considerations set forth in Sections 702(2) and 702A(1) of the "Municipal Act" has agreed to the terms, conditions and considerations herein contained;

AND WHEREAS the Developer acknowledges that it is aware of the provisions of Section 702A of the "Municipal Act" and that the Board of the District cannot enter into this Land Use Contract until it has held a Public Hearing on a By-law authorizing the same, has duly considered the representations made at such Hearing, and unless at least two thirds of all the members of the Board present at the meeting at which the vote is taken and entitled to vote on the By-law vote in favour of same;

AND WHEREAS the Developer is the registered holder of the last registered agreement for sale and purchase of those lands in the Lillooet Assessment District, Province of British Columbia, better known and described as:

Lot "B", District Lot 4895,  
Lillooet District, Plan 21690

(hereinafter called the "said Lands")

AND WHEREAS the Developer wishes to develop the said Lands in accordance with the provisions of this Land Use Contract.

NOW THEREFORE this contract witnesseth that in consideration of the premises and the conditions and covenants hereinafter set forth, the District and the Developer covenant and agree as follows:



1. This Land Use Contract contemplates the undertaking and completion of development for recreational, single-family dwelling purposes of that portion of the said Lands shown on the Site Plan, comprising 135 acres more or less, and the Lands so comprising the Site Plan shall not be developed or used except for such residential purposes and, without limiting the generality of the foregoing, shall not be used for commercial purposes.

2. Definitions

In this contract unless the context otherwise requires: "Accessory Building" shall mean a building customarily incidental and subordinate to the principal building on the same Site.

"Building Inspector" shall mean the Building Inspector for the District and his duly authorized assistants or such consultants as may be appointed by the Board of the District to act for the District.

"Common Site(s)" shall mean those sites coloured green on Schedule "A" and to include the roads coloured in red.

"Private Site(s)" shall mean any or all of the 99 building sites or lots as shown on Schedule "A" annexed hereto, excepts lot numbered 42.

"Regional Administrator" shall mean the Regional Administrator for the District and his duly authorized assistants.

"Board" shall mean the Regional Board of the District.

"Regional Zoning By-law" shall mean Zoning By-law No. 72-1976 of the District and all amendments as of the date hereof.

"Site(s)" shall mean any one of the areas or lots into which the said Lands are divided and shown on Schedule "A" coloured white, red, green, orange, purple and blue.

"Site Plan" shall mean the plan attached hereto as Schedule "A".

"Utility Area" shall mean those sites coloured red, purple and blue on Schedule "A".

3. No development of the said Lands shown on Schedule "A" shall be undertaken except that provided for by this Land Use Contract. This Land Use Contract does not authorize the use and development of those two (2) areas of the site coloured orange on Schedule "A".

4. Sewage Disposal

No Building Permit will be applied for nor approved on any Site unless and until a sewage disposal method has been approved pursuant to the regulations of the Ministry of Health or Pollution Control Branch of the Province of British Columbia.

5. Water System

No Building Permit will be applied for nor approved for any Private Site until such time as a water system supplying water to that Private Site has been constructed and established, pursuant to approval granted by the Minister of Health and the Controller of Water Rights, pursuant to the provisions of Sections 21 and 22 of the Health Act of the Province of British Columbia.

6. Uses and Building Permits

The Land and any Site and any and all buildings, accessory buildings, structures and improvements erected thereon, thereover or therein shall be used for the purposes specified in Schedule "B" hereto and for no other purposes. A separate Building Permit and fee shall be required by the District for each building erected on any Site, as if each Site were a separate lot or parcel existing under the provisions of the British Columbia Land Registry Act. All proposed buildings must comply with the Building By-law of the District and all other appropriate Regional By-laws. Building Permits will only be issued to Birkenhead Lake Estates Ltd. and not to shareholders thereof.

7. No more than 98 Private Sites, coloured white on Schedule "A" shall be built upon or occupied by a house or cottage, plus one for the use of a caretaker. No Building Permit will be issued by the District for more than one building on each Site or for any house or cottage which will bring the total number of houses or cottages on the said Lands to more than 99. No house shall be built within a 25 foot setback from Taillefer Creek and this buffer area shall be left in its natural state with no clearing or alteration.



8. District Restrictions

The Sites shall be subject to and all buildings erected shall comply with the restrictions set forth in Schedule "B" hereto.

9. The construction of firebreaks and other measures for the protection of structures and their occupants shall meet the requirements of the National Fire Code and the B.C. Forest Service, but in any event shall include the provision of a small pumper unit and water barrels.

10. Services

The District and the Developer acknowledge and agree that all utilities including street lighting, water, sewers, gas, cablevision, telephone and electricity which may be on the Land are private utilities. The responsibility for the construction and installation, maintenance and repair of any or all such utilities shall be at the sole discretion of the Developer, and the Developer shall have the sole responsibility for the provision of any or all such services to the Lands and to any individual Site. It is expressly understood by the Developer and the Developer hereby acknowledges and agrees that the District shall be under no obligation to provide any connection to the regional system for any or all such utilities and that any utilities, except the supply of water, installed by the Developer shall be self-contained within the Lands. Save as specifically provided in this Agreement, all utilities shall conform to all appropriate District, Provincial and Federal by-laws and/or statutes and regulations pertaining thereto. The Developer shall have the sole responsibility of obtaining any necessary permits for any such services from the appropriate authority. The Developer agrees that neither the District nor any Provincial or Federal Department or Agency shall have any obligation to provide any of the utilities referred to in this clause or elsewhere in this contract.



11. Ways

The roads and common areas coloured red and green on Schedule "A" shall be located substantially as shown thereon. The District and the Developer acknowledge and agree that same are private ways, the responsibility for which remains with the Developer and the owners from time to time of the Sites. It is expressly understood by the Developer and the Developer hereby acknowledges and agrees that the District shall be under no obligation to provide, improve, or maintain any road or roads to connect the said Lands with any road or roads presently developed by the District either at this time or in the future, and that if any such connecting road or roads are hereafter requested by the Developer, the Developer shall pay all costs of installing and maintaining any such road or roads.

12. Garbage Facilities and Sanitary Landfill

The Developer shall provide the Site coloured red on Schedule "A" for the purpose of a sanitary landfill for which the approval of the Pollution Control Board is required and shall operate the same for the benefit of the occupiers of the individual sites. Garbage collection facilities shall be the sole responsibility of the Developer.

13. Indemnity for Subsequent Works

The Developer hereby covenants and agrees that any costs or expenses incurred by the District in respect of providing any services or maintaining or repairing any services provided by the Developer, or any steps that the District is obliged or forced to take to provide services or roads to the Lands shall be paid by the Developer or upon default shall be added to and collectible as taxes against the Lands or any constituent parts thereof in accordance with the provisions of Section 377 of the "Municipal Act".

14. Partition

The Lands shall be divided into Sites substantially in compliance with and according to the Site Plan. It is acknowledged by the parties hereto that the Lands will not be the subject of a subdivision as such term is defined in the Land Registry Act, R.S.B.C. 1960 and all amendments as of the date hereof.

15. Inspection by Building Inspector

Notwithstanding that the services are private, the Building Inspector shall have the right, but not the obligation, from time to time to enter upon the Lands for the purpose of inspecting the installation of all services and connections to individual Sites which service connections must comply with the applicable Regional by-laws. The Building Inspector shall be entitled to charge and receive the fees of the District for inspections and approvals.

16. Prospectus to be delivered to Purchasers

The Developer shall prepare a form of prospectus (herein called the "Prospectus") satisfactory to the Regional Administrator which shall incorporate the following:

- (a) a description of the development;
  - (b) a summary of the provisions of this Land Use Contract;
  - (c) a description of the procedure to be followed by each owner of a share in the Developer Company in order to obtain a Building Permit for the Site;
  - (d) a brief explanation of the rights and duties of a shareholder; and
  - (e) a copy of the Memorandum and Articles.
- The Developer agrees that at or before the time the

Purchaser enters into an agreement to purchase a share in the Developer Company, with the exclusive use of a Site, he will deliver to each Purchaser of a share, a true copy of the Prospectus and will afford that Purchaser the right to read the Prospectus.

17. Payments by Developer

The Developer agrees:

- (a) to pay all current taxes levied or to be levied on the said Lands on the basis and in accordance with the assessment and collector's roll entries;
- (b) to pay to the District all inspection, administration, engineering and legal fees occasioned by the District in connection with this Land Use Contract.

18. No Building Permit will be applied for nor issued for any construction on the said Lands until a cash deposit, bid bond or bonds or an irrevocable Letter of Credit of a chartered bank in the amount of \$5,000.00 has been posted by the Developer with the District.



If the Developer should have failed properly and fully to carry out, observe and fulfill each and every one of the terms, covenants and conditions contained in clauses 5, 6 and 12 herein, or any one or more of them, the whole amount of the said cash deposit, bid bond or bonds or Letter of Credit shall immediately be forfeited to the District: PROVIDED, HOWEVER, THAT the District shall be entitled, at its option, to use the aforesaid cash or proceeds from the said forfeiture for the purposes of doing or carrying out any of the provisions of the aforesaid clauses in this Agreement and for such purposes shall be entitled to access to and upon the said Lands. It is expressly understood and agreed that at the expiration of each period of three months after the date of execution of this Agreement (or any shorter time at the discretion of the Regional Administrator) the estimated amount of the cash, bonds, or other securities obtained and deposited aforesaid which is required to secure the District in respect of the balance of the respective works, improvements and things to be done and terms, conditions and covenants of clauses 5, 6 and 12 of this Agreement (or any one or more of them) shall be reviewed by the Regional Administrator, and if such amount is less than the cash, bonds or other securities initially required and provided pursuant to this Agreement, the amount thereof shall be reduced accordingly. The decision of the Regional Administrator as to the respective estimated amount aforesaid shall be final. Until the Developer shall have been notified of the reduced amount and shall have notified the District of its agreement to an acceptance thereof, the amount of the cash, bonds or other securities shall remain at the last previous amount.

19. Indemnity by Developer

The Developer covenants to save harmless and effectually indemnify the District, its officers, employees and/or agents against:

- (a) all actions and proceedings, costs, damages, expenses, claims and demands whatsoever and by whomsoever brought by reason of the execution of this Land Use Contract; and



- (b) all expenses and costs which may be incurred by reason of the execution of the said Works on the Lands resulting in damage to any property owned in whole or in part by the District or which the District by duty or custom is obliged, directly or indirectly, in any way or to any degree, to construct, repair or maintain.

20.        Development

The District hereby covenants and agrees with the Developer to permit the Developer to proceed with the development herein contemplated on the said Lands and to issue Building Permits for each of the Sites subject to the terms and conditions herein contained.

- 21.        This contract shall prohibit the right of the Developer to subdivide the Land pursuant to the Strata Titles Act, unless approved by the Regional District.

22.        No Other Terms

It is understood and agreed that the District has made no representations, covenants, warranties, guarantees, promises or agreements (verbal or otherwise) with the Developer other than those in this contract.

23.        Restrictive Covenant

This contract shall have the force and effect of a restrictive covenant running with the Lands and shall be registered in the Land Registry Office by the District pursuant to the provisions of Section 702A(4) of the "Municipal Act".

24.        Gender

Wherever the singular or masculine is used herein, the same shall be construed as meaning the plural, feminine or body corporate or politic where the contract or the parties so require.

25.        Schedules Part of Contract

Schedules "A" and "B" hereinbefore referred to are hereby incorporated into and made part of this contract.

26. Compliance with By-laws

Except as permitted by this contract, the within Works and the development herein shall comply with all the by-laws of the District and the applicable provincial statutes.

27. Non-Assignability

The Developer may not assign this contract without the written consent of the District first had and obtained, such consent not to be unreasonably withheld.

A Public Hearing on this Agreement was held on the 27th day of September , 1977.

IN WITNESS WHEREOF the Parties hereto have duly executed this Agreement this 21<sup>st</sup> day of FEBRUARY , 1978.

The Corporate Seal of the  
SQUAMISH-LILLOOET REGIONAL DISTRICT)  
was hereunto affixed in the  
presence of:

J. M. Langley  
CHAIRMAN

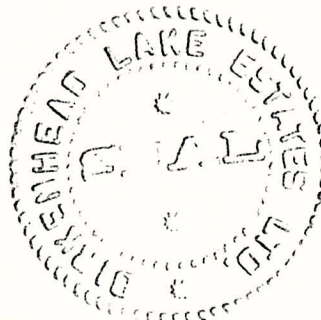
[Signature]  
ADMINISTRATOR

APPROVED pursuant to the provisions of section  
198A of the "Municipal Act" this  
day of Jan 19 78  
[Signature]  
Minister of Municipal Affairs and Housing  
APPROVAL No. 78 065

The Corporate Seal of  
BIRKENHEAD LAKE ESTATES LTD.  
was hereunto affixed in the  
presence of:

[Signature]  
PRESIDENT

[Signature]  
SECRETARY





PLAN OF SURVEY OF  
LOTS 1 TO 100 INCLUSIVE, OF PARCEL "B"  
IN DISTRICT LOT 4895, LILACOEY DISTRICT





SCHEDULE "B"

USES AND RESTRICTIONS

I. Private Sites

The permitted use of a Private Site is for a single-family dwelling and mobile home of a minimum size of 260 square feet.

II. Common Sites

The use of land in the Common Sites is restricted to access to lake and stream and shall not be used for any purpose inconsistent with their use and retention as natural, unimproved areas. No buildings of any nature thereon shall be permitted.

III. Utility Areas

The permitted use of land is restricted to workshops for welding, machine and parts manufacturing and repairing, septic tank servicing, storage of building supplies and materials, storage of water and the repair and maintenance of all equipment necessary for the maintenance of public utilities on the said Lands. Under no circumstances will land in the Utility Areas be used for commercial or industrial purposes.

IV. General

No commercial use of any site is permitted.

## Acknowledgment of Officer of a Corporation

I HEREBY CERTIFY that, on the

day of , 19 77 ,

at

IVAN R. KNOWLES

, in the Province of British Columbia,

~~whose identity has been proved by the evidence on~~

, who is) personally known to me,

~~noted~~

appeared before me and acknowledged to me that he is the

Administrator

of

SQUAMISH-LILLOOET REGIONAL DISTRICT

, and that he is the person

who subscribed his name to the annexed instrument as

Administrator

of the said

SQUAMISH-LILLOOET REGIONAL DISTRICT

and affixed the seal of the

Corporation

to the said Instrument, that he was first duly authorized to subscribe his name as aforesaid, and affix the said seal to the said Instrument, and that such corporation is legally entitled to hold and dispose of land in the Province of British Columbia.

IN TESTIMONY whereof I have hereunto set my Hand and Seal of Office,

at

British Columbia, this

day of

one thousand nine hundred and seventy-seven.

A Notary Public in and for the Province of British Columbia.  
~~NOTARY PUBLIC IN AND FOR THE PROVINCE OF BRITISH COLUMBIA~~

## Acknowledgment of Officer of a Corporation

I HEREBY CERTIFY that, on the

22nd

day of

August , 1977 ,

at

Vancouver  
John Andrew Cornick

, in the Province of British Columbia,

~~whose identity has been proved by the evidence on~~

, who is) personally known to me,

~~noted~~

appeared before me and acknowledged to me that he is the

President

of

BIRKENHEAD LAKE ESTATES LTD.  
who subscribed his name to the annexed instrument as

President

, and that he is the person

of the said

BIRKENHEAD LAKE ESTATES LTD.

and affixed the seal of the

Company

to the said Instrument, that he was first duly authorized to subscribe his name as aforesaid, and affix the said seal to the said Instrument, and that such corporation is legally entitled to hold and dispose of land in the Province of British Columbia.

IN TESTIMONY whereof I have hereunto set my Hand and Seal of Office,

at

Vancouver

in the Province of

British Columbia, this 22nd day of

August

one thousand nine hundred and seventy-seven.

A Notary Public in and for the Province of British Columbia.  
~~NOTARY PUBLIC IN AND FOR THE PROVINCE OF BRITISH COLUMBIA~~

Dated: \_\_\_\_\_, 1977.

BETWEEN:

SQUAMISH-LILLOET  
REGIONAL DISTRICT

AND:

BIRKENHEAD LAKE ESTATES LTD.

LAND USE CONTRACT

BRUCE E. EMERSON, Esq.  
Barrister & Solicitor  
217 - 2438 Marine Drive  
West Vancouver, B.C.