

Policy Title: Stormwater Management Covenants and Subdivision		Policy Number: P48
Policy Category: Planning and Development		
Approval Date: November 26, 2013		Policy Owner: Planning and Development Services
Approved by: Board		File Reference: 0340-50

Purpose

To establish a policy that guides the preparation of restrictive covenants pertaining to stormwater management plans and subdivision under delegated authority.

Scope

In instances when a stormwater management plan cannot be registered through another mechanism such as a development permit, a section 219 covenant can be used to manage stormwater through all phases of development beginning with subdivision.

Guiding Principles

- Unlike the Comox Valley Regional District's (CVRD) statutory bylaw-making and permit-issuing powers, covenants are contractual
- Covenants should not be inconsistent with other CVRD bylaws, permits and other approvals
- The CVRD shall control the process of covenant preparation by either undertaking a legal review of each covenant prepared by an applicant's counsel or enlisting counsel to prepare a covenant on the CVRD's behalf, to ensure that no financial responsibilities or obligations are imposed upon the CVRD
- Registration of the covenant should be left to the applicant's counsel after consenting to a counsel-to-counsel undertaking regarding the timing of registration relative to subdivision approval
- The costs of covenant preparation and registration shall be borne by the subdivision proponent
- The CVRD shall track all covenants entered into under the guidance of this policy to aid in enforcement of the terms of such covenants

Policy Statement

1. Where subdivision is proposed and a stormwater management plan cannot otherwise be obtained and registered against the property through a bylaw or permit requirement, a section 219 covenant can be requested of the subdivision approving officer as a requirement of preliminary layout approval and/or final subdivision approval.
2. In accordance with this policy, the CVRD can hold covenants for the purpose of ensuring that on-site stormwater management plan(s) are prepared by the subdivision proponent, registered against all properties created through the respective subdivision, and implemented through all phases of property development.

3. Any covenants prepared under this policy shall be entered into only when the covenant is consistent with CVRD Bylaw No. 90, being the “Land Use Agreements Delegation Bylaw No. 90, 2009”, “a bylaw to delegate the powers from the Board to staff to enter into covenants, statutory rights-of-ways and land use agreements where the Board has previously established policy”.

Revision History

Approval Date	Approved By	Description of Change
August 11, 2020	Board	Housekeeping