

REGIONAL DISTRICT OF NORTH OKANAGAN

BYLAW No. 2247

A bylaw to authorize the Regional District to enter into an agreement to impose a Latecomer Fee

WHEREAS, pursuant to the *Local Government Act*, R.S.B.C., 1996, Chapter 323, as amended, and Regulations passed pursuant thereto, the Board of the Regional District of North Okanagan may, by Bylaw, impose latecomer charges;

AND WHEREAS, pursuant to Section 939(2) [*Excess or extended services and latecomer payments*] of the *Local Government Act* the Regional District has the authority to impose a Latecomer Charge for excess or extended services;

AND WHEREAS, the Regional District is empowered to impose as a condition of an owner connecting to or using the excess or extended service provided by a previous owner, a charge (*latecomer fee*) related to the benefit determined in accordance with Section 939(5)(b) of the *Local Government Act*;

AND WHEREAS, The Ridge Developments Ltd., the owner/developer, has sized a water facility to provide capacity to service lands other than being developed as per Schedules "B" and "C" attached hereto;

AND WHEREAS, the owners and the Regional District have agreed to the Terms and Conditions as outlined in the Latecomer Agreement attached hereto as Schedule "A";

NOW THEREFORE, the Board of the Regional District of North Okanagan, in open meeting assembled, hereby ENACTS AS FOLLOWS:

CITATION

1. This Bylaw shall be cited for all purposes as "***The Ridge Developments Ltd. Latecomer Agreement Bylaw No. 2247, 2007***".

LATECOMER CHARGES

2. That a charge per pillow for fire storage for all properties set out in Schedule "B" shall be \$266.33.
3. That a charge per pillow for balancing storage for all properties set out in Schedule "B" shall be \$138.45.
4. That a charge per pillow for balancing storage for all properties set out in Schedule "C" shall be \$69.23.
5. That these charges will be imposed at the time of the first subdivision of each property or upon application of a building permit or connection, whichever is the earliest.
6. That this charge will be increased annually by an allowance for interest pursuant to "***Regional District Latecomer Interest Rate Bylaw 1527, 1999***".

COMPLETION DATE

7. The works were completed on June 1, 2007. The term of the latecomer portion of this Bylaw will expire on June 1, 2022.

AUTHORIZATION

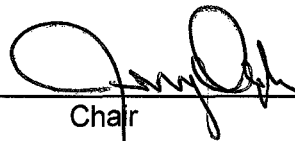
8. That the Chair and Corporate Officer be authorized to sign and affix the Corporate Seal to the Agreement between the Regional District of North Okanagan and The Ridge Developments Ltd. attached hereto as Schedule "A".

EFFECTIVE DATE

9. This Bylaw shall come into full force and effect and be binding on all persons as and from the date of adoption.

Read a FIRST, SECOND and THIRD TIME this 4th day of July , 2007.

Reconsidered and ADOPTED this 4th day of July , 2007.



Chair



Corporate Officer

REGIONAL DISTRICT OF NORTH OKANAGAN**LATECOMER AGREEMENT**

Schedule "A" attached to and forming part of
Bylaw 2247, being "*The Ridge Developments Ltd.
Latecomer Agreement Bylaw No. 2247, 2007.*"

THIS AGREEMENT made this 4th day of July, 2007.

BETWEEN:

REGIONAL DISTRICT OF NORTH OKANAGAN
9848 Aberdeen Road
Coldstream, British Columbia
V1B 2K9

(hereinafter called the "District")

OF THE FIRST PART

AND:

THE RIDGE DEVELOPMENTS LTD.,
c/o 4th Floor, 3205 – 32nd Street
Vernon, British Columbia
V1T 2M4

(hereinafter called the "Developer")

OF THE SECOND PART

WHEREAS:

- A. The Developer proposes to develop certain lands within the District, more particularly described as District Lot 5264, O.D.Y.D. (the "Land");
- B. The District requires that the Developer provide a water system to service the land, and a portion of the Service will serve land other than the land being developed for fire storage as set out in Schedule "B"; and a portion of the Service will serve land other than the land being developed as balancing storage as set out in Schedule "B"; and a portion of the Service will serve land other than the land being developed as balancing storage as set out in Schedule "C"; and will be excess or extended capacity under Section 747.2(1) of the *Local Government Act*.
- C. The District considers that the costs to provide the Extended Capacity in whole or in part are excessive, and requires the Developer, as owner of the Land, and the owners of any other land that, in the opinion of the District, will benefit from the Service, to pay the cost of the Extended Capacity;
- D. This Agreement is authorized and provided for under section 747.2 of the *Local Government Act*, and;
- E. The Board of the District has by "*Regional District Latecomer Interest Rate Bylaw 1527, 1999*", and amendments made thereto, set the rate of interest referred to in paragraph 6.

NOW THEREFORE, in consideration of the mutual covenants and agreements made by each of the parties to the other as set out below, and for other valuable consideration, the receipt and sufficiency of which is acknowledged, the District and the Developer covenant and agree as follows:

1. The Developer shall provide the Service in compliance with the plans and specifications agreed to by the District, to service the proposed development of the Land.
2. The District agrees that a portion of the Service is provided with Extended Capacity as set out in Schedules "B" and "C".
3. The proportion of the total cost of providing the Service, as determined by the District, that constitutes the Extended Capacity of the Service that will benefit the Parcels other than the land is as follows:
 - a) for Fire Storage is \$157,134.70 allowing for 590 pillow units;
 - b) for Balancing Storage for lands in Schedule "B" is \$81,685.50 allowing for 590 pillow units; and
 - c) for Balancing Storage for lands in Schedule "C" is \$109,244.94 allowing for 1578 pillow units.
4. The District shall, under section 747.2(4) of the *Local Government Act* impose a Latecomer Charge against each parcel of land that benefits from the Extended Capacity as prescribed in Schedules "B" and "C" of this Agreement as a condition of an owner using or connecting to the services provided under the agreement where the Developer has incurred or paid the costs of providing the Extended Capacity.
5. The District shall pay the Developer those charges, collected under paragraph 4, which relate to the costs of providing the Extended Capacity paid by the Developer.
6. Included in the charges imposed by paragraph 4 of this agreement shall be interest calculated annually at a rate prescribed by "*Regional District Latecomer Interest Rate Bylaw 1527, 1999*", namely, six (6) percent, payable for a period commencing when the Service providing the Extended Capacity was completed, as certified under paragraph 7, up to the date that the connection is made or the use commences.
7. No costs for Latecomer Charges under paragraph 4 of this Agreement shall be charged beyond a period of fifteen (15) years commencing on the date of completion of the Service as certified by the District.
8. Where the Developer constructs the Service:
 - (a) construction shall be carried out in accordance with the practices, standards and specifications prescribed in the District's Subdivision Regulation Bylaw; and
 - (b) the District shall be the sole judge of the sufficiency of compliance of the construction of the Service with all standards.
9. The obligation of the District under this Agreement to pay latecomer's fees is subject to its ability to collect such fees.

TERMINOLOGY

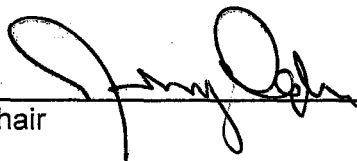
- 10. Wherever the singular or the masculine are used in this agreement, they shall be construed as meaning plural or the feminine or body corporate or politic where the context or the parties require.

BINDING EFFECT

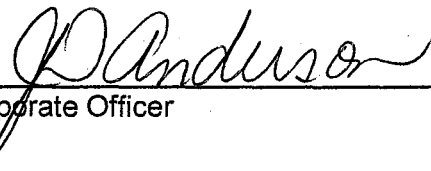
- 11. This agreement shall constitute the entire agreement between these parties and shall enure to the benefit of and be binding upon the parties hereto, their respective heirs, executors and successors and permitted assignees.
- 12. The headings in this agreement are inserted for convenience only and shall not be construed as part of this Agreement for the purpose of interpretation.

IN WITNESS WHEREOF the parties have signed and sealed this Agreement on the day it was made.

**THE CORPORATE SEAL OF:
REGIONAL DISTRICT OF NORTH OKANAGAN**
By its authorized signatories:

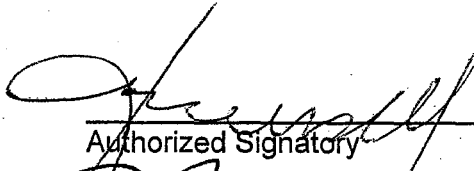


Chair

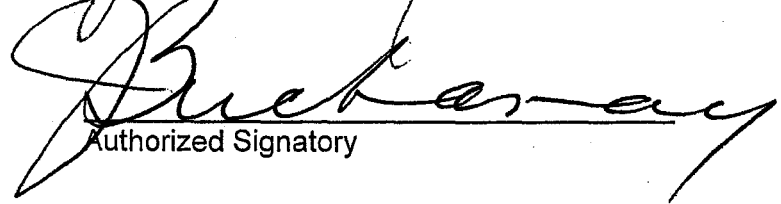


Corporate Officer

**THE CORPORATE SEAL OF:
THE RIDGE DEVELOPMENTS LTD.**
By its authorized signatories:



Authorized Signatory



Authorized Signatory

SCHEDULE "B"

REGIONAL DISTRICT OF NORTH OKANAGAN

LATECOMER CHARGES

Schedule "B" attached to and forming part of
Bylaw 2247, being *"The Ridge Developments Ltd.
Latecomer Agreement Bylaw No. 2247, 2007."*

The Extended Capacity that the developer has constructed pertains to the Ridge Subdivision Pump Station and Reservoir that was constructed in 2006 and 2007.

The District has determined that as a result of constructing the above-noted facilities, an equivalent of 590 Pillow Units in the attached benefiting area plan will be provided with fire storage at sufficient pressure to allow development, and with balancing storage at sufficient pressure to permit development.

The District has determined that the costs of the Ridge Subdivision Pump Station and Reservoir total \$1,262,226.00 of which the fire storage component is set at \$565,959.86 and the balancing storage component is set at \$696,266.14.

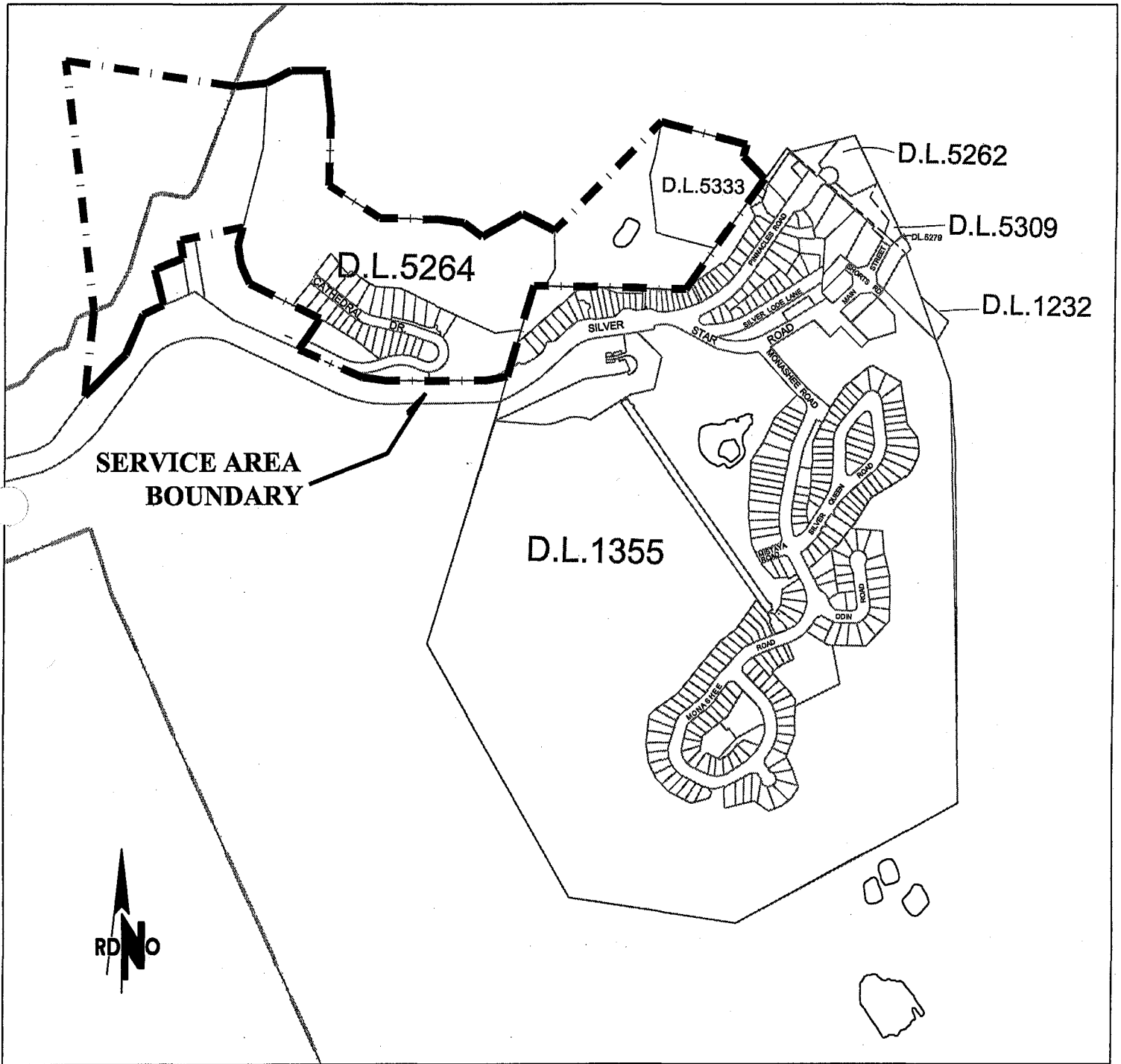
The Latecomer Charge for development of properties as set out in the attached plan will be based on \$266.33 per pillow for fire storage and \$138.45 per pillow for balancing storage. The Latecomer Charge for these properties will be based on the following table:

Latecomer Fees per Unit:

Land Use Designation	Pillow Units	Fire Storage Per Pillow	Balancing Storage Per Pillow	Latecomer Charge
Single Family Lot	12	\$266.33	\$138.45	\$4857.36
Duplex Lot	17	\$266.33	\$138.45	\$6881.26
Townhouse Dwelling	9	\$266.33	\$138.45	\$3643.02
3 Bedroom Suite	7	\$266.33	\$138.45	\$2833.46
2 Bedroom Suite	6	\$266.33	\$138.45	\$2428.68
1 Bedroom Suite	5	\$266.33	\$138.45	\$2023.90
Hotel Room	4	\$266.33	\$138.45	\$1619.12
Hostel Room	2	\$266.33	\$138.45	\$ 809.56
Commercial/Ind/Retail	1 per 500 m ²	\$266.33	\$138.45	\$ 809.56 / 1000 m ²
Commercial/Restaurant/Pub	1 per 5 seats	\$266.33	\$138.45	\$ 80.96 / seat

Benefiting Properties:

1. The District has determined that the benefiting properties for these Latecomer Charges are all of the undeveloped or unserviced vacant properties that are within the attached Plan forming part of Schedule "B".
2. Exemptions to Section 1. above are the properties encompassed by the Ridge Subdivision described as District Lot 5264, O.D.Y.D.



Schedule 'B' to Bylaw No. 2247,
 being the "Silver Star Mountain
 Resorts Ltd. Latecomer Agreement
 Bylaw No. 2247, 2007"

**REGIONAL DISTRICT OF NORTH OKANAGAN
 SILVER STAR SERVICE AREA**

SCHEDULE "C"
REGIONAL DISTRICT OF NORTH OKANAGAN
LATECOMER CHARGES

Schedule "C" attached to and forming part of
 Bylaw 2247, being *"The Ridge Developments Ltd.
 Latecomer Agreement Bylaw No. 2247, 2007."*

The Extended Capacity that the developer has constructed pertains to the Ridge Subdivision Pump Station and Reservoir that was constructed in 2006 and 2007.

The District has determined that as a result of constructing the above-noted facilities, an equivalent of 1578 pillow units in the area as shown on the attached benefiting area plan will be provided with balancing storage to permit development.

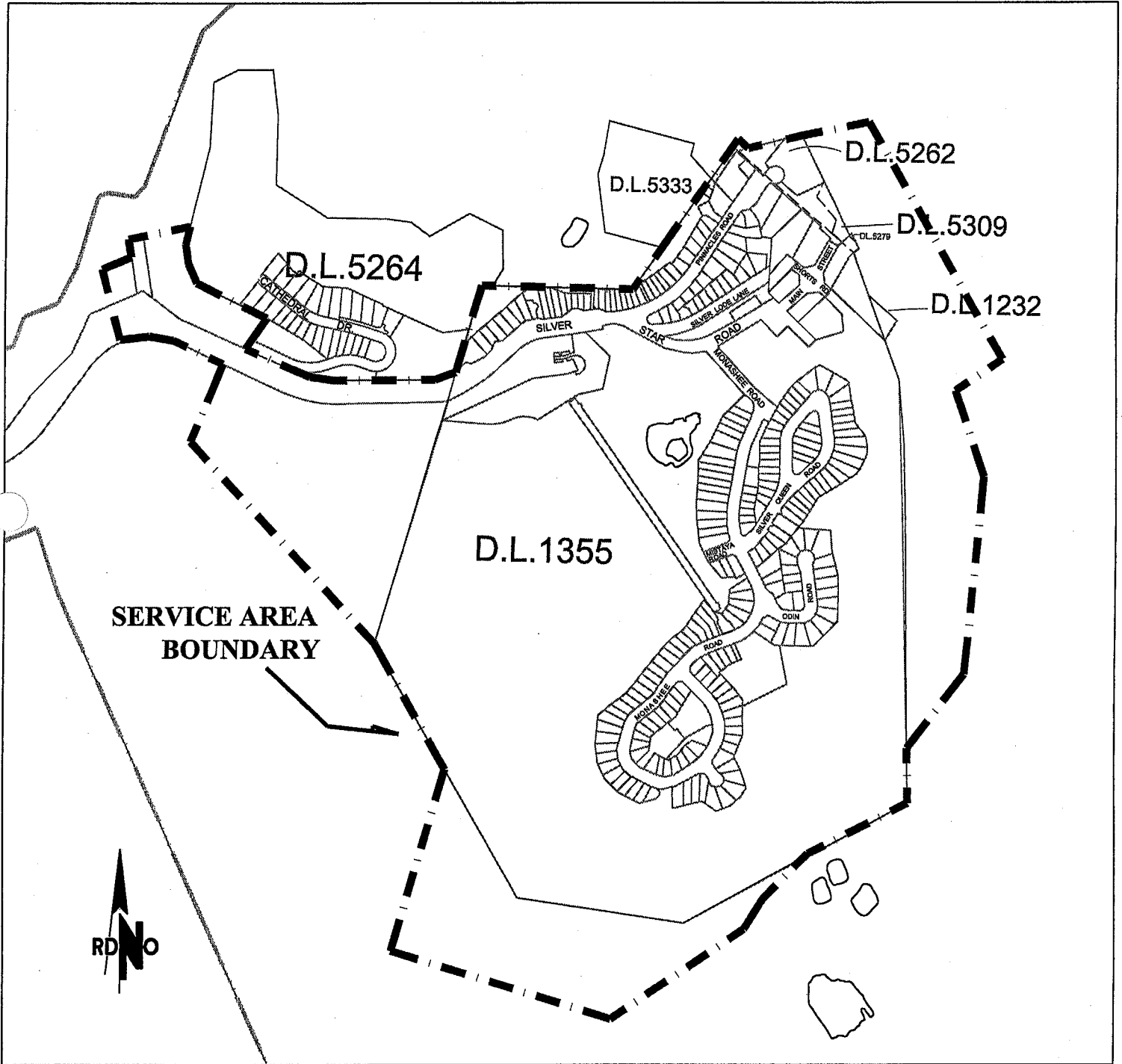
The District has determined that the costs of the Ridge Subdivision Pump Station and Reservoir total \$1,262,226.00 of which the balancing storage component is set at \$696,266.14.

The Latecomer Charge for development of properties as set out in the attached Plan will be based on \$69.23 per pillow for balancing storage.

The Latecomer Charge for these properties will be based on the following table:

Latecomer Fees per Unit:

Land Use Designation	Pillow Units	Balancing Storage Per Pillow	Latecomer Charge
Single Family Lot	12	\$69.23	\$ 830.76
Duplex Lot	17	\$69.23	\$1176.91
Townhouse Dwelling	9	\$69.23	\$ 623.07
3 Bedroom Suite	7	\$69.23	\$ 484.61
2 Bedroom Suite	6	\$69.23	\$ 415.38
1 Bedroom Suite	5	\$69.23	\$ 346.15
Hotel Room	4	\$69.23	\$ 276.92
Hostel Room	2	\$69.23	\$ 138.46
Commercial/Ind/Retail	1 per 500 m ²	\$69.23	\$ 138.46 / 1000 m ²
Commercial/Restaurant/Pub	1 per 5 seats	\$69.23	\$ 13.85 / seat



Schedule 'C' to Bylaw No. 2247,
 being the "Silver Star Mountain
 Resorts Ltd. Latecomer Agreement
 Bylaw No. 2247, 2007"

**REGIONAL DISTRICT OF NORTH OKANAGAN
 SILVER STAR SERVICE AREA**