



Section 219 Covenant

This brochure provides property owners with information regarding the process to register a covenant pursuant to Section 219 of the *Land Title Act*.

What is a Section 219 Covenant?

A Section 219 Covenant can be registered on title of a subject property in favour of the Regional District as covenantee and is enforceable against the covenantor and the successors on title. The covenant may be negative or positive in nature and may impose obligations or restrictions with respect to the use and subdivision of land or buildings located, or to be located, on the land. The covenant may also specify the protection, preservation, conservation, or restoration of a natural area or other amenity.

When are Section 219 Covenants Used?

Rezoning applicants often offer Section 219 covenants to address land use issues that arise during the rezoning process. For example, if there is a concern that a development may impact an environmentally sensitive area on the property the applicant may offer to register a Section 219 Covenant

on title requiring the preservation of the area in its natural state and maintaining a fence around the area. This may address the concern and may improve the likelihood that the application is approved.

Section 56 of the *Community Charter* requires the owner of land to provide the building inspector with a report by a qualified professional certifying that the land may be used safely for the use intended if 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. If a qualified professional certifies that the land may be used safely for the use intended, the property owner must register a Section 219 Covenant on title requiring that the land is used and developed only in the manner certified by the qualified professional as enabling the safe use of the land.

RDBN Planning Department

37 3rd Ave, PO Box 820
Burns Lake, BC V0J 1E0
planning@rdbn.bc.ca
www.rdbn.bc.ca

Call us at: 250-692-3195
Toll free 1-800-320-3339
Fax 250-692-3305

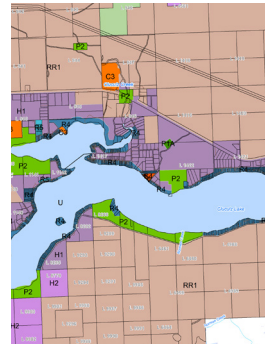
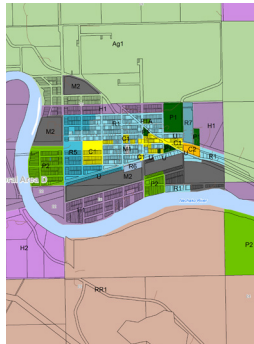
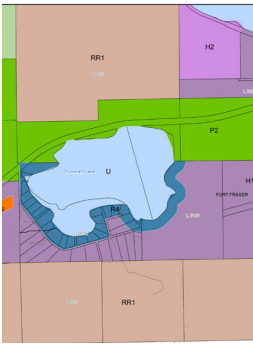
Section 524 of the *Local Government Act* requires that a local government not grant an exemption to a floodplain regulation until it has received a report, certified by a professional engineer or geoscientist, that the land may be used safely for the use intended. It is also required that the property owner enter into a 219 Covenant establishing terms or conditions relating to the exemption.

Priority Agreements

Section 219 Covenants often contain one or more priority agreements, by which the holder of a charge on title, typically a mortgage, agrees to subordinate its charge to the Section 219 Covenant. This prevents the Section 219 Covenant from being purged from title in the event of a foreclosure.

Covenant Review, Approval and Registration

The drafting of the covenant documents, and the associated registration costs, are the property owner's responsibility. A sample covenant, which contains the RDBN's preferred wording, can be provided on request. The sample covenant will require changes to make it applicable to the specific property and situation. This work is typically undertaken by a solicitor working on behalf of the applicant. The property owner's solicitor is encouraged to contact Planning Department staff to obtain feedback on the wording of the covenant prior to submission of a final document for consideration by the RDBN.



Need more information?

Our Planning Department staff are here to help.



Process

Solicitor drafts Section 219 Covenant documents and provides a draft to Planning Department staff for review. Documents are amended as necessary.



Copies of the document, signed by the property owner (and charge holder) if necessary, and witnessed, are provided to the Planning Department for approval.



If acceptable the Section 219 Covenant is signed by the RDBN and returned to the applicant's solicitor.



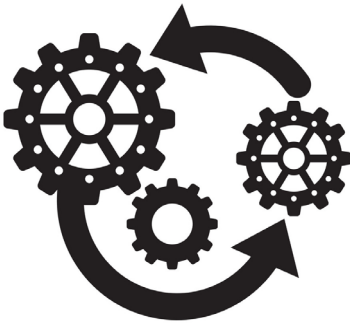
The applicant's solicitor submits the Section 219 covenant documents to the Land Title Office for registration. It is noted that registration of the documents on title does not immediately occur. Initially the documents are received and registration is pending. These documents may be rejected for technical or other reasons.. Once the documents are accepted by the Land Title Office, registration is complete.



Once registration is complete the applicant or applicant's solicitor informs the Planning Department that registration is complete and provides a copy of a title search for the subject property showing the charge on title.



The associated rezoning, building permit, or site specific floodplain exemption process may then proceed as appropriate.





RDBN Planning Department

37 3rd Ave, PO Box 820
 Burns Lake, BC V0J 1E0
planning@rdbn.bc.ca
www.rdbn.bc.ca

Call us at 250-692-3195
 Toll free 1-800-320-3339
 Fax 250-692-3305