

**THE CORPORATION OF THE TOWNSHIP OF ESQUIMALT  
SUBDIVISION AND DEVELOPMENT CONTROL BYLAW**

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## **CORPORATION OF THE TOWNSHIP OF ESQUIMALT**

### **BYLAW NO. 2175**

BEING a Bylaw to regulate and control the Subdivision of land and to establish standards for Works and Services that must be installed to serve Subdivisions approved under the Land Title Act, the Bare Land Strata Regulations and building projects which are required to be serviced in accordance with Council Policy No. Plan - 27.

WHEREAS the Council may by bylaw regulate and require the provisions of Works and Services in respect of the Subdivision of land and may also require as a condition of Subdivision approval or the issuance of a building permit that the Owner provide Works and Services on that portion of a Highway immediately adjacent to the site, up to the centre line of the Highway;

WHEREAS it is deemed necessary and desirable to replace "Subdivision Plans Bylaw 1981, No. 1669" as amended;

NOW THEREFORE the Council of The Corporation of the Township of Esquimalt, in Open Meeting Assembled, ENACTS AS FOLLOWS:

- 1.0 This Bylaw may be cited as the "SUBDIVISION AND DEVELOPMENT CONTROL BYLAW 1997, NO. 2175.

## PART 1

### INTERPRETATION

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#### 2.0 DEFINITIONS

In this Bylaw:

**APPLICANT** means a person who has applied for approval of a proposed subdivision whether as the Owner or as the agent of the Owner of the land included therein.

**APPROVING OFFICER** means the officer so appointed by Council resolution according to the provisions of the Land Title Act.

**COLLECTOR STREET** means a street designated, from time to time, as a collector street in the Official Community Plan.

**CONTRACTOR** means the person or the company undertaking the construction of the Works and Services in a Development, or on municipal property, and includes the Contractor's employees, subcontractors and other duly authorized representatives.

**CUL-DE-SAC** means a Highway which terminates with a vehicular turning area.

**DEVELOPER** means the Owner of land or the holder of a bona-fide interim agreement or option to purchase land, who has made application to the Municipality for or is engaged in undertaking the Development of such land and shall include their duly authorized representative.

**DEVELOPER'S ENGINEER** means the Professional Engineer or Consulting Engineer engaged by the Developer to design and/or prepare drawings for the construction of Works and Services, or their duly authorized representative.

**DEVELOPMENT** means the subdivision of land or the construction of a building on land, which results in a requirement for the installation of Works and Services under this Bylaw.

**DIRECTOR, PLANNING AND ENGINEERING SERVICES** means that person appointed by Council as head of the Planning and Engineering Services Department, or designate, and is referred to as the Municipal Engineer in the Schedules of this Bylaw.

**DOUBLE FRONTING LOT** means a lot fronting on two streets, neither of which is a flanking or side street.

**EXCESS OR EXTENDED SERVICES** means those Works and Services which provide access to or serve land other than the land being subdivided or developed.

**FINAL APPROVAL** means that approval of a subdivision plan granted by the Approving Officer when all relevant requirements of this Bylaw, the Municipal Act, the Land Title Act and any other relevant Bylaws and legislation have been fulfilled.

**FRONTAGE** means that length of a Parcel boundary which immediately joins a Highway other than a Lane or Walkway. On a Parcel where more than one of the Parcel boundaries continuously adjoins a Highway, the shortest Parcel boundary shall be considered its Frontage.

**INSPECTOR** means that person appointed by Council to administer the Building and Plumbing Bylaw.

**HIGHWAY** means a public street, road, Lane, bridge, viaduct, and any other way open to the use of the public, but does not include a private right-of-way on private property.

**LANDSCAPE ARCHITECT** means a person who is registered as a member of the British Columbia Society of Landscape Architects under the provisions of the Landscape Architects Act.

**LANE** means a Highway less than 10m wide.

**MAJOR STREET** means a street designated, from time to time, as a major street in the Official Community Plan.

**MUNICIPAL DRAINAGE SYSTEM** means a system owned, operated and maintained by the Municipality for the collection, conveyance and disposal of storm water.

**MUNICIPAL SANITARY SYSTEM** means a system owned, operated and maintained by the Municipality for the collection and conveyance of sanitary sewage.

**MUNICIPAL WATER SYSTEM** means a system of waterworks, within the meaning of the Health Act, which is owned, operated and maintained by the City of Victoria within the boundaries of the Township of Esquimalt.

**OFFICIAL COMMUNITY PLAN** means the official community plan of the Municipality as adopted by Bylaw, and amended from time to time.

**OWNER** - in respect of real property, means the registered Owner of an estate in Fee simple, and includes:

- (a) the tenant for life under a registered life estate;
- (b) the registered holder of the last registered agreement for sale;
- (c) the holder or occupier of land held in the manner mentioned in Sections 356 and 357 of the Municipal Act;

**PANHANDLE** means a Parcel with an access strip and a Frontage of less than 10% of its perimeter.

**PARCEL** means any lot, block or other area in which land is held or into which land is subdivided, but does not include a Highway.

**PRELIMINARY PLAN** means a dimensioned sketch or plan submitted with an application for preliminary review of a proposed subdivision.

**PUBLIC UTILITY** means any utility facilities installed within any Highway or statutory right of way by a government or by a utility company under government control, including without limitation water, sewage, drainage, street light, electricity, telephone, cable television and gas distribution facilities

**ROADWAY** means that portion of a street which is improved, designed and used for vehicular traffic.

**SECURITY DEPOSIT** means cash, certified cheque, or an unconditional irrevocable Letter of Credit issued by a Canadian chartered bank or credit union.

**STREET** means a Highway which affords the principal means of vehicular access to abutting Parcels.

**SUBDIVISION** means the division of land into two or more Parcels, whether by plan or apt descriptive words and shall include a plan consolidation of two or more Parcels into a fewer number of Parcels.

**SUBDIVISION APPLICATION REVIEW REPORT or the REPORT**

means the compilation of a detailed list of requirements based on the review of an application for a proposed Subdivision. The requirements of the Report must be fulfilled to secure Final Approval of a Subdivision.

**SURVEYOR** means a land surveyor currently licensed and registered in the Province of British Columbia.

**WALKWAY** means a Highway not more than 6m wide for the use of the walking public and non - motorized vehicles, except that a walkway may be designed to afford emergency vehicle use.

**WATERCOURSE** means any natural drainage course or source of water, whether usually containing water or not, and includes any lake, river, stream, creek, spring, ravine, swamp, gulch, or source of ground water whether it is open or enclosed in a conduit.

**WORKS AND SERVICES** means all public services, facilities and utilities which are required to be installed as a condition of Subdivision or building permit approval and without limitation includes: Highways, sidewalks; boulevards, boulevard crossings; Street lighting; underground wiring; water distribution system; fire hydrant system; sewage collection system; drainage collection system; and drainage disposal system pursuant to Section 938 of the Municipal Act

## **PART 2**

### **APPLICATION, COMPLIANCE AND SEVERABILITY**

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#### **3.0 APPLICATION**

This Bylaw shall apply to all land and the surface of waters within the boundaries of the Corporation of the Township of Esquimalt subject to Provincial and Federal Statutes.

#### **4.0 COMPLIANCE**

No land, including the surface of the water, shall be developed or subdivided except in conformity with this Bylaw.

#### **5.0 SEVERABILITY**

Any section, subsection, sentence, clause or phrase of this Bylaw which is for any reason held to be invalid by the decision of any Court of competent jurisdiction, may be severed from the balance of this Bylaw without affecting the validity of the remaining portions of this Bylaw.

## PART 3

### ADMINISTRATION

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#### 6.0 ADMINISTRATION

- 6.01 The Approving Officer shall maintain a record of all Subdivision applications submitted under this Bylaw, which shall indicate the final disposition of all such applications thereon.
- 6.02 All employees and officers of the municipality are authorized to enter at all reasonable times upon any property which is subject to this bylaw, to ascertain whether the provisions of this bylaw are being complied with.
- 6.03 The following Subdivisions are excluded from the scope of the Works and Services requirements of this Bylaw:
- (a) Land which is subdivided for the purpose of creating public parkland or Parcels to support the installation of public facilities, utilities, structures and associated equipment.
  - (b) For applications where:
    - (i) no additional land registry Parcels are proposed and where the smallest of the proposed new Parcels is greater in size than the smallest of the original lots;
    - (ii) the Subdivision proposes a lot line adjustment, and each Parcel affected is serviced by an existing water and sewer and drain system and where no future Subdivision potential exists.
    - (iii) Subdivisions under the Condominium Act, provided that Works and Services on Highways immediately adjacent to condominium buildings and on the site being developed shall be provided in accordance with Council policy.



## **PART 4**

### **APPROVALS**

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#### **7.0 APPLICATIONS FOR SUBDIVISION OR DEVELOPMENT**

- 7.01 An application for Subdivision shall be submitted to the Planning and Engineering Services Department (on behalf of the Municipal Clerk) on the form supplied by the Municipality. The application form is to be signed by the Owner or by his Agent.
- 7.02 The Owner will be required to pay Subdivision Fees as provided in the Subdivision Fee Bylaw 1991, No. 2018 as amended from time to time and may be required to provide payments and security as detailed in Schedule "A", Development Procedures and Policies of this Bylaw.
- 7.03 Every Owner shall, prior to Subdivision approval and subject to Section 15.01, provide Works and Services in accordance with the requirements and standards in this bylaw, within the subdivided land and on that portion of every Highway immediately adjacent to the land being subdivided, up to the centre line of the Highway.

#### **8.0 APPROVALS**

- 8.01 Applications for Subdivision will be reviewed for compliance with the requirements of this Bylaw and other relevant Municipal and Provincial legislation. Approval of a Subdivision plan does not imply that the Municipality will expend municipal funds on Works and Services in support of the Subdivision.
- 8.02 The Subdivision Application Review Report for any proposed Subdivision shall not be construed as ensuring Final Approval of Subdivision for Land Title purposes. The Report may be revoked by the Approving Officer at any time in the event that new information becomes available subsequent to review by the Approving Officer or in the event that any change in legislation, regulations or bylaws which would render the proposed Subdivision unlawful takes effect prior to the granting of Final Approval.

## PART 5

### GENERAL PROVISIONS

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#### 9.0 GENERAL PROVISIONS

- 9.01 An application to subdivide shall be in the form prescribed by Schedule 'F-4'.
- 9.02 Land within the Agricultural Land Reserve cannot be subdivided unless:
- (a) approval has been received from the Agricultural Land Commission excluding the land from the Agricultural Land Reserve or granting relief to permit the Subdivision within the Agricultural Land Reserve; or
  - (b) the Subdivision can be approved by the Approving Officer pursuant to Section 1 of BC Regulation 7/81.
- 9.03 Applicants for Subdivision approval shall comply with the Development procedures and policies set out in Schedule "A".

## **PART 6**

### **SERVICING**

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#### **10.0 HIGHWAYS**

10.01 All Highways shall be dedicated and constructed in accordance with the standards contained in Schedule "C" of this Bylaw.

#### **11.0 DRAINAGE COLLECTION AND DISPOSAL SYSTEM**

11.01 The Owner of any lands which are proposed to be Subdivided shall provide each Parcel of land within the proposed Subdivision with a drainage collection and disposal system including a service connection thereto, constructed in accordance with the standards contained in Schedule "B" hereto, and the said drainage system shall be connected by drainage mains to the existing Municipal Drainage System.

11.02 If no drainage collection system fronts the property to be subdivided, the Developer shall pay the cost of extending such services to the proposed Subdivision in accordance with the requirements of Schedule "E".

#### **12.0 WATER DISTRIBUTION SYSTEM**

12.01 The Owner of any lands which are proposed to be Subdivided shall provide each Parcel of land within the proposed Subdivision with a water distribution system and a fire hydrant system, including service connections thereto, which shall be constructed in accordance with the Master Municipal Construction Document, Volume II, Printed 1996, as adopted by the City of Victoria and shall be connected to the existing City of Victoria Water System.

12.02 Where proposed Subdivisions front an existing water main, or where the proposed Development constitutes an infill within an existing water service area, connection to the existing water main or extension of water mains shall be secured from the City of Victoria.

12.03 If no water main fronts the property to be subdivided, the Developer shall pay the cost of extending such services to the proposed Subdivision in accordance with the requirements of Schedule "E".

### **13.0 SEWAGE COLLECTION AND DISPOSAL SYSTEM**

13.01 The Owner of any lands which are proposed to be Subdivided shall provide each Parcel of land within the proposed Subdivision with a sanitary sewage collection system including the standard service connection thereto, constructed in accordance with Schedule "B" of this Bylaw, and the said sewerage system shall be connected by sewer mains to the existing Municipal Sanitary System.

13.02 If no sewer main fronts the property to be subdivided, the Developer shall pay the cost of extending such services to the proposed Subdivision in accordance with the requirements of Schedule "E".

### **14.0 UNDERGROUND WIRING AND STREET LIGHTING**

14.01 The Owner of any lands which are proposed to be Subdivided shall provide each Parcel of land within the proposed Subdivision with underground wiring in accordance with Schedule "D & E" of this Bylaw.

14.02 The Owner of any lands which are proposed to be Subdivided shall provide all Highways and footpaths with Street lighting serviced by underground wiring in accordance with Schedule "D & E" of this bylaw.

### **15.0 COMPLETION OF THE WORKS AND SERVICES**

15.01 All Works and Services required to be constructed and installed at the expense of the Owner shall be constructed and installed to the standards prescribed in this Bylaw before the Approving Officer approves the Subdivision or (where required as a condition of building permit issuance) the Inspector issues the building permit unless the Owner:

- (a) deposits with the Municipality a Security Deposit in the amount of 120% of the estimated construction cost, as estimated by the Municipality, for installing and paying for all Works and Services required under the Bylaw; and
- (b) Enters into a Servicing Agreement with the Municipality to construct and install the required Works and Services by a specified date or forfeit to the Municipality the amount secured by the Security Deposit.

- (c) Building Permits within a subdivided Parcel will not be issued until all underground works are completed and all road construction has been completed to structurally adequate levels for emergency vehicle access.

## **16.0 SERVICE LEVELS**

- 16.01 All single family and two-family residential zoned properties, at the time of Subdivision approval, shall be serviced to the Service Level 1 requirements in accordance with Schedule "E" .
- 16.02 All multi-family, commercial, industrial, public use, marine use and comprehensive Development zoned properties, at the time of Subdivision approval, shall be serviced to Service Level 2 requirements in accordance with Schedule "E".

## **PART 7**

### **VIOLATIONS**

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#### **18.0 VIOLATIONS**

18.01 No person shall contravene this bylaw or suffer or permit any act or thing in contravention of this bylaw.

#### **19.0 PENALTY**

19.01 Every person who violates any of the provisions of this bylaw or who suffers or permits any act or thing to be done in contravention of this bylaw, commits an offence, and shall be liable to the penalties hereby imposed.

19.02 Any person who violates any of the provisions of this bylaw shall be liable upon summary conviction to a penalty of not more than ten thousand dollars (\$10,000).

19.03 Each day that violation of this bylaw is caused to continue constitutes a separate offence.

## **PART 8**

### **SCHEDULES**

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#### **20.0 BYLAW SCHEDULES**

20.01 The following is a list of Schedules attached hereto and which form a part of this Bylaw:

Schedule "A"	Development Procedures and Policies
Schedule "B"	Regional Specifications — Design and Construction Specifications — Sewer and Drain
Schedule "C"	Design and Construction Specifications — Roadways
Schedule "D"	Design and Construction Specifications — Street Lighting
Schedule "E"	Service Levels
Schedule "F"	Standard Forms and Agreements

## **PART 9**

### **REPEAL OF PREVIOUS BYLAW**

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#### **21.0 CITATION**

21.01 "Subdivision Plans Bylaw 1981 No. 1669" as amended is hereby repealed.

#### **22.0 BYLAW EFFECTIVE DATE**

22.01 This Bylaw shall come into force and have effect on

Read a first time by the Municipal Council on December 8, 1997.

Read a second time by the Municipal Council on December 8, 1997.

Read a third time by the Municipal Council on December 8, 1997.

ADOPTED by the Municipal Council on January 12, 1998.

R. T. RICE  
MAYOR

R. SERIGHT  
MUNICIPAL CLERK

[bylaws/subdiv3]