

CORPORATION OF THE TOWNSHIP OF ESQUIMALT
SUBDIVISION AND DEVELOPMENT SERVICING BYLAW

PART 1 – INTRODUCTION & INTERPRETATION.....	2
1. TITLE.....	2
2. DEFINITIONS.....	2
3. INTERPRETATION.....	5
PART 2 – APPLICATION	6
4. GENERAL.....	6
5. REQUIREMENTS.....	6
6. EXEMPTIONS – DEVELOPMENT.....	8
7. EXEMPTIONS – SUBDIVISION.....	9
PART 3 – WORKS AND SERVICES FOR SUBDIVISION & DEVELOPMENT.....	9
8. APPLICATIONS – GENERAL.....	9
9. CIRCULATION AND APPROVAL OF DESIGN DRAWINGS	10
10. GENERAL.....	11
11. SRW AND COVENANT DOCUMENTS	14
12. ENGINEERING SUPERVISION AND TOWNSHIP INSPECTIONS	15
13. STANDARDS.....	16
14. EXCESS OR EXTENDED SERVICES.....	17
15. TOWNSHIP ACCEPTANCE OF WORKS AND SERVICES.....	18
16. WARRANTY OF WORKS AND SERVICES.....	19
17. TESTING.....	20
PART 4 – GENERAL PROVISIONS.....	20
18. AUTHORIZATION FOR ENTRY	20
19. VIOLATIONS	20
20. PENALTY	20
21. SEVERABILITY	20
22. BYLAW EFFECTIVE DATE	21
23. REPEAL	21
24. SCHEDULES.....	21

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

BYLAW NO. 3128

A bylaw to regulate, require and set standards for the provision of works and services in respect of the subdivision and development of land in the Township.

WHEREAS Council may, by bylaw, regulate and require the provision of works and services in respect of the subdivision of land;

WHEREAS Council may require, as a condition of subdivision approval or building permit issuance, 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 Council may require, as a condition of building permit issuance, that the owner provide works and services on the site being developed;

WHEREAS the Township may require that the owner of land that is to be subdivided or developed provide excess or extended services, such services being a portion of a highway system that will provide access to land other than the land being subdivided or developed, and a portion of a water, sewage or drainage system that will serve land other than the land being subdivided or developed;

WHEREAS water is provided to land and buildings in the Township by the City of Victoria, and the City has enacted standards for the construction of works and services that are or will be connected to the City's water supply and distribution works;

WHEREAS the Township owns the streets within its boundaries and may regulate and prohibit in relation to all uses of or involving a highway or part of a highway; and

WHEREAS it is deemed necessary and desirable to replace Subdivision and Development Control Bylaw 1997, No. 2175;

NOW THEREFORE Council of the Corporation of the Township of Esquimalt, in open meeting assembled, enacts as follows:

PART 1 – INTRODUCTION & INTERPRETATION

1. TITLE

This Bylaw may be cited as the "**Subdivision and Development Servicing Bylaw 3128, 2023**" or the "**Works & Services Bylaw**".

2. DEFINITIONS

In this Bylaw:

APPROVED PLANS means the Design Drawings that have been approved by the Director in accordance with section 9.

APPROVING OFFICER means the officer so designated by Council resolution under the *Land Title Act*, and includes the Deputy Approving Officer and Alternate Approving Officer.

BUILDING OFFICIAL means the person so defined in the Township's Building Bylaw, as amended from time to time.

CONSULTING ENGINEER means a Professional Engineer engaged by the Owner to design and oversee the construction of Works and Services.

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

COUNCIL means the Council of the Corporation of the Township of Esquimalt.

COVENANT has the same meaning as described in section 219 of the *Land Title Act*, and in the context of agreements between private property owners includes a common law restrictive covenant.

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

CYCLING FACILITIES means improvements intended to facilitate travel by bicycle and similar active modes of transportation, including bike lanes and walkways as part of a multi-use facility, generally in accordance with the BC Active Transportation Design Guide and similar plans and policies.

DESIGN DRAWINGS means the plans, designs and specifications for the Works and Services pursuant to a Subdivision or Development application required by this Bylaw.

DEVELOPMENT means any construction that requires a building permit under the Township's Building Bylaw, as amended from time to time.

DIRECTOR, or MUNICIPAL ENGINEER, means the person appointed by Council as head of the Engineering and Public Works Department, or their designate.

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 must be considered its Frontage.

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.

MMCD means:

- (1) The Municipal Infrastructure Design Guideline Manual published by the Master Municipal Construction Documents Association;

- (2) The Master Municipal Specifications and Standard Detail Drawings in the 2019 Edition of the Master Municipal Construction Documents published by the Master Municipal Construction Documents Association, excluding all references to measurement and payment in the Master Municipal Specifications, and includes the definitions of such terms used in the Master Municipal Specifications and Standard Detail Drawings as are set out in the General Conditions in Volume II; and
- (3) All documents supplemental to the Master Municipal Specifications, the Standard Detail Drawings and the relevant definitions set out in the General Conditions that are issued from time to time by the Association, as amended from time to time, unless specifically modified by this Bylaw and its Schedules.

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

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

MUNICIPAL WATER SYSTEM means a system owned, operated and maintained by the City of Victoria for the conveyance of potable water within the boundaries of the Township.

OFFICIAL COMMUNITY PLAN means the official community plan of the Township as adopted by bylaw and amended from time to time.

OWNER means a person registered in the records of the Land Title Office as the registered owner of the land or of a charge on land that is the subject of Subdivision or Development, or an agent authorized in writing by the owner, 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 as referred to in section 228 or 229 of the *Community Charter*; and
- d) An owner as defined in the *Strata Property Act*.

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.

PROFESSIONAL ENGINEER means a member of the Association of Professional Engineers and Geoscientists of the Province of British Columbia who is registered or licensed under the *Professional Governance Act* and regulations thereunder.

PUBLIC UTILITY means any utility company, utility service provider or government having facilities installed within any Highway, SRW or utility right of way for the purpose of providing a service, including without limitation water, sewage, drainage, street lighting, electricity, telephone, cable television, telecommunications and gas distribution systems.

RIGHT OF WAY means land or any interest in land, including a statutory right of way under section 218 of the *Land Title Act*, for the purpose of rights of passage with or without vehicles, installing and maintaining any utilities, works or services, or other public purpose.

SECURITY DEPOSIT means cash, cheque, bank draft, or an unconditional, irrevocable and automatically renewing letter of credit without a force majeure clause issued by a Canadian chartered bank or credit union incorporated pursuant to the *Credit Union Incorporation Act* or the former *Credit Union Act* of the Province of British Columbia, drawn in the favour of the Township, which letter of credit must be capable of being presented and drawn at a branch of the issuer within the Township of Esquimalt and on terms satisfactory to the Township .

SRW means a registered right-of-way, and associated section 219 Covenant, pursuant to section 218 of the *Land Title Act*.

SUBDIVISION means:

- (a) A subdivision as defined in the *Land Title Act*; or
- (b) A subdivision under the *Strata Property Act*.

TOWNSHIP means the Corporation of the Township of Esquimalt.

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 (including cycling facilities along major roads); sidewalks; boulevards; boulevard crossings; transit bays; street lighting; underground wiring; water distribution system; fire hydrant system; sewage collection system; drainage collection system; and drainage disposal system pursuant to Section 506 and 507 of the *Local Government Act*.

MATERIAL AND WORKMANSHIP WARRANTY has the same meaning as described in section 16(1) of this Bylaw.

MATERIAL AND WORKMANSHIP WARRANTY SECURITY has the same meaning as described in section 15(2) of this Bylaw.

ZONING BYLAW means the *Township's Zoning Bylaw, 1992, No. 2050*, as amended or replaced from time to time.

3. INTERPRETATION

- (1) Unless otherwise defined in this Bylaw, any word or expression has the meaning assigned to it in the *Land Title Act*, *Community Charter*, *Local Government Act* or *Interpretation Act*.
- (2) Words directing or empowering any officer of the Township to do any act or thing, or otherwise applying to the officer by the officer's official title, include that officer's successors in office, the officer's lawful deputy, and such person as the Council may by bylaw or resolution designate to act in the officer's place.

- (3) The requirements of this Bylaw are supplementary to the requirements of any other Township Bylaw.
- (4) A reference to any enactments, regulations and bylaws includes any amendments or replacements that may be made from time to time.

PART 2 – APPLICATION

4. GENERAL

This Bylaw applies to Subdivisions and Developments within the boundaries of the Township.

5. REQUIREMENTS

- (1) No Owner may undertake, cause or permit any Subdivision or Development of their Parcel without providing Works and Services, including in accordance with this Bylaw and Council Resolution(s) further to the *Local Government Act*.
- (2) No person may construct Works and Services for Subdivision or Development, whether on private or public lands, contrary to the provisions of this Bylaw.
- (3) No person may construct Works and Services on Highways or other public space without first obtaining written permission from the Township.
 - (a) For certainty, Works and Services on Highways or other public space required under this Bylaw or further the *Local Government Act* will be undertaken by Township Staff or Township-approved Contractor, unless the Director, in consideration of capacity, capability and expediency of Township options, authorizes the Owner to undertake such Works and Services.
- (4) **WATER:**
 - (a) The Owner of any lands that are the subject of any proposal for Subdivision or Development must provide each Parcel within the proposed Subdivision or Development with a water distribution system and a fire hydrant system, including, without restriction, service connections, and must be connected to the existing Municipal Water System within the Township;
 - (b) Without limiting the generality of the foregoing,
 - (i) Where a proposed Subdivision fronts an existing water main, or where a Development is proposed on a Parcel within an existing water service area, the Owner must secure the consent of the City of Victoria to a connection to or extension of the existing water main; and
 - (ii) If no water main fronts the Parcel, the Owner must pay the cost of extending such services to the Parcel.
 - (c) Notwithstanding Section 13(1), water services must be designed and constructed in accordance with the requirements and standards for water supply works enacted from time to time by the City of Victoria.
- (5) **HIGHWAY:**

- (a) The Owner of any Parcels that are the subject of any proposal for Subdivision or Development must provide each Parcel with Highway Works and Services including without limitation, sidewalks, cycling facilities, street lighting, transit shelter, pedestrian crosswalk, traffic sign or signal, street furniture and public improvements, transit bays, boulevards, highway median or boulevard planting; and
 - (b) If the construction of Highway Works and Services pursuant to this Bylaw requires the removal of any existing Highway feature, including, without limitation, sidewalks, cycling facilities, street lighting, transit shelter, pedestrian crosswalk, traffic sign or signal, street furniture and public improvements, transit bays, boulevards, highway median or boulevard planting, the Owner must, at the Owner's sole cost, relocate the Highway feature to a location specified by the Director. Furthermore:
 - (i) If the feature cannot in the Director's opinion, based on Township bylaws and good engineering practice, be relocated, the Owner must compensate the Township for the removal of the Highway feature in the amount determined by the Director to reasonably represent its replacement cost.
 - (ii) If an appraisal, valuation or estimate is required from an independent professional, the Owner shall be responsible for such additional costs.
 - (c) For certainty, this Bylaw requires Cycling Facilities only along "major roads", as identified in the Township's Official Community Plan. Cycling Facilities may also be required in relation to subdivision and development in accordance with the authority under section 506(8)(9) of the *Local Government Act*.
 - (i) By Council Resolution; or
 - (ii) By the Director, exercising delegated authority, in accordance with the Township's Active Transportation Network Plan, existing development patterns, Township policies and practices and good engineering practice.
- (6) **DRAINAGE COLLECTION AND DISPOSAL SYSTEM:**
- (a) The Owner of any Parcels that are the subject of any proposal for Subdivision or Development must provide each Parcel with a drainage collection and disposal system including, without restriction, a service connection connected by drainage mains to the existing Municipal Drainage System.
 - (b) If no drainage collection system fronts the lands that are the subject of Subdivision or Development, the Owner must pay the cost of extending such services to the Parcel, or alternate measures in consideration of good engineering practice.
 - (c) Post development flows shall not exceed pre development flows into the Municipal Drainage System, as confirmed in writing by the Owner's Engineer, to the reasonable satisfaction of the Director.
- (7) **SEWAGE COLLECTION AND DISPOSAL SYSTEM**
- (a) The Owner of any lands that are the subject of any proposal for Subdivision or Development must provide each Parcel with a sanitary sewage collection system, and the sewerage system

must be connected by sewer mains to the existing Municipal Sanitary System.

- (b) For on-site and off-site sanitary sewer lateral the Director has the discretion to waive the requirement for a new lateral if the existing lateral:
 - (i) Is constructed of PVC;
 - (ii) Is free of defects and deficiencies, including excessive damage; and
 - (iii) Is in adequate condition for service in consideration of good engineering practice.
- (c) If no sewer main fronts the lands that are the subject of Subdivision or Development, the Owner must pay the cost of extending such services to the Parcel.
- (d) Where capacity is limited, the Director may require on-site detention facilities, or other alternatives in consideration of good engineering practice.

(8) **UNDERGROUND WIRING AND STREET LIGHTING:**

- (a) The Owner of any lands that are the subject of any proposal for Subdivision or Development must provide each Parcel with underground electrical power, and such other utilities or services that may be provided to the Parcel (e.g., telephone, television and internet, communications wiring); However:
 - (i) See Schedule "A" for Development that does not require underground servicing in limited situations (identified with "Not Required").
- (b) The Owner of any lands that are the subject of any proposal for Subdivision or Development must provide all Highways and walkways with street lighting serviced by underground wiring.
- (c) Where required, underground wiring must be installed underground from the nearest service pole existing on the date of approval of the Subdivision or issuance of the building permit, from which wiring is extended to provide electricity to the Subdivision or Development. For certainty, additional poles are not permitted.

6. EXEMPTIONS – DEVELOPMENT

The following Developments are exempt, or partially exempt, from this Bylaw:

- (1) Applications for Development identified in the Table attached as Schedule "A", but only in relation to the Works and Services identified as "Not Required" in that Table.
- (2) Applications to reconstruct or replace a Building that was accidentally damaged or destroyed, provided that the reconstructed or replacement Building will be used for the same purpose and will not exceed One Hundred and Ten Percent (110%) of the gross floor area of the original Building.
- (3) The Director may waive or partially waive a requirement for Works and Services if the existing applicable Works and Services:
 - (i) Was installed under the previous Township Bylaw and is comparable to the applicable standards as set out in this Bylaw;
 - (ii) Are free of defects and deficiencies, including excessive damage;

- (iii) Are in adequate condition for service in consideration of good engineering practice; and are not attributable to the development.

7. EXEMPTIONS – SUBDIVISION

The following Subdivisions are exempt or partially exempt from this Bylaw:

- (1) Applications for Subdivision for the purpose of creating public parkland or Parcels used solely for the installation and maintenance of public facilities, utilities, structures and associated equipment;
- (2) Applications for Subdivision when the number of Parcels proposed will be equal to or less than the existing number of Parcels, and the smallest of the proposed new Parcels is greater in area than the smallest of the existing Parcels; and
- (3) Applications for Subdivision when only a Parcel line adjustment is proposed, and each Parcel affected is serviced by existing Drainage System, Municipal Sanitary System or Municipal Water System and has no potential for Subdivision under the Zoning Bylaw.

PART 3 – WORKS AND SERVICES FOR SUBDIVISION & DEVELOPMENT

8. APPLICATIONS – GENERAL

- (1) All applications for Subdivision and Development must be in the form prescribed from time to time by the Township for such purpose.
- (2) An application for Subdivision or Development must be submitted in writing by the Owner and must:
 - (a) Be accompanied by the fees prescribed in the Township's Bylaws;
 - (b) Include Design Drawings of all Works and Services required by this Bylaw in connection with the Subdivision or Development, prepared by a Consulting Engineer in accordance with the Schedules to this Bylaw and other applicable enactments;
 - (c) Include an estimate by the Consulting Engineer of the cost to construct the Works and Services required by this Bylaw, such estimate will be subject to the approval of the Director, based on Township Bylaws and good engineering practice; and
 - (d) Include a State of Title Certificate for each legal description involved in the Subdivision or Development.
- (3) An application may be referred by the following person to the Director so that the Director may determine whether the application complies with this Bylaw:
 - (a) By an Approving Officer, for an application for Subdivision; or
 - (b) By a Building Official, for an application for Development.
- (4) The Director may require further information from an Owner at any time, including without limitation:
 - (a) Analyses, reports and designs prepared by a Consulting Engineer;
 - (b) Updating of the Township's existing sewage capacity model as prepared by the Township's preferred consultant, as may, in the Director's opinion based on Township bylaws and good engineering practice, be required to determine whether the

Design Drawings comply with this Bylaw and other applicable enactments.

- (5) In circumstances where the Director is of the opinion, based on Township bylaws and good engineering practice, that the Works and Services required by this Bylaw can be designed, constructed, installed, maintained and inspected in accordance with the Bylaw without the engagement of a Consulting Engineer, the Director may provide partial or complete relief to an Owner from the requirement to engage a Consulting Engineer for the purposes of satisfying Sections 8(2)(b) and (c);
 - (a) If relief is provided with regard to Section 8(2)(b), that relief is only with respect to the requirement that a Consulting Engineer prepare the Design Drawings; the requirement that the Design Drawings be provided is not affected; and
 - (b) If relief is provided with regard to Section 8(2)(c), the Director will provide the estimate of the cost to construct the Works and Services required by this Bylaw.
- (6) An Approving Officer must not approve a Subdivision, and a Building Official must not issue a building permit in relation to a Development, until
 - (a) The Director has reviewed and approved the Design Drawings required by this Bylaw; and
 - (b) Where Works and Services are required in a Highway or other public space, a Security Deposit is provided to the Township by the Owner with a Works and Services Agreement, whether the Township or the Owner is undertaking the Works & Services.

9. CIRCULATION AND APPROVAL OF DESIGN DRAWINGS

- (1) Design Drawings must be submitted to and approved by the Director for the construction of any Works and Services on Highways or other public space.
- (2) All pertinent design information must be completed on the Design Drawings submitted by the Consulting Engineer.
- (3) If the Design Drawings are found by the Township to be unsatisfactory for circulation, a marked set and correction sheet will be returned to the Consulting Engineer.
- (4) The Owner is required to circulate Design Drawings for all third party utilities including water, electrical, and telecommunications and shall share those comments with the Township. After circulation and review of Design Drawings by Township departments and third party utilities, the Director and third party utilities may provide a comment sheet to the Consulting Engineer for revisions to the Design Drawings.
- (5) When the Design Drawings have been returned or commented upon pursuant to Sections 9(3) and (4), the Consulting Engineer must correct and submit updated estimates, drawings and other required data for final approval of the Design Drawings. If all items are not received, approval of the Design Drawings may be withheld.

- (6) Approval by the Township Parks and Recreation Department must be obtained prior to any tree removal within the boulevard or any work within parkland, and prior to approval of Design Drawings for such.
- (7) The Owner must provide a letter of confirmation to the Director that an Engineer-Client agreement is in force prior to approval of the Design Drawings, and the Engineer-Client agreement must provide for the level of engineering service/specifications required under this Bylaw.
- (8) Prior to approval of Design Drawings, the Owner must obtain and provide evidence of the following approvals:
 - (a) Any authorizations and permits that are required from senior governments and other agencies;
 - (b) If the Development is adjacent to, affected by, or affecting any of the following:
 - (i) Provincial Highways,
 - (ii) Railway or Public Utility,
 - (iii) Esquimalt and West Bay Harbours, Juan de Fuca Strait, The Gorge Creek and any other water bodies,
 - (iv) Drain outfalls,
 - (v) Public water mains administered by the City of Victoria, or
 - (vi) Portions of sewerage system administered by the Capital Regional District,
 - (c) Any approvals, permits and dedications that are required by the appropriate authority or agency; and
 - (d) If Works and Services are required in the Highway or other public space, the approval of the Township.
- (9) Upon completion of all Design Drawings and estimates to the satisfaction of the Director as being in accordance with good engineering practice, the Director may evidence their approval of the Design Drawings on digital or paper copies of the Design Drawings, which shall then be considered the Approved Plan.
- (10) The Director may revoke such approval if it appears that any plan, design, specification, drawing, calculation, or other information provided by or on behalf of the Owner in connection with the Works and Services was non-compliant with Township Bylaws, incorrect or untrue or in the event that any change in legislation, regulations or bylaws would render the proposed Subdivision or Development unlawful takes effect prior to the granting of final approval of the Subdivision or Development.
- (11) The approval of the Design Drawings shall not be construed as ensuring final approval of the Subdivision or Development.
- (12) Approval of Design Drawings, Subdivision or Development does not imply that the Township shall expend municipal funds of Works and Services in support of the Subdivision or Development.

10. GENERAL

- (1) The following requirements must be satisfied before construction of the Works and Services is started:

- (a) Design Drawings must be approved by the Director;
 - (b) The Consulting Engineer must make arrangements to inspect the Parcel subject to the Works and Services at least Twenty Four (24) hours prior to the start of construction, with the Director and the Contractor. If work proceeds without such inspection taking place, the Director may require that works are exposed for an inspection;
 - (c) Proof of Public Liability Insurance in the amount of Five Million Dollars (\$5,000,000) per occurrence, with a deductible of not more than Ten Thousand Dollars (\$10,000) must be provided to the Director prior to work on a Highway or other public space;
 - (d) Whether the Owner is permitted to do work within a Highway or other public space, the Owner, Contractor and the Consulting Engineer must make every effort to protect boulevard trees from harm, and must comply with all requirements of the Township's *Tree Protection Bylaw*;
 - (e) The Owner must provide Material and Workmanship Warranty Security and must execute a Material and Workmanship Warranty Agreement, as required by the Director; and
 - (f) Any SRWs/Covenants or other Right of Ways required must be prepared and registered in priority to all financial encumbrances and otherwise to the satisfaction of the Township.
- (2) Every Owner must, at the Owner's sole cost, prior to Subdivision approval or building permit issuance for Development:
- (a) In relation to Works and Services on the Owner's land, construct and install Works and Services required by this Bylaw in accordance with the Approved Plans,
 - (b) In relation to Works and Services on Highways and other public space:
 - (i) Either pay for the construction and installation of, or construct and install as permitted under Section 5(3), Works and Services required by this Bylaw in accordance with the Approved Plans; and
 - (ii) Enter into a Works and Services Agreement with the Township.
- (3) As an exception to Section 10(2)(a), an Approving Officer may approve a Subdivision and a Building Official may issue a building permit for a Development, before all Works and Services have been constructed and installed if all of the following requirements are satisfied:
- (a) The Owner delivers to the Township a Security Deposit in the amount of One Hundred and Twenty Percent (120%) of the cost estimated and approved under this Bylaw, including in relation to the cost of utilities, and in the form required by the Director;
 - (i) With respect to services provided by BC Hydro (electrical) and City of Victoria (water) only, the Director has the discretion to waive the requirement for security to the Township upon provision of evidence by the Owner that security has been provided to BC Hydro or the City of Victoria, respectively.

- (b) The Owner enters into a Works and Services Agreement, including further to section 509 of the *Local Government Act* and in a form satisfactory to the Director, with the Township to:
 - (i) With respect to works on the Owner's land, construct and install the required Works and Services by a specified date or forfeit the Security Deposit to the Township;
 - (ii) With respect to works on Highways and other public space that the Owner is permitted to undertake further to Section 5(3), construct and install the required Works and Services by a specified date or forfeit the Security Deposit to the Township;
 - (iii) With respect to works on Highways and other public space that the Township will be undertaking further to Section 5(3), provide payment by cheque or cash for the Works and Services to be constructed or installed by the Township, in the amount of:
 - 1. Where costs are based on fixed fees for services identified in the Township's *Building Regulation Bylaw, 2017, No. 2899* and Schedule "A" to that bylaw, or other Township bylaws as may be enacted or amended from time to time, those fixed fees; plus
 - 2. Where the costs are based on estimates, One Hundred and Twenty Percent (120%) of the cost estimated and approved under this Bylaw and such further fees associated with Works and Services in Highways and other public space, as identified in other Township Bylaws, including the Township's *Development Application Procedures and Fees Bylaw No. 2791, 2012, Building Regulation Bylaw, 2017, No. 2899, Fees and Charges (Miscellaneous) Bylaw, 2019, No. 2961* and Schedules to those bylaws, and other Township bylaws as may be enacted or amended from time to time; [*for example, presently plus 3% for supplies and 15% for supervision and administration*];
 - (c) The Owner executes a Material and Workmanship Warranty Agreement, in a form satisfactory to the Director; and
 - (d) If any SRWs, Covenants or other Right of Ways are required, they are secured and registered against title to applicable lands in priority to charges of a financial nature.
- (4) As an exception to Section 10(2), the Director may allow an Owner to pay to the Township, in lieu of constructing or installing Works and Services required by this Bylaw, cash in the amount estimated and approved pursuant to Section 8, if the Director determines on the basis of good engineering practice or cost considerations that the Works and Services should be constructed or installed at a later time or concurrently with the construction or installation of Works and Services serving adjacent or nearby parcels of land. In all such cases, the Township must deposit the funds into a reserve fund established for the construction or alteration of the Works and Services.
- (5) Notwithstanding Sections 10(3) and 10(4), the Owner must not seek to compel the issuance of a building permit until:

- (a) All underground works required by this Bylaw or by Council Resolution in accordance with the *Local Government Act* in connection with the Subdivision or Development are constructed and installed; and
- (b) All Highway construction required by this Bylaw has been completed to structurally adequate levels to allow emergency vehicle access.

11. SRW AND COVENANT DOCUMENTS

- (1) If the Parcel that is subject to Subdivision or Development includes either existing or proposed Municipal services, or Works and Services that the Township will be responsible for, the Owner must grant the Township all SRWs/Covenants sufficient to secure the Township's right to access, repair, maintain and replace the works and services, and prevent the Owner's construction on top of same.
- (2) If the Township is to assume responsibility for maintenance of Works and Services on private land, the Owner may prepare all SRW and Covenant documents, for the Works and Services in a form acceptable to the Director, in their sole discretion. If a sample document is provided by the Township, all clauses and conditions contained in the sample must be included unless the Director accepts the circumstances of the Subdivision or Development allow alternate language without comprising Township interests. The Owner is responsible for legal review costs and preparation/revision of documents by Township lawyers.
- (3) All SRWs and Covenants must identify applicable areas in such locations and with such dimensions as necessary to accommodate the Works and Services required to serve the Subdivision or Development. Blanket charges over the entirety of affected property may be acceptable.
- (4) When a proposed subdivision or development or its corresponding Works and Services (including, without restriction, the creation of a Highway) crosses a railway, easement or Right of Way held by a railway company, Public Utility or any other person, the Owner must provide and pay for the necessary legal authorization to make and create the crossing (including, without limitation, all necessary Works and Services and amendment and registration of documents in the Land Title Office), prior to approval of the subdivision plan or building permit.
- (5) Registration at Land Title Office:
 - (a) Documents for SRWs/ Covenants located outside of the lands that are the subject of Subdivision must be registered in the Land Title Office by the applicable Owner prior to approval of Design Drawings;
 - (b) Subdivision SRWs/Covenants may be registered concurrently as a condition of subdivision, provided the appropriate notation is included on the subdivision plan and signature block included on the SRW/Covenant for the Approving Officer, in addition to the Township;
 - (c) Development SRWs/Covenants must be registered before building permit issuance;

- (d) The provision of an approval or permit does not alleviate the requirement to register SRWs/Covenants, in priority to all encumbrances of a financial nature; and
 - (e) The Owner is responsible for all registration costs, including legal review by Township lawyers.
- (6) Right of Way documents for Public Utilities shall be prepared and registered by the respective Public Utility companies.
- (7) If a single storm drain, sanitary sewer or water Right of Way is required for the Subdivision or Development,
- (a) The width of the SRW/ Covenant Area must be sufficient to accommodate the pipe sizes required plus a minimum of 1.2 metres of clearance from any pipe to the edge of the Right of Way; and
 - (b) The minimum width of the SRW/ Covenant Area is 3.1 metres, unless the Director advises otherwise in consideration of surface and subsurface considerations, other existing and proposed services and utilities and good engineering practice.
- (8) If more than one service is installed in a Right of Way:
- (a) The width of the SRW/ Covenant Area must be sufficient to accommodate the pipe sizes required plus a minimum of 1.2 metres of clearance from any pipe to the edge of the Right of Way; and
 - (b) The minimum width of the SRW/ Covenant Area is 3.7 metres, unless the Director advises otherwise in consideration of surface and subsurface considerations, other existing and proposed services and utilities and good engineering practice.
- (9) Right of Way areas for SRWs/ Covenants must be:
- (a) Located within a single Parcel adjacent and parallel to Parcel boundaries; and
 - (b) Clear of proposed building sites, unless the Director advises otherwise in consideration of accessed services and utilities and good engineering practice.

12. ENGINEERING SUPERVISION AND TOWNSHIP INSPECTIONS

- (1) The Consulting Engineer is responsible for the layout, inspection and approval of materials, and the supervision of installation of all Works and Services that are the responsibility of the Owner, all in accordance with the requirements and standards of this Bylaw.
- (2) Regarding minimum inspection requirements for the Consulting Engineer:
- (a) Engineering supervision by the Consulting Engineer shall consist of general and sufficient resident inspection to ensure that the Works and Services are constructed in accordance with the Approved Plans;
 - (b) Sufficient inspection by the Consulting Engineer may range from a minimum of one site visit per day during construction to full-time resident inspection for major developments; and
 - (c) When requested by the Director, the Consulting Engineer must submit copies of their inspection reports.

- (3) Regarding inspection by the Township:
 - (a) Township staff authorized to administer this Bylaw may periodically inspect the Works and Services and assist in coordinating construction with any related Township works; and
 - (b) If any use of unacceptable materials or practices is brought to the attention of the Contractor and the Consulting Engineer, and if remedial action is not taken to the satisfaction of the Director, the Director may issue instructions to the Consulting Engineer to immediately cease construction until remedial action is taken.
- (4) If the Consulting Engineer wishes to make any changes in the Approved Plans either before or during the execution of the Works and Services:
 - (a) The Consulting Engineer shall first submit a marked print showing proposed revisions to the Director.
 - (b) If approval or revision is granted, the Approved Plans shall be immediately revised, marked as approved by the Director in accordance with Section 9, and new prints issued, and such plans will become the Approved Plans.
- (5) A copy of the Approved Plans must be maintained by the Contractor at the construction site during the installation of all Works and Services.
- (6) Underground services will not be permitted to operate as part of existing Municipal services until the respective Works and Services have been inspected, tested and approved in writing by the Director. For certainty, the Director may require the Owner to undertake additional testing in accordance with Section 17 of this Bylaw.

13. STANDARDS

- (1) All Works and Services required by this Bylaw, or by Council Resolution in accordance with the *Local Government Act*, must be designed, constructed and installed:
 - (a) In accordance with the requirements and specifications of Schedule B, including with respect to:
 - (i) Concrete Sidewalks TOE-SD-C2.1;
 - (ii) Typical Driveway Crossings – TOE-SD-C7.1;
 - (iii) Typical Driveway Crossing Cross Section TOE-SD-C7.2;
 - (iv) Double Wheelchair Ramps (Preferred) TOE-SD-C9.1;
 - (v) Single Radial Wheelchair Ramp TOE-SD-C9.2;
 - (vi) Single Directional Wheelchair Ramp TOE-SD-C9.3;
 - (vii) T-Intersection/Mid-Block Wheelchair Ramp TOE-SD-C9.4;
 - (viii) Sign Post Sleeve TOE-SD-C16;
 - (ix) Pavement Restoration TOE-SD-G5.1;
 - (x) Sanitary and Storm Sewer Services TOE-SD-S7a;
 - (xi) Inspection Chamber for 100 to 200 Sanitary and Storm Sewer Connections TOE-SD-S9a;
 - (xii) Top Inlet Catch Basin TOE-SD-S11a;
 - (xiii) Driveway Crossing Widths TOE-SD-R9.0 ;
 - (xiv) Driveway Grades TOE-SD-9.1;
 - (xv) Raised Crosswalk Plan/Profile TOE-SD-R5.1;

- (xvi) Raised Crosswalk Sections TOE-SD-R5.2;
- (xvii) Sinusoidal Speed Hump TOE-SD-R5.3
- (b) For sidewalks, including widths, in accordance with the British Columbia Active Transportation Design Guide, 2019 edition, as may be replaced or amended from time to time.
- (c) For Cycling Facilities,
 - (i) In accordance with the British Columbia Active Transportation Design Guide, 2019 edition, as may be replaced or amended from time to time, or
 - (ii) As may otherwise be modified or required by the Director in consideration of Township's Active Transportation Network Plan, existing development patterns, Township policies and practices and good engineering practice;
- (d) For Road Classifications, following Official Community Plan for classifications and MMCDs for corresponding standards;
- (e) For on-site sanitary sewer connection, following BC Building Code;
- (f) Otherwise
 - (i) In accordance with the MMCD, however
 - (ii) If MMCD has more than one standard, then that standard which most closely replicates existing or recent infrastructure, is applicable unless the schedules of this Bylaw advise otherwise, as determined by the Director in consideration of existing development patterns, Township policies and practices and good engineering practice.

14. EXCESS OR EXTENDED SERVICES

- (1) The Director may require that a Consulting Engineer take the following into consideration in the design of Works and Services for a Subdivision or Development:
 - (a) In the case of sewage and drainage works, the downstream capacity of municipal infrastructure, and may require that the Consulting Engineer identify alterations or improvements to downstream works that are required in order that the Subdivision or Development can be accommodated without placing an undue burden on downstream works;
 - (b) In the case of water distribution works, the upstream capacity of City of Victoria infrastructure, and may require that the Consulting Engineer identify alterations or improvements to upstream works that are required in order that the Subdivision or Development can be accommodated without unduly reducing the level of service provided to other users of the water distribution system; and
 - (c) In the case of Highway works, the capacity of the Highway network in the vicinity of the Subdivision or Development, and may require that the Consulting Engineer identify alterations or improvements that are required to the Highway network in order that the Subdivision or Development can be accommodated without reducing the level of service of any portion of the Highway network below an acceptable level.

- (2) The Approving Officer or Director is not under any obligation to approve a Subdivision or Development that requires excess or extended services and may consult with Council as to financial and other implications of such.
- (3) In the event that the Director requires any services pursuant to this Section, the provisions of this Bylaw that apply to Works and Services apply also to the excess or extended services.

15. TOWNSHIP ACCEPTANCE OF WORKS AND SERVICES

- (1) Any Security Deposit guaranteeing the satisfactory installation of the Works and Services must not be returned to the Owner until, as applicable:
 - (a) The Owner has provided the Director with as-built drawings of the Works and Services that the Director finds acceptable;
 - (b) The Owner has provided the Director with the Material and Workmanship Warranty and Material and Workmanship Security for the Works and Services in accordance with sections 15(2), 16(1) and 16(2);
 - (c) The Director has accepted the Works and Services; and
 - (d) The Director has authorized the return of the deposit.
- (2) The Owner has provided a Material and Workmanship Warranty Security in the form of an irrevocable letter of credit or cash deposit for the one year period of warranty for all Works and Services, and the amount of the warranty security must be the greater of:
 - (a) Ten Percent (10%) of the total amount of the Security Deposit provided pursuant to the Works and Services agreement; and
 - (b) Five Hundred Dollars (\$500).
- (3) Notwithstanding Section 15(1), and subject to section 15(2), the Director may release a portion of any Security Deposit for Works and Services requiring an extended period to construct, provided that the following requirements are satisfied:
 - (a) The Consulting Engineer certifies in writing the extent and value of the Works and Services completed;
 - (b) The Consulting Engineer itemizes in writing the outstanding Works and Services and the cost of completing them (including outstanding engineering fees for as-built submission, if applicable);
 - (c) The Consulting Engineer certifies in writing that the completed Works and Services meet the specifications of the Township; and
 - (d) The Township verifies that the Works and Services completed meet the specifications of the Township.
- (4) Security Deposits for Works and Services may be released according to the following:
 - (a) If the total estimated value of construction is less than Ten Thousand Dollars (\$10,000), no reductions in Security Deposits are permitted;

- (b) If the total estimated value of construction is Ten Thousand Dollars (\$10,000) or greater, but less than One Hundred Thousand Dollars (\$100,000), up to Seventy Five Percent (75%) of the Security Deposit may be released, but at no time may the remaining Security Deposit be less than Ten Thousand Dollars (\$10,000); or
 - (c) If the total estimated value of construction is One Hundred Thousand Dollars (\$100,000) or greater, up to Eighty Five Percent (85%) of the deposit may be released, but at no time may the remaining Security Deposit be less than Twenty Five Thousand Dollars (\$25,000).
- (5) As-built drawings will be checked by the Township for field deficiencies, drafting requirements, agreement with the site layout and adherence to required standards, and:
- (a) If the as-built drawings are unacceptable, a correction list will be prepared by the Township and sent to the Consulting Engineer;
 - (b) If the as-built drawings are acceptable, and, if applicable, all deficiencies and corrections have been rectified, a Construction Completion Certificate will be prepared for the signature of the Director to indicate approval of the as-built drawings; and
 - (c) The twelve (12) month period of the Material and Workmanship Warranty will begin on the date that the as-built drawings are approved by the Director.

16. WARRANTY OF WORKS AND SERVICES

- (1) The Owner is responsible for and at their own expense must execute all work, repair, alteration, reconstruction or replacement required to remedy any defect, fault or deficiency in or developing in the completed Works and Services, not only up to the receipt and approval of the Consulting Engineer's as-built drawings but also during the twelve (12) month period after the date of approval of each as-built drawing ("Material and Workmanship Warranty").
- (2) All work, repair, alteration, reconstruction, and replacement required pursuant to this Section must be executed promptly upon the written request of the Director to the Owner. Should the Owner neglect or fail to commence the execution of any such works within the time period given by the Director, the Township may complete the works according to the terms of the Material and Workmanship Warranty Agreement.
- (3) Regarding final acceptance by the Township of the Works and Services:
 - (a) The Township will inspect the Works and Services prior to the expiration of the Material and Workmanship Warranty period, and any defects, faults or deficiencies must be corrected by the Owner as provided under this Section prior to the release of deposits;
 - (b) If any defects, faults or deficiencies are not corrected within the time period given by the Director in accordance with this Section 16, and in consideration of the location and necessity of the Works and Services and good engineering practice, the Township may complete the Works and Services according to the terms of the Material and Workmanship Warranty Agreement; and

- (c) If there are no defects, faults or deficiencies to be corrected, the deposits will be released by the Township.

17. TESTING

- (1) Testing is to be conducted in accordance with MMCD standards, in the presence of the Consulting Engineer, and is the responsibility of the Consulting Engineering.
- (2) The Consulting Engineer is to provide sufficient advance notice to the Director to allow, if the Director so advises, a Township representative to be present during the testing.
- (3) The Director may request additional testing to confirm the works meet applicable standards. This may include but is not limited to;
 - (a) Video Inspection and non-destructive testing [*for example, CCTV inspections*];
 - (b) Density Testing; and
 - (c) Pressure Testing.

PART 4 – GENERAL PROVISIONS

18. AUTHORIZATION FOR ENTRY

The Approving Officer, Building Inspector, Director, and their respective designates or other Township staff acting under their direction, are authorized to enter at all reasonable times upon any property that is subject to this Bylaw in order to ascertain whether the provisions of this Bylaw are being complied with.

19. VIOLATIONS

No person shall contravene this Bylaw or suffer or permit any act or thing to be done in contravention of this Bylaw.

20. PENALTY

- (1) Any person who:
 - (a) Contravenes, violates or fails to comply with any provision of this bylaw;
 - (b) Suffers or permits any act or thing to be done in contravention or violation of this bylaw; or
 - (c) Fails or neglects to do anything required by this bylaw, commits an offence and shall be liable upon conviction of a fine of not more than \$10,000 (Ten Thousand Dollars), or to imprisonment for not more than 6 months, or to both and is subject to any other penalty or order imposed or remedies available to the Township pursuant to the *Local Government Act, Community Charter, Offence Act and Local Government Bylaw Notice Enforcement Act* and regulations thereunder, all as amended from time to time.
- (2) Each day during which a violation, contravention or breach of this bylaw continues is deemed to be a separate offence.

21. SEVERABILITY

The provisions of this Bylaw are severable. If any provision is for any reason held to be invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of any remaining provision of this Bylaw.

22. BYLAW EFFECTIVE DATE

- (1) This Bylaw shall come into force and have effect on the date of adoption, but in the case of applications for Subdivision, subject to Section 511 of the *Local Government Act*.
- (2) Any building permit application that is subject to this Bylaw may be considered and the permit issued in accordance with the bylaw that was in force at the time the application was made, provided that the permit is issued within one year of the date of the original building permit application.

23. REPEAL

The Township's Subdivision and Development Control Bylaw 1997, No. 2175, and its amendments, are repealed.

24. SCHEDULES

The following attached Schedules form part of this Bylaw:
Schedule "A". – Exemptions for certain Works and Services for certain Developments
Schedule "B". – MMCD Supplemental Drawings

READ a first time by the Municipal Council on the 18th day of December, 2023.

READ a second time by the Municipal Council on the 18th day of December, 2023.

READ a third time, AS AMENDED by the Municipal Council on the 18th day of December, 2023.

ADOPTED by the Municipal Council on the 15th day of January, 2024.

BARBARA DESJARDINS
MAYOR

DEBRA HOPKINS
CORPORATE OFFICER