

# CORPORATION OF THE TOWNSHIP OF ESQUIMALT

## BYLAW NO. 2791

A bylaw to establish development application procedures and fees and development approval information policies and procedures under Part 26 of the *Local Government Act*, heritage application procedures under Part 27 of the *Local Government Act*, and heritage application fees under Part 7 of the *Community Charter*.

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The MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF ESQUIMALT, in open meeting assembled, enacts as follows:

### PART I: APPLICATION PROCEDURES

1. An owner of land, or a person authorized by the owner for that purpose as evidenced by a written authorization forming part of the application, may apply to the Director of Development Services for the following in the form prescribed for that purpose by the Director, and must provide the information required by the form:
  - (a) an amendment to the Official Community Plan;
  - (b) an amendment to the zoning bylaw;
  - (c) a development permit;
  - (d) a development variance permit;
  - (e) a temporary use permit;
  - (f) discharge of, or amendment to, a land use contract;
  - (g) an exemption from a bylaw establishing a flood construction level or floodplain setback;
  - (h) an exemption from the minimum highway frontage in Section 944 of the *Local Government Act*;
  - (i) a heritage alteration permit;
  - (j) a heritage revitalization agreement;
  - (k) a heritage designation bylaw; and
  - (l) conversion of a previously occupied building to strata lots.
2. In the case of an application for a zoning amendment or amendment of the Official Community Plan that proposes a change of land use or change in the permitted density of land use, the applicant must comply with the public consultation procedures and provide the information on public consultation set out in Schedule A.

3. A reapplication for an amendment to a bylaw or land use contract or for a permit or exemption that has been refused may not be made within 6 months of the date on which the applicant was notified of the refusal unless Council specifies a lesser or greater period of time by resolution passed by a 2/3 majority of Council members eligible to vote.
4. If an applicant for a development permit seeks to vary a bylaw under Division 7 or 11 of Part 26 of the *Local Government Act* and the applicable development permit guidelines do not address such variances, the applicant must make a concurrent application for a development variance permit and pay the application fee in accordance with this Bylaw.
5. The distance specified for the purpose of notification in relation to an application to amend a bylaw or land use contact is 100 metres, and in relation to an application for a development variance permit is 50 metres, in each case measured from the boundaries of any parcel to which the application pertains.
6. In the case of an application for an amendment of the Official Community Plan or the zoning bylaw, the applicant must within 7 days of making the application post on the land that is the subject of the application a notification sign supplied by the Township at the applicant's cost, and notify the Director of Development Services in writing that the sign has been posted.
7. The notification sign must be:
  - (a) posted so as to face each street on which the subject land has frontage, every 50.0 metres of frontage in the case of parcels whose frontage exceeds 50.0 metres;
  - (b) placed at least 1.0 metre above grade and not more than 2.0 metres above grade;
  - (c) maintained in good repair and replaced at the applicant's cost if defaced, damaged or removed, until removal is required under subsection (d); and
  - (d) removed on the next business day following the Council's decision with respect to the application to which it pertains.
8. If the applicant does not maintain a notification sign in accordance with this Bylaw, the Council may postpone or cancel a scheduled public hearing until the requirements of the Bylaw have been complied with, and the Township may impose an additional application fee equal to the Township's actual cost of rescheduling the hearing.
9. A notification sign is not required if the Director of Development Services determines that the development that is the subject of the application is so minor as to have minimal impact on adjoining lands.
10. The applicant shall be provided with a copy of any report of the Director of Development Services or other Township staff after the agenda for the meeting of Council at which their application will be under consideration has been circulated to members of Council, and prior to the meeting.

11. Persons wishing to make representations to the Council with respect to a development variance permit application may do so in writing up to the close of business on the day on which the Council intends to consider issuing the permit, and may be heard at the Council meeting with leave of the person presiding.
12. The Corporate Officer must notify the applicant in writing of a refusal by Council to amend a bylaw or issue a permit, within fifteen days of the date of refusal.

## **PART II: APPLICATION FEES**

13. Applications under this Bylaw must be accompanied by the fees set out in Schedule B, plus any fee prescribed by the Land Title and Survey Authority for the filing of applicable notices in the Land Title Office.
14. If the application is withdrawn before being considered by the Council or a committee of the Council at any meeting, the applicant shall be entitled to a refund of 50% of the application fee to a maximum refund of \$500.00 and if the application is withdrawn prior to the filing of notice in the Land Title Office, the applicant shall be entitled to a refund of the filing fee.

## **PART III: DEVELOPMENT APPROVAL INFORMATION**

15. Upon the request of the Director of Development Services and within the time specified in the request, an applicant described in Section 1(b), (c) or (e) must provide to the Director of Development Services written Terms of Reference for the preparation of information on the impact of the proposed activity or development that is the subject of the application.
16. To the extent that the proposed activity or development can reasonably be expected to have an appreciable impact on any of the following matters, the Terms of Reference must include those matters in the scope of the information that is to be prepared:
  - (a) the natural environment of the area affected including adjacent marine areas, surface drainage, ecosystems and biological diversity, with particular emphasis on areas of unusual environmental sensitivity and any rare plant or animal species;
  - (b) local highways, fire protection systems, water supply systems, municipal solid waste disposal and recycling facilities, energy and communications utilities, and local parking facilities;
  - (c) local school facilities; local, regional and provincial parks; hospitals and other health care services; local transportation services including public transit;
  - (d) local commercial services and employment opportunities, but the question of market demand for the activity or development need not be dealt with when the application is for a development permit;
  - (e) property tax revenues of the Township;

- (f) energy and water conservation;
  - (g) natural hazards including tsunami hazards and the effects of sea level rise;
  - (h) cultural heritage resources including resources of historical, archaeological, paleontological or architectural significance whether on land or underwater; and
  - (i) aesthetic values including the appearance of the development and the effect of any artificial lighting proposed.
17. In addition to any matter listed in Section 16, the applicant may include in the Terms of Reference any matter on which the applicant considers information ought to be provided to the Township to permit a full understanding of the Impact of the proposed activity or development on the community.
  18. In the case of an application for a development permit or temporary use permit, the Terms of Reference must address any particular information requirements that are identified in or arise from any applicable guidelines in the Official Community Plan or Zoning Bylaw.
  19. In addition to any other requirements the Terms of Reference may require the person preparing the impact information to provide information on the relationship between the proposed activity or development and
    - (a) the Regional Growth Strategy of the Capital Regional District; and
    - (b) in the case of a proposed zoning amendment, the Official Community Plan.
  20. The Terms of Reference may specify that the impact information will be prepared by a person having professional expertise in the matters included in the Terms of Reference, any may include information specifying the identity, qualifications and experience of the person who the applicant proposes to engage to prepare the information.
  21. The Terms of Reference must specify the date by which and the form and the number of copies in which the impact information will be provided.
  22. Within 10 business days of receipt of the Terms of Reference the Director of Development Services must indicate in writing to the applicant that:
    - (a) the Terms of Reference submitted by the applicant are acceptable;
    - (b) the Terms of Reference submitted by the applicant are acceptable if additional matters specified by the Director and within the scope of Section 16 of this Bylaw are included;
    - (c) the Terms of Reference submitted by the applicant are acceptable if a person other than one who has been proposed by the applicant in the Terms of Reference, and whose selection has been approved in writing by the Director, prepares the impact information; or
    - (d) the Terms of Reference are unacceptable and must be replaced by the applicant.

23. For the purposes of Section 26, when accepting Terms of Reference, the Director of Development Services may advise the applicant of other projects proposed or under development in the area that may be affected by the applicant's proposed activity or development.
24. If the Director of Development Services does not provide advice pursuant to Section 22 by the end of the tenth business day the Director of Development Services is deemed to have accepted the proposed Terms of Reference.
25. Upon receipt of notice accepting the Terms of Reference or where the Terms of Reference have been deemed to be accepted, the applicant must prepare the impact information in accordance with the accepted Terms of Reference and within the time specified in the Terms of Reference must provide it to the Township, at the applicant's expense.
26. For every matter within the scope of Section 16 that is included in the Terms of Reference, the applicant must
  - (a) identify relevant baseline information and document the nature of the resource or other matter on which the proposed activity or development may have an impact;
  - (b) identify and describe the potential and likely impacts of the activity or development including any cumulative effects when combined with other projects proposed or under development of which the Director has provided advice under Section 23;
  - (c) evaluate the impacts in terms of their significance and the extent to which and how they might be mitigated; and
  - (d) make recommendations as to conditions of approval that may be appropriate to ensure that undesirable impacts are minimized or avoidedall in accordance with generally accepted impact assessment methodology.
27. If Terms of Reference approved under Section 22 or deemed to be approved under Section 24 specify professional expertise in the preparation of impact information, prior to authorizing the preparation of the impact information by any person the applicant must deliver to the Director of Development Services information specifying the identity, qualifications and experience of the person who the applicant proposes to engage to prepare the information, unless that information was included in the approved Terms of Reference.
28. Within 10 business days of receipt of the information, the Director of Development Services must advise the applicant whether the proposed person is acceptable, and if the person is not acceptable the Director must advise the applicant in writing of the reason and may propose one or more alternative acceptable persons. If such advice is not provided by the end of the tenth business day, the Director is deemed to have accepted the proposed person.
29. If the Director of Development Services is not satisfied that the impact information provided by the applicant under Section 25 is sufficient to comply with the Terms of

Reference, either in scope, level of detail, accuracy or in any other respect, the Director may require the applicant to provide, at the applicant's expense, further information reasonably required to comply with the Terms of Reference, but a requirement for further information may be imposed once only.

30. If the Director of Development Services considers that the impact information provided by the applicant, or any portion of it, requires an independent review prior to being considered by the Township, the Director may require the applicant to provide such a review of the information including the methodology used in its preparation.
31. The Director of Development Services may specify that the independent review be conducted by a suitably qualified person, including, but limited to, a member of the faculty of a university or college, a member of the Planning Institute of B.C., a member of the Architectural Institute of B.C. or the B.C. Society of Landscape Architects, a member of the Association of Professional Engineers and Geoscientists of B.C., a Registered Professional Forester or a Registered Professional Biologist, a Registered Arborist and may specify terms of reference for the review.
32. The applicant must arrange for the independent review to be conducted and submitted in writing to the Township, at the applicant's expense and within the time specified by the Director of Development Services.
33. The information that is provided to the Township pursuant to this Part is required by the Township in the exercise of its powers under the *Local Government Act*. Every report or other document provided to the Township pursuant to this Bylaw must accordingly contain an express grant of permission to the Township to use and reproduce the information contained in the report or other document for non-commercial purposes.
34. The Director of Development Services must, when imposing requirements under this Part, advise the applicant of their right to reconsideration under Part VI of this Bylaw.

#### **PART IV: DELEGATION IN RELATION TO PART 26 MATTERS**

35. The Director of Development Services may prescribe application forms for the purposes of this Bylaw, and in doing so may prescribe different forms and information requirements for different categories of application based on the nature or complexity of the application.
36. The Director of Development Services may prescribe the form of permits referred to in Section 1.
37. The Council delegates to the Director of Development Services the authority to issue development permits described in Schedule C that do not involve the variance of a bylaw under Division 7 or 11 of Part 26 of the *Local Government Act*, and the Director may refer such applications to the Advisory Planning Commission for recommendations.
38. The Council delegates to the Director of Development Services the authority to deal with any application to amend any development permit, provided that the Director may not approve any amendment that:

- (a) is not, in the Director's opinion, consistent with the applicable development permit guidelines;
  - (b) increases any variance authorized by the development permit, or
  - (c) in the case of a development permit dealing with the form and character of development, in the Director's opinion results in a material change to the form and character of the development.
39. The Director may, in lieu of determining any particular permit or amendment application, make a recommendation to the Council that a decision on the issuance of the permit be made by the Council, and in such cases the Council and not the Director shall make the decision and the provisions of this Bylaw dealing with reconsideration shall not apply.
40. Except for delegated permits, the Director of Development Services must refer permit and amendment applications to the Advisory Planning Commission in all circumstances where a bylaw of the Township requires such referral, or where the Council directs such referral, and the recommendations of the Commission shall be provided to the Council or Council committee at a meeting at which the application is to be considered.
41. For certainty, the delegation to the Director of Development Services of the power to issue or amend development permits within the scope of this Bylaw includes all the powers of Council in relation to such permits and amendments, including the power to supplement a bylaw and the power to impose conditions and requirements and set standards on the issuance of a permit.
42. Council delegates to the Director of Development Services the authority to sign and issue permits within the scope of this Bylaw and to cancel permits when they lapse.
43. The Director of Development Services may require security for the purposes of Section 925(2.1) of the *Local Government Act* when exercising the Director's powers under Section 37 or Section 38, and in doing so must consider the following guidelines:
- (a) in the case of a condition in a permit respecting landscaping, the cost to the Township of entering on the land, installing the landscaping, and inspecting and maintaining the landscaping for such a period of time as would be required to ensure its survival in perpetuity;
  - (b) in the case of an unsafe condition that might result from a contravention of a permit condition, the nature of the permit condition, the nature of the unsafe condition, and the cost to the Township of entering on the land, undertaking work to correct the unsafe condition, including the cost of repairing any damage to land and improvements that may have been caused by the unsafe condition or that may have occurred in connection with the repair work; and
  - (c) in the case of damage to the natural environment that might result from a contravention of a permit condition, the nature of the permit condition, the nature of the damage, and the cost to the Township of entering on the land, correcting the damage to the environment, and restoring or enhancing the natural environment to compensate for the damage that has been caused by the contravention of the permit condition.

44. The Director of Development Services must send a notice of his or her decision under this Part in writing to the registered owner of the property who made the application or to the agent who made the application on the owner's behalf, advising the applicant of their right to reconsideration under Part VI of this Bylaw.
45. The notice will be deemed to have been received by the owner, or his or her agent, 8 days after notice is mailed at any post office box.
46. Council authorizes the Mayor and Corporate Officer to sign covenants and other documents related to the amendment of the Official Community Plan or Zoning Bylaw, the issuance of a permit, the amendment of a land use contract, or the granting of an exemption pursuant to this Bylaw.

#### **PART V: HERITAGE PROPERTY**

47. In this Part, "building official" means a person performing the duties of a building official under Building Code Bylaw, 2002, No. 2538, as amended.
48. The Council delegates to the Director of Development Services the authority to order a heritage inspection under Section 956 of the *Local Government Act* and a heritage impact assessment under Section 958 of that Act, and in imposing such requirements the Director must advise the owner of their right to reconsideration under Part VI of this Bylaw.
49. A building official must withhold the issuance of a building or demolition permit where the official considers the permit would authorize an alteration inconsistent with the heritage protection of the property in the following cases:
  - (a) an alteration to property that is included in a community heritage register;
  - (b) an alteration to property that is included in a schedule of protected heritage property within a heritage conservation area designated in the Official Community Plan;
  - (c) an alteration to property that is the subject of a heritage designation bylaw under Section 967 of the *Local Government Act* or any predecessor legislation authorizing such designation;
  - (d) an alteration to property in respect of which a heritage control period has been declared under section 964 of the *Local Government Act*.
50. Despite Section 49, a building official must not withhold the issuance of any building permit in respect of any alteration required by an enactment.
51. The building official must notify the applicant of a permit withheld under Section 49 in writing that the matter of the issuance of the permit will be considered by the Council at its next regular meeting after the approval is withheld, the date, time and location of which are stated in the notice.



52. A building official must withhold any demolition permit for a building on property that is included in a community heritage register until a building permit and all other necessary approvals have been issued with respect to the redevelopment of the property.
53. A building official must withhold any demolition permit for a building that is included in a schedule of protected heritage property within a heritage conservation area designated in the Official Community Plan, until a heritage alteration permit and all other necessary approvals have been issued with respect to the redevelopment of the property.

## **PART VI: RECONSIDERATION OF DECISIONS**

54. An applicant who is subject to a decision of the Director of Development Services under Part III, Part IV or Part V of this Bylaw is entitled to have the decision reconsidered by Council in accordance with this Part.
55. The applicant must apply for reconsideration by delivering to the Corporate Officer, and providing a copy to the Director of Development Services, within 30 days after the decision of the Director is received or deemed to be received by the owner or his or her agent, a reconsideration application in writing, which must set out all of the following:
  - (a) the date of the decision of the Director and the nature of the decision;
  - (b) reasons why the owner wishes the decision to be reconsidered by Council;
  - (c) the decision the owner requests be made by Council, with brief reasons in support of the requested decision; and
  - (d) a copy of any materials the owner considers to be relevant to the reconsideration by Council.
56. Reconsiderations must occur at a regular meeting of Council held at least two weeks after the date on which the reconsideration application is delivered to the Corporate Officer.
57. The Corporate Officer may give notice of each reconsideration by Council in accordance with any notice requirements applicable to the original application that is set out in this Bylaw or the *Local Government Act*.
58. Before each reconsideration by Council, each Council member is entitled to receive a copy of the materials that were considered by the Director of Development Services in making the decision that is to be reconsidered, plus a copy of any additional materials submitted by the owner, by the Director and by other persons.
59. The owner is entitled to receive a copy of all documents that Council will consider, including any additional materials delivered by the owner or by the Director of Development Services or by other interested persons. Council may also view the subject land and obtain other information about the land and proposed development.
60. At a reconsideration of a decision, the owner and any other person who is interested in the decision are entitled to be heard by Council, either directly or through an agent.

61. At a reconsideration, the Director of Development Services may address Council or respond to its questions.
62. Council may adjourn a reconsideration of a decision.
63. After having reconsidered a decision, Council may either confirm the decision of the Director of Development Services or may vary the decision or set aside the decision and substitute the decision of Council.
64. The owner who applied for reconsideration is entitled to receive a written notice of Council's decision, which notice will be deemed sufficiently sent to the owner if mailed at a post office box.

**PART VII: SHORT TITLE AND REPEAL**

65. This Bylaw may be cited as "Development Application Procedures and Fees Bylaw No. 2791, 2012".
66. The following bylaws are repealed, together with all amendments thereto:
  - (a) Subdivision Fee Bylaw, 1991, No. 2018;
  - (b) Fees (Development Applications) Bylaw, 1995, No. 2203;
  - (c) Development Approval Procedures Bylaw, 2003, No. 2562;
  - (d) Delegation of Authority for Selected Development Permits Bylaw, 2010, No. 2751.

READ A FIRST TIME this 17<sup>th</sup> day of December, 2012.

READ A SECOND TIME this 16<sup>th</sup> day of December, 2013.

READ A THIRD TIME this 16<sup>th</sup> day of December, 2013.

ADOPTED this 6<sup>th</sup> day of January, 2014.

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BARBARA DESJARDINS  
MAYOR

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ANJA NURVO  
CORPORATE OFFICER

## **SCHEDULE A**

### **PUBLIC CONSULTATION PROCEDURE**

- The applicant must consult with residents and owners of property within 100 metres of the parcel that is the subject of the application by holding a public meeting on the parcel or another suitable location in the immediate neighbourhood.
- Notice of the public meeting must be provided by mail or hand delivery to the residents and owners at least 3 and not more than 10 days before the meeting.
- The notice must state the date, time and place of the public meeting, and provide a general description of the applicant's proposal and the name and telephone number of a representative of the applicant who may be contacted regarding the application.
- If the meeting is not held on the parcel that is the subject of the application, sufficient graphic and photographic information must be available at the meeting to familiarize those in attendance with the location and physical characteristics of the parcel and illustrate the appearance of the proposed development.
- The applicant must provide to the Director of Development Services, with their application, the following information:
  - A map illustrating the location of parcels of land whose owners or residents were notified of the public meeting;
  - A copy of the notice of public meeting;
  - A summary of the proceedings at the public meeting including the names and addresses of those attending and a general indication of whether they expressed support for the application or opposition to the application;
  - A summary of suggestions that were made at the meeting for revisions to the application to improve its acceptability; and
  - Copies of any letters or other material provided to the applicant by persons notified of the public meeting or in attendance at the public meeting, and any responses provided by the applicant.

## SCHEDULE B

### DEVELOPMENT APPLICATION FEES

APPLICATION OR OTHER MATTER	FEE
<u>OFFICIAL COMMUNITY PLAN:</u>	
OCP amendment	\$1000
<u>ZONING BYLAW:</u>	
Single-family residential (RS) Zone text amendment	\$1000
Rezoning to a Single Family (RS) zone	\$1000 plus \$500 for each dwelling unit
Two Family Residential (RD) zone text amendment	\$1500
Rezoning to a Two Family Residential (RD) zone	\$2000
Multiple Family Residential (RM) zone text amendment	\$1500
Rezoning to a Multiple Family Residential (RM) zone	\$2000 plus \$100 for each dwelling unit
Commercial (C) zone text amendment	\$1000
Rezoning to a Commercial (C) zone	\$1500 plus \$1.00/m <sup>2</sup> of Gross Floor Area (based on maximum allowable)
Industrial (I) zone text amendment	\$1000
Rezoning to an Industrial (I) zone	\$1500 plus \$1.00/m <sup>2</sup> of Gross Floor Area (based on maximum allowable)
Institutional (P) zone text amendment	\$500
Rezoning to an Institutional (P) zone	\$1000
Marine (M) zone text amendment	\$1000
Rezoning to a Marine (M) zone	\$1500
Comprehensive Development (CD) zone text amendment	\$1500

Any zone to Comprehensive Development Zone (CD) zone	<p>\$2000.00 plus \$100.00 per proposed residential unit for the first 10 units and \$50.00 per residential unit greater than 10.</p> <p>In addition, for commercial, or industrial, developments, \$2000.00 plus \$1.00/m<sup>2</sup> of Commercial or Industrial Gross Floor Area</p> <p>For mixed-use developments, the fee shall be based on combined total of the fees calculated for the residential portion and the fees calculated for the commercial or industrial portion.</p> <p>In all cases, residential unit count and Gross Floor Area shall be calculated based on the maximum possible yield under the proposed zoning.</p>
Text amendments to other parts of the Zoning Bylaw	\$1000 plus \$100/section proposed to be amended
<u>DEVELOPMENT PERMIT:</u>	
Single Family Infill dwelling unit	\$750/dwelling unit
Duplex	\$750/dwelling unit
Minor repairs or renovations to single family or duplex buildings	\$250
Multiple Family Residential:	\$1000 plus \$100/dwelling unit
Minor additions or renovations	\$500
Commercial or Industrial	\$500 plus \$1.00/m <sup>2</sup> of proposed Gross Floor Area
Mixed use development	Fee to be calculated based on the combined fees for the residential and commercial/industrial portions of the building or structure
Gorge Waterway development permit	\$500
Delegated development permit	\$500
Secondary Suite development permit	\$100

Development permit for a sign only	\$100
Development permit with variance	\$500 per variance requested in addition to basic development permit fee
Amendment to a development permit prior to issuance of an occupancy permit or in cases where an occupancy permit is not required, prior to the completion of the development	\$100
Development Variance Permit	\$500
Conversion to Strata Lots	\$500 plus \$50/proposed strata lot
Highway Frontage Exemption	\$500
Heritage Alteration Permit	\$500
Heritage Revitalization Agreement	\$1000
Heritage Designation Bylaw	\$500
Temporary Use Permit	\$1000
Land Use Contract Discharge or Amendment	\$1500
Subdivision	\$1000 plus \$100/proposed additional lot
On-Site Notification Sign	\$100/sign
Newspaper Notification Fee (any excess funds to be returned to applicant)	\$2500
The execution or discharge of a covenant or other legal document related to any of the above items	\$500
Road Closure	\$1500
Legal costs associated with any of the above items	At cost
Third party consulting fees associated with any of the above items	At cost

## **SCHEDULE C**

### **DELEGATION OF DEVELOPMENT PERMIT POWERS**

1. All development permits dealing with the form and character of development to deal with any of the following:
  - a. Replacement of existing windows or doors to improve energy efficiency.
  - b. Replacement of balcony railings or panels.
  - c. Replacement of exterior cladding in connection with building envelope repairs.
  - d. Changes to the colour of exterior finishes that are consistent with the form and character of the building authorized by an existing development permit.
  - e. Replacement of exterior stairs or landings where no variances are required.
  - f. Addition of doors or windows to industrial buildings.
  - g. Addition of garage doors to multi-unit residential buildings.
  - h. Alterations to the roofline of multi-unit residential buildings required to accommodate the replacement or installation of elevators.
  - i. Installation of signage on commercial or industrial buildings that complies with the Sign Regulation Bylaw, 1996, No. 2252, as amended.
  
2. Development permits for secondary suites.