

NO. 09-048

## **LAND USE PROCEDURES BYLAW**

### **A BYLAW OF THE CITY OF VICTORIA**

The purpose of this Bylaw is to amend and update the Land Use Procedures Bylaw.

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Under its statutory powers, including Part 26 of the *Local Government Act*, and sections 3 and 4 of British Columbia Regulation 69/97, the Council of The Corporation of the City of Victoria enacts the following provisions:

## Part 1 – INTRODUCTORY PROVISIONS

### 1.1 Title

This Bylaw may be cited as the "LAND USE PROCEDURES BYLAW, 2009".

### 1.2 Definitions

In this Bylaw,

"ADP"	means the City's Advisory Design Panel committee;
"committee"	means a select or standing committee of Council, or an advisory committee as defined under the Council Bylaw;
"Community Meeting"	means a public meeting held in association with the Community Association Land Use Committee operating under the Community Association Land Use Committee Terms of Reference and Procedures for Processing Development Applications approved by resolution of Council;
"HAC"	means the City's Heritage Advisory Committee;
"OCP"	means the City's Official Community Plan Bylaw;
"PAPC"	means the City's Public Advisory Planning Committee;
"PDD"	means the City's Director of the Planning & Development Department or his/her designate;
"PLUSC"	means the City's Planning and Land Use Standing Committee.

## Part 2 - APPLICATIONS

### 2.1 Applications - Bylaws

1. Applications for any of the following matters must be completed on a form provided by the City and submitted to the PDD:
  - a) amendment of a *Zoning Regulation Bylaw*;
  - b) amendment of the *Official Community Plan Bylaw*;
  - c) amendment of a land use contract;
  - d) issuance of a temporary commercial or industrial use permit;
  - e) entering into a heritage revitalization agreement.
2. When submitting an application under subsection (1), an applicant must

This bylaw may or may not contain the latest amendment(s). It is provided for convenience only and should not be used in place of the actual bylaw. The latest version can be obtained from Legislative Services, City Hall, (250) 361-0571.

- a) provide the information and supporting documents specified in the application form;
- b) submit the fees required under this Bylaw;
- c) comply with the requirements set out in this Bylaw;
- d) submit evidence that the applicant has participated in a Community Meeting in relation to the proposed development to the satisfaction of the PDD.

## **2.2 Applications - Permits**

1. Applications for any of the following matters must be completed on a form provided by the City and submitted to the PDD:
  - a) development variance permit;
  - b) development permit;
  - c) heritage alteration permit;
  - d) variance from a sign regulation;
  - e) variance from a parking regulation;
  - f) variance from a landscaping or screening regulation.
2. When submitting an application under subsection (1), an applicant must:
  - a) provide the information and supporting documents specified in the application form;
  - b) submit the fees required under this Bylaw;
  - c) comply with the requirements set out in this Bylaw.

## **2.3 Submission Procedures**

1. Once an application made under this Bylaw is deemed complete by the PDD, it will be accepted for processing.
2. When processing an application, the PDD may refer the application to one or more Committees or to other agencies or associations.

## **2.4 Procedures for bylaw amendment applications**

1. PDD must consider an application and must make recommendations to PLUSC concerning the application.
2. PLUSC must consider the application and:

- a) before referring it to Council, may refer it to any other Committee or body if the application does not appear to comply with the City's *Official Community Plan* or for any other reason;
- b) before referring it to Council, may refer it to the ADP or HAC for its recommendations if PLUSC requires its advice concerning the design of the application; and
- c) must refer it to Council, with recommendations.

## **2.5 Procedures for development & heritage permit applications**

1. Applications made for a development permit or heritage alteration permit for a single family dwelling or duplex or any class of development identified by Council must be considered in the following manner:
  - a) the PDD must consider the application and may then issue or refuse the permit;
  - b) if the permit is refused under paragraph (a), or if the applicant objects to a proposed provision of the permit, the applicant is required to make an application pursuant to the procedures outlined in this section.
2. Applications made for a development permit other than that described in subsection 1 must be considered in the following manner:
  - a) the PDD must consider an application and must make recommendations to PLUSC concerning the application;
  - b) the PDD may refer an application to the ADP for its recommendations if the PDD requires its advice concerning the design of the application.
3. PLUSC must consider the development permit application and:
  - a) may refer it to the ADP or a joint meeting of the ADP and HAC if PLUSC requires its advice concerning the design of the application; and
  - b) must refer it to Council, with recommendations, for final disposition.
4. Applications made for a heritage alteration permit must be considered in the following manner:
  - a) the PDD must consider the application and must make recommendations to PLUSC concerning the application;
  - b) the PDD may refer the application to HAC for its recommendations if the PDD requires its advice concerning the design of the application.
5. PLUSC must consider a heritage alteration permit application and:
  - a) may refer it to the HAC if PLUSC requires its advice concerning the design of the application;

- b) must refer it to Council, with recommendations, for final disposition.

## **2.6 Procedures for Victoria Arm - Gorge Waterway**

1. The following requirements apply when an application is made for a development permit for a development in Development Permit Area 29, Victoria Arm – Gorge Waterway, under the OCP:
  - a) the applicant may submit an application at any time, and no application fee is required;
  - b) the applicant must submit an application on a form provided by the City;
  - c) the applicant must provide the information and supporting documents specified in the application form;
  - d) the applicant must comply with the requirements set out in this Bylaw and the terms and conditions of any development permit issued.
  
2. The applicant must submit the following information for the proposed development and the real property on which it is proposed:
  - a) a recent state of title certificate for the real property;
  - b) a letter of authorization from the registered owner of the real property if that person is not the applicant;
  - c) a completed site profile as required under the *Waste Management Act* and its Contaminated Sites Regulation or a sworn statement that the site profile is not required under that legislation;
  - d) a reasonably accurate, drawn-to-scale site plan showing the existing conditions, within the seven meter strip referred to in the OCP, under Development Permit Area 29, including all existing trees, shrubs, garden structures, paths, fences, retaining walls, dock landings, lighting, rails, and any other permanent structures and buildings;
  - e) a reasonably accurate, drawn-to-scale site plan showing the proposed changes within the seven meter strip referred to in the OCP under Development Permit Area 29;
  - f) an impact study, at the applicant's expense, completed by a professional marine biologist, geo-technical engineer, or other qualified professional where that is required by the PDD for a complicated development that includes, but is not limited to, works like retaining walls, shoreline alterations, or excavations providing information on the anticipated impact on the natural environment of the area affected by the proposed development;
  - g) photographs of the area to be changed as part of the development.

3. The following assessment procedures apply when an application is made for a development permit for a development in Development Permit Area 29, Victoria Arm - Gorge Waterway, under the OCP:
  - a) a representative of the City's Planning & Development Department, together with representatives of other appropriate departments, must review the application;
  - b) a representative of the City's Planning & Development Department, together with representatives of other appropriate departments must report their findings, and the findings of governmental agencies, to the PDD;
  - c) a representative of the City's Planning & Development Department, together with representatives of other appropriate departments, may visit the site of the proposed development;
  - d) the City's Planning & Development Department may send a copy of the application to the appropriate governmental agencies, if referral is deemed appropriate;
  - e) the PDD must consider the reports from the City's departments and governmental agencies, and may then issue or refuse to issue the development permit.
  
4. The following rights and procedures apply when an application is made for a development permit for a development in Development Permit Area 29, Victoria Arm - Gorge Waterway, under the OCP:
  - a) the applicant may apply to the City's Corporate Administrator to have the Council reconsider a decision of the PDD for an impact study or the issuance or refusal of the development permit;
  - b) the City's Corporate Administrator must give to the applicant at least 10 days notice of the time and place of the Council's reconsideration, and of the applicant's right to appear before the Council to make representations concerning the application;
  - c) the Council must consider an applicant's oral or written representations in connection with an application that is the subject of Council's reconsideration;
  - d) the applicant's representative may appear before the Council to make representations for the applicant.
  
5. A development permit that is issued for a development in Development Permit Area 29, Victoria Arm – Gorge Waterway, under the OCP, is valid for two years from the date that it is issued.

## **2.7 Application fees & refunds**

1. An applicant for the following types of application must pay the fees prescribed in Schedule A of this Bylaw:
  - a) an *Official Community Plan* amendment;
  - b) a *Zoning Regulation Bylaw* amendment;

- c) an application to amend or discharge a land use contract;
  - d) the issuance of a temporary commercial or industrial use permit;
  - e) a heritage revitalization agreement;
  - f) a development permit;
  - g) a development variance permit;
  - h) a heritage alteration permit application;
  - i) a heritage revitalization agreement;
  - j) a minor amendment to a development permit or heritage alteration permit under section 3.3;
  - k) an application for confirmation that an alteration to a building is exempt from a development permit or heritage alteration permit requirement, under Schedule A, Part 10, E. Planning Regulations of the *Official Community Plan*.
2. The fees prescribed in Schedule A apply to each parcel of land for which the application is made subject to:
- a) if an application involves two or more contiguous parcels of land, they must be treated as one parcel;
  - b) if an application involves two non-contiguous parcels of land, they will be treated as separate applications and the fee prescribed in Schedule A applies to each parcel of land for which the application is made.
  - c) if the purpose of the application is to authorize the creation of one or more additional parcels zoned for single family or duplex residential development, the fee prescribed in Schedule A applies to each parcel of land which may be created as a result of the application.
3. An applicant that has paid the public hearing administration fee in Schedule A is entitled to a refund of the fee if the applicant, in good faith, actively pursues the processing of the application for which that fee was paid and
- a) the Council refuses to hold a public hearing for the application; or
  - b) the Council unreasonably delays the holding of the public hearing for the application and the applicant then withdraws the application before the notice of the hearing is published.
4. An applicant that has paid the application fee in Schedule A is entitled to a refund of the fee if the application is formally withdrawn prior to any review by staff that PDD considers involved significant time or resources.

5. An applicant is not entitled to a refund of a fee except in the circumstances indicated in subsection (3) or (4) of this part.

## **2.8 Procedures for Sign Posting**

1. A person that submits an application for the following must undertake sign posting in compliance with Schedule B of this Bylaw:
  - a) development variance permit;
  - b) development permit with variances;
  - c) heritage alteration permit with variances.
2. A person that submits an application for the following must undertake sign posting in compliance with Schedule C of this Bylaw:
  - a) a *Zoning Regulation Bylaw* amendment;
  - b) an *Official Community Plan* amendment;
  - c) an application to amend or discharge a land use contract;
  - d) a heritage revitalization agreement;
  - e) the issuance of a temporary commercial or industrial use permit.

## **2.9 Public meetings**

1. A hearing before Council is required for:
  - a) a development variance permit;
  - b) a development permit with variances;
  - c) a heritage alteration permit with variances;
  - d) a *Zoning Regulation Bylaw* amendment;
  - e) an *Official Community Plan* amendment;
  - f) an application to amend or discharge a land use contract;
  - g) the issuance of a temporary commercial or industrial use permit;
  - h) a heritage revitalization agreement;
  - i) as otherwise directed by Council.
2. An applicant, at a public meeting of the PAPC, ADP and HAC, may present the proposal described in an application.

## **2.10 Notice of Public Hearing**

1. Notice of Public Hearing must be mailed or otherwise delivered to the owners and occupiers of all parcels that are the subject of, or that are within a distance of 100m from the parcels that are the subject of, the following applications:
  - a) a *Zoning Regulation Bylaw* amendment;
  - b) an *Official Community Plan* amendment;
  - c) an application to amend or discharge a land use contract;
  - d) the issuance of a temporary commercial or industrial use permit;
  - e) a heritage revitalization agreement.
  
2. Notice of Public Hearing must be mailed or otherwise delivered to the owners and occupiers of all parcels that are the subject of, or that are adjacent to the parcels that are the subject of, the following applications:
  - a) a development variance permit;
  - b) a development permit with variances;
  - c) a heritage alteration permit with variances.

## **Part 3 – DECISIONS, REAPPLICATIONS AND MINOR AMENDMENTS**

### **3.1 Council decision**

After receiving the recommendation of a committee, the Council may approve or refuse an application, including a rezoning, or a permit or agreement.

### **3.2 Reapplications**

1. If the Council refuses an amendment, including rezoning, or a permit or agreement, a person is not permitted to reapply for the same amendment, rezoning, permit, or agreement until one year has elapsed from the date on which the refusal was made.
2. Despite subsection (1), by an affirmative vote of at least 2/3 of its members that are eligible to vote on the reapplication, the Council may permit a person to reapply within the one year period set out in subsection (1).

### **3.3 Minor Amendments**

After the approval of a development permit or heritage alteration permit, minor amendments to the plans that are attached to or referenced in the development permit or heritage alteration permit may be authorized by the PDD where the PDD is satisfied that the amendments are

substantially in accord with the terms and conditions of the original approved permit, and are consistent with the applicable guidelines under the *Official Community Plan*.

### 3.4 Delegation of Authority

The authority of the PDD to issue or refuse an application for a development permit under sections 2.5.1 (a) and 2.6.3 (e), and to approve minor amendments to approved plans under section 3.3.1, is hereby confirmed.

## Part 4 – GENERAL PROVISIONS

### 4.1 Repeal

Bylaw No. 05-93, the “Land Use Procedures Bylaw” is repealed.

READ A FIRST TIME on the **25<sup>th</sup>** day of **June,** 2009.

READ A SECOND TIME on the **25<sup>th</sup>** day of **June,** 2009.

AMENDED on the **25<sup>th</sup>** day of **June,** 2009.

READ A THIRD TIME on the **25<sup>th</sup>** day of **June,** 2009.

ADOPTED on the **9<sup>th</sup>** day of **July,** 2009.

**“ROBERT G. WOODLAND”**  
CORPORATE ADMINISTRATOR

**“DEAN FORTIN”**  
MAYOR

**City of Victoria  
Bylaw No. 09-048  
Schedule A  
Application Fees**

**1. Rezoning – Pre-Application Stage**

A fee of \$400.00 is required for notification of rezoning proposals for a community meeting.

**2. Rezoning, Land Use Contract Amendment, Official Community Plan Amendment, Heritage Revitalization Agreement, Temporary Commercial or Industrial Use Permits**

**2.1 Application Fees**

**Single Family\* / Duplex**

**All Others**

Application:	\$900.00	\$1400.00 plus Large Project Fee if applicable (See Large Project Fee of this Section)
Notice sign	\$ 75.00	\$ 75.00
Sign deposit (refundable)	\$150.00	\$150.00
<b>Total Fee</b>	<b>\$1125.00</b>	<b>\$1625.00+</b>

\*Note: For applications to create additional fee simple parcels the fee is applicable to each parcel.

**2.2 Public Hearing Notification Fee**

An additional Public Hearing administration fee of \$1200.00 is required to cover advertising costs when an application is forwarded and set for a public hearing by City Council.

**2.3 Large Project Fee: Rezoning and Heritage Revitalization Agreements Application Fees**

If value of buildable floor area permitted under the zoning is in excess of \$2 million, then add the following to the basic application fee:

**Calculate value of buildable floor area:**

site area (m2)\*x max. FSR\*\* x \$ per m2 = value of buildable floor area  
 \_\_\_\_\_ m2 x \_\_\_\_\_ x \_\_\_\_\_ = \$ \_\_\_\_\_

**Calculate additional fee:**

value of buildable floor area minus \$2 million x 0.001 = additional fee  
 \$ \_\_\_\_\_ - \$2 million x 0.001 = \$ \_\_\_\_\_

**Total Rezoning application fee:**

base application fee + additional fee = rezoning application fee

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\$1625.00 + \$ \_\_\_\_\_ = \$ \_\_\_\_\_

Notes:

\* includes all lots subject to the application

\*\*maximum floor space ratio or building floor area possible under the zoning – this may be greater than floor area proposed under the application

**2.4 Large Project Fee Assessment**

Where an application is subject to a bylaw amendment and issuance of any permits, the additional fee calculated on the value of buildable floor area or the value of construction will only be assessed once for the development.

**3. Development Permits and Heritage Alteration Permits**

**3.1 Application Fees**

A fee of \$200 is applicable to all applications for confirmation of an exemption from a development permit or heritage alteration permit requirement under the *Official Community Plan*, Schedule A, Part 10, E. PLANNING REGULATIONS.

For all other applications, a base fee based on declared value of construction as follows:

<u>Up to \$25 thousand value</u>	<u>Up to and including \$2 million</u>	<u>Over \$2 million</u>
2% of value of construction (minimum \$100.00)	\$500.00	\$500.00 plus Large Project Fee if applicable (see Large Project Fee of this Section)

**3.2 Large Project Fee: Development Permits, Heritage Alteration Permits (with or without variances)**

If construction value is in excess of \$2 million, then add the following to the base fee:

**Calculate the construction value of the building**

Building area (m2)\* x construction value / m2 = construction value of building  
 \_\_\_\_\_ m2 x \$ \_\_\_\_\_ = \$ \_\_\_\_\_

**Calculate the additional fee**

Construction value of building minus \$2 million x 0.001 = additional fee  
 \$ \_\_\_\_\_ - \$2 million x 0.001 = \$ \_\_\_\_\_

**Calculate total development permit fee**

Base permit fee + additional fee = total development permit fee  
 \$500.00 + \$ \_\_\_\_\_ = \$ \_\_\_\_\_

Note: \* includes the complete building, including basement

### 3.3 Fee Exemption

Heritage alteration permits without variances for single family dwellings are exempt from this fee.

## 4. Development Permits with Variances, Heritage Alteration Permits with Variances & Development Variance Permits

### 4.1 Application Fees

Base fee of \$950 (includes one variance) plus \$250 for each additional variance plus a percentage of declared value of construction

\$950.00 + \$250.00 per each additional variance + 0.1% of construction value greater than \$2 million = total fee

### 4.2 Public Hearing Notification Fee

An additional Public Hearing administration fee of \$200.00 is required to cover advertising costs when an application is forwarded and set for a public hearing by City Council.

### 4.3 Large Project Fee: Development Permits with Variances, Heritage Alteration Permits with Variances, Development Variance Permits

If construction value is in excess of \$2 million, then calculate as for Large Project Fee for Development Permits and add to basic permit fee as follows:

#### **Total development variance / development permit with variances fee**

Base fee of \$950 (includes one variance) plus \$250 for each additional variance plus large project fee as calculated for Development Permits  
 $\$950.00 + \$250.00 \text{ per each additional variance} + \text{large project fee} = \text{total fee}$

## 5. Development Permit for Subdivision

### 5.1 Fee

The fee for a Development Permit for subdivision only is \$250.00

## 6. Board of Variance Application

### 6.1 Fee

The fee for a Board of Variance application is \$ 250.00

## **7. Additional Fee Assessment**

### **7.1 Rezoning, Land Use Contract Amendment, Official Community Plan Amendment, Heritage Revitalization Agreement, Temporary Commercial or Industrial Use Permits**

Should there be a major change in the proposal resulting in more staff work, an additional base fee of \$1625 will be assessed.

### **7.2 Development Permits and Heritage Alteration Permits, Development Permits with Variances, Heritage Alteration Permits with Variances & Development Variance Permits**

Should there be a major change to the proposal resulting in more staff work, an additional base fee of \$500 will be assessed.

The fee for an application for approval of minor amendments to plans that are attached to or referenced in a development permit or heritage alteration permit, under section 3.3.1 of this Bylaw, is \$200.00.

## **8. Fees Non-refundable**

With the exception of the types of applications noted in Sections 2.7.3 and 2.7.4, all application fees are non-refundable.

## **9. Estimated Value of Buildable Floor Area or Construction Value**

Where there is any question as to the value of buildable square footage or the declared value of construction, the PDD will decide the appropriate value based on an estimated value of \$1880/m<sup>2</sup> for frame construction and \$1930/m<sup>2</sup> for non-frame construction (in 2005 dollars), increased by the Consumer Price Index on an annual basis.

**City of Victoria  
Bylaw No. 09-048**

**Schedule B**

**PROCEDURES FOR SIGN POSTING**

**DEVELOPMENT VARIANCE PERMIT  
DEVELOPMENT PERMIT WITH VARIANCES  
HERITAGE ALTERATION PERMIT WITH VARIANCES**

1. A hearing shall be required for a:
  - a) Development variance permit application
  - b) Development permit with variances
  - c) Heritage alteration permit with variances.
2. For applications referred to in this Schedule, a notice sign or signs shall be posted on the property or properties subject to the application.
3. It is the applicant's responsibility to:
  - a) obtain the sign or signs from the appropriate City Department;
  - b) post the sign or signs on the subject property for a minimum of 10 days prior to the date of the Council's Hearing concerning the application;
  - c) post additional meeting notices and additional signs if required;
  - d) maintain the sign or signs on the subject property for the required time period.
4. The sign or signs shall be posted in a prominent location, clearly visible from the street, on each frontage and lot subject to the application. Staff may specify siting and siting changes.
5. The City shall determine the specifications, format and information content of the sign or signs. The City shall prepare the signs.
6. There is no additional fee for these signs.

**City of Victoria  
Bylaw No. 09-048**

**Schedule C**

**PROCEDURES FOR SIGN POSTING  
ZONING BYLAW AMENDMENT  
OFFICIAL COMMUNITY PLAN AMENDMENT  
LAND USE CONTRACT AMENDMENT  
HERITAGE REVITALIZATION AGREEMENT  
TEMPORARY COMMERCIAL OR INDUSTRIAL USE PERMITS**

1. This schedule relates to:
  - a) rezoning
  - b) land use contract amendment
  - c) official community plan amendment
  - d) heritage revitalization agreement
  - e) temporary commercial or industrial use permit.
2. For the applications referred to in this Schedule, a notice sign or signs shall be posted on the property or properties subject to the application.
3. It is the applicant's responsibility to:
  - a) obtain the sign or signs from the appropriate City Department;
  - b) post the sign or signs on the subject property for a minimum of 10 days prior to the initial Council Committee of the Whole Meeting to the date of the Council Public Hearing (inclusive);
  - c) post additional meeting notices and additional signs if required;
  - d) maintain the sign or signs on the subject property for the required time period.
4. The sign or signs shall be posted in a prominent location, clearly visible from the street, on each frontage and lot subject to the application. Staff may specify siting and siting changes.
5. The City shall determine the specifications, format and information content of the sign or signs. The City shall prepare the signs.
6. The fee for one sign is calculated with the Total Fee. The amount refundable will be determined by the City upon assessment of the condition of the sign upon return of the sign.
7. If additional or replacement signs are required for any reason, the additional sign fee will be \$225 for each sign.
8. For an additional fee of \$50 the City can erect or remove the sign. This amount will be deducted from the damage deposit.