

NO. 12-042

A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to regulate and to require the provision of works and services in respect of the subdivision and development of land within the City of Victoria.

Under its statutory powers, including section 938 of the *Local Government Act*, the Council of the Corporation of the City of Victoria enacts the following provisions:

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## PART I – GENERAL PROVISIONS

### TITLE

- 1 This Bylaw may be cited as the “Victoria Subdivision and Development Servicing Bylaw No. 12-042

### DEFINITIONS

- 2 (1) In this bylaw, unless the context otherwise requires,

“**air space parcel**” means a volumetric parcel, whether or not occupied in whole or in part by a building or other structure, shown as such in an air space plan.

“**air space subdivision**” means the division of land into one or more air space parcels.

“**applicant**” means a person who has applied for approval of a proposed subdivision or building permit whether as the owner or as the authorised agent for the owner.

“**Approving Officer**” means the person appointed by Council pursuant to the *Land Title Act* to be the Approving Officer and includes the Deputy Approving Officer and Alternate Approving Officer.

“**boundary adjustment**” means an adjustment in existing boundaries between legally defined parcels of land that does not create additional parcels.

“**British Columbia land surveyor**” means a land surveyor licensed and registered as a land surveyor in the Province of British Columbia.

“**building inspector**” means the building inspector for the City or his or her designate.

“**building permit**” has the same meaning as under the Building Bylaw.

“**City of Victoria Supplementary Specifications**” means the supplementary specifications and detail drawings that are attached to this bylaw as Schedule “B”.

“**contractor**” means a person that undertakes the installation of works and services on behalf of the applicant.

“**developer**” means the owner or authorized agent engaged in the process of subdividing or developing land.

“**development**” means any improvement to residential, commercial, industrial, institutional and municipal lands, including the construction, alteration or repair of a building pursuant to a building permit.

“**Director of Engineering**” means the Director of Engineering and Public Works of the City or any City employee authorized to act on his or her behalf.

**“Director of Parks, Recreation and Culture”** means the Director of Parks, Recreation and Culture of the City or any City employee authorized to act on his or her behalf.

**“highway”** includes a street, road, lane, bridge, thoroughfare, and any other way open to the public, but does not include a right of way on private property.

**“landscape professional”** means a member of the British Columbia Society of Landscape Architects or other qualified landscape designer.

**“landscaping”** means work that is generally designed by and constructed under the supervision of a landscape professional.

**“Master Municipal Specifications and Standard Detail Drawings”** means the Master Municipal Specifications and Standard Detail Drawings that are set out in the most recent edition of the *Master Municipal Construction Documents*, as published by the Master Municipal Construction Documents Association, which as of the date of the adoption of this bylaw is the Platinum Edition dated May 2009, and includes any amendments, supplements, revisions or replacements published by the Master Municipal Construction Documents Association from time to time.

**“owner”** means a person registered in the records of the Land Title Office as the owner of the land proposed to be developed or subdivided.

**“parcel”** means any lot, block, or other area in which real property is held or into which real property is subdivided but does not include a street or portion thereof.

**“Preliminary Layout Assessment”** means the Approving Officer’s review of a Preliminary Layout Assessment Plan in accordance with the provisions of this bylaw.

**“Preliminary Layout Assessment Plan”** means a dimensioned sketch or plan submitted with an application for Preliminary Layout Assessment prior to submission of a subdivision plan for final approval.

**“professional engineer” or “consulting engineer”** means a person who is registered or licensed as such under the provisions of the *Engineers and Geoscientists Act* of the Province of British Columbia.

**“public utility”** means any utility company or utility service provider having facilities installed in a highway or right-of-way for the purpose of providing a service to property and shall include municipal water distribution, sewage and drainage collection, street lighting, electric power distribution, telephone, cable television, 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*, acquired for the purpose of:

- a) public rights of passage with or without vehicles;
- b) erecting and maintaining any pole-line;

- c) laying, placing, and maintaining drains, ditches, pipes, transmission lines, or wires for the conveyance, transmission, or transportation of water, electric power, forest products, oil, or gas, or both oil and gas, or solids as defined in the *Pipelines Act*;
- d) the transmission or disposal of sanitary sewage, storm water or drainage; or
- e) the operation and maintenance of any other undertaking of the City.

**“roadway”** means the portion of the highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder, and if a highway includes two or more separate roadways, the term "roadway" refers to any one roadway separately and not to all of them collectively.

**“security”** means a cash deposit or an unconditional irrevocable letter of credit to ensure completion of works and services required by this bylaw.

**“sidewalk”** means an area of highway improved for the use of pedestrian traffic.

**“street”** means a highway which affords the principal means of vehicular access to abutting lots, and includes a road or road allowance.

**“subdivision”** means:

- a) a subdivision as defined in the *Land Title Act*,
- b) a subdivision as defined in the *Strata Property Act*.

**“subdivision approval” “final subdivision approval” and “final approval”** each mean approval of the subdivision of land granted by the Approving Officer when all applicable requirements of this bylaw, the *Land Title Act* and any other applicable bylaws and legislation have been fulfilled.

**“survey plan”** means a fully dimensioned legal plan prepared by a British Columbia land surveyor submitted for final approval.

**“works and services”** means construction such as roadways, lanes, drainage, water and sewer systems, sidewalks, walkways, boulevards, landscaping, street lighting and underground wiring or any other works to be provided for in connection with the subdivision or development of land under this bylaw.

- (2) Unless otherwise defined herein, any word or expression in this bylaw shall have the meaning assigned to it in the *Local Government Act* or the *Land Title Act* if not defined in the *Local Government Act*.
- (3) A reference in this bylaw to a Schedule is a reference to a Schedule that is attached to and incorporated into the terms of this bylaw.

### **Standards of Measure**

- 3** The equivalent Imperial units of measure shown in parenthesis after metric units are for information purposes only and do not form part of this bylaw.

## Inspection

- 4 (1) Subject to section 16 of the *Community Charter*, the Approving Officer, the Director of Engineering and any City employee acting under the authority of any one of them may, at all reasonable times, enter upon any property for the purpose of administering and enforcing this bylaw.
- (2) No person shall prevent or obstruct, or attempt to prevent or obstruct, the entry of any authorized officials upon any property as authorized under this bylaw.

## PART II – APPLICATIONS

### Application for Preliminary Layout Assessment

- 5 (1) Prior to the preparation of survey plans and the placing of survey posts or other survey monuments upon the land for the purpose of subdivision, an owner may apply to the Approving Officer for approval of a Preliminary Layout Assessment Plan.
- (2) Every application for Preliminary Layout Assessment must be made by the owner or by the owner's authorized agent using the form prescribed in Schedule D.
- (3) An application for Preliminary Layout Assessment must include:
  - (a) an application fee in the amount required under Schedule A;
  - (b) a copy of the Preliminary Layout Assessment Plan prepared by a British Columbia land surveyor;
  - (c) a State of Title Certificate for all land included in the application for subdivision dated within 30 days of the date of application.
- (4) All existing buildings and structures must be shown on the Preliminary Layout Assessment Plan to demonstrate compliance with the setback requirements of the Zoning Regulation Bylaw.
- (5) The Approving Officer's approval of an application for Preliminary Layout Assessment must not be construed as final approval of the proposed subdivision for land registration purposes.

### Subdivision Statement of Conditions

- 6 (1) In connection with the review of an application for Preliminary Layout Assessment, the Approving Officer may issue a statement of conditions identifying all conditions or requirements that are necessary for the Approving Officer's consideration of final approval of the proposed subdivision.

- (2) The Approving Officer's statement of conditions shall not be construed as final approval of a subdivision.
- (3) If the Approving Officer's final approval of the proposed subdivision has not been granted within one year of the issuance of the statement of conditions:
  - (a) the approval of the Preliminary Layout Assessment and the Statement of Conditions expires; and
  - (b) if the applicant wishes to proceed with the proposed subdivision, a new application for Preliminary Layout Assessment may be submitted subject to any change in conditions, bylaws or policies that may have occurred.
- (4) The applicant may apply in writing for an extension of no more than six (6) months of the Approving Officer's statement of conditions, provided the application is made before the expiry of the statement of conditions, by paying the application fee prescribed under Schedule "A" of this Bylaw, and by providing a written explanation of the circumstances which the applicant considers supports the application.

#### **Additional Information**

- 7 At any time, the Approving Officer may request that an applicant provide further information that is necessary for the Approving Officer to review and consider a Preliminary Layout Assessment Plan.

#### **Referral to Other Agencies**

- 8 In the event that the Approving Officer or the City refers an application for Preliminary Layout Approval or any other application for subdivision approval to another public authority whose review of that application is required by law, or in the opinion of the Approving Officer is necessary or desirable, the applicant shall be responsible for direct payment to that public authority of any fee charged by the public authority for that referral.

#### **General Parcel Requirements**

- 9 (1) Property lines of parcels being created by subdivision which intersect a highway shall be substantially at right angles unless the Approving Officer is satisfied that it is impracticable to comply with this requirement.
- (2) If a parcel being created by a subdivision fronts on a highway, pursuant to section 944 of the *Local Government Act*, the minimum frontage of the parcel on that highway must be the greater of the following amounts:
  - (a) 10% of the perimeter of the lot that fronts on the highway;
  - (b) the minimum frontage required under the Zoning Regulation Bylaw.
- (3) Council may exempt a parcel from the requirements of sub-section 9(2).

## **Works and Services**

- 10** (1) As a condition of the approval of a subdivision, the owner shall provide within the subdivision the works and services required by this bylaw, in accordance with the standards and specifications established under section 11 of this bylaw.
- (2) As a condition of the approval of a subdivision or the issuance of a building permit, the owner shall provide the works and services required by this bylaw within the portion of every highway immediately adjacent to the land being subdivided or developed, in accordance with the standards and specifications established under section 11 of this bylaw.

## **Drawings and Construction Standards**

- 11** (1) All works and services required in connection with the development or subdivision of land under this bylaw shall be designed and constructed in accordance with the following standards and specifications:
- (a) the Master Municipal Specifications and Standard Detail Drawings, which are incorporated by reference into this bylaw; and
  - (b) the City of Victoria Supplementary Specifications.
- (2) In the event of any inconsistency between the Master Municipal Specifications and Standard Detail Drawings and the City of Victoria Supplementary Specifications, the City of Victoria Supplementary Specifications shall govern to the extent of the inconsistency.

## **Professional Certification**

- 12** (1) The owner shall retain, at the owner's expense, a professional engineer who must certify that the design and construction of the works and services required under this bylaw conform to the standards and specifications established under this bylaw.
- (2) The owner shall not commence the construction of the works and services required under this bylaw until four copies of the design and construction drawings for those works and services, prepared, signed and sealed by the owner's professional engineer, have been provided to and approved by the Director of Engineering.
- (3) As an exception to subsection (2), a landscape professional shall prepare and certify for the approval of the Director of Parks, Recreation and Community Development the plans for all landscaping works and services required under this bylaw.
- (4) Upon completion of the works and services, the owner shall provide to the City a complete set of as-constructed drawings prepared by the owner's professional engineer or landscape professional, as the case may be.

- (5) The owner shall not construct any works and services required under this bylaw for a subdivision or a development except under the supervision of the owner's professional engineer, or under the supervision of a landscape professional in respect of any landscaping work.
- (6) Prior to the approval of any design or construction drawings under subsection (2) or (3), the owner must provide the City with a letter signed by the professional engineer, or landscape professional in the case of any landscaping work, that outlines the scope of that professional's engagement, including but not limited to:
  - (a) the schedule of inspections of the works and services to be undertaken by the professional in accordance with the requirements of this bylaw;
  - (b) the professional's assurance that the works and services have been designed in accordance with the standards established under this bylaw;
  - (c) the professional's certification of his or her design and construction drawings for the works and services;
  - (d) that the professional will certify and submit as-constructed drawings for the works and services;
  - (e) a statement from the engineer that the engineer has read and understands the requirements of all City bylaws that apply to the works and services.
- (7) The owner must advise the Director of Engineering of any severance of the owner's engagement of the owner's professional engineer or landscape professional during the course of the design and construction of the works and services, and must provide the Director of Engineering with a letter signed by the professional engineer or landscape professional who is retained in their place, outlining the scope of that professional's engagement.

### **Works and Services Agreements**

- 13** (1) All works and services required to be constructed and installed by the owner of the land being subdivided or developed must be constructed and installed to the standards established under this bylaw before, as applicable, the Approving Officer gives final approval of the subdivision plan, or the building inspector issues the building permit, unless the owner:
  - (a) deposits within the City an irrevocable letter of credit or other form of security satisfactory to the Director of Engineering, in the amount of 120% of the estimated cost of the works and services;
  - (b) enters into a works and services agreement with the City in the form attached to this bylaw as Schedule E to construct and install the required works and services by a date specified by the Director of



Engineering, which date shall be no later than twelve months from the registration of the subdivision plan, or issuance of the building permit, failing which the owner shall forfeit the security.

- (2) For the purposes of sub-section 13(1)(a) the estimate of the cost of the works and services must be prepared by a professional engineer, or by a landscaping professional in the case of any landscaping work, and the cost estimate must be acceptable to the Director of Engineering.

### **Maintenance Agreement for Works and Services**

**14** The works and services agreement shall include:

- (a) the owner's agreement to rectify any deficiencies in design, materials or workmanship in the works and services that may arise during the twelve months following the assumption of responsibility for the works and services by the City;
- (b) the owner's agreement that the length of the warranty period under paragraph (a) may be increased at the direction of the Director of Engineering, to a period that the Director of Engineering considers reasonable given the nature of the works and services, but in any event not to exceed three (3) years;
- (c) a requirement that the owner deposit with the Director of Engineering security in the form of cash or a letter of credit in the amount of 10% of the estimated cost of the works and services, or \$1,000.00 whichever is the greater, in a form satisfactory to the Director of Engineering as a guarantee of performance of the maintenance obligation referred to in paragraph (a).

### **Statutory Rights of Way**

- 15** Where any works or services required for a subdivision or development are not located within a highway, the applicant shall grant to the City a right of way to secure the City's right to operate and maintain those works and services in a form that is acceptable to the City and that is substantially in the form of the right of way agreement attached as Schedule F to this bylaw.

## **PART III – SERVICING REQUIREMENTS**

### **Classification of Highways**

- 16** For the purposes of the standards of works and services established under this bylaw, highways within the City of Victoria are classified in accordance with the classifications adopted under the Streets and Traffic Bylaw.

### **Highway Works and Services**

- 17** (1) The owner must construct all highways that are required within a subdivision in accordance with the standards established under section 11 of this bylaw that apply to the classification of highway required for that subdivision.

- (2) The owner must reconstruct, in accordance with the standards established under section 11 of this bylaw, all highways that are immediately adjacent to the land being subdivided, up to the center line of the highway.
- (3) Without limiting the requirements of subsections (1) and (2) all highway works and services required under this bylaw shall include, in accordance with the standards established under section 11 of this bylaw:
  - (a) landscaping of all portions of the highway not improved with paved road, curb and gutter or sidewalk;
  - (b) underground irrigation of all landscaped areas;
  - (c) planting of street trees;
  - (d) street lighting;
  - (e) street name signage;
  - (f) traffic control signage.

### **Driveway Crossings**

- 18** The owner shall construct all necessary driveway crossings in accordance with the requirements of the Highway Access Bylaw and the standards established under section 11 of this bylaw.

### **Stormwater System**

- 19** (1) The owner of lands being subdivided must provide within the subdivision a storm drainage system that is designed and constructed in accordance with the standards established under section 11 of this bylaw.
- (2) As a condition of the approval of subdivision or the issuance of a building permit, the owner must provide an extension of or improvements to the City's storm drainage system within that portion of the highway immediately adjacent to the lands being subdivided or developed, in accordance with the standards established under section 11 of this bylaw, where the Director of Engineering determines that the extension or the improvements are directly attributable to the subdivision or development.
- (3) Except as permitted under sections 34 and 35 of the Plumbing Bylaw, all parcels that are created by subdivision or that are developed shall be connected to the City's storm drainage system by means of a suitably sized connection that is designed and constructed in accordance with the standards established under section 11 of this bylaw.
- (4) With the approval of the Director of Engineering, bare land strata subdivisions may be connected to the City's storm drainage system by means of a single service connection that provides service to the individual strata lots through common property.

### **Water Supply and Fire Control**

- 20** (1) The owner of land being subdivided must provide within the subdivision, a water distribution system and a fire hydrant system that shall be designed and constructed in accordance with the standards established under section 11 of this bylaw.
- (2) As a condition of the approval of subdivision or the issuance of a building permit, the owner must provide an extension of or improvement to the City's water system and fire hydrant system within that portion of the highway immediately adjacent to the lands being subdivided or developed, in accordance with the standards established under section 11 of this bylaw, where the Director of Engineering determines that the extension or the improvements are directly attributable to the subdivision or development.
- (3) All parcels shall be connected to the City's water system by means of a suitably sized connection that is designed and constructed in accordance with the standards established under section 11 of this bylaw.
- (4) With the approval of the Director of Engineering, bare land strata subdivisions may be connected to the City's water system by means of a single service connection that provides water to the individual strata lots through common property.

### **Sanitary Sewer**

- 21** (1) The owner must provide within a subdivision, a sanitary sewer system that is designed and constructed in accordance with the standards established under section 11 of this bylaw.
- (2) As a condition of the approval of subdivision or the issuance of a building permit, the owner must provide an extension of or improvements to the City's sanitary sewer system within that portion of the highway immediately adjacent to the lands being subdivided or developed, in accordance with the standards established under section 11 of this bylaw, where the Director of Engineering determines that the extension or the improvements are directly attributable to the subdivision or development.
- (3) All parcels shall be connected to the City's sanitary sewer drainage system by means of a suitably sized connection that is designed and constructed in accordance with the standards established under section 11 of this bylaw.
- (4) With the approval of the Director of Engineering, bare land strata subdivisions may be connected to the City's sanitary sewer system by means of a single service connection that provides service to the individual strata lots over common property.

### **Other Public Utilities**

- 22** (1) Except as provided in subsection (2), all electrical, telecommunication and cable television services supplied through wires to a subdivision shall be installed underground in ducts, the design and construction of which shall be in accordance with the standards established under section 11 of this bylaw.
- (2) Subsection (1) does not apply within a Detached Dwelling or Attached Dwelling Zone under Part 1 and Part 2 of the City's Zoning Regulation Bylaw No. 80-159, as amended from time to time, in the case of the subdivision of land into two parcels or less, or the development of a single parcel of land, except where electrical, telecommunications and cable television services for adjoining lands are already located underground, and except for the subdivision or development of land adjoining a street classified as an arterial street under the Streets and Traffic Bylaw.

### **Fees and Charges**

- 23** Prior to the Approving Officer's final approval of a subdivision plan, or the issuance of a building permit, the owner must pay all applicable fees and charges, including but not limited to those established under Schedule "A" of this Bylaw.

### **Schedules**

- 24** The following schedules are attached to and form part of this bylaw:

SCHEDULE A: Fees

SCHEDULE B: Supplementary Specifications

SCHEDULE C: Supplementary Specifications for Street Trees and Irrigation

SCHEDULE D: Subdivision and Strata Application Form

SCHEDULE E: Works and Services Agreement

SCHEDULE F: Standard Form for Statutory Right of Way

SCHEDULE G: Contractor's Permit

### **Severability**

- 25** If any section, subsection, clause, sub-clause or phrase of this Bylaw 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 the remaining portions of this Bylaw.

**PART IV - GENERAL****Repeal**

- 26** Bylaw No. 82 - 14 being the "Subdivision By-law, 1982" and amendments thereto, are hereby repealed.

READ A FIRST TIME the **24<sup>th</sup>** day of **May,** 2012

READ A SECOND TIME the **24<sup>th</sup>** day of **May,** 2012

READ A THIRD TIME the **24<sup>th</sup>** day of **May,** 2012

ADOPTED on the **14<sup>th</sup>** day of **June,** 2012

**"ROBERT G. WOODLAND"**  
CORPORATE ADMINISTRATOR

**"DEAN FORTIN"**  
MAYOR