

TOWN OF SIDNEY

BYLAW 1390

A BYLAW TO REGULATE THE SUBDIVISION AND DEVELOPMENT OF LAND, AND TO ESTABLISH A STANDARD OF SERVICES TO BE PROVIDED UPON THE SUBDIVISION AND DEVELOPMENT OF LAND

The Council of the Town of Sidney in open meeting assembled, enacts as follows:

1.0 Citation

This Bylaw may be cited for all purposes as the "**Subdivision and Development Bylaw 1390, 1997.**"

2.0 Definitions

In this Bylaw:

Applicant - means a person who has applied for approval of a subdivision, whether as the owner or as the agent representing the owner of the land.

Approving Officer - means the person appointed by the Council pursuant to section 77 of the *Land Titles Act* as the Approving Officer.

Boulevard - means that part of a highway between the property line and the curb.

Collector Street - means a street designed to carry traffic between local and arterial streets or any other highway.

Cul-de-sac - means a street which terminates with a turning area.

Development - means the subdivision and severance of land, including any improvements that can be made to the land. The use of the term shall be taken to include redevelopment in all cases.

Final Approval - means that approval granted by the Approving Officer when all relevant requirements of this Bylaw, the *Land Titles Act* and other relevant bylaws and legislation have been fulfilled.

Frontage - means the lot line abutting a street.

Frontage Street - means a street which is parallel and adjacent to a major street and which provides access to abutting properties.

Highway - includes a street, road, lane, bridge, viaduct and any other way open to public use, but does not include a private right-of-way on private property.

Lane - means a right-of-way dedicated for secondary access to parcels of land.

Lease, Water - means a lease established by the Crown for tenure of long term use of foreshore and/or submerged land.

Local Street - means a street that provides access to abutting land and carries light traffic volumes with an origin or destination along its length.

Lot, Water - means land designated as a separate and distinct parcel covered by water, legally recorded on a plan or by description filed in the Land Titles Office but excludes a water lease or license granted by the Crown.

Municipal Engineer - means the Director of Engineering and Works of the Town of Sidney or any employee authorized to act on his/her behalf.

Owner - means a purchaser of real property under an unregistered agreement for sale and purchase, a registered owner of an estate in fee simple, a registered owner of a charge, a tax sale purchaser during the redemption period, and includes the Crown, a Crown corporation and the Municipality.

Panhandle - means a relatively narrow strip of land, which is an integral part of the lot, to provide vehicular access to a street.

Parcel - means a lot, block or other area in which land is held or into lands which is subdivided.

Preliminary Plans - means a dimensioned sketch or plan showing the subdivision of land submitted with the application to subdivide.

Preliminary Review - means the review of a subdivision application by the Approving Officer.

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 system having facilities installed in a right-of-way for the purpose of providing a service to property and shall include 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 acquired for public rights of passage with or without vehicles and public utilities, and shall include a Statutory Right-of-Way as defined in the *Land Titles Act*.

Roadway - means the portion of a street that is improved and designed for public use.

Security - means an irrevocable letter of credit, cash or certified cheque.

Service Level - means the standard of works and services required for development of subdivisions.

Subdivision - means the division of land into two or more parcels whether by plan or by descriptive words or otherwise.

Surveyor - means a legal land surveyor licensed and registered to practice in the Province of British Columbia.

Water Course - means any natural drainage course or source of water, whether containing water or not, and includes any lake, river, stream, creek, spring, ravine, swamp, gulch, or source of ground water whether open or enclosed.

Width - means the mean dimension between the side lot lines, excluding access strips of panhandles.

Works and Services - means the roadways, drainage, water and sewer systems, sidewalks, boulevards, street lighting and underground wiring or any other works to be provided for in a subdivision of land under this Bylaw.

Works Inspector - means the Municipal employee authorized by the Director of Engineering and Works to carry out inspections and conduct tests of the works as required in accordance with this Bylaw.

Unless otherwise defined herein, any word or expression in this Bylaw shall have the meaning assigned to it in the *Municipal Act* or the *Land Titles Act* if not defined in the *Municipal Act*.

3.0 General Provisions

3.1 An application to subdivide shall be in the form prescribed in section 5.0.

3.2 The Approving Officer, the Director of Engineering and Works, the Manager of Planning and Building and any Municipal employee acting under the authority of any one of them may, at all reasonable times, enter upon the property for the purpose of administering and enforcing this Bylaw. 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.

4.0 General Parcel Requirements

4.1 No parcel of land in any proposed subdivision shall have less than ten (10%) percent of its perimeter fronting on a street; save and except that the Council may, by an affirmative vote exempt a parcel from this requirement, where in evaluating an application for an exemption, Council may consider the following guidelines:

- (i) further subdivision of the parcel is impracticable;
 - (ii) the parcel is a stage in a land assembly or subdivision process for development encouraged and/or permitted by this Bylaw, as supported by the plan;
 - (iii) the existing parcel or parcels contravene the ten (10%) percent requirement, and proposed subdivision will improve the lot design;
 - (iv) in all other respects the subdivision conforms to this Bylaw, and would not affect the amenity of the surrounding area or compromise the provision of works and services to the parcel.
- 4.3 Every lot in a proposed subdivision having a lot size of five hundred (500) square metres or greater, shall have thereon a building area of nine (9) metres by nine (9) metres.
- 4.4 Any lot in a proposed subdivision shall front on a street for vehicular access except bare land strata and air space parcels which shall only be served by common property.
- 4.5 The Approving Officer may approve a plan of subdivision which creates a parcel or parcels which do not comply with the minimum parcel size provided that the deficient parcel or parcels is for public use.
- 4.6 Where unusual soil or drainage conditions exist or may develop within the land to be subdivided, the applicant may be required to furnish information, or to aid in the gathering of information, that will allow the Approving Officer to determine whether the area, shape and dimensions of parcels are adequate in view of the nature of the ground and the anticipated use of the land.
- 4.7 The location of every existing building and structure on a parcel proposed to be subdivided must be shown on a plan or sketch prepared by a surveyor and the plan or sketch must indicate the distance of each building or structure from proposed parcel boundaries.
- 4.8 Where, on inspection, boundaries cannot be satisfactorily identified, the Approving Officer may require that the applicant have a proposed subdivision staked out on the ground by a surveyor.
- 4.9 Cut-offs are required on corner lots at the point of intersection of the lot lines fronting the two streets. This cut-off shall at a maximum accommodate a radius of ten (10) metres.
- 4.10 The area contained within the access strip of panhandle lots shall not be included in minimum parcel area requirements.
- 5.0 Preliminary Review**
- 5.1 Every application for preliminary review of a subdivision shall be made by the owner or by his/her authorized agent.

- 5.2 All applications shall be submitted on the appropriate forms to the Approving Officer and shall be accompanied by a non-refundable application fee of three hundred (\$300.⁰⁰) dollars for the first new lot being created and one hundred (\$100.⁰⁰) dollars for each additional lot. Upon application three hundred (\$300.⁰⁰) dollars shall be paid and the balance shall be paid at the time of final approval.
- 5.3 An application for a subdivision shall be accompanied by twelve (12) copies of a sketch plan drawn to a scale of 1:500, unless otherwise directed by the Approving Officer, prepared by a surveyor or other qualified person showing the following information:
- (a) the boundaries of all adjacent parcels and the relationship of the proposed subdivision to at least one street intersection;
 - (b) the layout, dimension, and alignment of all parcels and highways;
 - (c) topographical information as required by the Approving Officer;
 - (d) the location, dimension and size of all buildings which will remain after subdivision and plot in all buildings which will be removed prior to final approval of the subdivision;
 - (e) the location, species, drip line and size of all trees protected by the Town of Sidney Tree Preservation Bylaw and successor bylaws, and where required by the Approving Officer the location, species, drip line and size of all mature trees within the area to be subdivided;
 - (f) the location of any water courses within the land to be subdivided;
 - (g) the location of all above-ground and under-ground services, whether existing or proposed by the applicant;
 - (h) the location of all easements, right-of-ways and what they are for.
- 5.4 Where an application for subdivision has been submitted and where further development or subdivision can be anticipated, the Approving Officer shall require a plan of such further subdivision or development, and such plan shall be used for reference at the time future subdivision applications are submitted.
- 5.5 The Approving Officer shall consider the application and shall, in writing, either reject or grant preliminary acceptance to the subdivision. If granted preliminary acceptance the applicant is advised of the conditions that must be satisfied before the subdivision is acceptable.
- 5.6 Preliminary acceptance is valid for a period of six (6) months. If the final approval has not been granted within that period, a further three (3) month extension may be considered by the Approving Officer, otherwise the application must be resubmitted and it shall be considered as a new application subject to any change in conditions, bylaws or policies that may have occurred.
- 5.7 Preliminary acceptance shall not be construed as final approval of a subdivision.

6.0 Design and Installation of Works and Services

- 6.1 Every owner of land proposed for a subdivision shall provide, locate and construct at his/her expense, such highways, sidewalks, boulevards, boulevard crossings, transit bays, street lighting, underground wiring, water distribution system, fire hydrant system, sewage collection system and drainage disposal retention system for the land being subdivided are required by Schedules A through J of this Bylaw.
- 6.2 The owner shall retain, at his own expense, a Professional Engineer who shall design the works and services required in accordance with the terms and conditions as set out in Schedules A through J of this Bylaw.
- 6.3 All works and services required to be installed at the owner's expense under this Bylaw shall be constructed and installed to the standards prescribed under this Bylaw prior to final approval of the subdivision by the Approving Officer, unless the owner of the land:
- (a) deposits within the Municipality security, in a form satisfactory to the Approving Officer, in the amount of one hundred twenty (120%) percent of the estimated cost of the works and services as determined by the Professional Engineer; and
 - (b) enters into a Subdivision Servicing Agreement with the Municipality to construct and install the required works and services by a specified date or forfeit the amount secured by security.
- 6.5 Where water, drainage, or sewage systems required for the subdivision are not within a highway, the owner of the proposed subdivision shall grant to the Municipality a right-of-way acceptable to the Director of Engineering and Works in accordance with the Municipality's standard right-of-way agreement.
- 6.6 Where water, drainage or sewage systems required for the subdivision must cross over privately owned land outside the subdivision, the owner shall be responsible for obtaining the consent of the owner of such land to grant to the Municipality a right-of-way permitting the installation and repair of such services, in accordance with the Municipality's standard right-of-way agreement.

7.0 Final Approval

- 7.1 Final approval shall not be granted until the conditions for the installation of works and services as specified in this Bylaw have been fulfilled.
- 7.2 The plan for subdivision shall conform substantially to the plan granted preliminary acceptance.

7.3 The plan for subdivision shall be accompanied by:

- (a) an examination fee as prescribed by the regulations to the *Land Titles Act*;
- (b) a State of Title Certificate for each parcel of land included in the subdivision;
- (c) an S-1 Form indicating that all property taxes have been paid; and
- (d) six (6) paper prints, a duplicate mylar and a digital exchange format program compatible to autocad at a scale of 1:500.

8.0 Schedules

8.1 The following schedules are attached to and form part of this Bylaw:

SCHEDULE A:	Service Levels
SCHEDULE B:	Master Municipal Specifications and Standard Detailed Drawings
SCHEDULE C:	Standards for Streets
SCHEDULE D:	Standards for Sidewalks and Walkways
SCHEDULE E:	Standards for Sanitary Sewers
SCHEDULE F:	Standards for Storm Sewer Collection Systems
SCHEDULE G:	Standards for Water Distribution System
SCHEDULE H:	Standards for Street Lighting and Underground Wiring
SCHEDULE I:	Special Designated Areas (a) Allbay Road (b) Beaufort Road (c) Orchard Neighbourhood
SCHEDULE J:	Subdivision Servicing Agreement

9.0 Repeal

9.1 Bylaw 746 "Subdivision and Development Bylaw, 1982", and amendments thereto, are hereby repealed.

10.0 Effective Date of Bylaw

Introduced and read a first time the 12th day of May, 1997.

Read a second time the 12th day of May, 1997.

Read a third time the 12th day of May, 1997.

Reconsidered and finally adopted the 26th day of May, 1997.

MAYOR

CLERK