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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 any improvement to residential, commercial, industrial, institutional or municipal lands, highways and rights-of-way, including the construction, alteration or repair of a building pursuant to a Building Permit.

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.
- 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 one (1) year. If final approval has not been granted within that period, a further six (6) 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 as 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; and
 - (c) six (6) paper prints, a duplicate mylar and a digital exchange format program compatible to autocad at a scale of 1:500.
- 7.4 The property owner must provide proof that all assessed property taxes have been paid in full prior to final approval.

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 (d) Resthaven Drive / White Birch Road Area
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

(amendment -01) Bylaw 2062, April 2014

(amendment -02) Bylaw 2076, March 2015

SERVICE LEVELS

CLASSIFICATION**	ZONE	SERVICE LEVELS					
		All Subdivisions					
		Wtr.	Drn.	Swr.	Str.	Lght.	U/W
Single-Family, Two-Family, Single-Family High Density	R1, R1.1, R1.2, R1.3, R2, R3, R4, R5	y	y	y	y*	y*	y
All Others Uses		y	y	y	y	y	y

* These improvements are required on subdivisions creating three (3) lots or more.

** The zone classifications and zoning categories as established in section 3 of Town of Sidney Zoning Bylaw 2015, are applicable in the interpretation of this Bylaw.

Access Requirements for Panhandle Lots

Width of access strip: four point six (4.6) metres except where the access length exceeds thirty seven point five (37.5) metres, the width must be increased to six (6) metres. Where two (2) panhandles lots are being developed together and where access strips are adjoining the minimum width of each access strip can be reduced to three (3) metres provided the Town has an agreement by both parties that rights-of-way will be registered on title as reciprocal rights-of-way on the plan.

Abbreviations

- y - Utility required
- Wtr. - Water
- Drn. - Storm Sewer
- Swr. - Sanitary Sewer
- Str. - Street, includes Sidewalk, Curb and Gutter
- Lght. - Streetlighting
- U/W - Underground Wiring

**MASTER MUNICIPAL SPECIFICATIONS
AND
STANDARD DETAIL DRAWINGS**

1.0 General

Other than herein provided, the specifications and construction of all Municipal infrastructure shall be carried out in conformance with the 1996 edition of Master Municipal Specifications and Standard Detail Drawings.

STANDARDS FOR STREETS

1.0 General

- 1.1 Streets shall be designed in accordance with Ministry of Transportation and Highways Manual for Subdivision Standards, Chapter 1400 Design Manual 1994, except as provided below. Where conflicts arise between the standards of the Ministry of Transportation and Highways and the Master Municipal Specifications and Standards, the specifications and construction standards of Master Municipal Specifications and Standards shall take precedence.

2.0 Design Standards

- 2.1 Collector streets shall have a right-of-way width of twenty (20) metres with a minimum paved roadway width of twelve point one (12.1) metres.
- 2.2 Within the permitted uses under Zoning Bylaw 1300, local streets shall have a right-of-way width of fifteen (15) metres with a minimum paved roadway width of eight point five (8.5) metres for single family uses and eleven (11) metres for multi-family and commercial uses.
- 2.2.1 When local streets extend into a dead end, with no opportunity for further extension and do not exceed a length of ninety (90) metres, the right-of-way may be reduced to ten (10) metres in width with a minimum paved roadway of six (6) metres.
- 2.3 Cul-de-sacs shall be provided with a parking island in the turning area to accommodate street parking with a ratio of one (1) stall for each parcel fronting the turning area where the parcel has an area of less than eight hundred (800) square metres and a curb frontage of less than nine (9) metres.
- 2.4 Intersecting street boundaries shall be provided with a six (6) metre cut-off.
- 2.5 Where an owner is required to construct less than the full designed width of the street, the improvements shall be installed to the centerline of the right-of-way.
- 2.6 Notwithstanding sections 2.1 and 2.2, Special Designated Areas identified in Schedule I shall be designed and constructed as required by the standard for each respective area.
- 2.7 Other than herein provided, streets shall be provided with curb and gutter.
- 2.8 Lanes created at time of subdivision shall be constructed to a minimum paved width of four (4) metres. Any lanes to be used for primary access shall be paved full length from the lot being subdivided to the street.

STANDARDS FOR SIDEWALKS AND WALKWAYS

1.0 General

- 1.1 Walkways and sidewalks shall be provided for pedestrian access to schools, playgrounds, shopping centres, transportation, beaches and/or other community facilities in accordance with the Town of Sidney twenty (20) year plan for sidewalks.

2.0 Design Standards

2.1 Width of Sidewalks

- 2.1.1 Residential sidewalks shall have a minimum width of one point five (1.5) metres and constructed with concrete or exposed aggregate.
- 2.1.2 In areas designated Downtown Commercial in the Official Community Plan, excluding James White Boulevard and Sidney Avenue to the north, and Oakville Avenue to the south, the minimum width of sidewalks shall be two point four (2.4) metres and be constructed with concrete brick pavers.
- 2.1.3 Where walkways or sidewalks are required, the minimum width of walkways shall be two (2) metres, paved and provided with baffles. The minimum width of walkways along the waterfront between Rothesay Road and the southerly Town boundary shall be two point five (2.5) metres, graveled with a statutory right-of- way width of four point six (4.6) metres.

3.0 Fencing

- 3.1 All walkways other than walkways on the waterfront shall be provided with galvanized metal chain link fencing one point two (1.2) metres in height erected on both sides.

STANDARDS FOR SANITARY SEWERS

1.0 General

- 1.1 A sanitary sewer collection and disposal system, complete with service connections, shall be installed by the owner to service all lots being created by the subdivision and shall connect to the Municipal sewer system.
- 1.2 No subdivision shall be approved until the Director of Engineering and Works has confirmed to the Approving Officer that the parcels to be created can be serviced by the Municipal sewer system.
- 1.3 Only approved P.V.C. pipe will be considered for use in the sanitary sewer system.

2.0 Design Criteria

	Per Capita Water Use (lpd¹)
Average Day	455
Maximum Day	1,140
Peak Hour	1,700
	Flow (l/ha/d²)
Commercial	56,170
Industrial	33,700

¹ lpd - litres per day

² l/ha/d - litres per hectare per day

STANDARDS FOR STORM SEWER COLLECTION SYSTEMS

1.0 General

- 1.1 The storm sewer collection and disposal system shall consist of an enclosed system installed by the owner, complete with service connections and catch basins to serve all parcels and streets being serviced by the subdivision at a depth and capacity to serve the subdivision. The system shall discharge to a watercourse, ditch or enclosed Municipal storm sewer system acceptable to the Approving Officer and in compliance with the Regulation and Protection of Natural Water Courses, Ditches and Drains Bylaw.
- 1.2 Any watercourse flowing through the subdivision shall be enclosed, unless:
- (a) the pipe size will exceed ninety (90) centimetres; and
 - (b) a covenant will be registered against the title to ensure no structure will be constructed within seven point five (7.5) metres from the natural boundary of the watercourse.
- 1.3 The surface water from adjoining lands or from the land being subdivided shall be maintained naturally along the existing ground surface or, if concentrated or altered in any way, shall be intercepted and connected to an acceptable enclosed drain system.

2.0 Design Criteria

<u>Land Use Category</u>	<u>Run-Off Coefficient</u>
Single Family Residential	0.55
Medium Density Multi-Family Residential	0.65
High Density Multi-Family Residential	0.85
Commercial	0.95
Industrial	0.95
Institutional	0.80
Harbour Road Marine	0.80
Neighbourhood Commercial	0.85
Parks and Open Space	0.30
Rainfall - 1 in 10 year	34.01 mm

3.0 Surcharging

On-site storm water detention facilities will be required where lack of capacity in existing municipal infrastructure, as determined by the Director of Engineering, requires that increased run-off from development be detained. The Town may require the property owner to complete a drainage study. The design of an on-site system must be confirmed by data and analysis undertaken by the property owner. If required, on-site storm water detention facilities shall be designed to ensure that discharge to the storm sewer will not exceed pre-development run-off for a one (1) in ten (10) year frequency storm event. Storage capacity shall be designed to contain up to a one (1) in one hundred (100) year storm event. In the design, consideration will be given to how storm waters are to be handled in any storm event exceeding one (1) in one hundred (100) year intensity.

STANDARD FOR WATER DISTRIBUTION SYSTEM

1.0 General

1.1 Each parcel shall be connected to the Municipal water system.

2.0 Design Standard

2.1 The location of watermains and appurtenances shall be within the street right-of-way unless approved by the Director of Engineering and Works.

2.2 A fire hydrant shall be provided within ninety (90) metres of any parcel in a residential subdivision and within forty-five (45) metres of any parcel in any other type of subdivision.

2.3 Face of hydrants shall be located zero point four five (0.45) metres behind the back of curb in a boulevard or zero point four five (0.45) metres behind the back of a monolithic curb, gutter and sidewalk. Hydrants shall be located at or near a street intersection or if impractical, on the projection of a property line dividing two (2) properties.

2.4 Each parcel shall have a water meter approved by the Town of Sidney.

2.5 Only approved P.V.C. pipe will be considered for use in the Municipal Water Distribution System.

3.0 Design Criteria

Per Capita Water Use	
Criteria	Per Capita Water Use (lpcd¹)
Average Day	455
Maximum Day	1,140
Maximum Hour	1,700

¹ lpcd - litres per capita per day

Required Fire Flows	
Zone	Required Fire Flows (lpm²)
Mobile Home	3,640
Single Family	3,640 to 4,550
School	5,460
Duplex	9,100
Industrial	13,640
All other Multi-Family and Commercial	15,910

² lpm - litres per minute

The system shall be capable of providing these flows and maintaining a one hundred thirty-eight (138) kPa residual during maximum day demand.

STANDARDS FOR STREET LIGHTING AND UNDERGROUND WIRING

1.0 General

1.1 Street lighting shall be provided along all streets within the subdivision.

1.2 Illumination shall be provided along all walkways within the subdivision.

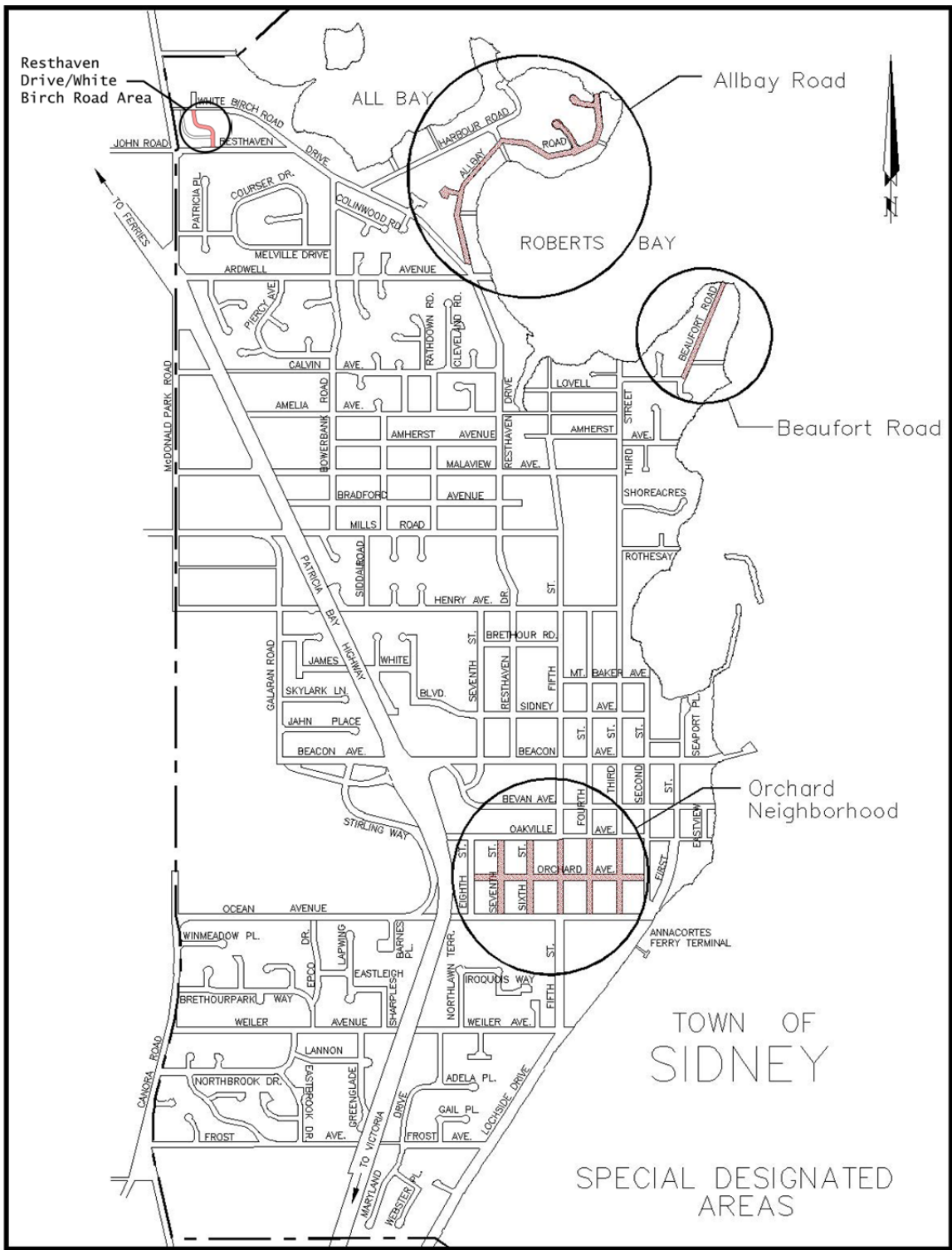
2.0 Design Standard

2.1 Illumination and mounting heights of exterior light fixtures shall be carried out in conformance with the Town of Sidney Municipal Outdoor Lighting Standards.

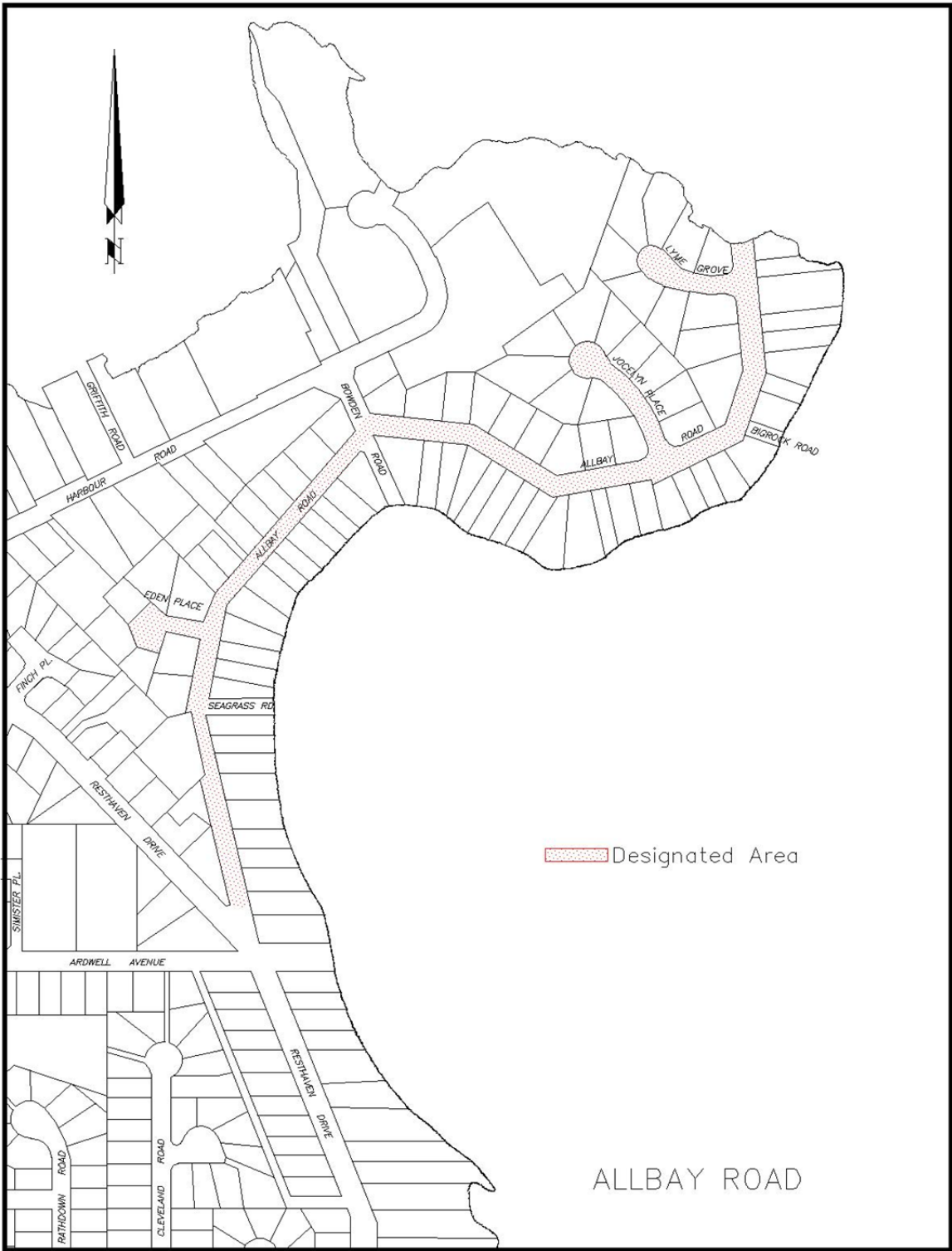
2.2 Light fixtures along streets and walkways within the Commercial, Commercial Sub-Area I, and the waterfront shall be Victorian Pericline Series 74000.

2.3 Light fixtures along the waterfront walkway shall not exceed one thousand one hundred 1,100 millimeters in height and shall be incorporated into the retaining wall or as a part of an ornamental feature.

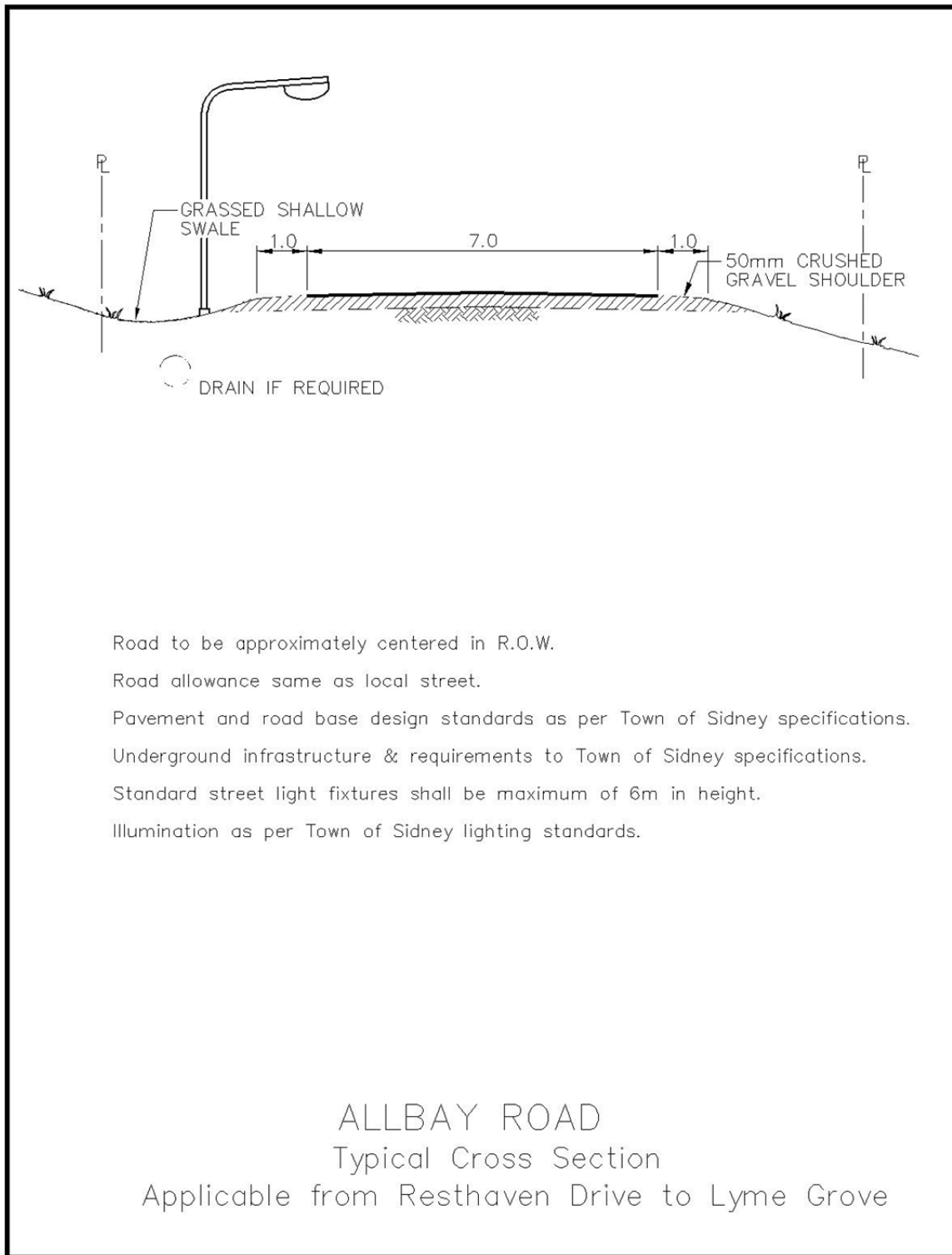
2.4 All services shall be underground.



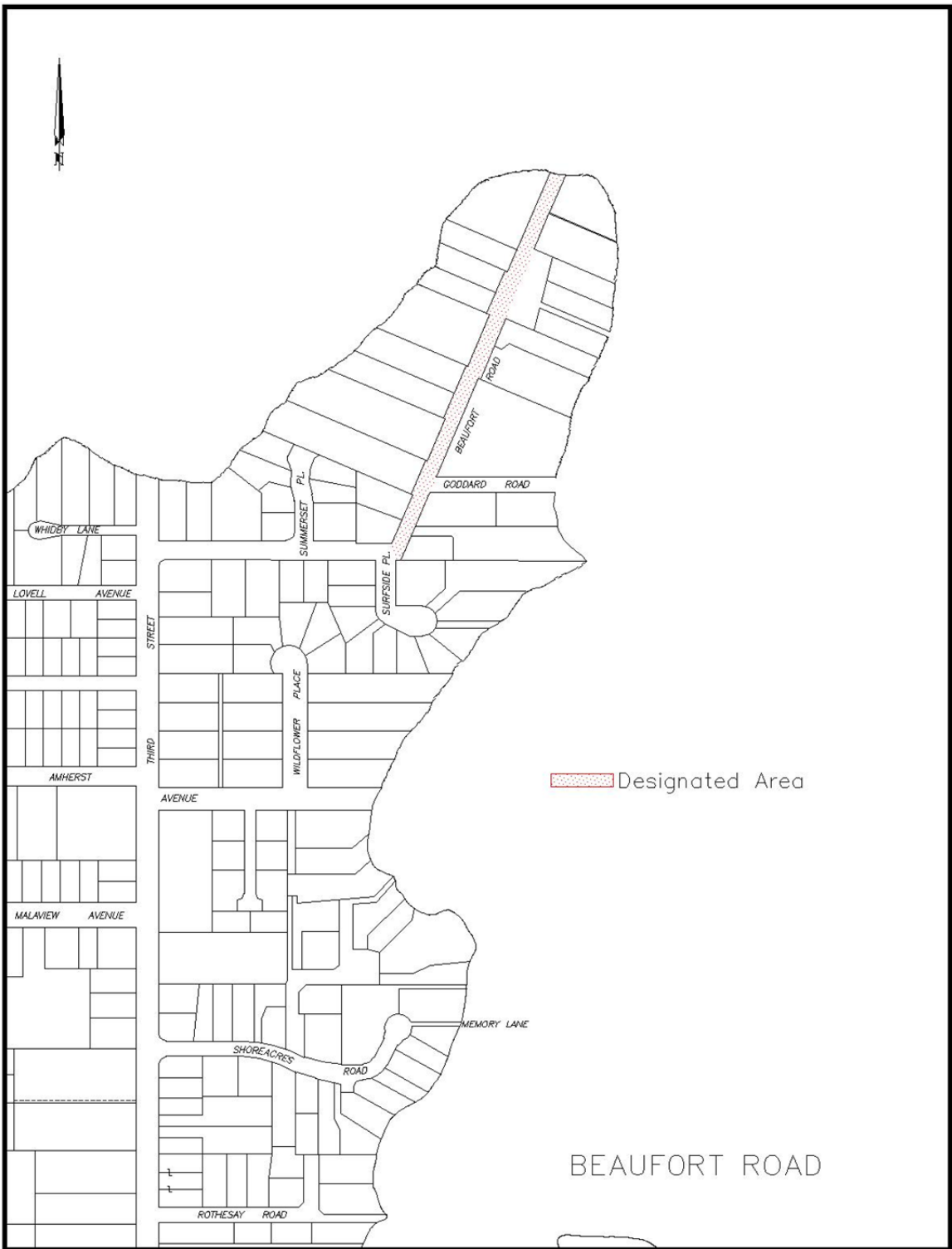
Schedule 1



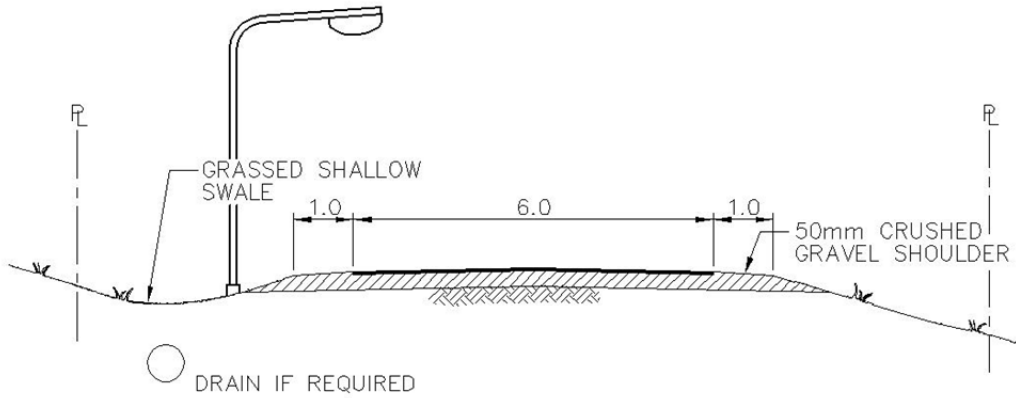
Schedule I (a) (1)



Schedule I (a) (2)



Schedule I (b) (1)



Road to be approximately centered in R.O.W.

Road allowance same as local street.

Pavement and road base design standards as per Town of Sidney specifications.

Underground infrastructure & requirements to Town of Sidney specifications.

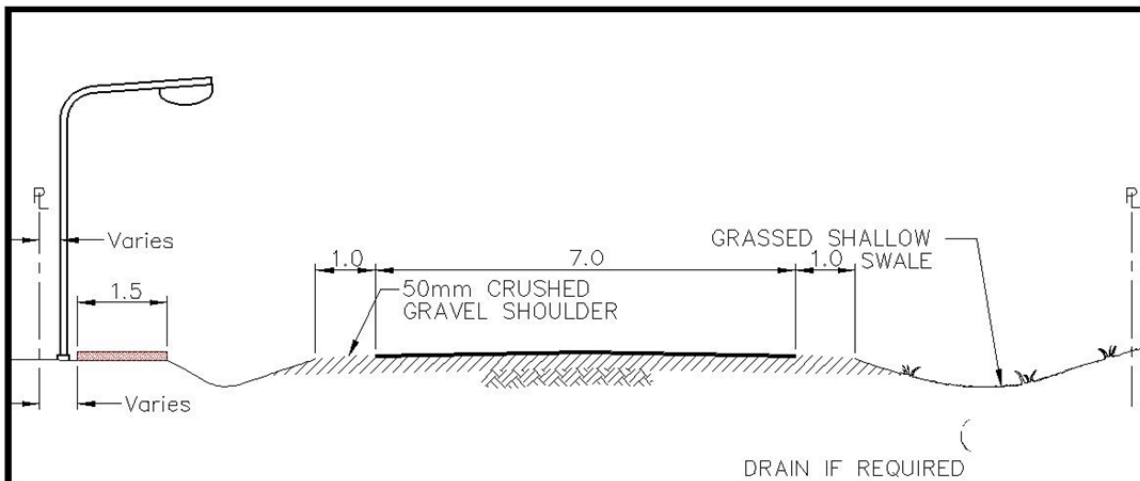
Standard street light fixtures shall be maximum of 6m in height.

Illumination as per Town of Sidney lighting standards.

BEAUFORT ROAD
 Typical Cross Section
 Applicable from Surfside Drive , North to End



Schedule I (c) (1)



Road to be approximately centered in R.O.W. . . . Except for Fifth Street being an arterial street, the road allowance shall remain the same as presently dimensioned on existing registered legal plans.

Pavement and road base design standards as per Town of Sidney specifications.

Underground infrastructure & requirements to Town of Sidney specifications.

Standard street light fixtures shall be maximum of 6m in height.

Light fixtures shall be Ornamental Cobra Head.

Illumination as per Town of Sidney lighting standards.

Concrete sidewalk where applicable to be located in boulevard.

Lanes used as primary access shall have a paved width of 4m.

Lanes used as secondary access shall have a gravel width of 4m.

ORCHARD NEIGHBOURHOOD AREA

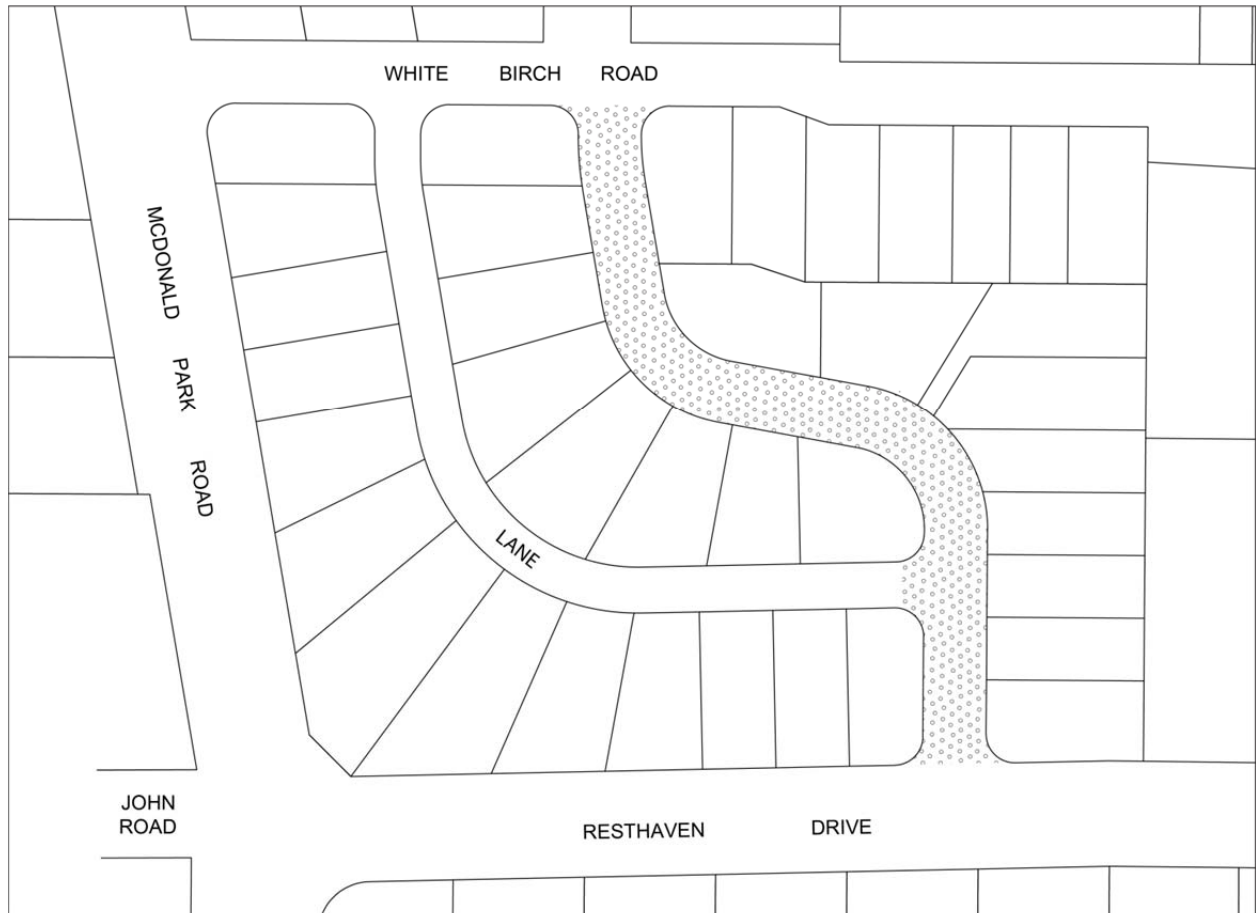
Typical Cross Section

Between Oakville Avenue and Ocean Avenue

Eighth Street to Second Street

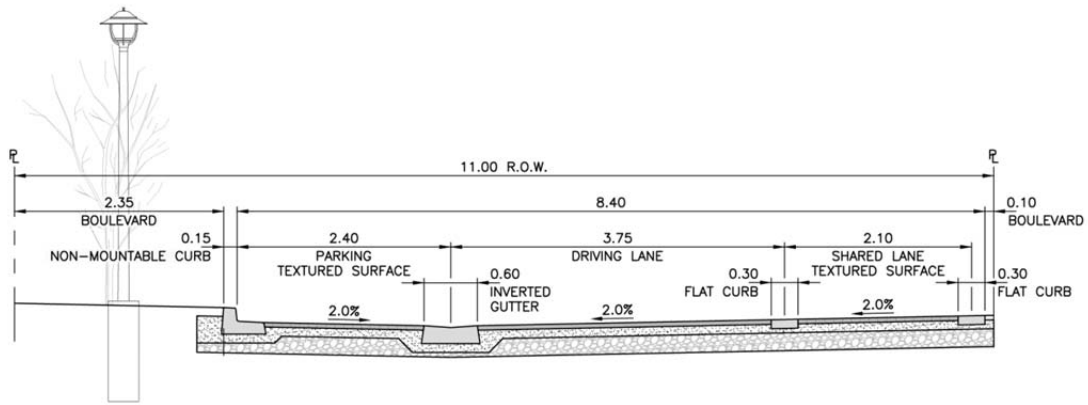
Schedule I (c) (2)

Schedule I (d) (1)
RESTHAVEN DRIVE / WHITE BIRCH ROAD AREA



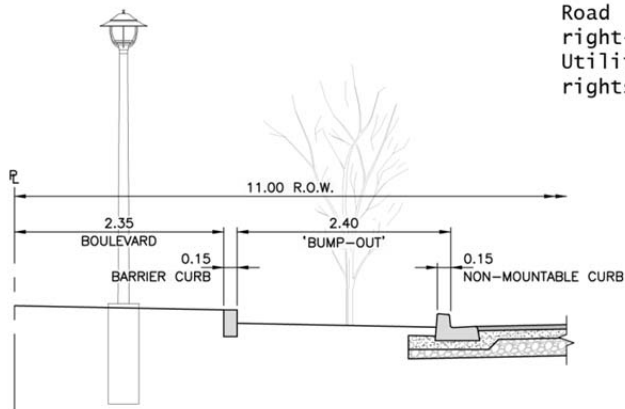
 Designated Area

Schedule I (d) (2)
 RESTHAVEN DRIVE / WHITE BIRCH ROAD AREA



**TYPICAL ROAD CROSS SECTION
 11.0m R.O.W. WITH INVERTED CROWN – 8.4m ROADWAY**

Road placement optimized within right-of-way to accommodate utilities. Utility easements or statutory rights-of-way required as necessary.



SECTION AT CURB 'BUMP-OUT'

SUBDIVISION SERVICING AGREEMENT

THIS AGREEMENT made the _____ day of _____, 199 ____.

BETWEEN:

TOWN OF SIDNEY
2440 Sidney Avenue
Sidney B.C. V8L 1Y7

(the "Municipality")
OF THE FIRST PART

AND:

(name of owner)
(address of owner)

(the "Owner")
OF THE SECOND PART

WHEREAS the Owner desires to subdivide lands within the Municipality, more particularly known and described as:

Parcel Identifier: _____

Lot _____, Block _____, District Lot _____, North Saanich District, Plan _____

(the "Land")

AND WHEREAS the Owner, as a condition of subdivision approval, is required under the Subdivision and Development Bylaw of the Municipality (the "Subdivision Servicing Bylaw") to construct certain works and services (the "Works") as more particularly described in Appendix "A" annexed hereto;

AND WHEREAS the Owner has requested subdivision approval of the Lands prior to construction and installation of the Works and is agreeable to entering into an Agreement pursuant to section 991 of the *Municipal Act* and to deposit a security herein specified;

NOW THIS AGREEMENT WITNESSETH that in consideration of the premises and in consideration of the Agreement by the Municipality to approve the subdivision plan prior to completion of the construction of the Works, the Municipality and the Owner herein covenant and agrees as follows:

1. **Definitions** - In this Agreement

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

Complete or **Completion** or any variation of these words when used with respect to the Works - shall mean completion to the satisfaction of the Municipal Engineer when so certified by him in writing.

Director of Engineering and Works - means the person appointed by Council pursuant to section 251 of the *Municipal Act* as the Engineering Director of the Municipality and his duly authorized assistants and such consulting or professional engineers as may be appointed to act for the Municipality.

Owner's Engineer - means the Professional Engineer whom the developer has engaged to carry out surveys, design, field inspection and preparation and certification of as built drawings.

2. The Owner shall complete the Works to the satisfaction of the Director of Engineering and Works by the _____ day of _____, 199__.
3. As security for the due and proper performance, during the construction period, all of the covenants, terms and conditions in this Agreement and the subdivision contemplated, the Owner has deposited with the Municipality:
 - (a) cash or certified cheque in the amount of \$ _____ as a Security within the meaning of section 991(a) of the *Municipal Act* (the "Security"); or,
 - (b) an irrevocable Letter of Credit in the amount of \$ _____ bearing the date herewith, a copy of which is attached hereto (the "Security") to be valid for a period of _____ () months from the date specified in paragraph 2 hereof, PROVIDED HOWEVER, that the Municipality shall be at liberty to make demands on this Letter of Credit at any time after the date hereof with the Owner being entitled to renew this Agreement as hereinafter provided if such Letter of Credit shall not have been demanded upon in the manner hereinafter provided and provided also that the amount of such Security may be reduced at any time with approval of the Municipality.
4. The Construction Period shall terminate upon the issuance of an approved Construction Completion Certificate, signed by the Director of Engineering and Works, which has no deficiencies to be completed or corrected. The Maintenance Period shall terminate upon issuance of an approved Final Acceptance Certificate, signed by the Director of Engineering and Works, which has no deficiencies to be completed or corrected.
5. The Owner agrees that if the Works are not completed pursuant to paragraph 2 hereof, the Municipality may complete the Works, at the cost of the Owner, and for that purpose may draw down upon the Security the full amount of such Security and should there be insufficient monies contained in the Security, the Owner shall pay the balance of such insufficiency forthwith upon invoice therefore or should the Owner complete the Works or should the completion of the Works cost less than the amount of the Security the Security or such part thereof shall be returned by the Municipality to the Owner. The cost of the Works shall include the actual cost of construction and installation thereof plus engineering, supervision, legal survey, and other costs in connection therewith, together with an administration fee of fifteen (15%) percent of such costs which shall be payable to the Municipality. It is understood that the Municipality may do such work either by itself or by contractors employed by it.
6. The Owner shall complete the Works to the standards set out in the Subdivision Servicing Bylaw and to the approval of the Director of Engineering and Works. Should such Works prove to be in any way defective or not operate, then the Owner shall, at its expense, modify and reconstruct the Works so that they shall be fully operative and function to the satisfaction of the Director of Engineering and Works, such satisfaction is to be indicated by a Construction Completion Certificate signed by the Director of Engineering and Works.

7. The Owner covenants and agrees to comply with the provisions of all Municipal bylaws throughout the construction of the Works. In the event that any material or debris should be left upon any road after the construction of the Works, the Owner covenants and agrees that the Municipality may forthwith remove of such material or debris at the expense of the Owner, the cost of such removal to be determined by the Director of Engineering and Works. In the event that any invoice of the Municipality for the removal of such material or debris shall remain unpaid after thirty (30) days of receipt of the same by the Owner, the Municipality is authorized to deduct the amount of such invoice from the Security.
8. The Owner shall, at all times in connection with the Works, keep and employ a competent general superintendent with the authority to act on behalf of the Owner and capable of speaking, reading, and writing the English language and any explanations, orders, instructions, directions and request given by the Municipality to such superintendent shall be held to have been given to the Owner.
9. Where the installation of the Works will result in the temporary disruption of Municipal or non-Municipal services to surrounding residents (e.g. sewer, water, road access, electricity, telephone, etc.) the Owner will notify the affected residents at least twenty-four (24) hours in advance so as to reduce any inconvenience. The timing of the advance notification shall be extended when the length of the disruption will be longer than three (3) hours.
10. The Owner covenants and agrees to comply with any changes in subdivision requirements or standards established by bylaw prior to the substantial commencement upon the said lands of the Works contemplated by this Agreement.
11. The Owner covenants and agrees to the following conditions of maintenance and final acceptance:
 - (a) The Owner shall, upon being satisfied that all of the requirements of the Director of Engineering and Works are met, submit to the Director of Engineering and Works four (4) copies of a Construction Completion Certificate signed by the Owner's Engineer for each of the following utilities installed:
 - (i) sanitary sewer
 - (ii) waterworks
 - (iii) sewer and water lot service laterals
 - (iv) street lighting

The Director of Engineering and Works shall, within one (1) month of receipt of the Construction Completion Certificate, inspect the Work with representatives of the Owner and his Engineer.

- (b) If the inspection shows to the satisfaction of the Director of Engineering and Works that the utility or improvement is complete, the Director of Engineering and Works shall sign the Construction Completion Certificate and shall indicate thereon the date when the Owner shall cease to be responsible for maintenance. If, however, defects or deficiencies are apparent to the Director of Engineering and Works in the utility or improvements, the Certificate will be returned to the Owner unsigned with a report of the defects.
- (c) After the issuance of the Construction Completion Certificate the Owner shall be responsible for any and all repairs and replacements to any utilities and improvements which may become necessary from any cause whatever, up to the end of the maintenance periods mentioned in the said Construction Completion Certificate.

- (d) If during the Construction Period or Maintenance Period any defects become apparent in any of the utilities or improvements installed or constructed and the Director of Engineering and Works requires repairs or replacements to be done, the Owner shall, within a reasonable time after notice cause such repairs or replacements to be done and if the Owner defaults, or any emergency exists, the Director of Engineering and Works may have the repairs or replacements carried out and the Municipality may recover the cost from the Owner or from the Security.
- (e) The Owner will, from the date of the Construction Completion Certificate, flush and clean out the sanitary sewers as required in ordinary maintenance procedures. The cost of removing obstructions caused by gravel, rocks or silt which other than that deposited from sewage, shall be borne by the Owner. All blocked sewers attributable to faulty construction shall be corrected at the expense of the Owner. Prior to the issuance of the Final Acceptance Certificate, the Director of Engineering and Works may carry out, at the cost of the Municipality, a television survey of all sanitary and storm sewer lines which are to be accepted by the Director of Engineering and Works. Should the television survey show any defects these are to be remedied by the Owner and the Owner shall carry out, at his cost, any further television surveys necessary to show proof that defects are corrected. The Director of Engineering and Works will not issue a Final Acceptance Certificate until he is satisfied that defects are remedied.
- (f) The Owner shall be responsible for adjusting all hydrants, hydrant and main valve boxes and all service valves and appurtenances in operating condition until such time as the Director of Engineering and Works issues a Final Acceptance Certificate for the Works.
- (g) Maintenance, without limiting the generality of the term, for which the Owner shall be responsible, includes:
 - (i) failure of, or damage to, underground utilities resulting from defective materials or improper installation;
 - (ii) settlement of culverts or ditches;
 - (iii) grading, gravelling, repairs and/or replacement of road and lane surfaces including access roads;
 - (iv) adjustments and repairs to water mains, main valves, water hydrants, hydrant valves, service lines and valves and valve operating mechanisms including the casing enclosing these mechanisms;
 - (v) repairs, replacements and adjustments to sewer mains, sewer services, manhole frames and covers;
 - (vi) repairs, replacements and adjustments to street lighting fixtures and appurtenances.
- (h) The Owner agrees that maintenance is a continuous operation which shall be carried on until the date of issuance of the Final Acceptance Certificate for each and every utility, and no releases from liability of any kind will be given until all repairs or replacements required by the Director of Engineering and Works in final inspection reports have been made.
- (i) The Owner shall maintain each of the following utilities for the periods listed below from the date(s) shown in the Construction Completion Certificate(s):

Sanitary sewer lines, laterals, manholes, manhole frames and covers	one (1) year
Storm drainage systems, curb and gutter and catchbasins	one (1) year
Water mains, laterals, valves and hydrants	one (1) year
Road, lanes, and sidewalks	one (1) year
Landscaping	two (2) full growing seasons
Street lighting system	one (1) year
Underground works related to any and all non-Municipal utility companies	one (1) year

The above dates may be extended by the Director of Engineering and Works when compaction test results or other documented observations indicate substandard construction.

- (j) Two (2) months before expiration of the period specified in paragraph 11(i) above for each of the utilities or improvements, or earlier if weather conditions dictate, the Owner's Engineer, following a complete inspection of the utility or improvement accompanied by his Contractor, shall correct all defects not due to damage and other causes. For each utility, four (4) copies of the Final Acceptance Certificate, duly signed by the Owner's Engineer will then be submitted to the Director of Engineering and Works.
 - (k) After receipt of the Final Acceptance Certificate, the Director of Engineering and Work shall make an inspection within one (1) month of the receipt thereof, if weather conditions permit a proper inspection. If the inspection shows to the satisfaction of the Director of Engineering and Works that the utility of improvement is acceptable, the Director of Engineering and Works shall approve the Final Acceptance Certificate. If, however, defects or deficiencies are apparent to the Director of Engineering and Works in the utility or improvement, the Final Acceptance Certificate will be returned to the Owner unsigned with a report of the defects and deficiencies shall be corrected by the Owner at his own expense.
 - (l) Should the Owner fail to correct deficiencies or defects listed or pay for any damage resulting therefrom, the Municipality may deduct the cost of completing the Works, correcting deficiencies or defects, or paying the damage from the Security referred to in paragraph 3 hereof.
12. The Owner shall submit to the Municipality final record drawings, including two (2) sets of prints and one (1) set of mylar transparencies of the Works as constructed and as approved by the Director of Engineering and Works. As well:
- (a) The Owner agrees to pay all arrears or taxes outstanding against the property herein described before approval of any subdivision plans.
 - (b) The Owner further undertakes to pay all current taxes levied on the said lands on the basis and in accordance with Assessment and Collector's roll entries.
 - (c) In addition to the Security referred to in paragraph 3 hereof, the Owner agrees to pay to the Municipality all inspection fees, administration fees, engineering fees, non-refundable levies and charges and legal costs incurred by the Municipality directly attributable to this Agreement and the cost of connecting all utilities to service the subdivision of the Lands contemplated by this Agreement.

13. The Owner covenants to save harmless and effectually indemnify the Municipality against:
 - (a) All actions and proceeding costs, damages, expenses, claims and demands whatsoever and by whomsoever brought by reason of the subdivision and the construction and installation of the Works.
 - (b) All expenses and costs which may be incurred by reason of this Agreement resulting in damage to any property owned in whole or in part by the Municipality or which the Municipality by duty or custom is obliged, directly or indirectly, in any way or to any degree, to construct, repair or maintain; and
 - (c) All expenses and costs which may be incurred by reason of liens or non-payment of labour or material, Workers' Compensation Board assessments, unemployment insurance, or Federal or Provincial Tax.
14. The Municipality covenants and agrees with the Owner to permit the Owner to perform the Works upon terms and conditions herein contained.
15. The Municipality covenants and agrees that upon satisfactory completion by the Owner of all covenants and conditions in this Agreement, and without limiting the generality of the foregoing, including maintenance of the Works constructed pursuant to this Agreement and keeping the same in complete repair for a period of time as specified in paragraph 10 hereof, to provide the Owner with a Final Acceptance Certificate for the Works, signed by the Director of Engineering and Works.
16. The Owner covenants and agrees that the Municipality may withhold the granting of an occupancy permit for the occupancy or use of any building or part thereof constructed upon the Lands until all Works herein have been completed to the satisfaction of the Director of Engineering and Works, as evidenced by the Construction Completion Certificate provided to the Owner by the Director of Engineering and Works.
17. It is understood and agreed that the Municipality has made no representations, covenants, warranties, guarantees, promise or agreements with the Owner other than those in this Agreement.
18. Wherever the singular or the masculine are used in this Indenture, the same shall be construed as meaning the plural or the feminine or body corporate or politic where the context or the parties hereto so require.
19. If any section, or lesser portion of this Agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the invalidity of such section or portion shall not affect the validity of the remainder.
20. Time is of the essence of this Agreement.
21. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective heirs, executors, administrators and assigns.
22. The Works required to be constructed pursuant to provisions of this Agreement shall, upon issuance of the Final Acceptance Certificate, become the property of the Municipality free and clear of any claim by the Owner or any person claiming through the Owner.

IN WITNESS WHEREOF the parties have set their hands and seals and caused their corporate seals to be affixed in the presence of their duly authorized officers as of the day and year first above written.

The Corporate Seal of the Town of Sidney)
was hereto affixed in the presence of:)
)
)
)
_____)
Mayor)
)
)
_____)
Clerk)
)

c/s

The Corporate Seal of _____)
was hereto affixed in the presence of:)
)
)
)
_____)
Authorized Signatory)
)
)
_____)
Authorized Signatory)
)

c/s

WORKS AND SERVICES CHECKLIST

The Owner undertakes to provide, construct and install the following works and services, at the location shown and in accordance with the approved design and specifications shown in engineering drawings no. _____ and in compliance with the design criteria and specifications of the Subdivision Servicing Bylaw.

Wherever in this Agreement the approved design and specifications are in conflict with the standards and requirements set out in the Subdivision Servicing Bylaw, the Subdivision Servicing Bylaw shall govern; provided that, where the approved design and specifications are to a standard greater than, higher than or more onerous than the standards and requirements of the Subdivision Servicing Bylaw they shall not be deemed to be in conflict, and the approved design and specifications shall govern.

CONSTRUCTION COMPLETION CERTIFICATE

SUBDIVISION: Lot _____ Block _____ Section _____ North Saanich District
Plan _____ Parcel Identifier _____

WORKS: _____

OWNER: _____

CONTRACTOR: _____

This Construction Completion Certificate does not constitute a certificate of any work not in accordance with the applicable requirements of the Subdivision Servicing Bylaw No. 1390 (and not listed as a deficiency on the attached list) whether or not such deficiency or defect could have been observed or discovered during construction.

I, _____ P.Eng., of _____, Certify to the best of my knowledge, information and belief that the Works referred to above have been installed substantially in compliance with the design drawings which were approved by the Town of Sidney and are complete as far as can be practically ascertained. I recommend these Works for acceptance by the Municipality. I undertake to provide detailed "as-constructed" drawings of these Works and will sign and affix my professional seal to these drawings.

Dated this _____ day of _____, 199__ in the Town of Sidney, British Columbia.

Name of Engineer

(Sealed)

Accepted / Rejected on behalf of the Town of Sidney, this _____ day of _____, 199__

Signature of Municipal Official

A list of deficiencies, dated _____ day of _____, 199__ to be completed or corrected is appended hereto.

I certify that the items listed as deficiencies have now been completed or corrected.

Date

Name of Engineer

Accepted:

Date

Signature of Municipal Official

Date Maintenance Period to Expire