

“BUILDING BYLAW 2003 NO. 5693”

Consolidated Version

Includes Amendments:

5724 (2004-SEP-21); 5693.02 (2006-AUG-17); 5693.03 (2011-AUG-22), 5693.04 (2012-APR-16)

CITY OF NANAIMO

BYLAW NO. 5693

A BYLAW TO PROVIDE FOR THE ADMINISTRATION OF THE BUILDING CODE

WHEREAS section 694 (1) of the *Local Government Act* authorizes the Municipality, for the health, safety and protection of persons and property, to regulate the construction, alteration, repair, or demolition of buildings and structures by bylaw;

AND WHEREAS the Province of British Columbia has adopted a Building Code to govern standards in respect of the construction, alteration, repair and demolition of buildings in municipalities and regional districts in the Province;

AND WHEREAS it is deemed necessary to provide for the administration of the *Building Code*;

NOW THEREFORE THE COUNCIL OF THE CITY OF NANAIMO, in open meeting assembled, enacts as follows:

1. Title

This bylaw may be cited for all purposes as "BUILDING BYLAW 2003 NO. 5693".

2. Definitions

The following words and terms have the meanings set out in Section 1.1.3.2 of the British Columbia *Building Code*: assembly occupancy, building, building area, building height, business and personal services occupancy, care or detention occupancy, constructor, coordinating registered professional, designer, field review, high hazard industrial occupancy, industrial occupancy, low hazard industrial occupancy, major occupancy, mercantile occupancy, medium hazard industrial occupancy, occupancy, owner, registered professional, and residential occupancy.

"BUILDING CODE"

means the British Columbia *Building Code 1998* as adopted by the Minister pursuant to section 692 (1) of the *Local Government Act*, as amended or re-enacted from time to time.

“BUILDING ENVELOPE
PROFESSIONAL (BEP)”

means a member of the Architectural Institute of British Columbia or the Association of Professional Engineers and Geo-scientists of British Columbia who has:

- (a) completed a program in building envelope studies offered by that Institute or that Association;
- (b) not less than five years of previous working experience in the design of building envelopes and field review of building envelope construction;
- (c) not less than one year of previous working experience in the design of building envelopes and field inspection of building envelope construction in the Province of British Columbia; and,
- (d) provided to the Manager of Building Inspectors documentary proof of the completion of the program referred to in subsection (a) and the design and supervision experience referred to in subsections (b) and (c).

“BUILDING OFFICIAL”

means the person or persons appointed from time to time by the Council as the Manager of Building Inspection and includes duly authorized delegates.

“COMPLEX BUILDING”

means:

- (a) all buildings used for major occupancies classified as
 - (i) assembly occupancies,
 - (ii) care or detention occupancies,
 - (iii) high hazard industrial occupancies; and,
- (b) all buildings exceeding 600 square meters in building area or exceeding three storeys in building height used for major occupancies classified as
 - (i) residential occupancies,
 - (ii) business and personal services occupancies,
 - (iii) mercantile occupancies,
 - (iv) medium and low hazard industrial occupancies.

“HEALTH AND SAFETY

means design and construction regulated by Part 3, Part 4, and sections 9.4, 9.8, 9.9, 9.10, 9.12, 9.14,

ASPECTS OF THE WORK”	9.15, 9.17, 9.18, 9.20, 9.21, 9.22, 9.23, 9.24, 9.31, 9.32, and 9.34 of Part 9 of the <i>Building Code</i> .
“MUNICIPAL ENGINEER”	means the person duly appointed as Director of Engineering and Public Works by Council and includes any person appointed or designated by the Director to act on his behalf.
“CERTIFICATE OF OCCUPANCY”	means an <i>Occupancy Permit</i> as defined by the <i>Local Government Act</i> and the <i>Building Code</i> issued pursuant to this bylaw.
“STANDARD BUILDING”	means: (a) a building of three storeys or less in building height, having a building area not exceeding 600 square meters and used for major occupancies classified as: (i) residential occupancies, (ii) business and personal services occupancies, (iii) mercantile occupancies, or (iv) medium and low hazard industrial occupancies.
“STRUCTURE”	means any construction, or any production or piece of work artificially built up or composed of parts joined together in some definite matter. That which is built or constructed, an edifice or building of any kind whether fixed to, supported by or sunk into land or water including, combinations of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land, but specifically excludes landscaping, fences, paving and retaining structures less than 1.5 meters in height.
“SWIMMING POOL”	means any structure or construction, intended primarily for recreation that is, or is capable of being, filled with water to a depth of 0.6 metres (2 feet) or more. For the purpose of the definition, a hot tub shall not be considered a swimming pool.
“ZONING BYLAW”	means the Zoning Bylaw of the Municipality in effect from time to time.

3. Purpose of Bylaw

- 3.1 The bylaw shall, notwithstanding any other provision herein, be interpreted in accordance with this section.
- 3.2 This bylaw has been enacted for the purpose of regulating construction within the Municipality in the general public interest. The activities undertaken by or on behalf of the Municipality pursuant to this bylaw are for the sole purpose of providing a limited and interim spot checking function for reason of health, safety and the protection of persons and property. It is not contemplated nor intended, nor does the purpose of this bylaw extend:
- 3.2.1 the protection of owners, owner/builders or constructors from economic loss;
- 3.2.2 the assumption by the Municipality or any building official of any responsibility for ensuring the compliance by any owner, his or her representatives or any employees, constructors or designers retained by him or her, with the *Building Code*, the requirements of this bylaw or other applicable enactments respecting safety;
- 3.2.3 providing any person a warranty of design or workmanship with respect to any building or structure for which a building permit or occupancy permit is issued under this bylaw;
- 3.2.4 providing a warranty or assurance that construction undertaken pursuant to building permits issued by the Municipality is free from latent, or any defects.

4. Permit Conditions

- 4.1 A permit is required whenever work regulated under this bylaw is to be undertaken.
- 4.2 Neither the issuance of a permit under this bylaw nor the acceptance or review of plans, drawings or supporting documents, nor any inspections made by or on behalf of the Municipality shall in any way relieve the owner or his or her representatives from full and sole responsibility to perform the work in strict accordance with this bylaw, the *Building Code* and or other applicable enactments respecting safety.
- 4.3 It shall be the full and sole responsibility of the owner (and where the owner is acting through a representative, the representative) to carry out the work in respect of which the permit was issued in compliance with the *Building Code* and this bylaw or other applicable enactments respecting safety.
- 4.4 Neither the issuance of a permit under this bylaw nor the acceptance or review of plans, drawings or specifications or supporting documents, nor any inspections made by or on behalf of the Municipality constitute in any way a representation, warranty, assurance or statement that the *Building Code*, this bylaw or other applicable enactments respecting safety have been complied with.

- 4.5 No person shall rely upon any permit as establishing compliance with this bylaw or assume or conclude that this bylaw has been administered or enforced according to its terms. The person to whom the building permit is issued and his or her representatives are responsible for making such determination.
- 4.6 Every permit is issued upon the condition that:
 - 4.6.1 construction of a nature significant enough to require an inspection as set out in Section 17 of this bylaw is to be started within six months from the date of issuance of the permit;
 - 4.6.2 construction is not to be discontinued or suspended for a period of more than one year;
 - 4.6.3 the permit shall expire in the event that either of the conditions stated in 4.6.1 or 4.6.2 are not met; and
 - 4.6.4 all permits shall expire after 24 months from the date of issuance, unless the permit has previously expired or the permit has been renewed in accordance with Section 4.7.
- 4.7 Provision for renewal of permits shall be as follows:
 - 4.7.1 every application for permit renewal shall be considered on the basis of the building regulations in effect on the date of the application for renewal;
 - 4.7.2 application for renewal must be made prior to expiry of the original permit;
 - 4.7.3 the permit renewal shall be for the same period as the original permit;
 - 4.7.4 no permit shall be renewed more than once;
 - 4.7.5 an additional fee as set out in "DEVELOPMENT SERVICES DEPARTMENT FEES AND CHARGES BYLAW 1999 NO. 5357" shall be paid for renewal of a permit under the provisions of this Section.
- 4.8 A building permit application shall expire 12 months after the date of application.
- 4.9 The Building Inspector may refuse to issue a permit if:
 - 4.9.1 the information submitted is inadequate to determine compliance with, or is contrary to the provisions of this bylaw or any other enactment;
 - 4.9.2 the information submitted is incorrect; or
 - 4.9.3 in the case of a permit for a building or structure to be used to shelter any human use or occupancy, a certificate of acceptance for the Works and Services required to provide the parcel with water, sanitary and storm drainage services has not been issued by the Municipality.

4.10 The Building Inspector may revoke a permit where:

4.10.1 there is a contravention of any term or condition under which the permit was issued;

4.10.2 there is a contravention of any provision of the *Building Code* or *Plumbing Code*; or

4.10.3 the permit was issued on the basis of incorrect information supplied by the applicant or the Building Inspector determines that the permit was issued in error.

4.11 The owner shall be notified in writing of the revocation.

5. Scope and Exemptions

5.1 This bylaw applies to the design, construction and occupancy of new buildings and structures, and the alteration, reconstruction, demolition, removal, relocation and occupancy of existing buildings and structures.

5.2 This bylaw does not apply to buildings or structures exempted by Part 1 of the *Building Code* except as expressly provided herein, nor to retaining structures less than 1.5 meters in height.

6. Prohibitions

6.1 No person shall commence or continue any construction, alteration, reconstruction, demolition, removal, relocation or change the occupancy of any building or structure, including other work related to construction unless a building official has issued a valid and subsisting permit for the work.

6.2 No person shall occupy or use any building or structure unless a valid and subsisting certificate of occupancy has been issued by a building official for the building or structure, or contrary to the terms of any permit issued or any notice given by a building official.

6.3 No person shall knowingly submit false or misleading information to a building official in relation to any permit application or construction undertaken pursuant to this bylaw.

6.4 No person shall, unless authorized in writing by a building official, reverse, alter, deface, cover, remove or in any way tamper with any notice, permit or certificate posted upon or affixed to a building or structure pursuant to this bylaw.

6.5 No person shall do any work that is substantially at variance with the accepted design or plans of a building, structure or other works for which a permit has been issued, unless that variance has been accepted in writing by a building official.

6.6 No person shall obstruct the entry of a building official or other authorized official of the Municipality on property in the administration of this bylaw.

- 6.7 No person shall occupy or use a building following a change in class of occupancy of the building or part of it without first obtaining a Certificate of Occupancy for it.
- 6.8 No person shall repair a building damaged by fire, decay, storm or otherwise to an extent greater than 75 percent of its assessed value above its foundations unless in every respect the whole of the building is made to comply with the *Building Code*.
- 6.9 No person shall continue to construct a building or any portion of it after the Building Inspector has ordered cessation of construction of it or has ordered the suspension of any portion of the construction of it.

7. Building Officials

- 7.1 Each building official may:
 - 7.1.1 administer this bylaw;
 - 7.1.2 keep records of permit applications, permits, notices and orders issued, inspections and tests made, and shall retain copies of all documents related to the administration of this bylaw or microfilm copies of such documents; and
 - 7.1.3 take, or order such action considered necessary in order to establish whether the methods or types of construction and types of materials used in the construction of a building or structure for which a permit is sought under this bylaw substantially conform to the requirements of the *Building Code*.
- 7.2 A building official:
 - 7.2.1 may enter any land, building, structure, or premises at any reasonable time for the purpose of ascertaining that the terms of this bylaw are being observed;
 - 7.2.2 where any residence is occupied, shall obtain the consent of the occupant or provide written notice to the occupant 24 hours in advance of entry; and
 - 7.2.3 shall carry proper credentials confirming his or her status as a building official.
- 7.3 A building official may order the correction of any work that is being or has been done in contravention of this bylaw.

8. Applications

- 8.1 Every person shall apply for and obtain:
 - 8.1.1 a building permit before constructing, repairing or altering a building or structure;
 - 8.1.2 a moving permit before moving a building or structure;
 - 8.1.3 a demolition permit before demolishing a building or structure;
 - 8.1.4 a fireplace and chimney permit prior to the construction of a masonry fireplace or the installation of a wood burning appliance or chimney unless the works are encompassed by a valid building permit.
- 8.2 An application for a moving permit shall be made in the form prescribed by the Municipality.
- 8.3 An application for a demolition permit shall be made in the form prescribed by the Municipality.
- 8.4 An application for a fireplace and chimney permit shall be made in the form prescribed by the Municipality.
- 8.5 All plans submitted with permit applications shall bear the name and address of the designer of the building or structure.

9. Applications for Complex Buildings

- 9.1 An application for a building permit with respect to a complex building shall;
 - 9.1.1 be made in the form prescribed by the Municipality, signed by the owner, agent appointed by the owner, or a signing officer if the owner is a corporation;
 - 9.1.2 be accompanied by the owner's acknowledgement of responsibility and undertakings made in the form prescribed by the Municipality, signed by the owner, agent appointed by the owner, or a signing officer if the owner is a corporation;
 - 9.1.3 include a copy of a title search made within 30 days of the date of the application;

- 9.1.4 include a site plan prepared by a British Columbia Land Surveyor showing:
 - 9.1.4.1 the bearing and dimensions of the parcel taken from the registered subdivision plan;
 - 9.1.4.2 the legal description and civic address of the parcel;
 - 9.1.4.3 the location and dimensions of all statutory rights of way, easements and setback requirements;
 - 9.1.4.4 the location and dimensions of all existing and proposed buildings or structures on the parcel;
 - 9.1.4.5 setbacks to the natural boundary of any lake, swamp, pond or watercourse where the Municipality's land use regulations establish siting requirements related to flooding;
 - 9.1.4.6 the existing and finished grade levels to an established datum at or adjacent to the site and the geodetic elevation of the underside of the floor system of a building or structure where the Municipality's land use regulations establish siting requirements related to minimum floor elevation;
 - 9.1.4.7 the location, dimension and gradient of parking and all driveway accesses; and
 - 9.1.4.8 the building official may waive the requirements for a site plan, in whole or in part, where the permit is sought for the repair or alteration of an existing building or structure.
- 9.1.5 Include floor plans showing the dimensions and uses of all areas: the dimensions and height of crawl and roof spaces; the location, size and swing of doors; the location, size and opening of windows; floor, wall, and ceiling finishes; plumbing fixtures; structural elements; and stair dimensions;
- 9.1.6 Include building elevations and/or sections indicating a geodetic elevation for the building height to a datum established by the requirements of the City of Nanaimo's "ZONING BYLAW 1993 NO. 4000" as amended or replaced;
- 9.1.7 Include a cross section through the building or structure illustrating foundations, drainage, ceiling heights and construction systems;
- 9.1.8 Include elevations of all sides of the building or structure showing finish details, roof slopes, windows, doors, and finished grade;
- 9.1.9 Include cross-sectional details drawn at an appropriate scale and at sufficient locations to illustrate that the building or structure substantially conforms to the *Building Code*;

- 9.1.10 Include copies of approvals required under any applicable enactment relating to health or safety, including, without limitation, sewage disposal permits, highway access permits and Ministry of Health approval;
 - 9.1.11 Include a letter of assurance in the form of Schedule A as referred to in section 2.6 of Part 2 of the *Building Code*, signed by the owner, or a signing officer of the owner if the owner is a corporation, and the coordinating registered professional;
 - 9.1.12 Include letters of assurance in the form of Schedules B-1 and B-2 as referred to in section 2.6 of Part 2 of the *Building Code*, each signed by such registered professionals as the building official or *Building Code* may require to prepare the design for and conduct field reviews of the construction of the building or structure;
 - 9.1.13 Include two sets of drawings at a suitable scale of the design prepared by each registered professional and including the information set out in sections 9.1.5 – 9.1.9 of this bylaw; and,
 - 9.1.14 site servicing drawings, including sufficient detail of off-site services to indicate locations at the property line, prepared and sealed by a registered professional, in accordance with the Municipality's subdivision servicing bylaw.
- 9.2 In addition to the requirements of section 9.1, the following may be required by a building official to be submitted with a building permit application for the construction of a complex building where the complexity of the proposed building or structure or siting circumstances warrant:
- 9.2.1 a section through the site showing grades, buildings, structures, parking areas and driveways; and
 - 9.2.2 any other information required by the building official or the *Building Code* to establish substantial compliance with this bylaw, the *Building Code* and other bylaws and enactments relating to the building or structure.
 - 9.2.3 details of the location, grades and elevations of the streets and public services including sewer and drainage abutting the parcel and showing access to the buildings, parking, driveways, site drainage provisions and finished grades all tied into the Municipality's geodetic monument system;
 - 9.2.4 a plan that shows the location and size of every building drain and of every trap or inspection piece that is on a building drain;
 - 9.2.5 a sectional drawing that shows the size and location of every soil or waste pipe, trap and vent pipe. The plans and specifications shall have on them complete design and calculation criteria so that the Building Official has the information available for examination, and shall bear the name, address and telephone number of the designer;

- 9.2.6 confirmation prepared and sealed by a professional engineer that adequate fire flows are available for the proposed project in conformance with the guidelines contained in the current edition of the Fire Underwriters Survey publication "Water Supply for Public Fire Protection";
 - 9.2.7 details of the design of the environmental separation that demonstrates that the proposed construction conforms to the *Building Code* requirement for restricting entry of rain into the wall assembly and conforms with good practice, such as described in the current editions of the Best Practice Guide developed for Canada Mortgage and Housing Corporation (CMHC) and published as of the date of this bylaw;
 - 9.2.8 certification by a Building Envelope Professional (BEP) that where an existing environmental separation is being repaired, the construction complies with the criteria set out in 9.2.8; and
 - 9.2.9 certification by a Building Envelope Professional (BEP) that where a new building is over 600 square metres, contains more than four residential units or is greater than two stories in building height, excluding pre-engineered steel, tilt up concrete, concrete block, and heavy steel construction, the construction of the environmental separation complies with the criteria set out in Section 9.2.8.
- 9.3 Notwithstanding any other provisions of this bylaw or the *Building Code*, whenever in the opinion of the Building Official the proposed work requires specialized technical knowledge, he may require, as a condition of the issuance of a permit, that all drawings, specifications and plot plans, or any part of them, be prepared, signed and sealed by and the construction carried out under the supervision of an Architect and/or Professional Engineer specializing in the relevant field of design and construction.
- 9.4 The holder of a permit to which Section 9.2.8 or 9.2.9 applies shall ensure that the construction or repair of the environmental separation is supervised by a Building Envelope Professional (BEP). (Bylaw 5724)

10. Applications for Standard Buildings

- 10.1 An application for a building permit with respect to a standard building shall:
 - 10.1.1 be made in the form prescribed by the Municipality, signed by the owner, agent appointed by the owner, or a signing officer if the owner is a corporation;
 - 10.1.2 be accompanied by the owner's acknowledgement of responsibility and undertakings made in the form prescribed by the Municipality, signed by the owner, agent appointed by the owner, or a signing officer if the owner is a corporation;
 - 10.1.3 include a copy of a title search made within 30 days of the date of the application;
 - 10.1.4 include a site plan drawn to scale showing:

- 10.1.4.1 the bearing and dimensions of the parcel taken from the registered subdivision plan;
 - 10.1.4.2 the legal description and civic address of the parcel;
 - 10.1.4.3 the location and dimensions of all statutory rights of way, easements and setback requirements;
 - 10.1.4.4 the location and dimensions of all existing and proposed buildings or structures on the parcel;
 - 10.1.4.5 setbacks to the natural boundary of any lake, swamp, pond or watercourse where the Municipality's land use regulations establish siting requirements related to flooding;
 - 10.1.4.6 the existing and finished ground levels to an established datum at or adjacent to the site and the geodetic elevation of the underside of the floor system of a building or structure where the Municipality's land use regulations establish siting requirements related to minimum floor elevation;
 - 10.1.4.7 the location, dimension and gradient of parking and driveway access; and
 - 10.1.4.8 the building official may waive the requirements for a site plan, in whole or in part, where the permit is sought for the repair or alteration of an existing building or structure.
- 10.1.5 floor plans showing the dimensions and uses of all areas: the dimensions and height of crawl and roof spaces; the location, size and swing of doors; the location, size and opening of windows; floor, wall, and ceiling finishes; plumbing fixtures; structural elements; and stair dimensions;
 - 10.1.6 building elevations and/or sections indicating a geodetic elevation for the building height to a datum established by the requirements of the City of Nanaimo "ZONING BYLAW 1993 NO. 4000" as amended or replaced;
 - 10.1.7 a cross section through the building or structure illustrating foundations, drainage, ceiling heights and construction systems;
 - 10.1.8 elevations of all sides of the building or structure showing finish details, roof slopes, windows, doors, and finished grade;
 - 10.1.9 cross-sectional details drawn at an appropriate scale and at sufficient locations to illustrate that the building or structure substantially conforms to the *Building Code*;
 - 10.1.10 copies of approvals required under any enactment relating to health or safety, including, without limitation, sewage disposal permits, highway access permits and Ministry of Health approval;

- 10.1.11 two sets of drawings at a suitable scale of the design including the information set out in sections 10.1.5 – 10.1.8 of this bylaw.
- 10.2 In addition to the requirements of section 10.1, the following may be required by a building official to be submitted with a building permit application for the construction of a standard building where the project involves two or more buildings, which in the aggregate total more than 1000 square meters, or two or more buildings that will contain four or more dwelling units, or otherwise where the complexity of the proposed building or structure or siting circumstances warrant:
 - 10.2.1 site servicing drawings, including sufficient detail of off and on-site services to indicate locations at the property line, prepared and sealed by a registered professional, in accordance with the Municipality's subdivision servicing bylaw;
 - 10.2.2 a section through the site showing grades, buildings, structures, parking areas and driveways;
 - 10.2.3 architectural, roof plan and roof height calculations;
 - 10.2.4 structural, electrical, mechanical or fire suppression drawings prepared and sealed by a registered professional;
 - 10.2.5 letters of assurance in the form of Schedules B-1 and B-2 as referred to in section 2.6 of Part 2 of the *Building Code*, signed by the registered professional; and
 - 10.2.6 any other information required by the building official or the *Building Code* to establish substantial compliance with this bylaw, the *Building Code* and other bylaws and enactments relating to the building or structure.
 - 10.2.7 details of the location, grades and elevations of the streets and public services including sewer and drainage abutting the parcel and showing access to the buildings, parking, driveways, site drainage provisions and finished grades all tied into the Municipality's geodetic monument system;
 - 10.2.8 a plan that shows the location and size of every building drain and of every trap or inspection piece that is on a building drain;
 - 10.2.9 a sectional drawing that shows the size and location of every soil or waste pipe, trap and vent pipe. The plans and specifications shall have on them complete design and calculation criteria so that the Building Official has this information available for examination, and shall bear the name, address and telephone number of the designer;

- 10.2.10 a survey of the building site undertaken by a registered British Columbia Land Surveyor;
 - 10.2.11 confirmation prepared by a professional engineer that adequate fire flows are available for the proposed project in conformance with the guidelines contained in the current edition of the Fire Underwriters Survey publication "Water Supply for Public Fire Protection";
 - 10.2.12 details of the design of the environmental separation that demonstrates that the proposed construction conforms to the *Building Code* requirement for restricting entry of rain into the wall assembly and conforms with good practice, such as described in the current editions of the Best Practice Guide developed for Canada Mortgage and Housing Corporation (CMHC) and published as of the date of this bylaw;
 - 10.2.13 certification by a Building Envelope Professional (BEP) that where an existing environmental separation is being repaired, the construction complies with the criteria set out in 10.2.12;
 - 10.2.14 certification by a Building Envelope Professional (BEP) that where a new building is over 600 square metres, contains more than four residential units or is greater than two stories in building height, the construction of the environmental separation complies with the criteria set out in 10.2.12; and 10.2.13.
- 10.3 Notwithstanding any other provisions of this bylaw or the *Building Code*, whenever in the opinion of the Building Official the proposed work requires specialized technical knowledge, he may require, as a condition of the issuance of a permit, that all drawings, specifications and plot plans, or any part of them, be prepared, signed and sealed by and the construction carried out under the supervision of an Architect and/or Professional Engineer specializing in the relevant field of design and construction.
- 10.4 The holder of a permit to which 10.2.13 or 10.2.14 applies shall ensure that the construction or repair of the environmental separation is supervised by a Building Envelope Professional (BEP).

11. Professional Plan Certification

- 11.1 The letters of assurance in the form of Schedules B-1, B-2, referred in section 2.6 of Part 2 of the *Building Code* and provided pursuant to sections 9.1.11, 10.2.5, and 15.1 of this bylaw are relied upon by the Municipality and its building officials as certification that the design and plans to which the letters of assurance relate comply with the *Building Code* and other applicable enactments relating to safety.
- 11.2 A building permit issued for the construction of a complex building, or for a standard building for which a building official required professional design pursuant to section 10.2.4 and letters of assurance pursuant to section 10.2.5 of this bylaw shall be in a form prescribed by the Municipality.
- 11.3 A building permit issued pursuant to section 11.2 of this bylaw shall include a notice to the owner that the building permit is issued in reliance upon the

certification of the registered professionals that the design and plans submitted in support of the application for the building permit comply with the *Building Code* and other applicable enactments relating to safety.

- 11.4 When a building permit is issued in accordance with section 11.2 of this bylaw, the building portion of the permit fee shall be reduced by five percent of the fees payable pursuant to Schedule A of the "DEVELOPMENT SERVICES DEPARTMENT FEES AND CHARGES BYLAW 1999 NO. 5357", up to a maximum reduction of \$500.00 (five hundred dollars).

12. Fees and Charges

- 12.1 In addition to applicable fees and charges required under other bylaws, a permit fee, calculated in accordance with Schedule A of the "DEVELOPMENT SERVICES DEPARTMENT FEES AND CHARGES BYLAW 1999 NO. 5357", shall be paid in full prior issuance of any permit under this bylaw. The fees payable for a building permit shall be based on the value of the proposed work, as estimated by the applicant provided that:

12.1.1 where there is a dispute as to the basis of valuing the work to be done, the Building Inspector may determine the value on the basis of the Marshall Swift Valuation Service.

12.1.2 if upon the completion of the work it appears that the actual value of the construction has been in excess of the estimate, the value of the work for the purpose of calculating the permit fee shall be the actual value as determined by the Building Inspector; the permit fee shall be adjusted upwards, and the difference shall be paid forthwith to the City.

12.1.3 where the value of work has been undervalued, the Building Inspector may, before issuing a Certificate of Occupancy require the applicant or his agent to make a statutory declaration or swear an affidavit as to the actual value of the completed work, and may hold back such permit until all fees due to the are paid.

- 12.2 An application made for a building permit shall be accompanied by the appropriate plan-processing fee as set out in Schedule A of the "DEVELOPMENT SERVICES DEPARTMENT FEES AND CHARGES BYLAW 1999 NO. 5357".

12.2.1 the plan-processing fee is non-refundable and shall be credited against the building permit fee when the permit is issued;

- 12.2.2 an application shall be cancelled and the plan-processing fee forfeited if the building permit has not been issued and the permit fee paid within 180 days of the date of written notification to the owner that the permit is ready to be issued;
- 12.2.3 when an application is cancelled the plans and related documents submitted with the application may be destroyed;
- 12.3 The owner may obtain a refund of 75 percent of the permit fees set out in Schedule A of the "DEVELOPMENT SERVICES DEPARTMENT FEES AND CHARGES BYLAW 1999 NO. 5357" when a permit is surrendered and cancelled before any construction begins, provided:
 - 12.3.1 the refund shall not include the plan processing fee paid pursuant to section 12.2 of this bylaw; and
 - 12.3.2 no refund shall be made where construction has begun, an inspection has been made, or the building permit has expired.
- 12.4. Where, due to non-compliance with this bylaw, more than two inspections are necessary where one inspection is normally required, for each inspection after the second inspection, a re-inspection charge as set out in Schedule A of the "DEVELOPMENT SERVICES DEPARTMENT FEES AND CHARGES BYLAW 1999 NO. 5357" shall be paid prior to additional inspections being performed.
- 12.5 For a required permit inspection requested to be done after the hours during which the offices of the Municipality are normally open, an inspection charge shall be payable based on the time actually spent in making such inspection, including travel time, as set out in Schedule A of the "DEVELOPMENT SERVICES DEPARTMENT FEES AND CHARGES BYLAW 1999 NO. 5357". Such a request will be considered subject to the availability of appropriate staff.
- 12.6 An inspection charge, as set out in Schedule A of the "DEVELOPMENT SERVICES DEPARTMENT FEES AND CHARGES BYLAW 1999 NO. 5357", shall be payable in advance for a voluntary inspection to establish compliance of or to obtain a report on the status of an existing building or structure for which a permit is sought under this bylaw.

13. Building Permits

- 13.1 When:
 - 13.1.1 a completed application including all required supporting documentation has been submitted;
 - 13.1.2 the proposed work set out in the application substantially conforms with the *Building Code*, this bylaw and all other applicable bylaws and enactments;
 - 13.1.3 the owner or his or her representative has paid all applicable fees set out in section 12 of this bylaw;

13.1.4 the owner or his or her representative has paid all charges and met all requirements imposed by any other enactment or bylaw;

13.1.5 no enactment, covenant, agreement, or regulation in favour of, or regulation of, the Municipality authorizes the permit to be withheld;

a building official shall issue the permit for which the application is made.

13.2 When the application is in respect of a building that includes, or will include, a residential occupancy, the building permit must not be issued unless the owner provides evidence pursuant to Section 30(1) of the *Homeowner Protection Act* that the proposed building:

13.2.1 is covered by home warranty insurance, and

13.2.2 the constructor is a licensed residential builder. (Bylaw 5724)

13.3 Section 13.2 of this bylaw does not apply if the owner is not required to be licensed and to obtain home warranty insurance in accordance with sections 20(1) or 30(1) of the *Homeowner Protection Act*.

13.4 Every permit is issued upon the condition that the permit shall expire and the rights of the owner under the permit shall terminate if:

13.4.1 the work authorized by the permit is not commenced within 6 months from the date of issuance of the permit; or

13.4.2 work is discontinued for a period of 12 months.

13.5 A building official may extend the period of time set out under sections 13.4.1 and 13.4.2 where construction has not been commenced or where construction has been discontinued due to adverse weather, strikes, material or labour shortages, or similar hardship beyond the owner's control.

13.6 A building official may issue a building permit for a portion of a building or structure before the design, plans and specifications for the entire building or structure have been accepted, provided sufficient information has been provided to the Municipality to demonstrate to the building official that the portion authorized to be constructed substantially complies with this and other applicable bylaws and the permit fee applicable to that portion of the building or structure has been paid. The issuance of the permit notwithstanding, the requirements of this bylaw apply to the remainder of the building or structure as if the permit for the portion of the building or structure had not been issued.

13.7 Subject to compliance with other applicable bylaws, the Building Official may issue a permit for the erection or placement of a temporary building if he is satisfied that the building is safe for the stated use and duration.

13.7.1 the word "temporary", as used in this subsection, shall mean a period not exceeding twelve months;

13.7.2 applications for a permit to construct a temporary building shall be made in writing to the Building Official accompanied by:

- 13.7.2.1 plans showing the location of the building on the site and construction details of the building;
 - 13.7.2.2 a statement of the intended use and duration of the use; and
 - 13.7.2.3 a bond or certified cheque in the amount of One Thousand Dollars (\$1,000.00) which will guarantee that the building will be removed entirely and the site left in a safe and sanitary condition to the satisfaction of the Building Official when the permit has expired.
- 13.8 When a site has been excavated and a building permit is not subsequently issued or a subsisting building permit has expired in accordance with the requirements of section 13.4, but without the construction of the building or structure for which the building permit was issued having commenced, the owner shall fill in the excavation to restore the original gradients of the site within 60 days of being served notice by the Municipality to do so.
- 13.9 In the case of a permit for a building or structure to be used to shelter any humane use or occupancy, the Works and Services required to provide the parcel with water, sanitary and storm drainage have been installed:
 - 13.9.1 by the municipality; or
 - 13.9.2 by a person other than the Municipality and a certificate of acceptance has been issued by the Municipality for the Works and Services.
- 14. Disclaimer of Warranty or Representation
 - 14.1 Neither the issuance of a permit under this bylaw, the review and acceptance of the design, drawings, plans or specifications, nor inspections made by a building official, shall constitute a representation or warranty that the *Building Code* or the bylaw have been complied with or the building or structure meets any standard of materials or workmanship.
- 15. Professional Design and Field Review
 - 15.1 When a building official considers that the site conditions, size or complexity of a development or an aspect of a development warrant, he or she may require a registered professional provide design and plan certification and field review by means of letters of assurance in the form of Schedules B-1, B-2 and C-B referred to in section 2.6 of Part 2 of the *Building Code*.

- 15.2 Prior to the issuance of an occupancy permit for a complex building, or standard building in circumstances where letters of assurance have been required in accordance with sections 9.1.12, 10.2.5 or 15.1 of this bylaw, the owner shall provide the Municipality with letters of assurance in the form of Schedules C-A and/or C-B, as is appropriate, referred to in section 2.6 of Part 2 of the *Building Code*.

16. Responsibilities of the Owner

- 16.1 Every owner shall ensure that all construction complies with the *Building Code*, this bylaw and other applicable enactments respecting safety.
- 16.2 Before construction commences the owner shall:
- 16.2.1 determine that the building site is safe and will not be affected by flooding water caused by surface run-off or otherwise, or by other hazards;
- 16.2.2 if applicable, obtain elevation and construction requirements relative to Provincial Flood Plain Restrictions from the Ministry of Environment;
- 16.2.3 in all cases where it is proposed to conduct the waste from plumbing fixtures, trade waste or surface or roof water to a private or public sewer
- 16.2.3.1 make certain by inquiring from the Director of Engineering and Public Works that such private or public sewer is at a sufficient depth and of a capacity to receive such discharge;
- 16.2.3.2 ensure that the elevation of the system allows for sufficient drainage;
- 16.2.4 incorporate into the design and plans submitted for a permit, the climatic data as contained in the *Building Code*;
- 16.2.5 obtain from the Municipality, or other authority having jurisdiction where applicable, all necessary permits relating to demolition, excavation, building, repair of buildings, relocation of buildings, zoning, change in classification of occupancy, swimming pools, sewers, water, plumbing, signs, canopies, awnings, marquees, blasting, street occupancy, access, electrical installations, and all other permits required in connection with the proposed work prior to the commencement work.
- 16.3 Every owner to whom a permit is issued shall be responsible for the cost of repair of any damage to municipal works that occurs in the course of the work authorized by the permit.

- 16.4 Every owner to whom a permit is issued shall, during construction:
- 16.4.1 post and maintain the permit in a conspicuous place on the property in respect of which the permit was issued;
 - 16.4.2 keep a copy of the accepted designs, plans and specifications on the property;
 - 16.4.3 post the civic address on the property in a location visible from any adjoining streets;
 - 16.4.4 permit the Building Official to enter the building or premises at any reasonable time for the purpose of inspection;
 - 16.4.5 ensure that no work is done on any part of the building or structure beyond any point outlined in Section 17.4 without first obtaining the written approval of the Building Official; and
 - 16.4.6 where tests of any materials are required by the Building Official to ensure conformity with the requirements of this bylaw, any enactment, transmit to the Building Official records of the test results.

17. Inspections

- 17.1 When a registered professional provides letters of assurance in accordance with sections 9.1.11, 10.1.10, 10.2.5, 15.1 or 15.2 of this bylaw, the Municipality will rely solely on field reviews undertaken by the registered professional and the letters of assurance submitted pursuant to section 15.2 of this bylaw as assurance that the construction substantially conforms to the design and that the construction substantially complies with the *Building Code*, this bylaw and other applicable enactments respecting safety.
- 17.2 Notwithstanding section 17.1 of this bylaw, a building official may attend the site from time to time during the course of construction to ascertain that the field reviews are taking place and to monitor the field reviews undertaken by the registered professionals.
- 17.3 A building official may attend periodically at the site of the construction of standard buildings or structures to ascertain whether the health and safety aspects of the work are being carried out in substantial conformance with the those portions of the *Building Code*, this bylaw and any other applicable enactment concerning safety.

- 17.4 The owner or his or her representative shall give at least 24 hours notice to the Municipality when requesting an inspection and shall obtain an inspection and receive a building official's acceptance of the following aspects of the work prior to concealing it:
- 17.4.1 when the forms for footings and/or foundations are complete, including any reinforcing steel, but prior to placing any concrete therein. Prior to approval of the foundation, a licenced British Columbia Land Surveyor's certificate may be required by the Building Official if deemed necessary to determine the location on the site;
 - 17.4.2 after installation of foundation drains, dampproofing and drain rock, but prior to backfilling against the foundation. Approvals for installation of perimeter drain are subject to completion of backfilling within 24 hours of the inspection;
 - 17.4.3 when any pipes in a plumbing system or when plumbing appurtenances are installed in a location where they could be covered at a later stage of construction;
 - 17.4.4 when framing, sheathing, building paper, flashing, weatherproofing of openings and window installation is complete, but before installation of any siding, wire mesh or stucco;
 - 17.4.5 when framing and siding of the building are complete, including firestopping, bracing of chimneys, duct work, wiring and roofing, but before any insulation or interior finish is applied;
 - 17.4.6 before a building drain, sanitary or storm sewer is covered. When considered necessary, underground building drains, branches, storm drains, and sewers shall be retested after the completion of all backfilling and grading by heavy equipment;
 - 17.4.7 when the insulation and vapour barrier have been completed, but before any interior finish is applied which could conceal the insulation;
 - 17.4.8 when the smoke chamber of a fireplace or the chimney breaching assembly is complete, but before continuation of the assembly above this point;
 - 17.4.9 on completion of the installation of solid fuel burning appliances, furnaces or boiler installations in accordance with the *Building Code*, but prior to it being placed in service;
 - 17.4.10 when the building or portion thereof is complete and ready for occupancy, but prior to any occupancy thereof; and
 - 17.4.11 any additional inspections as required by the Building Official.
- 17.5 No aspect of the work referred in 17.4 of this bylaw shall be concealed until a building official has accepted it in writing.

- 17.6 The Building Official may require an applicant to uncover any part of a construction which was covered before it was inspected and approved.
- 17.7 A report from the Building Official will be left on the construction site following each inspection, giving approval of work done or listing corrections which require reinspection and approval.
- 17.8 Where more than one inspection and one reinspection is required for approval to be given for a stage of construction, a fee as set out in Schedule A of "DEVELOPMENT SERVICES DEPARTMENT FEES AND CHARGES BYLAW 1999 NO. 5357" shall be paid at the time of requesting the second reinspection.
- 17.9 The requirements of section 17.4 of this bylaw do not apply to any aspect of the work that is the subject of a registered professional's letter of assurance provided in accordance with sections 9.1.11, 9.1.12, 10.2.5, 15.1 or 15.2 of this bylaw.

18. Certificate of Occupancy

- 18.1 No person shall occupy a building or structure or part of a building or structure until a Certificate of Occupancy has been issued in the form prescribed by the Municipality.
- 18.2 A Certificate of Occupancy shall not be issued unless:
 - 18.2.1 all letters of assurance have been submitted when required in accordance with sections 9.1.11, 9.1.12, 10.2.5, 15.1 and 15.2 of this bylaw; and
 - 18.2.2 all aspects of the work requiring inspection and acceptance pursuant to section 17.4 of this bylaw have both been inspected and accepted or the inspections and acceptance are not required in accordance with section 17.9 of this bylaw.
- 18.3 A building official may issue an occupancy permit for part of a building or structure when the part of the building or structure is self-contained, provided with essential services and the requirements set out in section 18.2 of this bylaw have been met with respect to it.
- 18.4 The owner shall:
 - 18.4.1 prior to the occupancy of any building, or part of it, after completion of construction of the building, or part of it, or prior to any change in occupancy of any building, or part of it, obtain from the Building Official a Certificate of Occupancy which may be withheld by the Building Official until the building or part of it, complies with the requirements of this Bylaw and any other enactment; (Bylaw 5724)
 - 18.4.2 prior to the occupancy of the building, permanently affix the designated street number to the building; and
 - 18.4.3 obtain from the Building Official written permission prior to resuming construction which has been suspended on any building.

- 18.5 Where a Building Permit for a single family dwelling has been issued, the owner may apply for a certificate to occupy the building prior to completion of construction, which certificate may be withheld until the building or part thereof complies with the health and safety requirements of this bylaw and any enactment. (Bylaw 5724)
- 18.6 Where a change in the occupancy of a building or portion thereof is proposed, no Certificate of Occupancy will be issued until the Building Official is satisfied that no reduced level of safety will result. (Bylaw 5724)

19. Retaining Structures

- 19.1 A registered professional shall undertake the design and conduct field reviews of the construction of a retaining structure greater than 1.5 meters in height. Sealed copies of the design plan and field review by means of letters of assurance in the form of Schedules B-1, B-2, and C-B referred to in Section 2.6 of Part 2 of the *Building Code* for all retaining structures greater than 1.5 meters in height shall be submitted to a building official prior to acceptance of the works.

20. Relocation

- 20.1 No person shall:

- 20.1.1 move or cause to be moved any building or structure from one parcel to another without first obtaining a permit;
- 20.1.2 move or cause to be moved any building or structure unless it has been determined to the satisfaction of the Building Official that the building or structure meets the requirements of the *Building Code* and any enactments; or the applicant provides plans and specifications to the satisfaction of the Building Official detailing any and all upgrading required to meet the requirements of this bylaw and any enactments after the building is moved to a new site; or
- 20.1.3 relocate a residential building or part of it to another parcel of land within the Municipality unless it can be shown that the dwelling, once reestablished on this new site, will have an assessed value not less than $1\frac{1}{4}$ times the average assessed values of all dwellings situated within 50 metres of the site or parcel of land to which the building is to be moved.

- 20.2 A person who applies for a permit to move a building or structure or part of it either within or into the Municipality shall deposit with the Building Official a certified cheque or other financial security in the amount of Two Thousand Dollars (\$2,000.00) payable to the Municipality, issued in a form satisfactory to the Municipal Treasurer to ensure that the building shall be completely re-erected on the new site within twelve months of the date of issuance of the permit. If the building or part of it is not completed within the specified time, the Building Official may send a written notice to the owner stating that the building does not comply with this bylaw or other enactment and direct the owner to remedy the non-compliance within thirty days from the date of service to the notice. If the non-compliance is not remedied within the period of thirty days, the certified cheque or other security in the sum of Two Thousand Dollars (\$2,000.00) shall be forfeited to the Municipality.
- 20.3 Every person relocating a building or structure from a site within the City of Nanaimo shall ensure that the site shall be left in a neat, clean and safe condition after the removal.

21. Demolitions

- 21.1 No person shall demolish a building without first obtaining a permit.
- 21.2 Every person making application for a permit to demolish a building shall, as part of his application, provide the Building Official with satisfactory evidence that:
- 21.2.1 no unsafe condition will be created or permitted; and that
- 21.2.2 the site of the demolition will be left in a safe, neat condition, free from debris and compatible with neighbouring properties to the satisfaction of the Building Official.

22. Plumbing

- 22.1 Except has hereinafter specifically provided, no plumbing shall be installed, altered or repaired until a permit to do so has first been obtained pursuant to this bylaw.
- 22.2 No permit shall be required for the repair of leaks in water pipes or the replacing of plumbing fixtures, provided that such fixtures and the installation thereof conform with all other requirements of this bylaw and the Provincial Plumbing Regulations, or for the removal of stoppages in sewer or drain pipes provided that clean-outs are utilized for such purpose and it is not necessary to cut any sewer or drain pipe.
- 22.3 No person shall cover or conceal any part of a plumbing system unless it has been firstly approved by the Building Official as set out in Section 17.4.
- 22.4 All plumbing shall be installed in accordance with the British Columbia *Plumbing Code* in effect.

23. Swimming Pools

23.1 No person shall commence or continue any work related to the installation, construction and alteration of a swimming pool or related ancillary equipment unless a valid permit has been obtained pursuant to this bylaw.

23.2 Fences:

23.2.1 fences shall be constructed around the perimeter of swimming pools and shall not be less than 1.5 metres (4.92 feet) high. The base of every fence shall be not more than 100 millimetres (4 inches) above ground or adjacent grade;

23.2.2 no horizontal or angled framing member shall be located on the outside of the fence between 100 millimetres (4 inches) and 900 millimetres (36 inches) above ground level or adjacent finished grade. Fences composed of vertical members shall have no openings of a size which will permit the passage of a spherical object having a diameter of 100 millimetres (4 inches). Fences composed of angle members shall have no openings between adjacent members greater than 13 millimetres (1/2 inch);

23.2.3 notwithstanding the provisions of this Section, standard chain link wire mesh may be acceptable provided that such fence is a minimum of 1.5 metres (4.921 feet) in height;

23.2.4 access through required fences shall be by means of self-closing gates so designated as to cause the gates to become secured with self-latching devices located on the swimming pool side of the fence and at a height of at least 1 metre (3.281 feet) above grade at the outside of the fence, or on the outside of the fence at 1.5 metres (4.921 feet) above grade;

24. Works and Services Required

24.1 The owner of land upon which a development is to take place and for which a Building Permit is required, shall provide Works and Services, as a condition of the issuance of the Building Permit in accordance with the standards set out in Schedule 'A' of the City of Nanaimo "SUBDIVISION CONTROL BYLAW 1989 NO. 3260" as amended or replaced, on that portion of a highway immediately adjacent to the site being developed, up to the centre line of the highway, as follows:

24.1.1 Highways Highways shall be constructed or reconstructed as follows:

24.1.1.1 where finished road grades have been or can be established on the highway fronting the site being developed, the street shall be constructed to the full standard for the classification of highway up to the centre line of the highway, including curb and gutter. Unless otherwise provided for in this Section, the total width of the traveled asphalt surface shall not be less than 7.5 metres; and

24.1.1.2 where finished grades have not been established, the standard for highway construction required in Section 24.1.1.1 may be reduced by the Municipal Engineer.

24.1.2 Sidewalks (Concrete) Concrete sidewalks shall be constructed where the following criteria apply:

24.1.2.1 finished sidewalk grades can be established on the highway fronting the site being developed; and

24.1.2.2 the sidewalk will form part of a pedestrian traffic route.

24.1.3 Sidewalks (Asphalt) Asphalt walking shoulders shall be constructed where the following criteria apply:

24.1.3.1 finished concrete sidewalk grades cannot be established on the highway fronting the site being developed, and an asphalt walking shoulder will form part of a pedestrian route; and

24.1.3.2 where required, an asphalt walking shoulder shall not be less than 1.5 metres in width. Sub-base, base and asphalt materials, and structure shall be in accordance with the requirements for an urban street.

24.1.4 Boulevards Boulevards shall be constructed within highway rights-of-way immediately adjacent to the site being developed.

24.1.5 Street Lighting An ornamental street lighting system shall be provided where the following criteria apply:

24.1.5.1 where an ornamental streetlight system will form part of an extension of an existing ornamental system in a highway fronting the site being developed; and

24.1.5.2 where an ornamental streetlight system can be extended along the highway abutting the site being developed with future development of adjacent land.

24.1.6 Storm Drainage A piped storm sewer system shall be constructed where the following criteria apply:

24.1.6.1 finished grades, alignments and sizing can be determined;

24.1.6.2 there is an existing piped storm sewer system to which connection can be made; or

24.1.6.3 there are drainage problems which cannot be resolved by the construction of ditches or works, other than piping.

24.1.7 Water Distribution

24.1.7.1 the water distribution system shall be extended where the following criteria apply:

24.1.7.1.1 the building development on the site being developed requires water service and/or fire hydrants; and

24.1.7.1.2 the water distribution system is designed to be extended in the highway fronting the site being developed.

24.1.7.2 if the existing water distribution system was designed to be extended along that side of the highway which abuts the site being developed, then the water system should be extended the full frontage of the site being developed.

24.1.7.3 if the existing water distribution system was designed to be extended along the opposite side of the highway from the site being developed, or the water distribution system will not serve lands beyond the site being developed, the system shall be extended sufficiently to provide a service connection to the site being developed.

24.1.8 Sanitary Sewers

24.1.8.1 the sanitary sewer system shall be extended where the following criteria apply:

24.1.8.1.1 the site development requires a sanitary sewer service; and

24.1.8.1.2 the sanitary sewer system is designed to be extended in the existing highway fronting the site being developed.

24.1.8.2 if the sanitary sewer system was designated to be extended along that side of the highway which abuts the site being developed, then the sewer system should be extended the full width of the site being developed.

24.1.8.3 if the sanitary sewer system was designed to be extended along the opposite side of the highway from the site being developed, or the sanitary sewer system will not serve lands beyond the site being developed, the system shall be extended sufficiently to provide a connection to the parcel being developed.

25. Exemptions to Works and Services

25.1 The requirements in Section 24 shall not apply where:

25.1.1 the value of construction does not exceed \$100,000.

25.1.2 where the construction will take place on a parcel of land which is zoned:

25.1.2.1 "I-1" (Transition Industrial) and the value of construction does not exceed \$100,000.;

25.1.2.2 "I-2" (Light Industrial) and the value of construction does not exceed \$150,000.;

25.1.2.3 "I-3" (General Industrial); or

25.1.2.4 "I-4" (Heavy Industrial).

25.1.3 the construction will result in the addition to an existing building and the additional building area will not exceed 10 percent of the existing building area or a maximum gross floor area of 100 square metres whichever is the lesser;

25.1.4 where the construction is for an addition to an existing building and the value of the addition is less than 20 percent of the assessed value of the building as determined by the B.C. Assessment Authority on the assessment proceeding the application;

25.1.5 the construction will result in the creation and/or location of no more than a total of three residential units on the site being developed; and

25.1.6 the construction will consist only of non-structural renovations related to an existing use of a building or structure.

25.2 Where the construction will take place on a parcel which is zoned for industrial use as set out in City of Nanaimo "ZONING BYLAW 1993 NO. 4000" as amended or replaced or for which approval for industrial development has been granted by way of a land use contract, the Works and Services required under Sections 24.1.2, 24.1.3 and 24.1.4 shall not apply.

- 25.3 Notwithstanding Sections 24.1.1 to 24.1.8, the Works and Services required shall not include specific Works and Services that are included in the calculations used to determine the amount of a Development Cost Charge unless the owner, at the request of the Building Official, agrees to provide such Works and Services.

26. General

- 26.1 All Works and Services required under this bylaw shall be designed by a Professional Engineer registered in the Province of British Columbia.
- 26.2 Upon completion of all required Works and Services, the owner shall submit "As Constructed" drawings and "Certification of the Works" installed, both completed by a Professional Engineer in accordance with the requirements of the Standards set out in Schedule 'A' of the City of Nanaimo "SUBDIVISION CONTROL BYLAW 1989 NO. 3260" and to the satisfaction of the Building Official. All aspects of the work shall meet the requirements of the Standards contained in Schedule 'A' of the City of Nanaimo "SUBDIVISION CONTROL BYLAW 1989 NO. 3260" as amended or replaced.
- 26.3 The Works and Services required by this bylaw shall be provided, located and constructed at the expense of the owner of the land proposed to be subdivided.
- 26.4 All Works and Services constructed under Sections 24, 25 and 26 of this bylaw shall, upon their acceptance by the City, become the property of the City, free and clear of all encumbrances.

27. Bonding

- 27.1 Security to be deposited under Section 991(a) of the *Local Government Act* shall be a cash deposit, certified cheque or a standby Irrevocable Letter of Credit.

The security shall be in the amount of 110 percent of the cost of engineering, surveying, construction and installation of the Works and Services required to be installed as determined by the Municipal Engineer.

If the Developer requests issuance of a Building Permit prior to completion of construction and the installation of all Works and Services required to be installed by and at the expense of the owner, the developer shall enter into an Agreement with the City of Nanaimo prior to issuance of the Building Permit.

The developer shall be responsible for maintaining and correcting the Works and Services against any defects arising from installation, materials, workmanship or engineering design which may appear within a period of not less than one year from the date of Substantial Completion.

Defects discovered during the maintenance period shall be replaced and/or rectified to the satisfaction of the Municipal Engineer. The same guarantee for the same period of time shall apply to such replacement materials or rectified work and the maintenance period for the rectified defect shall begin on the date the Municipal Engineer accepts such rectified defects.

If it is discovered by use, tests or inspection of the Works and Services prior to the end of the maintenance period, that a deficiency or defect exists in the materials, workmanship and/or design in respect of the Works and Services, the developer shall arrange to rectify the fault. In the event that this work, in the opinion of the Municipal Engineer, must be done immediately to prevent serious damage, injury or loss of life, the Municipality will perform or cause to be performed the necessary work and will notify the developer accordingly.

Work required during the maintenance period shall, except as otherwise provided herein for emergencies, be carried out by the developer or his representative within ten (10) days of the Municipal Engineer's written instruction to perform the work. In the event that this work is not done by the developer within the ten day period of such period as may be approved by the Municipal Engineer, the City of Nanaimo will take whatever action is necessary to have the work done.

All costs resulting from the necessity to do work under the maintenance period shall be borne by the developer.

Securities shall be held by the City of Nanaimo for the maintenance period.

28. Establishing Fire Limit Areas

- 28.1 For the purpose of regulating the construction of certain buildings for precautions against fire, those areas of the City of Nanaimo located in commercial, industrial, mixed use, public institutional, mobile home park and residential multiple zones established in the City of Nanaimo "ZONING BYLAW 1993 NO. 4000" as amended or replaced are established as fire limit areas.
- 28.2 Except as provided otherwise in the bylaw where an owner of land within a fire limit constructs or causes construction to a building, the owner shall install a fire sprinkler system throughout the entire building. A Building Permit will not be issued for such construction unless the applicant for the Building Permit submits a design drawing showing the location where fire sprinklers will be installed. The sprinkler system shall be installed and maintained to standards as set out in the British Columbia *Building Code* or to the required standards of the National Fire Protection Association (NFPA) current as of the date of the Permit.
- 28.3 For the purposes of this Section, any construction of or to a building shall be deemed to include construction for which a Permit was issued within the twenty-four months immediately proceeding the application for a Permit.

28.4 The requirements in Sections 28.2 shall not apply where:

28.4.1 the construction will result in the creation and/or location of no more than a total of two residential units on the parcel; or

(Bylaw 5693.04)

28.4.2 the construction will result in only fully detached single dwelling units on the property; or

28.4.3 the construction will consist only of alterations to an existing building or structure and the value of construction will not exceed 50% of the assessed value of the building as determined by the BC Assessment Authority in the assessment immediately preceding the application; or

28.4.4 the construction will result in the addition to an existing building that will not exceed 25 percent of the existing floor area of the building or a maximum gross floor area of 200 m² whichever is the lessor; where construction will result in a non-combustible addition to a non-combustible building that will not exceed 25 percent of the existing floor area of the building, or a maximum gross floor area of 600 m² whichever is lesser;

28.4.5 the construction will result in the construction of a detached building(s) having a total gross floor area of less than 100 m²; or

28.4.6 the construction will result in an unoccupied mechanical building not exceeding 300 m², or a non-combustible building used only for a car wash which does not exceed 300 m², or a non-combustible building used only for storing and processing of steel, salt, or rock products, or a fabric-covered building in Industrial Zones (I-1, 1-2, I-3, 1-4) used for storage, processing, or manufacturing where a registered professional specializing in building codes, equivalencies and fire science has submitted in a report that provides specifications to minimize the fire hazard in and around the structure; or" (Bylaw 5693.03)

28.4.7 non-combustible canopies over gasoline pumps or other areas where flammable liquids are handled.

29. Penalties and Enforcement

29.1 Every person who contravenes any provision of this bylaw commits an offense punishable on summary conviction and shall be liable to a fine of not more than \$10,000.00 (Ten Thousand Dollars) or to imprisonment for not more than six months.

29.1.1 Notwithstanding the contents of 29.1 fines issued pursuant to this Bylaw, shall be as follows:

<u>Description of Offence</u>	<u>Section #</u>	<u>Amount of Fine</u>
Construct without a permit	6.1	\$100.00
Occupy building without permit	6.2	\$100.00
False information on permit application	6.3	\$100.00
Tamper with posted notice	6.4	\$100.00
Work in variance of plans	6.5	\$100.00
Obstruct Building Official	6.6	\$200.00
Occupy building after change of class without permit	6.7	\$100.00
Repair building damaged 75 Percent assessed value	6.8	\$100.00
Disobey cessation order	6.9	\$200.00

- 29.2 Every person who fails to comply with any order or notice issued by a building official, or who allows a violation of this bylaw to continue, contravenes this bylaw. A building official may order the cessation of any work that is proceeding in contravention of the *Building Code* or this bylaw by posting a Stop Work notice in a form prescribed by the Municipality.
- 29.3 The owner of property on which a Stop Work notice has been posted, and every other person, shall cease all construction work immediately and shall not do any work until all applicable provisions of this bylaw have been substantially complied with and the Stop Work notice has been rescinded in writing by a building official.
- 29.4 Where a person occupies a building or structure or part of a building or structure in contravention of section 6.2 of this bylaw a building official may post a Do Not Occupy notice in a form prescribed by the Municipality on the affected part of the building or structure.
- 29.5 The owner of property on which a Do Not Occupy notice has been posted, and every person, shall cease occupancy of the building or structure immediately and shall refrain from further occupancy until all applicable provisions of the *Building Code* and this bylaw have been substantially complied with and the Do Not Occupy notice has been rescinded in writing by a building official.
- 29.6 Every person who commences work requiring a building permit without first obtaining such a permit shall, pay to the municipality double the required fee prescribed by the "DEVELOPMENT SERVICES DEPARTMENT FEES AND CHARGES BYLAW 1999 NO. 5357".

30. Severability

30.1 The provisions of this bylaw are severable and the invalidity of any part of this bylaw shall not affect the validity of the remainder of this bylaw.

31. Repeal

City of Nanaimo "BUILDING BYLAW 1988 NO. 3220" and amendments thereto, are hereby repealed.