

SUBDIVISION and DEVELOPMENT SERVICING BYLAW 2026 NO. XXXX

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CITY OF NANAIMO

BYLAW XXXX

A BYLAW TO REGULATE THE PROVISION OF WORKS AND SERVICES IN RESPECT OF THE
SUBDIVISION AND DEVELOPMENT OF LAND WITHIN THE CITY OF NANAIMO.

WHEREAS Council may, pursuant to section 506 of the Local Government Act, regulate and require the provision of works and services in respect of the Subdivision or Development of land and prescribe standards for such works and services;

THEREFORE, BE IT RESOLVED THAT the Municipal Council of the City of Nanaimo, in open meeting assembled, hereby ENACTS AS FOLLOWS

PART 1: TITLE AND APPLICATION

1.1 TITLE

This Bylaw may be cited for all purposes as the "Subdivision and Development Servicing Bylaw 2026 No. xxxx".

1.2 SCHEDULES

Schedule 'A' is a part of this Bylaw.

1.3 APPLICATION

This Bylaw shall be applicable to Subdivisions and Building Permits within the boundaries of the City of Nanaimo.

1.4 SEVERABILITY

If for any reason any section, subsection, or phrase of this Bylaw is held to be invalid by the decision of any court of competent jurisdiction, it shall not affect the validity of the remaining parts of this Bylaw or the validity of this Bylaw as a whole.

1.5 REPEAL

"City of Nanaimo Subdivision Control Bylaw 1989 No. 3260" and amendments thereto are hereby repealed.

PART 2: ADMINISTRATION

2.1 INSPECTION

- 2.1.1 Subject to Section 16 of the *Community Charter*, the Approving Officer and the City Engineer, and their duly authorized representatives, are hereby authorized to enter, at all reasonable times, upon any properties subject to this Bylaw to ascertain whether this Bylaw is being obeyed.

2.2 DIRECT ENFORCEMENT

- 2.2.1 Whenever an Owner is directed by this Bylaw to carry out a matter or thing, on default by that person, the matter or thing shall be done at the expense of the person in default, and the City may recover the expense, with interest at the rate of 6% a year, with costs, in the same manner as municipal taxes.

2.3 VIOLATION & PENALTY

- 2.3.1 Any person who violates any of the provisions of this Bylaw or who suffers or permits any act or thing to be done in contravention of this Bylaw, or who neglects to do, or refrains from doing, any act or thing which is required by any of the provisions of this Bylaw, shall be deemed to have violated the provisions of this Bylaw. Every day that the violation continues, it shall be considered a new violation.
- 2.3.2 Any person who violates any of the provisions of this Bylaw shall, upon summary conviction thereof, be liable to a penalty of not more than \$2,000.00 for each violation.

2.4 CONTRAVENTION OF OTHER ENACTMENTS

- 2.4.1 Except where a setback in respect of a Highway or where the dedication of Highways, Lanes, Trails, or public use lands is concerned, no Subdivision shall be created or Development carried out which would cause any existing building or structure or sewage disposal system or source of potable water to contravene any building, zoning, or other regulation in force.

2.5 DEFINITIONS

- 2.5.1 Unless otherwise defined herein, a word or expression in this Bylaw has the meaning assigned to it in the *Local Government Act* or *Interpretation Act*, or in the *Land Title Act* or *Strata Property Act* if not defined in the *Local Government Act* or *Interpretation Act*.
- 2.5.2 Where this Bylaw refers to a provincial statute or any other bylaw of the City, such reference shall be deemed to mean the said statute or bylaw as amended or replaced from time to time. A reference to a bylaw means a bylaw adopted by the City.

2.5.3 In this Bylaw, excluding Schedule A, the following definitions apply. Where no definition can be found in this bylaw, the definition provided in the Zoning Bylaw shall apply.

ACCESS - is a means of approach to a Parcel; typically, a driveway.

AGREEMENT - means a Construction Agreement, a Maintenance Agreement, or a Works and Services Agreement; and is a legally binding Agreement between the Owner of the land being Subdivided or Developed and the City, which details the Works and Services required to be completed or which have been completed, in connection with the Subdivision or Development.

AGREEMENT, CONSTRUCTION – means a legally binding Agreement between the Owner of the land being Subdivided and the City, which details the remaining Works and Services required to be completed as a condition of the Subdivision, required when an owner has commenced construction and installation of the required Works and Services and has requested Final Approval prior to Substantial Completion.

AGREEMENT, MAINTENANCE – means a legally binding Agreement between the Owner of the land being Subdivided or Developed and the City, which details the Works and Services which have been completed in connection with a Subdivision or Development, and the obligations and length of time required for the maintenance of the Works and Services.

AGREEMENT, WORKS AND SERVICES – means a legally binding Agreement between the Owner of the land being Subdivided or Developed and the City, which details the Works and Services required to be completed in connection with a Subdivision or Development.

APPROVING AUTHORITY - means an approving authority as defined in the *Strata Property Act*.

APPROVING OFFICER - means an approving officer as defined in the *Land Title Act*.

BYLAW – means this bylaw.

CERTIFICATE OF ACCEPTANCE – means the stage of construction when all Works and Services have been in complete repair for one year and all defects have been remedied.

CERTIFICATE OF SUBSTANTIAL COMPLETION – means a written acknowledgement issued by the City Engineer that the Works and Services have achieved Substantial Completion.

CITY - means the City of Nanaimo.

CITY ENGINEER - means the Director of Engineering of the City of Nanaimo.

CITY PLAN - means the current version of the City of Nanaimo Official Community Plan, as may be amended or replaced from time to time.

COMMUNITY SEWER SYSTEM - means a community sewer system as defined in the Zoning Bylaw.

COMMUNITY WATER SYSTEM - means a community water system as defined in the Zoning Bylaw.

DESIGN STAGE ACCEPTANCE - means acceptance of the detailed engineering design of the frontage Works and Services required for a Subdivision or Development approval.

DEVELOP – means the carrying out of a Development.

DEVELOPMENT - means any improvement to land, Highways, and rights-of-way, including the construction, alteration, or repair of a building for which a building permit is required under *Building Bylaw 2016 No. 7224*.

DSA - means Design Stage Acceptance.

ENGINEER OF RECORD – means the Professional Engineer responsible for the design of the Works & Services.

FEES - means those fees payable to the City in connection with the Subdivision of land, as prescribed by the current version of the *Fees and Charges Bylaw 2021 No. 7336*.

FINAL APPROVAL - means approval by the Approving Officer of the Subdivision plan, pursuant to Section 88 of the *Land Title Act*.

HIGHWAY - means a highway as defined in the *Land Title Act*.

LANE - means a lane as defined in the Zoning Bylaw but is not a Highway for the purpose of providing frontage.

MAINTENANCE PERIOD - means the length of time after the date of issuance of Substantial Completion that the Works and Services are to be maintained by the developer, free of defects.

OWNER - means a registered owner, as defined in the *Land Title Act*, of the Parcel to be Subdivided or Developed. Where an owner has given authorization to an agent to work on their behalf, the term owner in this bylaw can be interpreted to mean agent for those circumstances where agency has been authorized.

PARCEL - means a parcel as defined in the *Land Title Act*.

PLA - means a Preliminary Layout Assessment letter.

PROFESSIONAL ENGINEER - means an engineer who is registered or duly licensed as such under the provisions of the *Professional Governance Act*.

PUBLIC UTILITY - means a public utility as defined by the *Utilities Commission Act*.

QUALIFIED PROFESSIONAL – means a person who is certified by a professional governing body or who is registered under the *Professional Governance Act*, where applicable, and who is in good standing with the regulatory body for the individual's profession.

SECURITY - shall mean and include a cash deposit made to the City, a certified cheque made payable to the City or an irrevocable letter of credit approved by the Director of Finance.

SERVICING OFFICER - means the Servicing Officer as designated within the *Officer Designation and Delegation of Authority Bylaw, 2022 No. 7353*.

STANDARDS – means the standards established in the Manual of Engineering Standards and Specifications, attached as Schedule A to this bylaw.

SUBDIVIDE – means the carrying out of a Subdivision.

SUBDIVISION - means a subdivision as defined in the *Land Title Act* and a subdivision under the *Strata Property Act*, including but not limited to conventional (fee-simple), boundary adjustment, air space parcel, land lease greater than three years, bare land strata, phased strata, and strata title conversion of previously occupied dwellings.

SUBSTANTIAL COMPLETION - means the stage of construction when all Works and Services, as certified by the Engineer of Record, and verified and inspected by the City Engineer, are capable of completion or correction at a cost of not more than:

- a. 3% of the first \$500,000 of the Works and Services;
- b. 2% of the next \$500,000 of the Works and Services; and
- c. 1% of the balance of the Works and Services; and

the Works and Services, or a substantial part of it, is ready for use or is being used for the purpose intended.

TRAIL - means a portion of land for the purposes of constructing and installing sustainable design features and transportation infrastructure that support walking, bicycling, public transit, or other alternative forms of transportation, which could include mobility features as part of road construction or connecting roads with other roads or community amenities such as parks.

WORKS AND SERVICES - means one or more of the following:

- (i) water distribution systems, fire hydrant systems, sewage collection systems, sewage disposal systems, drainage collection systems, and drainage disposal systems;
- (ii) highways, sidewalks, boulevards, boulevard crossings, landscaping, street lighting, transit bays, or underground wiring;
- (iii) amenities, including benches, bollards, bicycle parking facilities, directional signage, parklets, streetlamps, street signs, transit shelters, or waste disposal and recycling containers;
- (iv) transportation infrastructure that supports walking, bicycling, public transit, or other alternative forms of transportation, including traffic calming measures;
- (v) sustainable design features that provide for energy and water conservation, reduction of greenhouse gas emissions, and climate resilience; and,
- (vi) any other thing or classes of things prescribed by regulation.

ZONE OR ZONING - means a zone established by the Zoning Bylaw.

ZONING BYLAW - means the *City of Nanaimo Zoning Bylaw 2011 No. 4500*.

PART 3: SUBDIVISION REVIEW AND APPROVAL PROCESS

3.1 PRE-APPLICATION MEETING

- 3.1.1 An Owner who wishes to Subdivide land must arrange, as necessary, for a pre-application meeting and pay, at the time of the request for the meeting, the applicable Fees.

3.2 APPLICATION FOR PRELIMINARY LAYOUT ASSESSMENT (PLA)

- 3.2.1 Unless deemed unnecessary by the Approving Officer, an Owner who wishes to Subdivide land where approval from an Approving Officer or Approving Authority is required must obtain a PLA letter from the Approving Officer which contains a list of conditions that must be met prior to the Owner applying for Final Approval.
- 3.2.2 PLA applications must include the appropriate Fees and any drawings, plans, information, and documents the Approving Officer requires for the review and consideration of the Subdivision.
- 3.2.3 A PLA application does not constitute an application for Final Approval under this bylaw, the *Land Title Act*, or the *Strata Property Act*.
- 3.2.4 Where, in the opinion of the Approving Officer, a PLA application anticipates or would affect further Subdivision of the land within the proposed Subdivision or on adjacent lands, they may require the Owner to submit a sketch plan showing the ultimate Subdivision and indicating how the application fits into the ultimate Subdivision.
- 3.2.5 Where a PLA application is submitted but is incomplete, the application will not be accepted.

3.3 APPLICATION REQUIREMENTS: ENVIRONMENTALLY SENSITIVE AREAS

- 3.3.1 The Owner shall identify on the land to be Subdivided the top of bank and the boundary of the leave strip farthest from the Environmentally Sensitive Area by flagging, marking tape, stakes, or environmental fencing, to the satisfaction of the Approving Officer, and shall include the same information on all plans submitted with a PLA application.

3.4 APPLICATION REFERRAL

- 3.4.1 The Approving Officer will forward the PLA application to all relevant City departments whose input, in the opinion of the Approving Officer, is required.
- 3.4.2 If a PLA application is referred to another public authority whose review of that application is required by law or who, in the opinion of the Approving Officer, may be affected by the Subdivision, the Owner shall be responsible for direct payment to that public authority of any fee charged by the public authority for that referral.
- 3.4.3 The Approving Officer may seek to hear from any other person or group who, in the opinion of the Approving Officer, are affected by the Subdivision including, but not limited to, Council and the public.

3.5 PRELIMINARY DETERMINATION

- 3.5.1 Following the PLA application referral process, the Approving Officer will provide a determination on the acceptability of a proposed Subdivision in one of the following ways:
- a. **Comprehensive Letter.** Where additional information is required to assist the Approving Officer in determining the suitability of a Subdivision, the Approving Officer will issue a Comprehensive Letter which outlines the additional information required or amendments to the Subdivision which may be required. A Comprehensive Letter will be active for six (6) months. If the items requested in the Comprehensive Letter are not provided or otherwise addressed within that time, the PLA application will be cancelled.
 - b. **PLA Letter.** Where the proposed Subdivision is generally acceptable, the Approving Officer will issue a PLA Letter which outlines the conditions which must be met for Final Approval of the Subdivision to be issued. A PLA will be active for twelve (12) months. If the conditions outlined in the PLA are not met within that time, the PLA will be cancelled, unless a PLA Renewal application or Final Approval application has been submitted.
 - c. **Refusal Letter.** Where the Approving Officer has determined that the Subdivision is unacceptable, the Approving Officer will issue a Refusal Letter stating the reason for the determination. Upon issuance of a Refusal Letter, the PLA application will be closed.
- 3.5.2 The issuance of a PLA will not constitute approval, conditional or otherwise, of an application for Final Approval, and does not obligate the Approving Officer to approve an application for Final Approval.

3.6 PLA AMENDMENT

- 3.6.1 The Approving Officer may consider issuing an amendment to the layout or conditions of a PLA at the Owner's request. To request an amendment to a PLA, the Owner must submit a PLA Amendment application, in the prescribed form, along with the appropriate Fees and any supporting documentation deemed necessary by the Approving Officer to consider the proposed PLA Amendment.
- 3.6.2 The Approving Officer may require an amendment to the layout or conditions of a PLA if:
- a. the Subdivision layout requires substantial change resulting from detailed engineering design;
 - b. subject to Section 511 of the *Local Government Act*, applicable bylaws or legislation have changed that may impact the layout or conditions of the Subdivision; or,
 - c. the surrounding context has changed in such a way that may impact the Subdivision.
- 3.6.3 The review and consideration of a PLA Amendment application may require the completion of any or all steps outlined in sections 3.1-3.6 of this bylaw.

3.7 PLA RENEWAL

- 3.7.1 If the conditions of a PLA cannot be completed within the period set by the PLA, the Approving Officer may consider issuing a PLA Renewal at the Owner's request. To request a PLA Renewal, the Owner must submit a PLA Renewal application, in the prescribed form, along

with the appropriate Fees and any supporting documentation deemed necessary by the Approving Officer to consider the proposed renewal.

- 3.7.2 The Approving Officer may issue a renewal to a PLA if the Approving Officer considers that progress has been made towards the completion of the conditions outlined in the PLA.

3.8 FINAL APPROVAL AND REGISTRATION

3.8.1 To register a Subdivision which requires the approval of an Approving Officer or an Approving Authority, an Owner must apply to the City for Final Approval. An application for Final Approval must be submitted in the form prescribed by the Approving Officer, along with the prescribed Fees and supporting documents as outlined in a PLA or otherwise deemed necessary by the Approving Officer or Approving Authority to consider the Final Approval of the Subdivision, including any reports, plans, Agreements, covenants, encumbrances, bonds, and Fees established in this or any other applicable bylaw.

3.8.2 Prior to consideration by the Approving Officer of Final Approval of a Subdivision, the Owner shall provide the following:

- a. A completed application form.
- b. The Subdivision plan, prepared by a B.C. Land Surveyor.
- c. Payment of all applicable fees, charges, security, and bonding.
- d. Payment of any outstanding invoices or accounts associated with the lands.
- e. Certification that all taxes have been paid for properties affected by the Subdivision.
- f. Right-of-Way and easement documents and plans, where applicable.
- g. Covenants, where applicable.
- h. Certification of Substantial Completion of Works and Services, Construction Agreement, or cash-in-lieu of Works and Services, as outlined in the PLA or otherwise agreed to by the Approving Officer and City Engineer.
- i. Any other items deemed necessary by the Approving Officer.

PART 4: WORKS & SERVICES REQUIREMENTS

4.1 PROVISION OF WORKS AND SERVICES

- 4.1.1 As a condition of the approval of a Subdivision or Development, the Owner is required to provide Works and Services in accordance with the applicable Standards on that portion of a Highway immediately adjacent to the lands being Subdivided or Developed, up to the centre line of the Highway.
- 4.1.2 As a condition of the approval of a Development, the Owner is required to provide Works and Services in accordance with the applicable Standards on the lands being Developed.
- 4.1.3 The City Engineer is authorized the waive the requirements of section 4.1.1 and section 4.1.2 of this Bylaw where the provision of Works and Services is deemed by the City Engineer to be premature based on sound Professional Engineering practice or otherwise exempt in this Bylaw or the *Building Bylaw 2016 No. 7224*.
- 4.1.4 All Works and Services required in this Bylaw shall be designed and constructed at the expense of the Owner.
- 4.1.5 The design and installation of all Works and Services must meet the applicable Standards.

4.2 MODELLING AND REPORTING REQUIREMENTS

- 4.2.1 The owner will be required to pay for engineering models or reports, either at-cost or at the applicable fee, prior to PLA issuance or Development approval to ensure that any infrastructure system can accommodate the proposed Subdivision or Development.

4.3 HIGHWAYS

- 4.3.1 All existing Highways fronting a Subdivision or Development, including widening strips of existing Highways, and all new Highways within a Subdivision, shall be cleared, drained, constructed, and surfaced in accordance with the Standards.
- 4.3.2 The Owner shall design and construct any off-site Works and Services which are beyond that portion of a Highway immediately adjacent to the site, which are directly attributable to the Subdivision or Development or are otherwise legally required by the City, provincial legislation, or by agreement between the Owner and the City.

4.4 ACCESS

- 4.4.1 Where a common Access serving two (2) or more Parcels is permitted or required for any Subdivision or Development, the common Access shall be provided, located and constructed in accordance with the applicable Standards.

4.5 ACTIVE MOBILITY NETWORKS

- 4.5.1 Active mobility networks, including trails and other alternative forms of transportation, shall be dedicated, constructed, and fenced to the satisfaction of the Approving Officer, Servicing Officer, or City Engineer, as applicable, where in their opinion they are necessary to connect roads, schools, parks, playgrounds, commercial facilities, public transportation, beaches, and other community facilities, or for proper circulation of active mobility networks.

4.6 COMMUNITY SYSTEM REQUIREMENTS

- 4.6.1 The Owner must provide, locate, and construct, in accordance with the applicable Standards, a water distribution system, fire hydrant system, sewage collection system, sewage disposal system, drainage collection system and drainage disposal system where the City or the Regional District of Nanaimo operates a community water or sewer system or a drainage collection or disposal system.

Water Distribution Systems

- 4.6.2 Where any Parcel is proposed to be Subdivided into Parcels less than 2 hectares in area, a water distribution system and a fire hydrant system shall be provided, located, and constructed in accordance with the applicable Standards, and shall be connected to the existing water distribution system of the City in accordance with the applicable Standards.
- 4.6.3 For Subdivisions where the Zoning would permit a single residential dwelling use and unless otherwise licensed through the health authority, if a connection to a Community Water System is unavailable, the Approving Officer may require the Owner to provide a certification from a Professional Engineer that each new Parcel has the capacity to supply at least 3,500m³ of drinking water per day from a well. In addition, the Approving Officer may require a report and statement from a laboratory regarding the water's quality. Each newly created Parcel must be serviced solely by a well located within the boundaries of that Parcel.
- 4.6.4 For any proposed Subdivision where water servicing is intended to be provided from an onsite well, the Owner must provide to the Approving Officer a report from a Professional Engineer that certifies that the withdrawal of the minimum quantity of water specified in the section above from each of the proposed wells would have no negative impact on existing wells within a 150m radius of the well.

Sanitary Sewer Systems

- 4.6.5 Where any Parcel is proposed to be Subdivided into Parcels less than 2 hectares in area, the Subdivision shall be provided with a community sewer system, which shall be provided, located, and constructed in accordance with the applicable Standards, and shall be connected to the existing community sewer system of the City or the Regional District of Nanaimo in accordance with the applicable Standards.
- 4.6.6 Notwithstanding the above, where a Parcel is zoned Semi-Rural (AR2) and is proposed to be Subdivided into Parcels less than 2 hectares in area, an alternative method of sewage disposal shall be provided, pursuant to the Sewage System Regulation Regulations under the *Public Health Act*.

Storm Drainage Systems

- 4.6.7 Where any Parcel is proposed to be Subdivided into Parcels less than 2 hectares in area, the Subdivision shall be provided with a community storm system, which shall be provided, located, and constructed in accordance with the applicable Standards, and shall be connected to the existing community storm system of the City in accordance with the applicable Standards.

4.7 PUBLIC UTILITY REQUIREMENTS

- 4.7.1 Utilities, including electrical, telephone, and cablevision wiring, shall be provided underground as established in Schedule A hereto.
- 4.7.2 Where the Owner of any Parcel which is proposed to be Subdivided or Developed chooses to install gas utility piping within the Subdivision or Development, all related works shall be installed in accordance with the applicable government regulations and shall be provided, located, and constructed in accordance with the applicable Standards.
- 4.7.3 Where overhead utilities exist on the road fronting a proposed Subdivision or Development, undergrounding of the utilities will not be required for lengths of 50 metres or less. Installation and construction requirements shall be those specified by the applicable Public Utility operator.
- 4.7.4 Where underground utilities are not required based on the above provision, and where frontage works are required for the Subdivision or Development, utility conduit shall be installed to allow for future underground utility connections.

4.8 INTEGRATED SURVEY MONUMENTS

- 4.8.1 The Owner of any lands which are proposed to be Subdivided, and which will require the dedication of Highways, shall provide control monuments in the Subdivision in the locations and in accordance with the applicable Standards.
- 4.8.2 Where a Subdivision survey is carried out within an area declared an integrated survey area, all existing and new monuments pertinent to the survey of the Subdivision shall be tied by survey to the nearest coordinate control monuments according to the procedures and regulations made by the Surveyor General.
- 4.8.3 All monuments installed as part of a Subdivision shall be tied by survey to the Subdivision survey.
- 4.8.4 The Owner must protect all existing survey monuments and markers, pins, and posts during the construction of the Works and Services and will be responsible for the replacement of all survey monuments and markers, pins, and posts which may be moved, damaged, or destroyed during construction.
- 4.8.5 The Owner must employ, at their own expense, a British Columbia Land Surveyor in good standing to replace any markers, pins, and posts which may be moved, damaged, or destroyed during construction.

PART 5: DESIGN REVIEW & CONSTRUCTION PROCESS

5.1 GENERAL

- 5.1.1 The provisions of this Part 6 shall apply when Works and Services are required under this Bylaw with respect to a contemplated Subdivision or Development.
- 5.1.2 All required Works and Services shall be designed by a Qualified Professional.

5.2 PRE-DESIGN MEETING

- 5.2.1 Prior to applying for DSA, an Owner shall request, as necessary, a Pre-Design Meeting and pay the applicable Fees.

5.3 DESIGN STAGE ACCEPTANCE

- 5.3.1 The Owner will have detailed design drawings prepared for all required Works and Services and third-party utilities. The detailed design drawing requirements are outlined in Section 1.01 of Schedule A. No construction of Works and Services is permitted until the City has issued Design Stage Acceptance (DSA) for the design drawings.

5.4 EASEMENTS AND STATUTORY RIGHTS-OF-WAY

- 5.4.1 The Owner shall provide statutory rights-of-way in such locations and such widths as may be necessary, registered against the title of the affected Parcels in favour of the City in the form prescribed by the City Engineer, for all Works and Services not located in Highways, which will become the responsibility of the City for operation, maintenance, and repair, or which will provide public access over the lands.
- 5.4.2 The Owner shall be responsible for ensuring that all required off-site rights-of-way and easements are obtained prior to the City of Nanaimo issuing DSA.
- 5.4.3 All required statutory rights-of-way shall be shown on the design drawings. Minimum widths for rights-of-way and easements for Works and Services through private property shall be as detailed in Schedule A hereto.

5.5 CONSTRUCTION OF WORKS AND SERVICES

- 5.5.1 Prior to construction, the Owner must arrange for an on-site pre-construction meeting with the City Engineer. The Owner shall cause the Contractor and Engineer of Record to also attend such meeting.
- 5.5.2 An Owner shall not commence construction of Works and Services until the City has issued a DSA for the same, an on-site pre-construction meeting has occurred, all required permits have been obtained, and, in the case of a Development, the owner has entered into a Works and Services Agreement with the City.

- 5.5.3 The construction of Works and Services may require additional permitting, including but not limited to a Works in City Streets permit under the *Traffic and Highways Regulation Bylaw 1993 No. 5000*, a Tree Removal Permit under the *Management And Protection Of Trees Bylaw 2013 No. 7126*, and a Fill Permit under the *Soil Removal & Depositing Bylaw 1976 No. 1747*.

5.6 SUBSTANTIAL COMPLETION

- 5.6.1 When the Engineer of Record deems the Works and Services to have achieved Substantial Completion, the Owner will arrange with the City Engineer to have the Works and Services inspected. The Owner shall cause the Contractor and Engineer of Record to also attend such meeting. Any deficiencies that arise from the inspection must be rectified prior to the issuance of substantial completion.
- 5.6.2 Upon completion of all required Works and Services, the Owner shall cause the Engineer of Record to provide "Final Record Drawings" and "Certification of the Works Installed", both completed by a Qualified Professional in accordance with the applicable Standards.
- 5.6.3 The City Engineer will issue a Certificate of Substantial Completion upon being reasonably satisfied that the Works and Services have achieved Substantial Completion, critical deficiencies have been addressed, Final Record Drawings have been submitted, and all associated test results, certifications, and charge documents and plans have been provided to the City.

5.7 MAINTENANCE PERIOD

- 5.7.1 The Owner 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 during the Maintenance Period, at the Owner's sole expense.
- 5.7.2 The Owner shall be responsible for maintaining and correcting the landscaping against any defects arising from installation, materials, workmanship, or plant mortality which may appear within a period of not less than two years from the date of Substantial Completion.
- 5.7.3 The Owner shall be responsible for maintaining and correcting the environmental restoration against any defects arising from installation, materials, workmanship, or plant mortality which may appear within a period of not less than three years from the date of Substantial Completion.
- 5.7.4 Defects discovered during the Maintenance Period must be replaced and/or rectified to the satisfaction of the City Engineer. The same guarantee for the same length 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 City Engineer accepts such replacement or rectification.
- 5.7.5 Replacement or rectification required during the Maintenance Period shall, except as otherwise provided herein for emergencies, be carried out by the Owner or their representative within ten (10) days of the City Engineer's written notice of defects in the Works and Services. If the Owner does not complete the work within the 10-day period, or such period as may be approved by the City Engineer, the City may perform or cause to be performed the necessary work at the expense of the Owner.

5.7.6 If replacement or rectification of Works and Services, in the opinion of the City Engineer, must be done promptly to prevent property damage, injury, or loss of life, the City may perform or cause to be performed the necessary work at the expense of the Owner.

5.8 MAINTENANCE BONDING

5.8.1 The Owner shall provide Maintenance Bonding to the City for the Maintenance Period.

5.8.2 The Maintenance Bonding shall be cash, a certified cheque, or an irrevocable letter of credit in the form prescribed by the City, in an amount equal to 10% of the value of the City-owned Works and Services, or \$5,000.00, whichever is greater, except that the maintenance bonding shall be:

- a. 100% of the value of any required landscaping, which shall be reduced in 25% increments upon inspection and certification by a Qualified Professional at six-month intervals until the end of the two-year Maintenance Period; and
- b. 100% of the value of any environmental restoration, which shall be reduced in 25% increments upon inspection and certification by a Qualified Professional at six-month intervals after the first year of the three-year Maintenance Period.

5.8.3 Where the City has held Maintenance Bonding for a period exceeding seven years, and where at least five attempts have been made to return any unused bonding amounts to the owner with no response, all bonding shall be forfeited to the City.

5.9 CONNECTION OF WORKS AND SERVICES

5.9.1 Where an Owner provides, locates, and constructs the Works and Services required by this Bylaw to serve a proposed Subdivision or Development, the Owner shall not connect such Works and Services to any of the sewage, drainage, electrical, water, or other system of the City until:

- a. The Owner has deposited with the City Engineer Final Record Drawings and Certification of the Works Installed prepared by a Professional Engineer in accordance with Schedule A hereto;
- b. The Owner has registered in the Land Title Office all statutory rights-of-way required where such works are located on private land;
- c. The Owner has entered into a Maintenance Agreement and provided Security in accordance with this bylaw; and,
- d. The City Engineer has issued a Certificate of Substantial Completion for the Works and Services.

5.10 ACCEPTANCE OF WORKS AND SERVICES

5.10.1 When the Maintenance Period has expired, the Owner will arrange with the City Engineer to have the Works and Services inspected. The Owner shall cause the Contractor and Engineer of Record to also attend such meeting.

5.10.2 The City will issue a Certificate of Acceptance when the required Maintenance Period has expired, an inspection of the Works and Services has been conducted by the City Engineer, and any deficiencies have been addressed and certified by the Engineer of Record.

5.11 TITLE TO WORKS AND SERVICES

5.11.1 All Works and Services constructed under this Bylaw shall, upon their acceptance by the City, become the property of the City, free and clear of all encumbrances.

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PART 6: ALTERNATIVE REQUIREMENTS

6.1 GENERAL

- 6.1.1 Notwithstanding the requirements of Part 5, alternative Works and Service requirements and approval processes may be considered when a Subdivision or Development meets one or more of the conditions outlined in this Part.

6.2 SECURITY FOR WORKS AND SERVICES

- 6.2.1 The Works and Services required by this Bylaw shall be provided, located, and constructed at the expense of the Owner prior to an application for Final Approval of a Subdivision or application for Development, unless the City permits the Owner of the land to deposit Security under Section 509 of the *Local Government Act*.
- 6.2.2 A Security deposit shall be cash, a certified cheque, or an irrevocable letter of credit in the form prescribed by the City Engineer.
- 6.2.3 The Security shall be 125% of the estimated cost, certified by the Engineer of Record, of the Works and Services and shall include the cost of construction and installation of the works, plus engineering, supervision, legal survey, and other costs (escalated to the contemplated time of construction), including contingency.
- 6.2.4 Where the City permits the Owner to deposit Security under Section 509 of the *Local Government Act*, the following conditions must be met prior to issuance of Final Approval of a Subdivision or approval of a Development:
- a. The Owner must have completed all other required on-site environmental, geotechnical, flood, erosion, or hazard land site remediation measures;
 - b. The Owner must have received other approvals as may be required by bylaw or legislation;
 - c. the Owner must have enter into a Construction Agreement or a Works and Services Agreement with the City to construct and install the Works and Services by a specified date;
 - d. the Owner must have provided a non-refundable administration fee in the amount of 2% of the amount of the Security, to a maximum of \$2,500.00 plus GST. The administration fee is payable by cash or certified cheque, separate from the Security; and
 - e. the Owner must have provided, for registration with the Subdivision, a fully executed title-binding covenant, restricting the individual sale of any Parcel within the Subdivision until such time as the conditions of the Construction Agreement or Works and Services Agreement are completed.

6.3 CASH-IN-LIEU

- 6.3.1 The City Engineer may require an Owner to pay to the City, in lieu of constructing or altering Works and Services required by this bylaw, cash in the amount determined to be the cost of designing and constructing or altering the Works and Services as of the time of Final Approval of the Subdivision or approval of a Development, if the City Engineer determines, on the basis of sound Professional Engineering practice or cost considerations, that the Works and

Services should be constructed or altered later or concurrently with the construction or alteration of Works and Services serving adjacent or nearby Parcels of land.

- 6.3.2 To determine the appropriate cash-in-lieu contribution, the Owner must provide a cost estimate of the Works and Services prepared by a Qualified Professional to the City Engineer for approval.

6.4 TECHNICAL OR ENVIRONMENTAL WORKS AND SERVICE ALTERNATIVES

- 6.4.1 The City Engineer may, in their sole discretion, require or consider and accept or reject alternative service levels, specifications, or designs for Works and Services outlined by this Bylaw that provide environmental or technical solutions that:

- a. Achieve a level of performance that meets or exceeds the level of performance that would be achieved by strict adherence to the service levels, specifications, or designs contained in this bylaw; or
- b. Otherwise meet the service levels, specifications, or designs contained in this bylaw.

6.5 HIGHWAYS

- 6.5.1 In circumstances where the Zoning of a property differs from the land use designation in the City Plan, the City Engineer shall determine the classification of the Highways to be constructed or improved. The width of Highway and the design of horizontal elements shall be determined from the highest future classification of the Highway which, in the opinion of the City Engineer, will result from the Subdivision or Development proposed and in accordance with the land use designation in the City Plan.

6.6 ROAD CROSS-SECTIONAL ELEMENTS

- 6.6.1 Where the physical or operational constraints of a road make the ability to achieve the ultimate cross-section of a road impractical, or where proposed alternative solutions can be utilized to realize any particular policy direction for the area, such as connectivity, tree retention, stormwater retention, or any other relevant policy, the City Engineer may modify, relocate, or remove the cross-sectional elements identified in Schedule A of this bylaw.

PART 7: EFFECTIVE DATE OF BYLAW

This Bylaw shall come into force and take effect upon adoption thereof.

PASSED FIRST READING
PASSED SECOND READING
PASSED THIRD READING
ADOPTED

MAYOR

CORPORATE OFFICER

DRAFT

SCHEDULE A

Manual of Engineering Standards and Specifications

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