



AGENDA - VICTORIA CITY COUNCIL

Thursday, July 18, 2024

COUNCIL CHAMBERS - 1 CENTENNIAL SQUARE, VICTORIA BC

To be held immediately following the Committee of the Whole Meeting

The City of Victoria is located on the homelands of the Songhees Nation and Xwsepsum Nation

Pages

A. TERRITORIAL ACKNOWLEDGEMENT

B. INTRODUCTION OF LATE ITEMS

C. APPROVAL OF AGENDA

D. REPORTS OF COMMITTEE

D.1 Committee of the Whole

D.1.a Report from the July 04, 2024 COTW Meeting

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[Link to the July 04, 2024 COTW Agenda](#)

D.1.a.a Centennial Square Revitalization Concept Design Update

**D.1.a.b Union of British Columbia Municipalities (UBCM)
Community Excellence Awards Submission**

D.1.b Report from the July 18, 2024 COTW Meeting

*Placeholder for time-sensitive items pending approval at the
July 18, 2024 COTW meeting.*

**D.1.b.a 1115 Johnson Street, 1110 and 1120 Yates Street:
Development Variance Permit Application No. 00286
(Fernwood)**

D.1.b.b Amendment to Patio Regulation Bylaw No. 23-035

D.1.b.c Amendments to the Short-Term Rental Regulation Bylaw

**D.1.b.d Council Member Motion: Union of British Columbia
Municipalities (UBCM) Travel Expense Reimbursement**

D.1.b.e Council Member Motion: Union of British Columbia
Municipalities Convention (September 16-20, 2024)
Expenses

D.1.b.f Council Member Motion: Union of BC Municipalities 2024
Convention

E. BYLAWS

E.1 Amendment Bylaw for Land Use Procedures Bylaw

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A report recommending:

- **1st, 2nd and 3rd readings of:**
 - Land Use Procedures Bylaw, Amendment Bylaw (No. 21), No. 24-021

The purposes of this bylaw are to amend the Land Use Procedures Bylaw to align the City's public hearings and notification procedures with amendments to the Local Government Act from Bill 44 – Housing Statutes (Residential Development) Amendment Act, 2023; to eliminate reference to land use contracts procedures given that land use contracts are terminated as of June 30, 2024 pursuant to section 547 of the Local Government Act; streamline and clarify certain additional processes and fees; and add two delegations in respect of small-scale multi-unit housing in restricted zones and multi-unit residential or mixed use development up to 2.5:1 FSR and six storeys.

E.2 Bylaw for 515 Foul Bay Road: Rezoning Application No. 00807

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A report recommending:

- **1st, 2nd and 3rd readings of:**
 - Zoning Regulation Bylaw, Amendment Bylaw (No. 1340), No. 24-048

The application proposes to rezone from the R1-G Zone, Gonzales Single Family Dwelling District to a new site-specific zone to permit three ground-oriented multiple dwelling buildings on one lot and retention of an existing five-unit heritage-registered house conversion on a separate lot with a shared panhandle driveway.

E.3 Bylaw for Development Cost Charges

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A report recommending:

- **1st, 2nd and 3rd readings of:**
 - Development Cost Charges Bylaw, No. 24-053

The purpose of this bylaw is to provide funds to assist the City in paying the capital costs of providing, constructing, altering, or expanding sanitary sewer, water, drainage and roads facilities, and providing and improving park land to service directly or indirectly, the development for which the charges are imposed.

E.4 Bylaw for Delegation Bylaw

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A report recommending:

- **1st, 2nd and 3rd readings of:**
 - Delegation Bylaw No. 24-045
- **Motion to report back**

The purpose of this bylaw is to facilitate more efficient operations by expanding the types of Council-approved documents that designated City positions may sign and to expand the types of delegations that designated City employees can approve, negotiate and administer on behalf of the City without a need for specific Council approval in individual instances.

E.5 Bylaws for Temporary Borrowing Bylaws – Transportation, Public Washrooms and Parks Redevelopment and Security Issuing Resolutions

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A report recommending:

- **1st, 2nd and 3rd readings of:**
 - Temporary Borrowing (Transportation Improvements Capital Projects) Bylaw, No. 24-064
 - Temporary Borrowing (Public Washroom Improvements Capital Projects) Bylaw, No. 24-065
 - Temporary Borrowing (Parks Redevelopment Capital Projects) Bylaw, No. 24-066
- **Motion to approve security issuing resolutions for the spring 2025 long-term borrowing opportunity**

The purposes of these bylaws are to authorized the borrowing, by the issuing of debentures, of \$32 million for transportation infrastructure improvements, \$3 million for public washroom improvements, and \$18 million for park redevelopment, respectively.

F. NOTICE OF MOTIONS

G. CLOSED MEETING

MOTION TO CLOSE THE JULY 18, 2024 COUNCIL MEETING TO THE PUBLIC

That Council convene a closed meeting that excludes the public under Section 90 of the *Community Charter* for the reason that the following agenda items deal with matters specified in Sections 90(1) and/or (2) of the *Community Charter*, namely:

Section 90(1) A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:

Section 90(1)(e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;

Section 90(1)(i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

Section 90(2) A part of a council meeting must be closed to the public if the subject matter being considered relates to one or more of the following:

Section 90(2)(b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party.

H. APPROVAL OF CLOSED AGENDA

I. NEW BUSINESS

I.1 Land and Intergovernmental Relations - Community Charter Section 90(1)(e) and 90(2)(b)

I.2 Legal Advice - Community Charter Section 90(1)(i)

J. CONSIDERATION TO RISE & REPORT

K. ADJOURNMENT

**COMMITTEE OF THE WHOLE REPORT
FROM THE MEETING HELD JULY 04, 2024**

For the Council meeting of July 18, 2024, the Committee recommends the following:

F. STAFF REPORTS

F.1 Centennial Square Revitalization Concept Design Update

THAT Council approve the updated concept design for Centennial Square and direct staff to proceed with implementation as outlined in this report as amended by the following:

1. Increase the child-oriented play features in the final designs.
2. In future consider commercial mixed-use to return to the north side of the Square.
3. After removal of the unsafe trees, and without slowing down the project, staff to repurpose the timber within the Victoria community as they see fit.

F.2 Union of British Columbia Municipalities (UBCM) Community Excellence Awards Submission

That Council authorize staff to submit an award for OUR DWTN for the Union of British Columbia Municipalities (UBCM) Community Excellence Awards for excellence in service delivery.



Council Report

For the Meeting of July 18, 2024

To: Council **Date:** July 4, 2024

From: Karen Hoesel, Director, Sustainable Planning and Community Development

Subject: Update Report - Land Use Procedures Bylaw Amendment (No. 21) No. 24-021

RECOMMENDATION

That Council:

1. Amend the *Land Use Procedures Bylaw* (No. 16-028) as proposed in Attachment 1, to align the bylaw with the *Local Government Act* with regards to the City's public hearing and notification procedures, eliminate reference to Land Use Contracts, streamline additional processes, adjust fees for duplexes and garden suites, and delegate additional permit approval authorities to the Director of Sustainable Planning and Community Development.
2. Give first three readings to the *Land Use Procedures Bylaw, Amendment Bylaw* (No. 21), No. 24-021.

EXECUTIVE SUMMARY

The purpose of this report is to update Council on proposed amendments to the Land Use Procedures Bylaw (LUPB).

Consistent with Council's direction from the meeting of May 23, 2024, the proposed bylaw amendments achieve several key policy objectives relating to streamlining development review/approval processes, clarifying procedures, and aligning current municipal practice with provincial legislation.

The amendments to the bylaw include adjustments to notification distances and revisions to sign posting requirements. To align with the *Local Government Act*, public hearings for residential developments will be prohibited, and reference to the opportunity for public comment will be removed. The proposed amendments include other administrative changes such as removing references to expired Land Use Contracts (LUCs) and adjusting fees for duplexes and garden suites based on previous Council directives.

Additionally, the bylaw changes would also grant the Director of Sustainable Planning and Community Development (SPCD) additional authority to approve Development Permits and Heritage Alteration Permits for Small-Scale Multi-Unit Housing (SSMUH) applications in restricted

zones as well as for all primarily residential multi-unit buildings up to six stories with a 2.5:1 Floor Space Ratio (FSR) in any Development Permit Area (DPA) or Heritage Conservation Area (HCAs).

The proposed bylaw amendments before Council for consideration relate to Phase 1 and Phase 2 of a three phased approach for updating the bylaw. A separate follow-up report will be presented to Council to outline additional scope of Phase 3 amendments, which will involve a more extensive review of the LUPB and the City's development processes.

PURPOSE

The purpose of this report is to propose amendments to the Land Use Procedures Bylaw (LUPB) that achieve the following objectives:

- Implementing public hearing amendments that are in alignment with Bill 44 – *Housing Statutes (Residential Development) Amendment Act, 2023*. These amendments will prohibit public hearing requirements for certain residential development applications that are consistent with the *Official Community Plan*.
- Implementing other amendments that help align the bylaw with the *Local Government Act*, such as public notice procedures and opportunity for public community, removing reference to land use contracts (LUCs) and providing greater clarity and consistency in the language and wording of the bylaw.
- Delegating to the Director of Sustainable Planning and Community Development (SPCD) the authority to approve Development Permits and Heritage Alteration Permits for Small-Scale Multi-Unit Housing (SSMUH) in restricted zones. This is consistent with how the City processes missing middle development applications. Additional permit approval delegations are also proposed for residential or mixed-use buildings up to 2.5:1 FSR and six storeys in all DPAs and HCAs. This path to approval would apply for projects that meet zoning regulations in terms of use and density, as well as applicable design guidelines, otherwise Council consideration would be required.
- Updating application fees in Schedule A to clarify fees for one dwelling unit or two dwelling units in DPA 15F: Missing Middle and adjusting fees for garden suite applications (as per Council direction given May 2022).

The proposed bylaw amendments are provided in Attachment 1 for Council's consideration for introductory readings, with a summary table of the changes outlined in Attachment 3.

BACKGROUND

The review of the Land Use Procedures Bylaw was initiated in response to recent legislative changes by the Province, specifically Bill 44, whereby local governments are prohibited from holding a public hearing for certain rezoning applications.

On May 9, 2024, Council requested the following with regards to the LUPB:

1. *Amend the Land Use Procedures Bylaw as proposed in Phase 1 and Phase 2 as described in Attachment 3, to align the City's public hearing procedures with Bill 44 – Housing Statutes (Residential Development) Amendment Act, 2023 that placed a prohibition on certain public hearings and to increase the consistency, clarity, efficiency, transparency and innovation of our land use procedures.*

2. *Give first three readings to the Land Use Procedures Bylaw, Amendment Bylaw (No. 22) at Council to follow the June 27, 2024, Committee of Whole meeting.*
3. *Direct staff to conduct additional review of the City's Land Use Procedures Bylaw, based on the scope and guiding values outlined in Attachment 3, and bring forward an amended bylaw for Council's consideration.*
4. *Direct staff to report back to Council before August 1, 2024, on Phase 3 items including information on scoping, timing, and resource implications.*

On May 16, 2024, Council also requested amendments to the LUPB to delegate permit approval to the Director of SPCD for applications related to small-scale multi-unit housing in restricted zones. This direction resulted in a portion of Phase 3 amendments (related to additional delegations) being brought forward as part of Phase 2.

In May 2022, Council also provided the following direction, which has been incorporated into the Phase 2 amendments to the LUPB:

1. *Prepare and bring forward, for first and second readings, amendments to the Land Use Procedures Bylaw revising the Development Permit application base fee for Garden Suites from \$1,000 to \$3,000, increasing to \$3,500 if the application is not consistent with the applicable Design Guidelines and must be referred to Council for consideration.*

That the proposed fees in the report be reduced to \$2,000 for a base fee.

Phase 3 Review - Bylaw Amendments

A follow-up report will come to Council (initially requested for August 2024) to outline the additional scope of work in Phase 3 of the LUPB update. This phase will include a more in-depth review of the bylaw, with a focus on the pre-application process, modernizing procedures for applicant-initiated community engagement, revising and adjusting application fees, and considering the opportunity for additional delegated authorities.

Consultation

As these bylaw amendments are mainly technical (relating to provincial legislation or house keeping updates), and do not impact applicants or pre-application community engagement, Council did not request specific feedback from the Urban Development Institute (UDI) and the Community Association Land Use Committees (CALUCs).

Guiding Values

Based on the City's Guiding Values and Objectives identified in the [2023-2026 Strategic Plan](#), policy objectives in the [Official Community Plan](#) (2012) and the principles applied in the review of the City of Victoria's governance structures and processes (Governance Review), the following values have been used to guide the bylaw review process.

1. **Alignment with Legislation:** Ensuring that the *Land Use Procedures Bylaw* is consistent with the *Local Government Act* and other relevant legislation.
2. **Innovation:** Seeking new and creative solutions to improve the development process, while incorporating best practices from other jurisdictions, leading industry standards, and the advancement of new technologies.

3. **Consistency and Clarity:** Ensuring that the bylaw is clear and coherent in its language and application.
4. **Efficiency:** Streamlining the development process to reduce processing times and improve service delivery.
5. **Inclusivity:** Ensuring that the development process is inclusive and accessible to all members of the community.
6. **Transparency:** Providing clear and transparent information about the development process to the public, staff, and applicants.

Attachment 3 - Summary and Analysis of Bylaw Amendments provides an explanation of how each proposed bylaw change aligns with the six guiding values.

ISSUES & ANALYSIS

Each affected section of the bylaw is described below. Additionally, Attachment 1 outlines the proposed amendments to the LUPB, and Attachment 2 shows the new wording as track changes inserted within existing bylaw. Attachment 3 offers a summary of the amendments, including proposed revisions, the policy objectives each change fulfils, and their alignment with the guiding values.

Phase 1 Public Hearing Related Changes

Through provincial Bill 44, which came in effect on November 30, 2023, local governments are prohibited from holding a public hearing for rezoning applications that meet the following criteria:

- (a) an official community plan is in effect for the area that is the subject of the zoning bylaw,
- (b) the bylaw is consistent with the official community plan,
- (c) the sole purpose of the bylaw is to permit a development that is, in whole or in part, a residential development, and;
- (d) the residential component of the development accounts for at least half of the gross floor area of all buildings and other structures proposed as part of the development.

Amendments have been prepared for Council's consideration to update the LUPB to be consistent with legislative changes regarding public hearings. These proposed amendments will ensure alignment with the enabling legislation and clarify the circumstances under which a public hearing may be held or waived by Council for zoning bylaw amendments.

- **Section 29 - Public Hearing:**
The proposed change outlines when public hearings are not permitted, not required, and may be waived, consistent with the *Local Government Act*. Wording is also added to clarify that a public hearing is still required for heritage designation, when a heritage revitalization agreement is being entered into or amended, and when residential rental tenure is being altered. The proposed bylaw amendment also removes mention of LUCs, which are no longer in place.
- **Section 30 - Right to Waive a Public Hearing**
The proposed bylaw amendment clarifies that Council may only waive the holding of a public hearing for a zoning amendment bylaw application that is consistent with the OCP and when the hearing is not already prohibited.

- **Section 31 - Notice of Public Hearing, Zoning Bylaw Amendment or Permits**

The requirement for public notification is still included in the *Local Government Act* and needs to be completed before first reading of the rezoning bylaw even in cases where no public hearing is required or permitted. Public notice requirements will continue to apply as outlined in the LUPB (including publishing and mailing of rezoning notices); however, the proposed bylaw amendment adds wording to clarify that the notification distance is 100m for zoning bylaw amendment applications when the public hearing has been waived, as well as for zoning bylaw amendment applications when a public hearing is not permitted. The table added to Section 31 also identifies distance for certain permit types. The notice distances exceed the requirements of the LGA (which generally sets the minimum notification standard as being the owners, as well any tenants occupying the property at the time of mailing or delivery) to achieve greater transparency with the public.

Phase 2 Bylaw Updates

The proposed revisions focus on several key adjustments: removing reference to the opportunity for public comment, modifying the notification requirements for certain applications, standardizing the notification distances for OCP amendments, and standardizing sign posting requirements for specific permit application types. In addition, mentions of LUCs are removed, and there are minor revisions regarding fees for garden suites and duplexes specifically related to previous Council direction.

- **Section 5 – Applications Subject to This Bylaw**

These amendments would remove all mention of LUC applications. All LUCs were required (by the province) to be terminated as of June 30, 2024.

- **Section 7 – Notification Distance**

The proposed change clarifies that the pre-application notification for all Official Community Plan (OCP) amendments is 200m.

- **Section 21 – Refund**

The proposed amendments clarify that the timing for withdrawn or cancelled applications to receive a 75% refund on application fees within 16 to 40 business days of the submission date. It also adds wording to clarify current policy relating to the refund amount for an applicant meeting the *Tenant Assistance Policy* and Tenant Assistance Plan. These applicants are eligible for a refund that does not exceed the application fee they paid, up to a limit of \$5,000.

- **Section 26 – Application Sign Posting Requirements for Permits**

The proposed amendments would require that development application information signs be posted consistently for certain application types, rather than only in instances where there is an opportunity for public comment. It also eliminates references to the opportunity for public comment.

- **Sections 27 & 28 – Application Sign Posting Requirements for Other Applications**

The proposed amendment removes mention of LUC applications in S.27 and makes a minor change to the structure of S.28.

- **Section 31 – Opportunity for Public Comment**

The opportunity for public comment has been removed to standardize the public input process, and to better align notification requirements with what is specified in the *Local Government Act*. The notice process continues to allow the public to submit written comments or to attend/watch the meeting live.

- **Section 32 - Notice of Public Hearing** (updated to replace Section 31 - Notice of Public Hearing, Zoning Bylaw Amendment or Permits)
This section has been renamed to also include notice for public hearings. A table is added that identifies notification distances for different application types, including OCP Amendments, Zoning Bylaw Amendments, Heritage Revitalization Agreements (HRA) or Heritage Designation applications, Development Variance Permits (DVP), Development Permits with Variances (DPVs), Heritage Alteration Permits with Variances (HAPVs), and Temporary Use Permits (TUPs). The distances outlined exceed the requirements in the *Local Government Act* for the purpose of providing information to neighbouring property owners and tenants.
- **Section 33 – Notice of Opportunity for Public Comment and Section 34 - Notice Requirements for Temporary Use Permits**
These subjects have been addressed with the changes to Section 31 (previously Section 32), and therefore these sections are proposed to be deleted.
- **Schedule A – Application Fees**
Clarifies the base fees for one dwelling unit or two dwelling units within Development Permit Area 15F: Missing Middle, and adjusts the fees for garden suites in DPA 15E: Garden Suites as per Council direction.

New Delegated Authority (Phase 3) Changes

These amendments would allow additional Development Permits and Heritage Alteration Permits (with or without variances) to be delegated to the Director of Sustainable Planning and Community Development (SPCD) for approval.

- **Schedule D - Row 30**
The proposed bylaw amendment delegates authority for Development Permits and Heritage Alteration Permits (with or without variances) in restricted zones for small-scale multi-unit housing to the Director of SPCD. This change implements direction previously provided by Council. This is also consistent with how the City processes Missing Middle applications.
- **Schedule D - Row 31**
This change would delegate authority for Development Permits and Heritage Alteration Permits (with or without variances) for new residential buildings or mixed-use buildings with a minimum of 50% residential area, up to 2.5 FSR and six storeys, as well as building additions to the Director of SPCD. This would apply where zoning already permits residential or mixed-use development and the applications would need to adhere to applicable design guidelines; those not meeting the guidelines may be brought to Council for consideration.

Phase 2 Amendments that Require Further Review in Phase 3

As part of the Phase 2 amendments, the following sections were initially proposed for review and revision: receipt of applications, incomplete applications, notification of incomplete applications, application sign posting requirements, and review timelines. However, as Phase 2 was brought forward sooner than originally anticipated, and this work is being undertaken as part of the Development Review Process currently underway, these sections have been deferred to the Phase 3 work plan:

- **Section 12 – Receipt of Applications, Section 13 – Incomplete Applications, and Section 14 – Notification of Incomplete Applications.**
These sections will be considered as part of Phase 3 to allow for consultation with other

departments, continued monitoring and resolution of challenges that may be resulting in incomplete applications in consultation with applicants, and for an analysis of best practices.

- **Section 27 - Application Sign Posting Requirements – Other Applications.**

This section will be further reviewed as part of the Phase 3 analysis to allow for a broader review of all sign posting requirements for rezoning and other application types, with the objective of facilitating consistent sign posting rules for external applicants and the City.

- **Application Review Timelines.**

While originally identified as part of Phase 3, review of operational timelines associated with the City's land use procedures will instead be considered as part of the Development Process Review project, with the objective of ensuring application review timelines are optimized, achievable, and meet the needs of both the City and applicants.

The City's Development Process Review project, which is currently underway, may result in additional changes to the LUPB as part of Phase 3, particularly with regards to application requirements, consultation, and sign posting.

OPTIONS & IMPACTS

Option One (Recommended Approach) – Amend the *Land Use Procedures Bylaw* as proposed.

Advantages:

- The proposed amendments implement previous Council direction.
- Advances changes required to be consistent with the *Local Government Act* and enables additional procedural changes to further simplify and streamline city development processes.
- Aligns with the City's housing objectives and contributes towards meeting provincial and federal housing targets.

Disadvantages:

- Depending on the scope of Phase 3 of the review, there may be further implications for these sections of the bylaw.

Option Two – Provide alternative direction.

2023 – 2026 Strategic Plan

Reviewing the *Land Use Procedures Bylaw* aligns with the City's goal to "*Simplify City processes to accelerate housing development*" and to "*Streamline permitting and development processes to support small businesses and to reduce costs*".

Impacts to Financial Plan

The proposed scope of work will not impact the Financial Plan.

Official Community Plan Consistency Statement

Modernizing the City's land use procedures supports effective, transparent, and consistent implementation of the OCP and may help facilitate increased housing construction by reducing development application processing times. This project also aligns with several of the 13 values

that inform the goals, broad objectives, policies, and implementing actions identified within the OCP.

CONCLUSIONS

It is recommended that Council amend the *Land Use Procedures Bylaw*, as proposed, to ensure alignment with Provincial legislation, promote consistency and clarity in the bylaw, and enhance efficiency in the application process.

Respectfully submitted,

Katelyn McDougall
Manager of City Development Processes
Sustainable Planning and Community
Development Department

Karen Hoese, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager.

List of Attachments

- Attachment 1: *Land Use Procedures Bylaw* Amendment No. 21
- Attachment 2: Consolidated *Land Use Procedures Bylaw* No. 16-028 with Amendments
- Attachment 3: Summary and Analysis of Bylaw Amendments
- Attachment 4: Committee of the Whole Report from May 9, 2024
- Attachment 5: Council Motion from May 23, 2024
- Attachment 6: Committee of the Whole Report from May 2, 2024
- Attachment 7: Council Motion from May 16, 2024
- Attachment 8: Council Motion from May 5, 2022.

NO. 24-021

LAND USE PROCEDURES BYLAW, AMENDMENT BYLAW (NO. 21)

A BYLAW OF THE CITY OF VICTORIA

The purposes of this bylaw are to amend the Land Use Procedures Bylaw:

- (a) to align the City's public hearings and notification procedures with amendments to the *Local Government Act* from Bill 44 – *Housing Statutes (Residential Development) Amendment Act, 2023*;
- (b) to eliminate reference to land use contracts procedures given that land use contracts are terminated as of June 30, 2024 pursuant to section 547 of the *Local Government Act*;
- (c) streamline and clarify certain additional processes and fees; and
- (d) add two delegations in respect of small-scale multi-unit housing in restricted zones and multi-unit residential or mixed use development up to 2.5:1 FSR and six storeys.

Contents

- 1 Title
- 2 Amendments
- 3 Commencement

Under its statutory powers, including Part 14 of the *Local Government Act* and section 154 of the *Community Charter*, the Council of the Corporation of the City of Victoria in a public meeting assembled enacts the following provisions:

Title

- 1 This bylaw may be cited as the "Land Use Procedures Bylaw, Amendment Bylaw (No. 21)".

Amendments

- 2 The Land Use Procedures Bylaw, 2016 is amended as follows:
 - (a) in the third paragraph of the preamble, by deleting the words "an amendment to a land use contract or";
 - (b) in the Table of Contents,
 - (i) by deleting "31. Opportunity for public comment";
 - (ii) by renumbering section 32 to "31";
 - (iii) at newly renumbered section 31, by adding the words ", zoning bylaw amendment or permits" after "Notice of public hearing";

- (iv) by deleting “33. Notice of opportunity for public comment”;
- (v) by deleting “34. Notice requirements for temporary use permits”; and
- (vi) by renumbering “35. Reapplications” to “32.” and numbering each subsequent section accordingly;
- (c) in section 5, by deleting “(c) an amendment to a land use contract;” and renumbering each subsequent subsection accordingly;
- (d) by deleting section 7A, and replacing it with:

“7A. The notification under section 7 will be provided to the owners and occupiers of properties located within 100 metres of the subject property of an application listed in Section 27 of this Bylaw, except if the application includes an OCP amendment, the notification distance is 200 metres.”
- (e) in section 21(b), by inserting the words “16 to” prior to the number “40”;
- (f) in section 21A, by deleting the words “of that fee” and inserting “or the application fee, whichever is less,”;
- (g) in section 22,
 - (i) by deleting the comma between “public hearing” and “the waiver of a public hearing” and replacing it with the word “or”; and
 - (ii) by deleting the words “, or an opportunity for public comment” after the words “waiver of a public hearing”;
- (h) in sections 25(a) and (b), by deleting “Section 35” and replacing it with “Section 32”;
- (i) in section 26, by deleting the opening paragraph prior to the list of subsections and replacing it with the following:

“The applicant must post signage in compliance with Schedule B of this Bylaw for the following types of permits:”;
- (j) in section 27, by deleting subsection (c) and renumbering the subsequent subsection accordingly;
- (k) in section 28, by removing the words “City-initiated amendments” and inserting the same words into subsection (a) prior to “that involve ten or more parcels; or”;
- (l) in section 29:
 - (i) at subsection (a), by adding “, subject to section 29A and 29B” between “zoning bylaw” and the semicolon;

- (ii) by deleting subsection (c) and renumbering each subsection accordingly;
- (iii) in the newly renumbered subsection (c), by deleting the period and inserting the words “or alter the zoning bylaw in relation to residential rental tenure;” after “applicable zoning”;
- (iv) by adding a new subsection (d):
 - “(d) heritage designate a property.”
- (m) by inserting the following two sections immediately after section 29:
 - “29A. A public hearing on a proposed zoning amendment bylaw is not permitted if:
 - 1. (a) the bylaw is consistent with the OCP;
 - (b) the sole purpose of the bylaw is to permit a development that is, in whole or in part, a residential development; and
 - (c) the residential component of the development accounts for at least half of the gross floor area of all buildings and other structures as part of the development; or
 - 2. the sole purpose of the bylaw is to comply with section 481.3 of the *Local Government Act*.
 - 29B. A public hearing is not required on a proposed zoning amendment bylaw if the bylaw is consistent with the OCP.”
- (n) in section 30, by inserting “and does not meet the criteria in section 29A.” after “OCP”;
- (o) by deleting section 31 “Opportunity for public comment”;
- (p) by deleting section 32 and section 32A and replacing them with the following new section 31:

Notice of public hearing, zoning bylaw amendment or permits

- 31. The distance specified for the purpose of notification of the following processes is:

<u>Process</u>	<u>Distance</u>
Notification of public hearing for:	
Amendment to the OCP	200 metres

Amendment to the zoning bylaw	100 metres
Heritage revitalization agreement bylaw or heritage designation bylaw	100 metres
Notification of zoning amendment bylaw where public hearing not permitted or has been waived	100 metres
Notice of Council resolution to issue development permit with variances, heritage alteration permit with variances, development variance permit or temporary use permit	All parcels that are the subject of, or that are adjacent to the parcels that are the subject of the permit in relation to which Council proposes to make a decision.

- (q) by deleting section 33 Notice of opportunity for public comment and section 34 Notice requirements for temporary use permits;
- (r) by renumbering section “35 Reapplications” to section 32 and renumbering each subsequent section in sequence accordingly;
- (s) in newly renumbered section 35, by deleting “Section 37” and replacing it with “Section 34”;
- (t) in newly renumbered section 42, by deleting:
 - (i) “section 46” and replacing it with “section 43”;
 - (ii) “section 48 and 49” and replacing with “section 45 and 46”;
 - (iii) “section 36” at subsection (a) and replacing with “section 33”;
- (u) in newly renumbered sections 43, 44, and 45, by deleting “section 45” where it appears and replacing with “section 42”;
- (v) in newly renumbered section 46(a) and (b), by deleting “section 48” and replacing with “section 45”;
- (w) in newly renumbered section 47, by deleting “51 to 53” and replacing with “48 to 50”;

- (x) in newly renumbered section 49, by deleting “section 50” and “section 51” and replacing with “section 47” and “section 48”, respectively;
- (y) in newly renumbered section 50, by deleting “section 52” and replacing with “section 49”;
- (z) in Schedule A, Application Fees:
 - (i) by deleting section 2(2)(b) and renumbering each subsection accordingly;
 - (ii) at section 2(5)(v), by deleting subsections A and B and replacing with the following:
 - “(A) one dwelling unit: \$2,000;
 - (B) two dwelling units: \$3,000;
 - (C) three to six dwelling units: \$12,000;
 - (D) more than six dwelling units: \$15,000.”
 - (iii) by inserting the following new subsection immediately after subsection (v):
 - “(vi) Notwithstanding the previous subparagraphs, a proposal for a garden suite in Development Permits Area 15E is \$2,500.”
 - (iv) by deleting the words at section 2(8)(a)(ii) and replacing them with:
 - “Development Permit Area 15E for a garden suite is \$2,000;”
 - (v) at section 2(8)(a)(iii) by deleting subsections (A) and (B) and replacing them with:
 - “(A) one dwelling unit: \$2,000;
 - (B) two dwelling units: \$3,000;
 - (C) three to six dwelling units: \$10,000;
 - (D) more than six dwelling units: \$13,000;”
 - (vi) by deleting section 3(2);
- (aa) in Schedule D, by adding the following rows immediately after row 29:

30	A DP or HAP, with or without variances, for new buildings and building additions for small-scale multi-unit housing in a restricted zone	All DP Areas	The proposed development complies with applicable guidelines.
----	--	--------------	---

			Permit is valid for two years from the date of issuance.
31	A DP or HAP, with or without variances, for new residential or mixed-use buildings or additions, up to 2.5:1 FSR and six storeys, where at least 50% of the total floor area is comprised of residential use.	All DP Areas and all HCAs	<p>The proposed development complies with applicable guidelines.</p> <p>Permit is valid for two years from the date of issuance.</p>

Commencement

3 This bylaw comes into effect on adoption.

READ A FIRST TIME the day of 2024

READ A SECOND TIME the _____ day of _____ 2024

READ A THIRD TIME the _____ day of _____ 2024

ADOPTED on the _____ day of _____ 2024

CITY CLERK

MAYOR



**LAND USE PROCEDURES BYLAW
BYLAW NO. 16-028**

This consolidation is a copy of a bylaw
consolidated under the authority of
section 139 of the *Community Charter*.
(Consolidated on October 5, 2023 up to
Bylaw No. 23-085)

This bylaw is printed under and by
authority of the Corporate Administrator
of the Corporation of the City of Victoria.

ATTACHMENT 2

NO. 16-028

LAND USE PROCEDURES BYLAW

A BYLAW OF THE CITY OF VICTORIA

(Consolidated to include Bylaws No.16-059, No.17-006, No.17-012, No.17-023, No.17-054, No.17-107, No. 18-018, No.18-090, No.19-037, No.19-067, No.20-076, 21-055, 22-014, 22-021, 22-072, 22-057, 22-026, 23-066, 23-085)

A Bylaw to define procedures under which an owner of land may apply for an amendment to the Official Community Plan, Zoning Bylaw 2018, or the Zoning Regulation Bylaw, for the issuance of a permit, to impose application fees, to specify notification distances, and to delegate Council's authority to make decisions in certain circumstances.

WHEREAS:

A local government that has adopted an official community plan bylaw or a zoning bylaw must, by bylaw, define procedures under which an owner of land may apply for an amendment to the plan or bylaw or for a permit under Part 14 of the *Local Government Act*; and

The Council of the City of Victoria has adopted an official community plan and a zoning bylaw; and

A local government may, by bylaw, impose application fees for an application to initiate changes to an official community plan or zoning bylaw, the issuance of a permit under Part 14 or Section 617 of the *Local Government Act*, or ~~an amendment to a land use contract or~~ a heritage revitalization agreement; and

A local government may by bylaw specify a distance from affected land for the purpose of notifying owners and tenants in occupation of proposed bylaw amendments and permits; and

The Council may, by bylaw, delegate its powers, duties and functions to an officer or employee of the municipality;

NOW THEREFORE, the Council of the City of Victoria, in open meeting assembled, enacts as follows:

PART 1 – INTRODUCTORY PROVISIONS

1. Title
2. Repeal
3. Severability
4. Definitions
5. Applications Subject to this Bylaw

ATTACHMENT 2

PART 2 – APPLICATIONS

6. Pre-Application Community Meeting Requirements
7. Notification Distance
8. Waiving a Community Meeting
9. Applications Forms
10. Application Requirements
11. Evidence of Participation in a Community Meeting
12. Receipt of Applications
13. Incomplete applications
14. Notification of incomplete applications
15. Application referral
16. Application review summary
17. Council referral
18. Application Fee
19. – 20. Affordable Housing application fee
21. Refund
22. Refund of administration fee
23. Landscape Security
24. Cancellation of Applications
25. Reapplication – cancelled file
26. Application Sign Posting Requirements – permits
27. – 28. Application Sign Posting Requirements – other applications
29. Public hearing
30. Right to waive a public hearing
- ~~31. Opportunity for public comment~~
- 31.2. Notice of public hearing, [zoning bylaw amendment or permits](#)
- ~~33. Notice of opportunity for public comment~~

~~34. Notice requirements for temporary use permits~~

~~325. Reapplications~~

PART 3 – DELEGATION AND RECONSIDERATION

~~336. Types of Permits~~

~~347. Referral~~

~~358. Referral consideration~~

~~369. Landscape security delegation~~

~~3740. Council reconsideration~~

~~3844. Time limit for reconsideration~~

~~3492. Notice of reconsideration~~

~~403. Representation to Council~~

~~414. Council's authority~~

PART 4 – ENCROACHMENTS IN DELEGATED APPROVALS

~~425. – 469. Encroachments for decorative features~~

~~4760. – 5063. Encroachments for anchor rods~~

~~514. General~~

SCHEDULES

Schedule A	Application Fees
Schedule B	Procedures for Sign Posting– Permits
Schedule C	Procedures for Sign Posting – Other Applications
Schedule C-1	Procedures for Sign Posting – Pre-Application Input
Schedule D	Delegated Approvals
Schedule D-1	Criteria for Minor Variances
Schedule D-2	Guidelines for Development Variance Permits
Schedule E	Landscape Security
Schedule F	Encroachment for Decorative Features
Schedule G	Encroachment for Anchor Rods

ATTACHMENT 2

PART 1 – INTRODUCTORY PROVISIONS

Title

1. This Bylaw may be cited as the "LAND USE PROCEDURES BYLAW, 2016".

Repeal

2. Bylaw No. 09-048, the "Land Use Procedures Bylaw" is repealed.

Severability

3. If any Section, subsection, sentence clause or phrase forming part of this Bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, the invalid portion shall be severed from the Bylaw without affecting the validity of the Bylaw or any remaining portion of the Bylaw.

Definitions

4. In this bylaw,

"affordable housing" means

any housing unit which is:

- (a) part of a development wholly owned and operated by a registered non-profit residential housing society or government agency, or operated by a registered non-profit residential housing society or government agency pursuant to a legally binding arrangement with the property owner; and
- (b) subject to a housing agreement with the City, or a covenant in favour of the City, securing its use as a below-market housing unit in perpetuity",

"ADP" means

the City's Advisory Design Panel

"anchor rod" means

any steel or other rod, pipe or thing an intended purpose of which is to shore or support an excavation face or to prevent subsidence

"CALUC" means

Community Association Land Use Committee

"Committee" means

a select or standing committee of Council

"Community Meeting" means

ATTACHMENT 2

a public meeting held in association with a Community Association Land Use Committee operating under the Community Association Land Use Committee Procedures for Processing Rezoning and Variance Applications as approved by a resolution of Council

“development permit” or “DP” means
a permit authorized by Section 490 of the *Local Government Act*

“development variance permit” or “DVP” means
a permit authorized by Section 489 of the *Local Government Act*

“Director” means
the City's Director of Sustainable Planning and Community Development Department

“Engineer” means
the City's Director of Engineering and Public Works or a person acting under his authority

“HAPL” means
the City's Heritage Advisory Panel;

“heritage alteration permit” means
a permit authorized by Section 617 of the *Local Government Act*

“heritage conservation area” or “HCA” means
an area designated pursuant to section 614(1) of the *Local Government Act*

“heritage registered property” means
property listed on the community heritage register under section 598 of the *Local Government Act*

“heritage revitalization agreement” means
an agreement authorized by Section 610 of the *Local Government Act*

“Official Community Plan” or “OCP” means
the City's Official Community Plan Bylaw, 2012

“public comment” means
members of the public addressing Council, other than at a public hearing, regarding the subject matter of a decision Council proposes to make

“public hearing” means

ATTACHMENT 2

a public hearing that is required to be held under the *Local Government Act* before Council adopts a bylaw

“temporary use permit” or “TUP” means ~~new as per 17-054~~

a permit authorized by Section 493 of the *Local Government Act*

“TRG” means

the Technical Review Group composed of City of Victoria staff

“zoning bylaw” means

the City’s Zoning Regulation Bylaw and Zoning Bylaw 2018

Applications subject to this bylaw

5. This bylaw establishes fees and procedures in relation to applications for:
 - (a) an amendment to the zoning bylaw;
 - (b) an amendment to the OCP;
 - ~~(c) an amendment to a land use contract;~~
 - ~~(d)~~(c) a temporary use permit;
 - ~~(e)~~(d) a heritage revitalization agreement;
 - ~~(f)~~(e) a development variance permit;
 - ~~(g)~~(f) a development permit;
 - ~~(h)~~(g) a heritage alteration permit.

PART 2 - APPLICATIONS

Pre-application requirements

6. Before submitting an application to initiate changes to the OCP or zoning bylaw, the applicant must:
 - (a) pay to the City the pre-application notification fee as calculated in accordance with Schedule A of this Bylaw;
 - (b) arrange and participate in a Community Meeting not more than six months in advance of the application submission date;
 - (c) submit plans for the proposed development to the City to post online for public comment not less than 30 days and not more than six months in advance of the application submission date; and
 - (d) post signage in accordance with Schedule C-1 of this Bylaw.

ATTACHMENT 2

- 6A. The pre-application notification fee under section 6(a) does not apply where the requirements of section 6(b), (c) and (d) have all been waived pursuant to section 8.
- 6B. The Director may require the applicant to repeat the requirements in section 6 if the plans for the proposed development has had the following revisions:
- (a) additional uses added;
 - (b) increase in height or density; or
 - (c) decrease in setbacks or increase in site coverage equal to or greater than 20%.
- 6C. In the event section 6B is triggered and the requirements under 6(b), (c) and (d) have not been waived pursuant to section 8, the applicant must pay the pre-application notification fee as calculated in accordance with Schedule A.

Notification Distance

7. The City will provide owners and occupiers within the areas specified in Section 7A with notification of the date of the processes under section 6(b) and (c), if applicable.

~~7A. 7A.~~ The notification under section 7 will be provided to the owners and occupiers of —
— properties located within:

- ~~(a) 100 metres of the subject property that is the subject of the application (the "subject property") if the of an application is for one of the matters listed in Section 27 of this Bylaw, except if the application includes an OCP amendment, the notification distance is 200 metres.~~
- ~~(b) 200 metres of the property that is the subject of the application if the application is to amend the zoning bylaw and also requires an amendment to the Urban Place Designation for the subject property in the Official Community Plan; or~~
- ~~(c) 200 metres of the property that is the subject of the application if the application is to amend the zoning bylaw and requires the creation of or amendment to guidelines in the Official Community Plan for one or more Development Permit Areas or Heritage Conservation Areas.~~

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Waiving Pre-application Requirements

8. The requirement under section 6(b) may be solely waived or the requirements

ATTACHMENT 2

under sections 6(b), (c) and (d) may be waived altogether, by:

- (a) Council;
- (b) in writing by the CALUC in the area in which the proposed development is located; or
- (c) by the Director, if, in the Director's opinion:
 - i. the applicant has made reasonable attempts to hold a Community Meeting; or
 - ii. extraordinary circumstances exist that make it unsafe or impractical to hold a Community Meeting.

Application Forms

- 9. The Director is authorized to establish and revise the application form for any application to be used from time to time pursuant to this Bylaw.

Application requirements

- 10. All applications must be submitted to the Director on the form provided by the City for the purpose of the application, and must be accompanied by:
 - (a) all of the information and supporting documents specified in the application form;
 - (b) the fees set out in Schedule A to this Bylaw.

Evidence of participation in a Community Meeting

- 11. If a Community Meeting was required in relation to an application, the applicant must submit evidence that the applicant has participated in the Community Meeting.

Receipt of applications

- 12. If a person submits a complete application to the Director, the Director must process the application.

Incomplete applications

- 13. If a person submits an incomplete application to the Director, the Director may:
 - (a) process the application; or
 - (b) refuse to process the application.

Notification of incomplete applications

ATTACHMENT 2

14. If the Director refuses to process an incomplete application, the Director must inform the applicant, either verbally or in writing, why the application is incomplete.

Application Referral

15. When processing an application, the Director may refer the application to other agencies or associations, the TRG, Advisory Committees or other staff members.

Application Review Summary

16. When processing an application the Director may provide an applicant with a summary of any feedback the Director receives following the referrals contemplated in Section 15.

Council Referral

17. Council or a Committee of Council may refer a development permit application or a heritage alteration permit to ADP or HAPL or a joint meeting of ADP and HAPL for its recommendations concerning the design of the application or other matters within the ADP's or HAPL's terms of reference.

Application fee

18. The application fee for an application under this Bylaw is the sum of the following amounts, each of which is set out in, or must be calculated in accordance with, Schedule A:
 - (a) the pre-application fee for giving notice;
 - (b) the base application fee;
 - (c) the administration fee; and
 - (d) the resubmission fee.

Affordable Housing application fee

19. Notwithstanding Section 18, for an application under this Bylaw where all of the dwelling units proposed in the development are affordable housing dwelling units, no base application fee or variance fee is required.
20. Notwithstanding Section 18, for an application under this Bylaw where a portion of the dwelling units proposed in the development are affordable housing dwelling units, the base application fee and variance fee are reduced based on the floor area of affordable housing units as a percentage of the total floor area of the building. Fees are not reduced for floor areas associated with common areas, parking or amenity space.

Refund

21. An applicant who has paid the base application fee is entitled to:

ATTACHMENT 2

- (a) a 90% refund if the application is withdrawn or cancelled within 15 business days from the date of submission; or
- (b) a 75% refund if the application is withdrawn or cancelled within 16 to 40 business days from the date of submission.

22-057 21A. An applicant who has paid the base application fee pertaining to a proposed development in Development Permit Area 15F and complied with the applicable provisions of the City's Tenant Assistance Policy and a Tenant Assistance Plan consistent with such Policy is entitled to a refund of \$5000 ~~of that fee or the application fee, whichever is less,~~ after the City has issued an occupancy permit for the development.

Refund of administration fee

- 22. An applicant who has paid the administration fee in relation to an application is entitled to a refund of that fee if the application is cancelled, withdrawn or abandoned, and the applicant requests a refund, before the City has incurred any expenses in relation to the giving notice of a public hearing ~~or, the waiver of a public hearing, or an opportunity for public comment~~ in relation to the application.

Landscape security

- 23. The City may require the applicant to provide landscape security calculated in accordance with Schedule E of this Bylaw, and if landscape security is required, it must be provided to the City before issuance of a building permit.

Cancellation of Applications

- 24. (a) If an application has been accepted by the Director for processing and further information from the applicant is requested after review by the Director, TRG Committee or Council, the applicant is required to provide the requested information within 6 months. If the applicant does not provide the requested information within 6 months of the request, the City will provide a final written notification to the applicant and if the requested information is not provided within 3 months of the final written notification, the file will be closed.
- (b) If an application is declined by Council resolution, the file will be closed.

Reapplication - cancelled file

- 25. (a) An applicant wishing to reopen a cancelled file under Section 24(a) must submit a new application and pay the applicable fee prescribed in Schedule A of this Bylaw, but the one year waiting period for reapplications under Section ~~325~~ of this Bylaw does not apply.
- (b) An applicant wishing to reopen a closed file under Section 24(b) must submit a new application in accordance with the timeline under Section ~~325~~ and pay the application fee prescribed in Schedule A of this Bylaw.

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Application Sign Posting Requirements - Permits

- 23-085 26. ~~If Council is providing an opportunity for public comment in relation to any of the following, the~~The applicant must post signage in compliance with Schedule B of this Bylaw for the following types of permits:
- (a) development variance permit;
 - ~~(b)~~ development permit with variances;
 - (c) heritage alteration permit with variances;
 - (d) a temporary use permit.

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Application Sign Posting Requirements – Other applications

27. A person who submits an application for any of the following must post signage in compliance with Schedule C of this Bylaw:
- (a) A zoning bylaw amendment;
 - (b) an *Official Community Plan Bylaw* amendment;
 - ~~(c) an application to amend a land use contract, if the amendment relates to the use or density of an area covered by the contract;~~
 - ~~(d)~~(c) a heritage revitalization agreement bylaw if the agreement or an amendment would permit a change to the use or density of use that is not otherwise authorized by the applicable zoning.
28. Section 27 does not apply ~~to City-initiated amendments:~~
- (a) to City-initiated amendments that involve ten or more parcels; or
 - (b) where, in the opinion of the Director, the posting of signage is not practical because the owner of the affected site does not consent and there is no suitable public property for the signage in sufficiently close proximity to the affected site.

Public hearing

29. ~~In accordance with the *Local Government Act*, a public hearing is required before~~Council adopts a bylaw to:
- (a) amend the zoning bylaw, subject to section 29A and 29B;
 - (b) amend the OCP;
 - ~~(c) amend a land use contract, if the amendment relates to density or use of an area covered by the contract;~~
 - (c) enter into or amend a heritage revitalization agreement, if the agreement or amendment would permit a change to the use or density of use that is

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not otherwise authorized by the applicable zoning or alter the zoning bylaw in relation to residential rental tenure;

(d) heritage designate a property.

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29A. A public hearing on a proposed zoning amendment bylaw is not permitted if:

1. (a) the bylaw is consistent with the OCP;
(b) the sole purpose of the bylaw is to permit a development that is, in whole or in part, a residential development; and
(c) the residential component of the development accounts for at least half of the gross floor area of all buildings and other structures as part of the development; or
2. the sole purpose of the bylaw is to comply with section 481.3 of the *Local Government Act*.

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~~(d)~~ 29B. A public hearing is not required on a proposed zoning amendment bylaw if the bylaw is consistent with the OCP.

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Right to waive a public hearing

30. Council may waive the holding of a public hearing in relation to a zoning amendment bylaw if the proposed amendment is consistent with the OCP and does not meet the criteria in section 29A.

Opportunity for public comment

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~~31. Council may provide an opportunity for public comment before passing a resolution to issue section repealed~~

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(a) ~~a development variance permit, other than a permit that varies a bylaw under Section 526 of the *Local Government Act*;~~

(b) ~~a development permit with variances;~~

(c) ~~a heritage alteration permit with variances; or,~~

(d) ~~a temporary use permit.~~

Notice of public hearing, zoning bylaw amendment or permits

31. The distance specified for the purpose of the notification of a public hearing of the following processes is required in relation to any of the following is 100 m:

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<u>Process</u>	<u>Distance</u>
<u>Notification of public hearing for;</u>	

ATTACHMENT 2

<u>Amendment to the OCP</u>	<u>200 metres</u>
<u>Amendment to the zoning bylaw</u>	<u>100 metres</u>
<u>Heritage revitalization agreement bylaw or heritage designation bylaw</u>	<u>100 metres</u>
<u>Notification of zoning amendment bylaw where public hearing not permitted or has been waived</u>	<u>100 metres</u>
<u>Notice of Council resolution to issue development permit with variances, heritage alteration permit with variances, development variance permit or temporary use permit</u>	All parcels that are the subject of, or that are adjacent to the parcels that are the subject of the permit in relation to which Council proposes to make a decision.

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- (e) an amendment to the zoning bylaw;
- (f) an amendment to the OCP;
- (g) an amendment to a land use contract, if the amendment relates to density or use of an area covered by the contract;

a heritage revitalization agreement bylaw. an amendment to the OCP;

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Notice of opportunity for public comment

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32. If Council proposes to provide an opportunity for public comment, the City will mail or otherwise deliver notice of the opportunity to the owners and occupiers of all parcels that are the subject of, or that are adjacent to the parcels that are the subject of, the permit in relation to which Council proposes to make a decision.

Notice requirements for temporary use permits

33. For the purposes of Section 494 of the Local Government Act, if Council proposes to pass a resolution to issue a temporary use permit, the distance specified for the purpose of notification is all parcels that are the subject of, or

ATTACHMENT 2

that are adjacent to, the parcels that are the subject of the permit in relation to which Council proposes to make a decision.

Reapplications

~~34-32.~~ If the Council does not approve an application submitted in accordance with this bylaw, a person must not submit the same application within one year of the date of Council's decision to not approve the application. However, Council may, by an affirmative vote of at least 2/3 of its members that are eligible to vote on the reapplication, allow a person to reapply within the one year period.

PART 3 – DELEGATION AND RECONSIDERATION

Types of permits

~~35-33.~~ Council delegates to the Director the authority to issue the types of permits listed in column A of the table attached as Schedule D to this Bylaw, in the areas listed in column B, accordance with the conditions set out in column C.

Referral

~~36-34.~~ Before exercising the delegated authority to make a decision under this Bylaw, the Director may refer an application to other agencies or associations, ADP, HAPL, the TRG, or other staff as required.

Referral consideration

~~37-35.~~ If the Director refers an application as contemplated in Section ~~347~~ above, the Director must consider but is not bound to accept any recommendations or comments of the body or bodies to which the Director has referred the application.

Landscape security delegation

~~369.~~ Council delegates to the Director the authority to require landscape security in accordance with Section 23, which amount shall be calculated in accordance with Schedule E of this Bylaw.

Council reconsideration

~~40-37.~~ If an application is refused, or if the applicant objects to a proposed provision of the permit or approval, the applicant may request that Council reconsider the decision of the Director in accordance with the provisions for reconsideration set out in this Part.

Time limit for reconsideration

~~3844.~~ Within 10 days of being notified in writing of a decision of the Director the applicant may apply to the City's Corporate Administrator to have Council reconsider a decision of the Director.

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Notice of reconsideration

3942. The City's Corporate Administrator must give the applicant at least 10 days' notice of the time and place of Council's reconsideration, and of the applicant's right to appear before Council to make representations concerning the application.

Representation to Council

403. A person exercising the right of reconsideration may make oral or written submission to Council and may appoint a representative to make representation.

Council's authority

414. Council may either confirm the decision made by the Director or substitute its own decision, including conditions of a permit or additional conditions of the permit.

PART 4 – ENCROACHMENTS IN DELEGATED APPROVALS

Encroachments for decorative features

425. Council delegates to the individual provided in section 436 the authority to approve an encroachment on the terms provided in sections 458 and 469, if all of the following requirements are satisfied:
- (a) the application has been delegated to the Director in accordance with section 336 of this Bylaw;
 - (b) the proposed development does not require any approvals by Council;
 - (c) the application includes any awning, canopy, siding, sign or other decorative architectural feature that encroaches upon, under or over City property; and
 - (d) in the Engineer's opinion, the encroachment can be removed without affecting the support or stability of the building.
436. The delegated authority to approve an encroachment pursuant to section 425 is the following person (the "Delegated Authority"):
- (a) for an encroachment upon, under or over City street, to the Engineer;
 - (b) for an encroachment upon, under or over City park, to the City's Director of Parks, Recreation and Facilities; and
 - (c) for an encroachment upon, under or over any other City property, to the City's Head of Strategic Real Estate.
447. The delegation authority in section 425 does not apply to any encroachment that contains habitable space, including balconies and bay windows.
458. Any owner of real property desiring permission to excavate for, construct, use or maintain any encroachment permitted by section 425 upon, under or over City

ATTACHMENT 2

property appurtenant to such real property, or desiring permission to continue the existence, maintenance or use of any encroachment permitted by section ~~425~~ on City property appurtenant to such real property previously existing, maintained or used without City permission, shall submit to the Delegated Authority a written application accompanied by such plans as the Delegated Authority may require showing the details of such encroachment, to the satisfaction of the Delegated Authority; and the Delegated Authority, upon being satisfied as to the safety and advisability of such encroachment, may grant permission for such encroachment.

- ~~469~~. (a) Before proceeding with the excavation for or construction of or continuing the existence, use or maintenance of an encroachment for which permission has been granted by the City pursuant to section ~~458~~, the owner shall first enter into an agreement with the City in the form of Schedule F.
- (b) The Delegated Authority is authorized to execute the agreement in the Form of Schedule F if permission has been granted pursuant to section ~~458~~.

Encroachments for anchor rods

~~4750~~. Council delegates to the Engineer the authority to approve an encroachment on the terms provided in sections ~~4854~~ to ~~5350~~, if both of the following requirements are satisfied:

- (a) the proposed development has already been approved by Council or under the Director's delegated authority; and
- (b) the application includes any installation of anchor rods that encroach upon, under or over City property.

~~4854~~. A person intending the installation of anchor rods under any City property shall, before commencing the installation, submit to the Engineer a written application for permission accompanied by plans sealed by a professional engineer indicating the proposed:

- (a) depth, length and number of anchor rods;
- (b) area of excavation face abutting City property;
- (c) details of which anchor rods will be removed, de-tensioned or fully grouted and the time by which they will be removed, de-tensioned or fully grouted; and
- (d) such other details as the Engineer may require.

~~4952~~. The Engineer, if of the opinion that the use of anchor rods will not adversely affect the City's property or interests, may permit the installation of anchor rods pursuant to section ~~4750~~ in accordance with plans submitted under section ~~4854~~, if the owner of the real property to which the anchor rods will be appurtenant first:

- (a) pays the City a non-refundable fee of \$750;

ATTACHMENT 2

- (b) pays the City a one-time charge of \$25 per square metre of area of the proposed excavation face that will be supported by anchor rods and abuts a street or lane as calculated by the Engineer; and
- (c) enters into an agreement with the City in the form of Schedule G.

503. The Engineer is authorized to execute the agreement in the Form of Schedule G if permission has been granted pursuant to section 4952.

General

514. Council delegates to the Engineer and the City Solicitor the authority to grant permission for and authorize the execution by the Engineer of:
- (a) a termination of any agreement authorized under this Part 4 pertaining to an encroachment when such encroachment has been removed to the satisfaction of the Engineer;
 - (b) the assignment of an existing encroachment agreement authorized under this Part 4 to a new property owner; and
 - (c) the release of an existing encroachment agreement authorized under this Part 4 when such agreement is to be replaced by a new agreement.

READ A FIRST TIME on the	10 th	day of	March	2016.
READ A SECOND TIME on the	10 th	day of	March	2016.
READ A THIRD TIME on the	24 th	day of	March	2016.
ADOPTED on the	24 th	day of	March	2016.

“CHRIS COATES”

CORPORATE ADMINISTRATOR

“LISA HELPS”

MAYOR

ATTACHMENT 2

City of Victoria
Bylaw No. 16-028
Schedule A
APPLICATION FEES

1. Pre-application fee

The pre-application fee for giving notice, is:

- (1) \$800 if notice must be given to owners and occupiers of properties within 100 metres of the subject property; or,
- (2) \$2400 if notice must be given to owners and occupiers of properties within 200 metres of the subject property.

2. Base application fee

- (1) The base application fee for an application to amend the Official Community Plan is \$2500.
- (2) The base application fee described in paragraph (3) applies to the following applications:
 - (a) a zoning bylaw amendment;
 - ~~(b) an application to amend a land use contract, if the amendment relates to density or use of an area covered by the contract;~~
 - ~~(c)~~(b) a heritage revitalization agreement bylaw if the agreement or an amendment would permit a change to the use or density of use that is not otherwise authorized by the applicable zoning;
 - ~~(d)~~(c) a temporary use permit.
- (3) The base application fee for the applications listed in paragraph (2) is calculated as follows, plus \$250 for each variance that is requested or proposed in the application:
 - (a) For an application in which the proposed development is exclusively residential use:
 - (i) Proposal for one duplex: \$3000;
 - (ii) Proposal for one triplex: \$4000;

ATTACHMENT 2

- (iii) Proposal for one, two or three dwelling units that are not captured by paragraph (3)(a)(i) or (ii): \$2000 per dwelling unit proposed;
 - (iv) Proposal pertaining to more than three dwelling units (regardless of dwelling unit type): \$6000 plus \$0.50 per square metre of floor area.
 - (b) For an application in which the proposed development is non-residential use or mixed use:
 - (i) Proposal equal to or under 500 square metres: \$3000 plus \$0.50 per square metre of floor area;
 - (ii) Proposal over 500 square metres: \$6000 plus \$0.50 per square metre of floor area.
 - (c) For an application in which the proposed development is not captured by paragraph (3)(a) or (b): \$2000.
 - (d) For an application described in paragraph (3)(a), (b), or (c), in which any accessory dwelling units are proposed, the accessory dwelling units are not counted as dwelling units for the purposes of calculating the base application fee.
 - (e) Notwithstanding paragraph (3)(d), an application in which only accessory dwelling unit(s) are proposed shall have a base application fee of \$2000.
- (4) The base application fee described in paragraph (5) applies to the following applications:
- (a) a development permit;
 - (b) a heritage alteration permit.
- (5) The base application fee for the applications listed in paragraph (4) is calculated as follows, plus \$250 for each variance that is requested or proposed in the application:
- (a) For an application in which the proposed development is exclusively residential use:
 - (i) Proposal for one duplex: \$3000;
 - (ii) Proposal for one triplex: \$4000;
 - (iii) Proposal for one, two or three dwelling units that are not captured by paragraph (5)(a)(i) or (ii): \$2000 per dwelling unit proposed;

ATTACHMENT 2

- 22-057
- (iv) Proposal pertaining to more than three dwelling units (regardless of dwelling unit type): \$6000 plus \$2.50 per square metre of floor area;
 - (v) Notwithstanding the previous subparagraphs (i) – (iv), the following fees apply for proposed developments in Development Permit Area 15F:
 - (A) ~~(A) one dwelling unit: \$2,000,~~
 - (B) ~~two dwelling units: \$3,000,~~
 - (C) ~~Proposal for up to three~~ to six dwelling units: \$12,000,
 - (D) ~~Proposal for more than six dwelling units: \$15,000.~~
 - (vi) ~~Notwithstanding the previous subparagraphs, a proposal for a garden suite in Development Permit Area 15E is \$2,500,~~
 - (b) For an application in which the proposed development is non-residential use or mixed use:
 - (i) Proposal equal to or under 500 square metres: \$3000 plus \$2.50 per square metre of floor area;
 - (ii) Proposal over 500 square metres: \$6000 plus \$2.50 per square metre of floor area.
 - (c) For an application in which the proposed development is not captured by paragraph (5)(a) or (b): \$2000.
 - 22-057 (d) With the exception of applications described in paragraph (5)(a)(v), for an application described in paragraphs (5)(a), (b), or (c), in which any accessory dwelling units are proposed, the accessory dwelling units are not counted as dwelling units for the purposes of calculating the base application fee.
 - (e) Notwithstanding paragraph (5)(d), an application in which only accessory dwelling unit(s) are proposed shall have a base application fee of \$2000.
 - (f) If a development permit or heritage alteration permit application is submitted under paragraph 5(a)(i), (ii) or (iii) in conjunction with an application under paragraph 2 for the same project:
 - (i) only one base application fee is payable, calculated in accordance with paragraph (3); and
 - (ii) only one variance fee is payable for each proposed variance, calculated in accordance with paragraph (3).

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ATTACHMENT 2

- 22-057
- 23-085
- (6) The base application fee for a development variance permit is \$750 (includes one variance), plus \$250 for each additional variance that is requested or proposed in the application beyond the first.
- (7) The base application fee for a development permit for subdivision only is \$250 for each new lot that is proposed to be created in the application.
- (8) Notwithstanding paragraphs (4) and (6), the base application fee for a permit which the Director is authorized to issue is as follows:

(a) the base application fee for a development permit in

(i) Development Permit Area 16 for buildings over 100 m2 is 50% of the development permit fee as provided in paragraph (5);

(ii) Development Permit Area 15E for a garden suite is 50% of the development permit fee as provided in paragraph (5); \$2,000;

(iii) Development Permit Area 15F for a proposal for:

(A) one dwelling unit: \$2,000;

(B) two dwelling units: \$3,000;

(C) up to three to six dwelling units: is \$10,000;

(D) Development Permit Area 15F for a proposal for more than six dwelling units: is \$13,000;

(b) the base application fee for a heritage alteration permit for a single family dwelling or duplex is \$0; and

(c) the base application fee for a permit not addressed in subparagraph (a) or (b) is \$200.

23-085

(9) Notwithstanding paragraph (4), the base application fee is \$500 for an application:

(a) proposing only emergency preparedness container(s) and equipment that are collectively under 100 m2 in floor area; and

(b) that does not fall within paragraph (8).

(10) Notwithstanding paragraph (4), no base application fee is payable for a heritage alteration permit for a single family dwelling or duplex; however, where a variance is proposed, a fee of \$250 for each variance applies.

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Schedule A – Page #4

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ATTACHMENT 2

- (11) Notwithstanding paragraph (2), the base application fee to allow any “storefront cannabis retailer” use is the greater of \$7500 and the application fee calculated in accordance with paragraph (3).

3. Administration Fee

- (1) The administration fee for an application that requires a public hearing, payable when the Council forwards the bylaw to a public hearing, is as follows:

- (a) For an application for heritage designation: No fee;
- (b) For all other applications: \$1800.

~~(2) The administration fee for an application in respect of which Council provides an opportunity for public comment, payable when Council determines the date of the opportunity for public comment, is as follows:~~

- ~~(a) For a temporary use permit: \$1800;~~
- ~~(b) For all other applications: \$200.~~

4. Resubmission fee

- (1) If the plans submitted in support of the application require revisions as set out in an Application Review Summary as provided by the TRG, revised plans will be reviewed by City staff and no additional fees will be charged.
- (2) If plans are revised as a result of changes proposed by the applicant, and not requested by staff, Committee, Council, ADP or HAPL, then an additional fee of \$500 shall be required for each new submission.
- (3) There is no resubmission fee when an applicant resubmits revised plans in response to comments arising from City staff, Committee, Council, ADP or HAPL.

5. Amendments to existing legal agreements

The fee to have an existing legal agreement with the City amended is \$500 plus the City’s legal costs to complete the amendment.

6. Request Council authorization

The fee to request staff to prepare and present a report to Council in order to request Council authorization is \$1000.

7. Site profile for contaminated sites

If a site profile for contaminated sites is required in conjunction with an application, the fee is \$100.

ATTACHMENT 2

ATTACHMENT 2

City of Victoria

Bylaw No. 16-028

Schedule B

PROCEDURES FOR SIGN POSTING – PERMITS

23-085

1. Where a notice or sign is required pursuant to section 26 of this Bylaw, a sign or signs shall be posted on the property or properties subject to the application in compliance with this Schedule.
2. The City shall determine the specifications, format, and information content of the sign or signs.
3. The applicant shall:
 - (a) obtain the sign or signs from the City or obtain the specifications for the sign from the City;
 - (b) post the sign or signs on the subject property for a minimum of 10 days prior to the date of the Council's meeting concerning the application;
 - (c) post additional meeting notices and additional signs if required;
 - (d) maintain the sign or signs on the subject property for the required time period.
4. The applicant shall post the sign or signs in a prominent location, clearly visible from the street, and on the site that is subject to the application. The City shall determine the required number and location of the sign or signs, taking into account the configuration of the site and visibility to the public.

ATTACHMENT 2

City of Victoria

Bylaw No. 16-028

Schedule C

PROCEDURES FOR SIGN POSTING – OTHER APPLICATIONS

23-085

1. Where a notice or sign is required pursuant to section 27 of this Bylaw, a sign or signs shall be posted on the property or properties subject to the application in compliance with this Schedule.
2. The City shall determine the specifications, format, and content of the sign or signs, and provide the specifications to the applicant or the applicant's agent.
3. The applicant shall, at its sole expense:
 - (a) prepare the sign or signs in accordance with the specifications provided by the City;
 - (b) post the sign or signs on the subject property for a minimum of 10 days prior to the initial Committee meeting;
 - (c) post additional meeting notices and additional signs if required by the City;
 - (d) maintain the sign or signs on the subject property until the Public Hearing for the application has been held.
4. The applicant shall post the sign or signs in a prominent location, clearly visible from the street, and on the site that is subject to the application. The City shall determine the required number and location of the sign or signs, taking into account the configuration of the site and visibility to the public.

City of Victoria

Bylaw No. 16-028

Schedule C-1

PROCEDURES FOR SIGN POSTING – PRE-APPLICATION PUBLIC INPUT

1. The City shall determine the specifications, format, and content of the sign or signs, and provide the specifications to the applicant or the applicant's agent.
2. The applicant shall, at its sole expense:
 - (a) prepare the sign or signs in accordance with the specifications provided by the City;
 - (b) post the sign or signs on the subject property for 30 consecutive days and no longer than 35 days, with such period of time to be calculated starting from the same day the plans are posted online by the City for public input;
 - (c) post additional signs if required by the City;
 - (d) maintain the sign or signs on the subject property for the duration of the notice period under section 1.
3. The applicant shall post the sign or signs in a prominent location, clearly visible from the street, and on the site that is subject to the application. The City shall determine the required number and location of the sign or signs, taking into account the configuration of the site and visibility to the public.

City of Victoria

Bylaw No. 16-028

Schedule D

DELEGATED APPROVALS

The Director is authorized to issue the types of permits listed in Column A, in the areas set out in Column B, subject to the conditions specified in Column C of the following table.

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
1	DP for new buildings, building additions, structures and equipment	DPA 10A: Rock Bay DPA 10B (HC): Rock Bay Heritage DPA 16: General Form and Character	Permit valid for two years from the date of issuance.
2	HAP without variances for a single family dwelling or duplex	All DP Areas and all HCAs	The Director is satisfied that the application is consistent with any applicable guidelines in the OCP. Permit valid for two years from the date of issuance.
3 23-085	DP , HAP, or DVP authorizing minor amendments to plans attached to or referenced in an existing approved permit	All DP Areas and all HCAs	The Director is satisfied that the proposed amendments are substantially in accord with the terms and conditions of the original approved permit, including variances and are consistent with the guidelines under the OCP. The expiry date of the original permit applies.
4 23-085	DP or HAP for the renewal of an existing valid DP or HAP	All DP Areas and all HCAs	The permit being renewed must be: <ul style="list-style-type: none">○ unlapsed at the time of application;○ unchanged from the original application, unless the changes are for consistency with new policies or regulations. Permit valid for two years from the date of issuance.

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
5	DP for new buildings, building additions, structures and equipment	DPA 8: Victoria Arm - Gorge Waterway	The guidelines set out in the OCP must be satisfied. Permit is valid for two years from the date of issuance.
6	DP for new buildings, building additions, structures and equipment that are less than 100 m ² in floor area	DPA 2 (HC): Core Business DPA 3 (HC): Core Mixed-Use Residential DPA 4: Town Centres DPA 5: Large Urban Villages DPA 6A: Small Urban Villages DPA 6B (HC): Small Urban Villages Heritage DPA 7A: Corridors DPA 7B (HC): Corridors Heritage DPA 10A: Rock Bay DPA 10B (HC): Rock Bay Heritage DPA 11: James Bay and Outer Harbour DPA 12 (HC): Legislative Precinct DPA 13: Core Songhees DPA 14: Cathedral Hill Precinct	Permit is valid for two years from the date of issuance.
7	DP for an accessory building or buildings	DPA 15A: Intensive Residential - Small Lot DPA 15B: Intensive Residential - Panhandle DPA 15D: Intensive Residential – Duplex DPA 15E: Intensive Residential – Garden Suites	Permit is valid for two years from the date of issuance.
8	DP for floating buildings, floating building additions or floating structures of any size	Fisherman's Wharf Marine District Zone within DPA 11: James Bay and Outer Harbour	Permit is valid for two years from the date of issuance.
9	DP for floating buildings, floating building additions and	All DP Areas and all HCAs	Permit is valid for two years from the date of issuance.

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22-026
23-085

22-026

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
	floating structures that do not exceed 100 m ² in floor area		
10	DP or HAP for the replacement of exterior materials on existing buildings	All DP Areas and all HCAs	Permit is valid for two years from the date of issuance.
11	DP or HAP for landscaping changes where there is an approved DP or HAP where no occupancy permit has been issued	All DP Areas and all HCAs, except: DPA 16A: General Urban Design, DPA 17 (HC): North Park Village Area, and HCA 2: Robert Street Heritage Conservation Area	The proposed landscaping must comply with applicable design guidelines or be in accordance with a landscape plan that is attached to and forms part of an approved permit.
12	DP or HAP for landscaping changes where there is an approved DP or HAP after the occupancy permit has been issued	DPA 1 (HC): Core Historic DPA 2 (HC): Core Business DPA 3 (HC): Core Mixed Use-Residential DPA 4: Town Centres DPA 5: Large Urban Village DPA 6A: Small Urban Village DPA 6B (HC): Small Urban Village Heritage DPA 7A: Corridors DPA 7B (HC): Corridors Heritage DPA 8: Victoria Arm-Gorge Waterway DPA 9 (HC): Inner Harbour DPA 10A: Rock Bay DPA 10B (HC): Rock Bay Heritage DPA 11: James Bay and Outer Harbour DPA 12 (HC): Legislative Precinct DPA 13: Core Songhees DPA 14: Cathedral Hill Precinct HCA 1: Traditional Residential	The proposed landscaping must comply with applicable design guidelines or be in accordance with a landscape plan that is attached to and forms part of an approved permit

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
		HCA 2: Robert Street	
22-026 23-085	13 DP or HAP for landscaping changes without an approved Development Permit or Heritage Alteration Permit	DPA 1 (HC): Core Historic DPA 2 (HC): Core Business DPA 3 (HC): Core Mixed Use-Residential DPA 4: Town Centres DPA 6B (HC): Small Urban Villages Heritage DPA 7B (HC): Corridors Heritage DPA 8: Victoria Arm - Gorge Waterway DPA 9 (HC): Inner Harbour DPA 10B (HC): Rock Bay Heritage DPA 12 (HC): Legislative Precinct HCA 1: Traditional Residential HCA 2: Robert Street	The proposed landscaping must comply with applicable guidelines. Permit is valid for two years from the date of issuance.
23-085	14 DP or HAP for temporary buildings and structures that do not exceed 100 m ² in floor area	All DP Areas and all HCAs	Temporary buildings and structures located on private property. Covenant in place to ensure removal of temporary buildings or structures within two years from the date of issuance of the Development Permit for the temporary building or structure.
22-085	15 DP or HAP for temporary construction trailers and temporary residential unit sales trailers	All DP Areas and all HCAs	Temporary construction trailers and temporary residential unit sales trailers located on private property. Covenant is in place to ensure removal of temporary construction trailers and temporary residential unit sales trailers subject to the following time frame:

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
			<ul style="list-style-type: none"> ○ Six months after the date the City issues an Occupancy Permit for the principal building or structure on the property; or ○ Six months after the date that the principal building or structure on the property is no longer the subject of a valid and subsisting Building Permit; or ○ If neither a Building Permit or Occupancy Permit is required or will be issued for the principal building on the property, then two years from the date of issuance of the Development Permit for the temporary construction trailers and temporary residential unit sales trailer.
16	DP for new buildings and building additions that are less than 150m ² in floor area.	CD-9 Zone, Dockside District within DPA 13: Core Songhees	<p>The proposed building and building addition must comply with applicable guidelines</p> <p>Permit is valid for two years from the date of issuance.</p>
17	DP for changes to landscaping previously approved under a Development Permit or Heritage Alteration Permit	CD-9 Zone, Dockside District within DPA 13: Core Songhees	<p>The proposed landscaping must comply with applicable guidelines or be in accordance with a landscape plan that is attached to and form part of an approved permit.</p> <p>Permit is valid for two years from the date of issuance.</p>
23-085 18	A DP or HAP with a parking variance, where: <ul style="list-style-type: none"> i) the DP or HAP is delegated elsewhere in this table; and ii) the change of use is permitted in the zoning bylaw; and iii) the variance does not exceed 20 motor vehicle parking stalls; and iv) the total variance of long-term and/or short- 	All DP Areas and all HCAs	The Director is satisfied that the proposal associated with the proposed parking variance does not adversely impact the neighbourhood by unduly contributing to curb or on-street parking issues and that suitable Transportation Demand Management measures are

Schedule D – Page #5

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
	term bicycle parking stalls does not exceed 6 stalls.		secured by legal agreement as required. Permit is valid for two years from the date of issuance.
22-085 19	A DP or HAP with a parking variance, where: i) the DP or HAP is delegated elsewhere in this table; and ii) the change of use is permitted in the zoning bylaw; and iii) the existing number of parking stalls is lawfully non-conforming pursuant to section 525 and 529 of the <i>Local Government Act</i> ; and iv) the proposed new use requires no more than 20 additional motor vehicle parking stalls, even if the total variance for the building exceeds 20 motor vehicle parking stalls; and v) the proposed new use requires no more than 6 additional bicycle parking stalls, even if the total variance for the building exceeds 6 bicycle parking stalls.	All DP Areas and all HCAs	The Director is satisfied that the proposal associated with the proposed parking variance does not adversely impact the neighbourhood by unduly contributing to curb or on-street parking issues and that suitable Transportation Demand Management measures are secured by legal agreement as required. Permit is valid for two years from the date of issuance.
23-085 20	A DVP for a minor parking variance, where the criteria to determine if a variance is minor is as follows: i) the change of use is permitted in the zoning bylaw; and ii) the variance does not exceed 20 motor vehicle parking stalls; and iii) the total variance of long-term and/or short-term bicycle parking stalls does not exceed 6 stalls.	N/A	The Director is satisfied that the proposed variance is in accordance with the following guidelines: i) the proposed parking variance does not adversely impact the neighbourhood by unduly contributing to curb or on-street parking issues, and ii) suitable Transportation Demand Management

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
			<p>measures are secured by legal agreement as required.</p> <p>Permit is valid for two years from the date of issuance.</p>
21	<p>A DVP for a minor parking variance, where the criteria to determine if a variance is minor is as follows:</p> <ul style="list-style-type: none"> i) the change of use is permitted in the zoning bylaw; and ii) the existing number of parking stalls is lawfully non-conforming pursuant to section 525 and 529 of the <i>Local Government Act</i>; and iii) the proposed new use requires no more than 20 additional motor vehicle parking stalls, even if the total variance for the building exceeds 20 motor vehicle parking stalls; and iv) the proposed new use requires no more than 6 additional bicycle parking stalls, even if the total variance for the building exceeds 6 bicycle parking stalls. 	N/A	<p>The Director is satisfied that the proposed variance is in accordance with the following guidelines:</p> <ul style="list-style-type: none"> i) the proposed parking variance does not adversely impact the neighbourhood by unduly contributing to curb or on-street parking issues, and ii) suitable Transportation Demand Management measures are secured by legal agreement as required. <p>Permit is valid for two years from the date of issuance.</p>
22	<p>DP, with or without variances, for new buildings, building additions, structures and equipment for residential developments with secured affordability</p>	All DP Areas	<p>The proposed development complies with the applicable guidelines.</p> <p>The proposed development is:</p> <ol style="list-style-type: none"> 1. subject to a legal agreement securing affordability and rental tenure for a minimum period of 60 years, and is either: <ul style="list-style-type: none"> a. wholly owned and operated by a public housing body, as prescribed in the <i>Residential Tenancy Act</i>, or

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
			<p>b. operated by a public housing body, as prescribed in the <i>Residential Tenancy Act</i>, pursuant to a legally binding arrangement with the property owner; or</p> <p>2. subject to a legal agreement securing affordability for a minimum period of 60 years and is either wholly owned and operated by a housing cooperative meeting the below requirements, or operated by a housing cooperative that meets the below requirements and operates the development pursuant to a legally binding arrangement with the property owner:</p> <p>a. the housing cooperative must</p> <p>i. be a housing cooperative pursuant to the <i>Cooperative Association Act</i>,</p> <p>ii. have purposes including the provision of affordable housing to low- or moderate-income households, and</p> <p>iii. have constating documents preventing the remuneration of directors and providing for the disposition of assets on dissolution or wind-up to an organization with similar purposes and restrictions.</p> <p>Permit is valid for two years from the date of issuance.</p>

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23-085

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
23	<p>A Development Variance Permit, a DP with a variance or a HAP with a variance where the variance relates to:</p> <ul style="list-style-type: none"> i) the number of accessible parking spaces or van accessible parking spaces ii) the design specifications of spaces described in i) above iii) the number of motor vehicle parking stalls resulting from a requirement to install accessible parking spaces or van accessible parking spaces 	All DP Areas	<p>The proposed development complies with the applicable guidelines</p> <p>The applicant has provided evidence to the satisfaction of the Director that demonstrates that site conditions prevent:</p> <ul style="list-style-type: none"> i) the number of required accessible or van accessible parking spaces from being installed; ii) full compliance with the design specifications; <p>and that all reasonable efforts have been made to maximize the provision of accessible or van accessible parking spaces and/or to comply with the design specifications.</p> <p>Where the provision of accessible parking results in a variance relating to motor vehicle parking stalls, including visitor stalls, the Director is satisfied that this variance does not adversely impact the neighbourhood by unduly contributing to on-street parking issues.</p> <p>Permit is valid for two years from the date of issuance.</p>
24	DPs for new buildings, building additions, structures, landscaping and equipment	DPA 15F: Missing Middle Housing	<p>The proposed development complies with the applicable guidelines.</p> <p>Permit is valid for two</p>

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23-085

23-085

23-085

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
			years from the date is issuance.
25	DPs or HAPs, with or without variances, for new buildings, building additions, structures and equipment for child care facilities	All DP Areas	The proposed development complies with the applicable guidelines Permit is valid for two years from the date of issuance.
26	A DP or HAP with minor variance(s) related to size, siting, or dimensions of a building, structure or use that is permitted on the land, where: i) the DP or HAP is delegated elsewhere in this table; and ii) the criteria to determine if a proposed variance is minor is in Schedule D-1.	All DP Areas and all HCAs	The proposed development complies with the applicable guidelines. Permit is valid for two years from the date of issuance.
27	A DVP for minor variance(s) related to size, siting, or dimensions of a building, structure or use that is permitted on the land, where the criteria to determine if a proposed variance is minor is in Schedule D-1.	N/A	The Director is satisfied that the proposed variance is in accordance with the guidelines in Schedule D-2. Permit is valid for two years from the date of issuance.
28	A DP or HAP with minor variance(s) related to design standards of parking, where: i) the DP or HAP is delegated elsewhere in this table; and ii) the criteria to determine if a proposed variance is minor is when the variance is related to any of the following: • Sections 2-3 of Schedule C of the Zoning Regulation Bylaw; or • Sections 5.1.2-5.1.5 of Zoning Bylaw 2018.	All DP Areas and all HCAs	The Director is satisfied that the proposed variance would not result in any safety or accessibility concerns or operational issues. Permit is valid for two years from the date of issuance.

Schedule D – Page #10

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
29	A DVP for minor variance(s) related to design standards of parking, where the criteria to determine if a proposed variance is minor is when the variance is related to any of the following: <ul style="list-style-type: none"> Sections 2-3 of Schedule C of the Zoning Regulation Bylaw; or Sections 5.1.2-5.1.5 of Zoning Bylaw 2018. 	N/A	The Director is satisfied that the proposed variance is in accordance with the following guidelines: the proposed variance would not result in any safety or accessibility concerns or operational issues. Permit is valid for two years from the date of issuance.
<u>30</u>	<u>A DP or HAP, with or without variances, for new buildings and building additions for small-scale multi-unit housing in a restricted zone.</u>	<u>All DP Areas</u>	<u>The proposed development complies with the applicable guidelines.</u> <u>Permit is valid for two years from the date of issuance.</u>
<u>31</u>	<u>A DP or HAP, with or without variances, for new residential or mixed-use buildings or additions, up to 2.5:1 FSR and six storeys, where at least 50% of the total floor area is comprised of residential use.</u>	<u>All DP Areas and all HCAs</u>	<u>The proposed development complies with the applicable guidelines.</u> <u>Permit is valid for two years from the date of issuance.</u>

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City of Victoria

Bylaw No. 16-028

Schedule D-1

CRITERIA FOR MINOR VARIANCES

A permit for or with minor variances related to size, siting, or dimensions of a building, structure or use that is permitted on the land, may be considered by the Director if the variance is minor pursuant to the following criteria.

A variance is minor if:

1. the applicant has demonstrated to the satisfaction of the Director that:
 - a. they have explored all reasonable alternative solutions to the variance and none are available; and
 - b. any possible mitigations to issues related to the variance have been incorporated into the proposal; and
2. the Director is satisfied based on evidence provided by the applicant and the particular circumstances of the application, that the variance would:
 - a. be unnoticeable by a typical user of the site, and nearby private and public property; or,
 - b. not have a substantial negative impact on the livability and functionality of any of the subject site, nearby private property, or nearby public property, including impacts on:
 - i. Shadowing
 - ii. Privacy
 - iii. Usable outdoor space
 - iv. Natural features and vegetation
 - v. Access, connectivity or function for any pedestrians or vehicles (motorized and non-motorized)
 - vi. Access to or operations of underground infrastructure
 - vii. Street Vitality

City of Victoria

Bylaw No. 16-028

Schedule D-2

GUIDELINES FOR DEVELOPMENT VARIANCE PERMITS

23-085

These guidelines are intended to provide a framework for the Director when reviewing a development variance permit for minor variances related to siting, size, and dimensions of a building, structure, or use permitted on the land, in conjunction with the specific circumstances of the proposal including the site conditions, constraints, and context.

The Director shall consider the following guidelines when deciding whether to issue any development variance permit application for minor variances:

- a. For applications within the *Downtown Core Area Plan* (2011) boundaries:
 - i. Downtown Core Area Plan (2011) – with special attention to the following sections:
 - 1. Appendix 1: Public Outward View Guidelines
 - 2. Appendix 2: Public External View Guidelines
 - 3. Appendix 3: Sidewalk Width Guidelines
 - 4. Appendix 4: Building Design Guidelines
- b. For applications located outside of the *Downtown Core Area Plan* (2011) boundaries related to:
 - i. mixed-uses, uses other than residential, or residential with seven or more dwelling units:
 - 1. General Urban Design Guidelines (2022).
 - ii. residential uses with less than seven dwelling units:
 - 1. Missing Middle Design Guidelines (2022).

City of Victoria
Bylaw No. 16-028
Schedule E
LANDSCAPE SECURITY

1 Landscape security amount

The landscape security shall be calculated at 120% of the total landscaping cost, based on an estimate of the landscaping costs that the applicant provides to the Director, with a minimum landscape security of \$2000.

2 Landscaping costs

- (a) The landscaping costs that must be included within the estimate provided to the Director include but are not limited to the following:
- (1) Tree protection measures;
 - (2) Landscape grading;
 - (3) Landscape retaining walls;
 - (4) Landscape paving including structural bases;
 - (5) Landscape structures, such as fences, screen walls, living walls, built-in planters, and shade structures;
 - (6) Landscape furnishings, such as benches and seating, bicycle parking facilities, waste and recycling containers, recreational equipment, and play equipment;
 - (7) Plant materials, such as trees, shrubs, perennials, grasses or other ground cover;
 - (8) Green roofs;
 - (9) Sod and seeding;
 - (10) Growing medium;
 - (11) Structural soil cells;
 - (12) Water features;

- (13) Site lighting;
 - (14) Labour;
 - (15) Irrigation; and
 - (16) Other landscape materials.
- (b) All estimated costs provided under subsection (a) must include applicable taxes.

City of Victoria

Bylaw No. 16-028

Schedule F

ENCROACHMENT FOR DECORATIVE FEATURES

EASEMENT (ENCROACHMENT) AGREEMENT

THIS AGREEMENT dated for reference the ____th day of ____, _____

BETWEEN:

(the "Owner")

AND:

CITY OF VICTORIA

1 Centennial Square, Victoria, British Columbia, V8W 1P6

(the "City")

WHEREAS:

- A. The Owner is the owner of the Lands (as defined in this Agreement);
- B. The Owner has requested that the City grant its permission for the use of the Easement Area (as hereinafter defined), which areas are portions of City property in the City of Victoria, for the purposes of erecting and maintaining a part of a building such part being _____*[insert description of encroaching structures]* and all support structures related thereto (the "**Structures**") over City property as shown on the Easement Area (as hereinafter defined);
- C. The City agrees to grant the Owner's request to encroach on the Easement Area, subject to the provisions of the City's bylaws as amended from time to time and subject to the terms and conditions of this Agreement, and the City agrees to grant the Owner an easement in that regard;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of permission to encroach herein granted, the sum of ONE DOLLAR (\$1.00) of lawful money of Canada paid by the Owner to the City, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both parties, the Owner hereby covenants, promises and agrees with the City as follows:

1. LANDS

- 1.1 The Owner owns lands situated in Victoria, British Columbia, which is more particularly described as:
Parcel Identifier: _____

(the “Lands”);

- 1.2 The City is the owner of that portion of _____ [insert legal description or name of street if roadway] comprising an area of _____ square meters as more particularly identified on Plan _____ [insert specifics of Plan or sketch] as the easement (the “Easement Area”), a reduced copy of which is attached hereto as Schedule “A” (the “Servient Tenement”).

2. EASEMENT - PERMISSION TO ENCROACH

- 2.1 Subject to the terms of this Agreement, the City as owner of the Servient Tenement, does hereby grant, convey and confirm unto the Owner as owner of the Lands (as Dominant Tenement) for the benefit of the Lands and to be appurtenant to the Lands for the use and enjoyment of the Owner and its servants, agents, tenants, invitees and licensees and the owner or owners of all or any part of the Lands an easement for the non-exclusive use from time to time in common with the City as owner of the Servient Tenement and its servants, agents, tenants, invitees and licensees, any other persons to whom the City has granted rights to use the Easement Area for the purposes of constructing, installing maintaining, repairing and replacing the Structures (the “Works”) including the right on the part of the Owner to allow the Structures to remain in and encroach upon the Easement Area in accordance with the terms of this Agreement.
- 2.2 The Owner shall not erect any work or encroachment in the Easement Area other than the Structures. The Owner shall not permit the Structures to encroach on any City property other than the Easement Area.

3. TERM

- 3.1 This Agreement commences on the date that it is fully signed by both parties and, subject to Part 13 hereof, expires when the building which the Owner has constructed on the Lands (the “Building”) is demolished or significantly structurally altered such that the Easement Area is no longer required for the purposes of erecting and maintaining the Structures. For certainty, the easement herein granted will terminate, and will be of no further effect in the event the Building is demolished or removed from the Lands or in the event that the Building is modified such that it no longer encroaches on the Servient Tenement.

4. TITLE

- 4.1 This Agreement does not give the Owner any legal or equitable interest of any kind in the Easement Area or any exclusive right to occupy the Easement Area. The Easement Area retains its status as a _____ [highway, park, City property].

5. MAINTENANCE

- 5.1 The Owner will carry out the Works in a proper and workmanlike manner so as to do as little injury to the Servient Tenement as possible.
- 5.2 The Owner shall at all times and at its own expense keep and maintain the Structures and the Easement Area in good and sufficient repair and in a neat and clean condition and in a manner which does not pose any risk to persons or property, all to the satisfaction of the City (without any obligation on the part of the City to determine what is sufficient repair or a safe condition).
- 5.3 The Owner shall make good at its own expense, all damage or disturbance which may be caused to the surface of the Servient Tenement in the exercise of their rights hereunder.
- 5.4 The Owner shall not make any structural alterations to any Structures in the Easement Area without the prior written consent of the City, which consent will not be unreasonably withheld or delayed, but provided that the Owner may make temporary alterations to any Structures in the event of an emergency in order to prevent or avoid risks to persons or property and that the Owner so soon thereafter as is reasonable in the circumstances applies for the consent of the City with respect to any necessary permanent structural alterations to such Structures.
- 5.5 If the Owner fails to keep the Structures and Easement Area in good repair and maintenance to the satisfaction of the City, the City may give notice to the Owner demanding that repairs and maintenance be done within the time specified by the City and if the Owner fails to do so, to the City's satisfaction, the City may, in its sole discretion (without any obligation to do so), cause such repairs to be made, including structural changes, as it deems necessary at the Owner's expense. The Owner shall pay the costs of the repairs to the City forthwith on demand.
- 5.6 In making repairs or doing maintenance, the City may bring and leave upon the Lands and the Easement Area, the necessary materials, tools and equipment and the City shall not be liable to the Owner for any inconvenience, annoyance, loss of business or other injuries suffered by the Owner by reason of the City effecting the repairs or maintenance or doing any work hereunder.

6. DESIGN SPECIFICATIONS

- 6.1 The Owner shall ensure that any Structures placed in the Easement Area conform to the requirements and specifications of the British Columbia Building Code and all other applicable statutes, regulations, bylaws and codes.

7. ENVIRONMENTAL PROTECTION

- 7.1 The Owner shall not do or permit to be done anything which may or does contaminate the Easement Area or any surrounding area and the Owner shall be solely responsible to remove all such contamination and remediate it to residential standards.

8. COMPLIANCE WITH LAWS

- 8.1 The Owner shall in respect of its use of the Easement Area and in relation to the Works and the use of the Structures comply with all applicable statutes, laws, regulations, bylaws, orders and other requirements of every governmental authority having jurisdiction.

9. INDEMNITY AND INSURANCE

- 9.1 The Owner shall indemnify and hold harmless the City and its elected and appointed officials, officers, employees and agents from all suits, proceedings, losses, damages, expenses, demands, claims, costs (including actual costs of professional advisors and costs associated with remediation of contamination) and harm of any kind, howsoever caused, whether related to death, bodily injury, property loss, property damage or consequential loss or damage, arising out of or in any way connected with:
- (a) The permission to encroach granted by this Agreement;
 - (b) The existence and use of the Easement Area for the purposes of the Works;
 - (c) Construction, maintenance, existence, use or removal of the Structures;
 - (d) The Owner's occupation or use of the Servient Tenement or the ground below or the air above for the purpose of such encroachment by the Building;
 - (e) Any failure to pay for labour and materials relating to the Structures;
 - (f) Any breach or default by the Owner under this Agreement; and
 - (g) Any wrongful act, omission or negligence of the Owner, its members, directors, officers, employees, contractors, subcontractors, licensees, invitees, customers and others for whom it is responsible.
- 9.2 The indemnity in Section 9.1 survives the expiry or earlier termination of this Agreement.
- 9.3 The Owner will take out and maintain during the Term, a policy of commercial general liability insurance against claims for bodily injury, death or property damage arising out of the use of the Lands by the Owner in the amount of not less than five million dollars per single occurrence, or such greater amount as the City may from time to time designate and shall provide the City with a certificate of insurance evidencing coverage, or a certified copy of such policy or policies if requested .
- 9.4 All policies of insurance required under section 9.3 shall:
- (a) name the City as an additional insured;
 - (b) contain a provision requiring the insurer not to cancel or change the insurance without first giving the City thirty (30) days notice in writing;
 - (c) contain a cross liability clause in favour of the City; and
 - (d) be in a form and on such terms, including with respect to deductible amounts, as are satisfactory to the City, in the City's sole and absolute discretion.
- 9.5 If the Owner does not provide or maintain in force the insurance required by this Agreement, then without limiting the City's right to terminate this Agreement, the City may take out the necessary insurance and pay the premium for periods of one year at a time and the Owner shall pay to the City the amount of the premium immediately on demand.

- 9.6 If both the City and the Owner claim to be indemnified under any insurance required by this Agreement, the indemnity shall be applied first to the settlement of the claim of the City and the balance, if any, to the settlement of the claim of the Owner.
- 9.7 Maintenance of such insurance shall not relieve the Owner of liability under the indemnity provisions of this Agreement.
- 9.8 The foregoing provisions shall not limit the insurance required by law, nor relieve the Owner from the obligation to determine what insurance it requires for its own purposes.
- 9.9 No finding of negligence, whether joint or several, as against the City in favour of any third party shall operate to relieve or shall be deemed to relieve the Owner in any manner from any liability to the City, whether such liability arises under this Agreement, under the provisions of the *Community Charter* as amended from time to time, or otherwise.

10. RELEASE

- 10.1 The Owner releases the City and its elected and appointed officials, officers, employees and agents from all claims of any kind, whether known or unknown, whether or not relating to negligence, which the Owner now has or at any future time may have, however caused, arising out of or in any way connected with the permission to encroach granted by this Agreement, the existence and use of the Easement Area, the Works, or the exercise by the City of any of its rights pursuant to this Agreement.
- 10.2 The release in Section 10.1 survives the expiry or earlier termination of this Agreement.

11. REMEDIES

- 11.1 The City retains the right on the termination of this Agreement to proceed with the enforcement of any indemnity or other remedy provided in this Agreement or otherwise.

12. COMPENSATION

- 12.1 Notwithstanding any provision of this Agreement, the Owner shall not be entitled to compensation for injurious affection or disturbance resulting in any way from the removal of the Structures in accordance with the terms of this Agreement and, without limitation, shall not be entitled to business losses, loss of profit, loss of market value, relocation costs or other consequential loss by reason of the removal of the Structures or by reason of the termination of this Agreement.

13. TERMINATION

- 13.1 If the Owner fails to comply with the provisions of this Agreement, including, but not limited to, sections 5.2, 6.1, 7.1, 8.1 and 9.3 of the Agreement, this Agreement shall be terminated and all rights of the Owner hereunder shall thereupon lapse and be absolutely forfeited.
- 13.2 The City may, at any time, in its sole discretion, but acting in good faith, withdraw the rights it has granted to the Owner in this Agreement and terminate this Agreement on 12 months' written notice.
- 13.3 On receipt of notice under Section 13.1 or 13.2, the Owner shall, within the time period stated in the notice, at its expense, remove the Structures and otherwise restore the Easement Area to the satisfaction of the City.

13.4 If the Owner fails to remove the Structures as required by the City within the time period specified pursuant to this Agreement, the City may, in its sole discretion, cause the Structures to be removed at the Owner's expense.

13.5 In the circumstances described in Section 13.1, the City may, acting reasonably and in good faith, remove the Structures without notice if the subsistence of the Structures constitutes an immediate hazard to the public and if there is no other practical remedy available to the City to alleviate such immediate hazard, at the sole cost of the Owner.

14. ASSIGNMENT

14.1 The Owner shall not assign any of its rights and obligations arising from this Agreement to any person other than to the then-current owner of the Lands.

14.2 The Owner covenants and agrees not to transfer the Lands, or any portion thereof, without advising the purchaser or transferee of this Agreement and assigning the Owner's rights and obligations pursuant to this Agreement to the new owner of the Lands by mutual agreement.

14.3 In the event that the Owner fails to assign the rights and obligations of this Agreement to a new owner of the Lands as described in Section 14.2, the Owner shall continue to be bound by this Agreement in all respects notwithstanding that the Owner no longer owns the Lands.

15. RIGHT OF ENTRY

15.1 The City's employees or agents shall have the right at any and all times to enter into and upon the Lands and the Building for the purpose of maintaining or removing the Structures under this Agreement.

16. ALTERATION TO CITY PROPERTY AND PUBLIC STRUCTURES

16.1 In the event of any alteration or change made necessary to any present or future meter, water service, sewer, or other public structures or utility in the vicinity of the Lands by the construction, maintenance, use or removal of the Structures, the Owner shall reimburse the City or other utility provider for whatever expenses it may incur in making the alterations or changes that are deemed necessary by the City or the utility provider.

17. CITY'S RIGHTS RESERVED

17.1 This Agreement does not in any way restrict the right of the City at any time to widen, raise or lower, or otherwise alter the Servient Tenement abutting or adjoining the Lands (including by allowing the installation of utilities by various utility providers), or make orders or regulations for the use of the Servient Tenement, even if the effect of the alteration or the order or regulation may be to render the Structures, the Easement Area, or both, useless for the purposes of the Owner.

17.2 Nothing contained or implied in this Agreement will derogate from the obligations of the Owner under any other agreement with the City

17.3 Nothing contained or implied in this Agreement shall prejudice or affect the rights and powers of the City in the exercise of its functions under any public or private statutes, bylaws, order and regulations, all of which may be fully and effectively exercised in relation

to the Easement Area as if this Agreement had not been executed and delivered by the parties.

18. LICENCES AND PERMITS

- 18.1 The Owner shall, at its own expense, obtain and maintain all permits and authorizations as may be necessary and required to erect and maintain the Structures, including any building permit or electrical permit. Nothing in this Agreement relieves the Owner from the ordinary jurisdiction of the City.

19. OTHER MATTERS

- 19.1 The waiver by the City of default by the Owner shall not be deemed to be a waiver by the City of any subsequent default by the Owner. All waivers must be in writing.

- 19.2 Whenever it is required or desired that either party deliver a notice to the other, the delivery shall be deemed to be satisfactory if and deemed to have occurred when the notice has been:

- (a) Delivered by hand, on the date of delivery; or
- (b) Mailed by Xpresspost (Canada Post) requiring signature of the addressee on delivery, on the date received or on the sixth day after receipt of mailing by any Canada Post Office, whichever is the earlier, except that in the event of a strike or disruption in postal service, the notice shall not be deemed to be received until actually received;

to the address for that party on the first page of this Agreement or to whatever other address that may have, from time to time, been given by that party.

- 19.3 Whenever the singular or masculine is used in this Agreement, the same is deemed to include the plural or the feminine or the body politic or corporate as the context requires.
- 19.4 Every reference to each party is deemed to include the heirs, executors, administrators, corporate successors, permitted assigns, employees, agents, officers, elected officials and invitees of such party whenever the context so requires or allows.
- 19.5 Section headings are included for convenience only. They do not form a part of this Agreement and shall not be used in its interpretation.
- 19.6 If any part of this Agreement is for any reason held to be invalid by the decision of a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this Agreement.
- 19.7 This Agreement shall be governed and construed in accordance with the laws of the Province of British Columbia.
- 19.8 The parties hereto shall execute and do all such further deeds, acts, things, and assurances as may be reasonably required to carry out the intent of this Agreement.

20. TIME OF ESSENCE

- 20.1 Time is of the essence of this Agreement.

21. INTERPRETATION

- 21.1 No part of the fee of the soil of the Servient Tenement will pass to or be vested under or by these presents in the Owner or the Owner's invitees, agents or successors in title.
- 21.2 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, successors, administrators and permitted assignees.
- 21.3 All provisions of this Agreement are to be construed as covenants and agreements as though the word importing covenants and agreements were used in each separate paragraph.
- 21.4 This Agreement is the entire agreement between the parties and the City had made no representations, warranties, guarantees, promises, covenants or agreements (oral or otherwise), to or with the Owner other than those expressed in this Agreement.

IN WITNESS WHEREOF the said Owner has hereunto set his hand and seal the day and year first above written.

The Corporation of the City of Victoria by its)
authorized signatories:)
)
)
)
_____)
)
[insert name and title of Delegated Authority])

_____ [name of owner])
)
by its authorized signatories:)
)
)
_____)
Authorized Signatory)
)
_____)
Authorized Signatory)

SCHEDULE "A"

(insert plan)

City of Victoria
Bylaw No. 16-028
Schedule G

ENCROACHMENT FOR ANCHOR RODS

THIS AGREEMENT dated for reference the ___th day of ___, _____.

BETWEEN:

(the "**Owner**")

AND:

CITY OF VICTORIA
1 Centennial Square, Victoria, British Columbia, V8W 1P6
(the "**City**")

WHEREAS:

- A. The Owner is the owner of:
Parcel Identifier: _____

(the "**Land**")
in the City;
- B. The Owner has applied to the City for approval of the construction of a _____ [*describe development*] upon the Land, under the terms and conditions of the City of Victoria _____ [*insert permit type and number*].
- C. In connection with the construction of the development referred to in Recital B, the Owner has requested the City to grant it permission to construct, use or continue the use or existence of an encroachment onto highways of which the City has the use and possession, which encroachment is appurtenant to the Land;
- D. The City has agreed to grant the Owner's request, subject to the provision of all City bylaws and to the terms and condition herein set forth;

NOW THEREFORE, in consideration of the premises and the covenants herein contained and for other valuable consideration, receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereto covenant and agree each with the other as follows:

1.0 ENCROACHMENT

- 1.1** The City (so far as it legally can, but not otherwise, and subject to this Agreement and applicable statutes and bylaws), grants unto the Owner permission to construct and maintain an encroachment comprising _____ [insert description of works (e.g. anchor rods, shotcrete, soldier piles)] into those parts of _____ [insert street(s) or intersection] (collectively, the "Highways") in the City of Victoria that adjoin the Land, all in accordance with the plans and specifications attached hereto as Schedule "A", (which encroachment, including all excavation or other work now or hereafter performed in connection therewith, is hereinafter referred to as the "Works").

2.0 USE

- 2.1** The Owner shall not erect any work or encroachment in the Highways other than the Works, nor shall the Owner use the Highways for any purpose save and except the Works. The Owner shall not permit the Works to encroach on any City property other than those portions of the Highways depicted on Schedule "A".

3.0 TERM

- 3.1** This Agreement commences on the date that it is fully signed by both parties and, subject to Sections 6.15 and 6.16 hereof, expires on _____ [insert date].

4.0 CONSTRUCTION OF WORKS

- 4.1** The Owner shall retain a professional engineer licensed to practice in the Province of British Columbia with experience in the design and construction of works of a similar kind to those proposed to be installed under this Agreement (the said engineer to be referred to herein as the "**Owner's Consultant**"). The Owner's Consultant will be responsible for ensuring that the design and construction of the Works at all times is in accordance with sound engineering and construction practices, and is carried out in accordance with the terms of this Agreement.
- 4.2** The Owner's Consultant must provide written confirmation to the City, prior to the commencement of the construction of the Works, that it has thoroughly investigated the location of existing services and utilities, and that the installation of the Works in their proposed location will not interfere with or cause damage to any existing underground utilities or services, whether of the City, the Capital Regional District, or any private or public utility. The Owner shall be solely responsible for the cost of the location of all such services for the purpose of obtaining and providing such confirmation.
- 4.3** Prior to the commencement of construction of the Works, the Owner's Consultant must submit a detailed plan, bearing his professional seal showing in cross section the profile of all underground services within the area of the Highways covered by this Agreement, as well as, in relation thereto, the proposed location of all _____ [insert description of works] that are to form part of the Works. The City reserves the right to require that any portion of the Works be relocated, where in the reasonable opinion of the City's Director of Engineering and Public works (the "**Director**"), the proposed location of

the Works or any portion thereof may interfere with or damage underground services of the City, the Capital Regional District or any private or public utility, or may impact the protected root zones of City street trees.

- 4.4** The Works shall be installed strictly in accordance with the plans and specifications that are attached as Schedule "A" to this Agreement, unless the Director authorizes the modification of such plans or specifications.
- 4.5** The Owner shall at all times and at its own expense keep and maintain the Works and the Highways in good and sufficient repair and in a manner which does not pose any risk to persons or property, all to the satisfaction of the Director (without any obligation on the part of the Director to determine what is sufficient repair or a safe condition).
- 4.6** If the Owner fails to keep the Works and the Highways in good repair and maintenance to the satisfaction of the Director, the Director may give notice to the Owner demanding that repairs and maintenance be done within the time specified by the City and if the Owner fails to do so, to the City's satisfaction, the City may, in its sole discretion (without any obligation to do so), cause such repairs to be made, including structural changes or filling up any excavation, as it deems necessary at the Owner's expense. The Owner shall pay the costs of the repairs to the City forthwith on demand.
- 4.7** The Owner shall in respect of its use of the Highways and in relation to the Works comply with all applicable statutes, laws, regulations, bylaws, orders and other requirements of every governmental authority having jurisdiction.
- 4.8** If during the course of construction the Owner's Consultant determines that any part of the _____ [insert description of works] comprising the Works are required to be placed in a location other than shown on the plans and specifications attached as Schedule "A", or determines that additional _____ [insert description of works] are required to be installed within the Highways, the Owner's Consultant must first obtain the authorization of the Director before proceeding with such modification to the Works.
- 4.9** The City makes no representation or warranty as to the subsurface soil conditions within the area of the Highways within which the Works are to be constructed, including as to whether the soil or groundwater within the Highways contains any contamination, special waste or prescribed substance in a quantity or concentration that exceeds the standards permitted under the provisions of the *Environmental Management Act* and Regulations thereto. The City will not be responsible for any increased or additional costs (including, without limitation, any costs associated with delays in proceeding with the Works), incurred by the Owner in constructing the Works as a result of the presence of any such special waste, contamination or prescribed substance, or any other soil or groundwater contamination within the Highways, environmental consultant's fees, the cost of any permits for removal or disposal of contaminated soils or groundwater, or the removal, disposal or treatment of contaminated soil or groundwater that is required to be removed from the Highways as a result of the Works being undertaken, or any other similar costs.
- 4.10** When backfilling the excavation made in connection with the Works, the Owner's Consultant will ensure that all anchor rods are de-tensioned prior to backfilling, and that all _____ [insert description of works] are removed to a depth of at least 4 feet below grade, or greater if achievable. Backfilling must be brought up to existing grade and completed to City standards and specifications and the satisfaction of the Director.

- 4.11** After the completion of backfilling, the Owner must provide to the City a set of engineered drawings prepared by the Owner's Consultant that identify in cross section and plan views the location of all anchor rods_____ [insert any additional works], as installed (referred to herein as the "**As Built Drawings**"). The Owner must also provide to the City a letter prepared by the Owner's Consultant and bearing his professional seal, certifying that the Works have been installed in accordance with the As Built Drawings hereto modified with the approval of the Director, and that all anchor rods left within the Highways have been de-tensioned.
- 4.12** The Owner will be responsible throughout the construction of the Works to protect persons and property in the vicinity of the Works from injury, loss or damage.
- 4.13** The Owner shall not do or permit to be done anything which may or does contaminate the Highways or the surrounding area and the Owner shall be solely responsible to remove all such contamination and remediate it to residential standards.
- 4.14** The Owner shall at its sole cost arrange to have all of the City's storm drains and sewer mains within the Highways, in the area of the Works, inspected by video camera before commencement and after completion of the Works to ensure that no damage has resulted through construction of the Works. This work shall be coordinated through the City's Underground Utilities Division.

5.0 NO RELIEF

- 5.1** It is understood, covenanted and agreed by and between the parties hereto that no provision of this Agreement and no act or omission or finding of negligence, whether joint or several, as against the City, in favour of any third party, shall operate to relieve the Owner in any manner whatsoever from any liability to the City in the premises, or under these presents, or under the provisions of the *Community Charter*, or any bylaw of the City and amendments thereto, or otherwise.

6.0 OWNER'S COVENANTS

The Owner further covenants and agrees as follows:

Fee

- 6.1** That it will pay to the City a non-refundable fee of \$750.00 and shall pay a one-time charge of \$25 per square meter of area of the proposed excavation face that will be supported by anchor rods and abuts a street or lane as calculated by the Engineer.

_____ [insert calculation of fee (e.g. 280 m2 x \$25.00 / per m2 [Face Area] = \$7000.00 + \$750.00 = \$ 7750.00)] This fee is to be paid prior to the commencement of the Works.

Save Harmless

- 6.2** To indemnify and hold harmless the City and its elected and appointed officials, officers, employees and agents from all suits, proceedings, losses, damages, expenses, demands, claims, costs (including actual costs of professional advisors and costs associated with remediation of contamination) and harm of any kind, howsoever caused, whether related

to death, bodily injury, property loss, property damage or consequential loss or damage, arising out of or in any way connected with:

- (a) the Works encroaching upon under or over the Highways,
- (b) construction, maintenance, existence, use or removal of the Works,
- (c) the Owner's occupation or use of the Highways or the ground below or the air above for the purpose of such encroachment by the Works,
- (d) the negligence of the Owner or its employees, agents, contractors, subcontractors or consultants, including the Owner's Consultant, in relation to the design or construction of the Works, and
- (e) any failure of or damage to the Works at any time, including without limitation, failure due to errors in design of the Works, or faulty or defective materials or workmanship, whether or not the result of negligence on the part of the Owner or its employees, agents, sub-contractors or consultants including the Owner's Consultant.

6.3 That the indemnity in section 6.2 survives the expiry or earlier termination of this Agreement.

6.4 To charge his interest in the Land in favour of the City for the payment of all sums which may at any time hereafter be payable by the City in respect of any claims, loss, damage or expense of whatsoever kind arising:

- (a) from the construction, maintenance or existence of the Works, or
- (b) from the permission hereby granted,

and to answer any indemnity or payment provided in the bylaws of the City or under the terms of this agreement.

Insurance

6.5 To take out and maintain during the term a policy of commercial general liability insurance against claims for bodily injury, death or property damage arising out of the use of the Land by the Owner in the amount of not less than five million dollars per single occurrence, or such greater amount as the City may from time to time designate and shall provide the City with a certificate of insurance evidencing coverage, or a certified copy of such policy or policies if requested.

6.6 All policies of insurance required under section 6.5 shall:

- (a) name the City as an additional insured;
- (b) contain a provision requiring the insurer not to cancel or change the insurance without first giving the City thirty (30) days notice in writing;
- (c) contain a cross liability clause in favour of the City; and
- (d) be in a form and on such terms, including with respect to deductible amounts, as are satisfactory to the City, in the City's sole and absolute discretion.

6.7 That if the Owner does not provide or maintain in force the insurance required by this Agreement, then without limiting the City's right to terminate this Agreement, the City may

take out the necessary insurance and pay the premium for periods of one year at a time and the Owner shall pay to the City as additional licence fees the amount of the premium immediately on demand.

- 6.8** That if both the City and the Owner claim to be indemnified under any insurance required by this Agreement, the indemnity shall be applied first to the settlement of the claim of the City and the balance, if any, to the settlement of the claim of the Owner.
- 6.9** That maintenance of such insurance shall not relieve the Owner of liability under the indemnity provisions of this Agreement.
- 6.10** That the foregoing provisions shall not limit the insurance required by law, nor relieve the Owner from the obligation to determine what insurance it requires for its own purposes.

Release

- 6.11** To release the City and its elected and appointed officials, officers, employees and agents from all claims of any kind, whether known or unknown, whether or not relating to negligence, which the Owner now has or at any future time may have, however caused, arising out of or in any way connected with the permission to encroach granted by this Agreement, the use of the Highways, the Works, or the exercise by the City of any of its rights pursuant to this Agreement.
- 6.12** That the release in Section 6.11 survives the expiry or earlier termination of this Agreement.

Remedies

- 6.13** That the City retains the right on the termination of this Agreement to proceed with the enforcement of any indemnity or other remedy provided in this Agreement or otherwise.

Compensation

- 6.14** That notwithstanding any provision of this Agreement, the Owner shall not be entitled to compensation for injurious affection or disturbance resulting in any way from the removal of the Works in accordance with the terms of this Agreement and, without limitation, shall not be entitled to business losses, loss of profit, loss of market value, relocation costs or other consequential loss by reason of the removal of the Works or by reason of the termination of this Agreement.

Termination

- 6.15** That if the Owner fails to comply with the provisions of this Agreement, including, but not limited to, sections 4.5, 4.7, 4.13 and 6.5 of the Agreement, this Agreement shall be terminated and all rights of the Owner hereunder shall thereupon lapse and be absolutely forfeited, but the City, nevertheless, shall be entitled to proceed with the enforcement of any security or indemnity herein provided, or upon any bond or otherwise in satisfaction of any claim, loss or expenses of whatsoever kind arising under this Agreement, or from the permission hereby granted.
- 6.16** That the City may, at any time, in its sole discretion, but acting in good faith, withdraw the rights it has granted to the Owner in this Agreement and terminate this Agreement on 3 months' written notice.

- 6.17** That on receipt of notice under Section 6.15 or 6.16, the Owner shall, within the time period stated in the notice, at its expense, remove the Works and otherwise restore the Highways to the satisfaction of the City.
- 6.18** That if the Owner fails to remove the Works as required by the City within the time period specified pursuant to this Agreement, the City may, in its sole discretion, cause the Works to be removed at the Owner's expense.

Entry

- 6.19** That the City reserves the right for itself, its servants or agents, at any and all reasonable times, to enter into and upon the Land for the purpose of inspecting the Works so as to determine whether the Owner is in compliance with this Agreement.

Works

- 6.20** That in the event that the construction, maintenance, use or removal of the Works necessitates any alteration or change to any meter, water service, sewer or other public works or utility in the vicinity of the Works, the Owner will reimburse the City for whatever sums may be incurred by the City in making such alterations or changes as may be deemed necessary by the Director.

7.0 ASSIGNMENT

- 7.1** The Owner shall not assign any of its rights and obligations arising from this Agreement to any person other than to the then-current owner of the Land.
- 7.2** The Owner covenants and agrees not to transfer the Land, or any portion thereof, without advising the purchaser or transferee of this Agreement and assigning the Owner's rights and obligations pursuant to this Agreement to the new owner of the Land by mutual agreement.
- 7.3** In the event that the Owner fails to assign the rights and obligations of this Agreement to a new owner of the Land as described in Section 7.2, the Owner shall continue to be bound by this Agreement in all respects notwithstanding that the Owner no longer owns the Land.

8.0 ALTERATION OF MUNICIPAL WORKS

- 8.1** This Agreement shall not in any way operate to restrict the right of the City at any time to:
- (a) alter the road, curb, gutter, sidewalk or boulevard abutting or adjoining the Land, notwithstanding that the effect of such alteration in width or elevation may be to render the Works useless or of less value for the purposes of the Owner; or
 - (b) construct or maintain any form of structure or utility on, over or under any portion of the Highways on or in which the Works encroach and for such purpose require that the Works be removed in part or in whole; and

the Owner covenants that, in the event of the City effecting any such alteration or construction or in requiring removal of all or part of the Works, the Owner will release and forever discharge, and hereby releases and forever discharges, the City from all manner of claims of any nature whatsoever, which may arise by reason of such alteration in width

or elevation as aforesaid, or by reason of the discontinuance and removal of the Works, as a result of such alteration in width or elevation or construction.

9.0 CITY'S RIGHTS RESERVED

- 9.1** Nothing contained or implied in this Agreement will derogate from the obligations of the Owner under any other agreement with the City.
- 9.2** Nothing contained or implied in this Agreement shall prejudice or affect the rights and powers of the City in the exercise of its functions under any public or private statutes, bylaws, order and regulations, all of which may be fully and effectively exercised in relation to the Highways as if this Agreement had not been executed and delivered by the parties.

10.0 LICENCES AND PERMITS

- 10.1** The Owner shall, at its own expense, obtain and maintain all permits and authorizations as may be necessary and required to erect and maintain the Works, including any building permit or electrical permit. Nothing in this Agreement relieves the Owner from the ordinary jurisdiction of the City.

11.0 OTHER MATTERS

- 11.1** The waiver by the City of default by the Owner shall not be deemed to be a waiver by the City of any subsequent default by the Owner. All waivers must be in writing.
- 11.2** Whenever it is required or desired that either party deliver a notice to the other, the delivery shall be deemed to be satisfactory if and deemed to have occurred when the notice has been:
- (a) Delivered by hand, on the date of delivery; or
 - (b) Mailed by Xpresspost (Canada Post) requiring signature of the addressee on delivery, on the date received or on the sixth day after receipt of mailing by any Canada Post Office, whichever is the earlier, except that in the event of a strike or disruption in postal service, the notice shall not be deemed to be received until actually received;
- to the address for that party on the first page of this Agreement or to whatever other address that may have, from time to time, been given by that party.
- 11.3** Whenever the singular or masculine is used in this Agreement, the same is deemed to include the plural or the feminine or the body politic or corporate as the context requires.
- 11.4** Every reference to each party is deemed to include the heirs, executors, administrators, corporate successors, permitted assigns, employees, agents, officers, elected officials and invitees of such party whenever the context so requires or allows.
- 11.5** Section headings are included for convenience only. They do not form a part of this Agreement and shall not be used in its interpretation.
- 11.6** If any part of this Agreement is for any reason held to be invalid by the decision of a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this Agreement.

11.7 This Agreement shall be governed and construed in accordance with the laws of the Province of British Columbia.

11.8 The parties hereto shall execute and do all such further deeds, acts, things, and assurances as may be reasonably required to carry out the intent of this Agreement.

12.0 TIME OF ESSENCE

12.1 Time is of the essence of this Agreement.

13.0 INTERPRETATION

13.1 No part of the fee of the soil of the Highways will pass to or be vested under or by these presents in the Owner or the Owner's invitees, agents or successors in title.

13.2 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, successors, administrators and permitted assignees.

13.3 All provisions of this Agreement are to be construed as covenants and agreements as though the word importing covenants and agreements were used in each separate paragraph.

13.4 This Agreement is the entire agreement between the parties and the City had made no representations, warranties, guarantees, promises, covenants or agreements (oral or otherwise), to or with the Owner other than those expressed in this Agreement.

IN WITNESS WHEREOF the said Owner has hereunto set his hand and seal the day and year first above written.

The Corporation of the City of Victoria by its)
authorized signatory)
)
)
_____)
[Insert name])
Director of Engineering and Public Works)
)
)

_____) [name of owner]
by its authorized signatories:)
)
)
)
_____)
Authorized Signatory)
)
)
)

Authorized Signatory

SCHEDULE "A"

(insert plans and specifications)

Attachment 3 – Summary and Analysis of Bylaw Amendments

Bylaw Section	Current Wording	Proposed Changes	Policy Objective	Guiding Values
5 Applications subject to this bylaw	<p>Establishes that fees and procedures in the bylaw apply to the following applications:</p> <ul style="list-style-type: none"> • an amendment to the zoning bylaw; • an amendment to the OCP; • an amendment to a land use contract; • a temporary use permit; • a heritage revitalization agreement; • a development variance permit; • a development permit; • a heritage alteration permit. 	<p>Removes mention of land use contract applications.</p> <p>All references to land use contracts throughout the bylaw are also removed including in sections relating to fees, sign posting, notice, and public hearings.</p>	<p>Cleans up unnecessary wording, given that all land use contracts have been required (by the province) to be terminated as of June 30, 2024.</p>	<p>Alignment with Legislation</p> <p>Consistency and Clarity</p>

Bylaw Section	Current Wording	Proposed Changes	Policy Objective	Guiding Values
<p>7 Notification Distance</p>	<p>Pre-application notification distances currently range between 100-200 metres based on application type:</p> <ul style="list-style-type: none"> • 100 m for Rezoning, Land use contracts, Heritage revitalization agreements, • 100 m for OCP amendments, • 200 m for OCP amendment to Urban Place Designation guidelines or OCP amendment to DPA or HCA guidelines. 	<p>Change in wording will require that any application involving an OCP amendment will have a pre-application notification distance of 200 m.</p> <p>Removes mention of land use contract applications.</p>	<p>Consistent public notification distance for OCP amendments. Also ensures consistency between pre-application notification distances and public hearing notification distances for OCP amendments.</p>	<p>Alignment with Legislation</p> <p>Consistency and Clarity</p>
<p>21 Refund</p>	<p>Identifies timelines for when applicants can receive a 90% refund if they withdraw or cancel within 15 days or a 75% refund if they withdraw or cancel within 40 days of the application date.</p>	<p>Clarifies that applicants may receive a 75% refund for withdrawn or cancelled applications within 16 to 40 business days of the submission date.</p> <p>Also clarifies that the refund amount for meeting the Tenant Assistance Policy and Tenant Assistance Plan is eligible for a refund that would not exceed the application fee paid up to a limit of \$5000.</p>	<p>Simplify wording and clarify intent of the bylaw.</p>	<p>Consistency and Clarity</p>

Bylaw Section	Current Wording	Proposed Changes	Policy Objective	Guiding Values
26 Application Sign Posting Requirements - Permits	Requires the applicant to post signage in compliance with Schedule B of the bylaw when Council is providing an opportunity for public comment on certain types of permits, including development variance permits, development permits with variances, heritage alteration permits with variances, and temporary use permits.	Removes reference to opportunity for public comment. Clarifies that sign posting is required (instead of only being needed if/when an opportunity for public comment is requested by Council).	Creates a consistent approach to sign posting requirements for DVP, DPV, HAPV and TUP application types.	Alignment with Legislation Consistency and Clarity Transparency
27 & 28 Application Sign Posting Requirements – Other applications	Identifies when sign posting requirements do not apply to City-initiated amendments.	Shifts the location of the words “City-initiated amendments”. Removes mention of land use contract applications.	No policy change. The change helps facilitate the ability to make potential amendments to this section in the future.	Consistency and Clarity Efficiency
29 Public Hearing	Specifies what types of land use applications require a public hearing.	Adds subsection 29A and 29B to describe when public hearings are not permitted, not required, or may be waived, consistent with the Local Government Act. Removes mention of land use contract applications.	Changes to public hearing procedures required to be consistent with the <i>Local Government Act</i> .	Alignment with Legislation

Bylaw Section	Current Wording	Proposed Changes	Policy Objective	Guiding Values
		<p>Adds that a public hearing is required for heritage designation.</p> <p>Add that a public hearing is required when residential rental tenure is being altered when there is a heritage revitalization agreement being entered into or amended.</p>		
30 Right to Waive Public Hearing	Identifies when Council may waive the holding of a public hearing.	Adds wording to clarify that Council may only choose to waive the holding of a public hearing for certain zoning amendment bylaw applications that are consistent with the OCP, and where the hearing is not already prohibited.	Changes required to be consistent with the <i>Local Government Act</i> .	Alignment with Legislation
31 Opportunity for public comment *Proposed to be removed.	Outlines that Council may provide public comment before passing a resolution to issue development variance permits, development permits with variances, heritage alteration permits with variances, and temporary use permits.	Removes section 31 to remove all reference to opportunity for public comment.	<i>Local Government Act</i> outlines provisions for public input on specific types of applications. Opportunity for public comment is not standard practice, given what is set out in the <i>Act</i> .	<p>Alignment with Legislation</p> <p>Consistency and Clarity</p> <p>Efficiency</p>

Bylaw Section	Current Wording	Proposed Changes	Policy Objective	Guiding Values
32 Notice of opportunity for public comment <i>*Proposed to be renamed: "Section 31 - Notice of Public Hearing, Zoning Bylaw Amendment or Permits"</i>	Requires the City to inform owners and occupiers of the property subject to a permit, and adjacent parcels, when Council intends to provide an opportunity for public comment on a permit decision.	Removes reference to opportunity for public comment. Adds new title for what is now "Section 31 - Notice of public hearing, zoning bylaw amendment or permits". Adds a table that outlines the distance specified for the purpose of notification for different application types (OPC, zoning, HRAs or Heritage Designation, DPVs, HAPVs, DVPs or TUPs).	The opportunity for public comment is being removed to create a consistent approach to notice/public input that aligns with legislation. Public notice requirements are outlined in S. 499 of the <i>Act</i> .	Alignment with Legislation
33 Notification distance requirements for temporary use permits <i>*Proposed to be removed.</i>	Outlines notice requirements for temporary use permits (owners and occupiers of the property subject to a permit, and adjacent parcels).	Removes Section 33. Notification distances now will be addressed in the new Section 31.	<i>Local Government Act</i> requires public notice for DVPs and TUPs. HAPVs and DPVs do not require notification under the <i>Act</i> , but are included for greater transparency with the public.	Alignment with Legislation Consistency and Clarity
Schedule A Application Fees	Silent on fees for a single unit or two units when a proposal is in Development Permit Area 15F: Missing Middle Housing.	Removes mention of land use contract applications. Clarifies the base fees for a new single unit or two units within <i>DPA 15F: Missing Middle Housing</i> . Adds wording to make applications for a Garden	Consistent with Council direction given May 2022. Aligns with Missing Middle policy and regulations and clarifies fee structure within Schedule A and Schedule	Alignment with Legislation Consistency and Clarity Efficiency

Bylaw Section	Current Wording	Proposed Changes	Policy Objective	Guiding Values
	The fee for garden suites is \$1,000.	Suite in <i>DPA 15E: Intensive Residential Garden Suites</i> \$2,000 or \$2,500 when the application is to be considered by Council if it does not meet the design guidelines. Removes administration fee for application with opportunity for public comment.	D.	Transparency
Schedule D Row 30	N/A	Adds wording to delegate DPs and HAPs, with or without variances, in restricted zones for new buildings and building additions for small-scale multi-unit housing.	Consistent with Provincial Housing Bill 44.	Alignment with Legislation Consistency and Clarity Efficiency
Schedule D Row 31	N/A	Adds wording to delegate DPs and HAPs, with or without variances, in all DPAs and HCAs for new building and building additions for residential buildings with density up to 2.5:1, up to six stories, and at least 50% or more residential floor area.	This streamlines and enhances efficiency in the development approvals process where zoning already permits residential or mixed-use. This amendment is considered a quick win for easy implementation as part of Phase 2.	Efficiency



Committee of the Whole Report

For the Meeting of May 9, 2024

To: Committee of the Whole **Date:** April 25, 2024

From: Karen Hoesel, Director, Sustainable Planning and Community Development

Subject: **Land Use Procedures Bylaw Amendment No. 22, 2024 - Prohibition on Certain Public Hearings following Bill 44 – Housing Statutes (Residential Development) Amendment Act**

RECOMMENDATION

That Council:

1. Amend the Land Use Procedures Bylaw as proposed in Attachment 1, to align the City's public hearing procedures with Bill 44 – *Housing Statutes (Residential Development) Amendment Act, 2023* that placed a prohibition on certain public hearings.
2. Give first three readings to the *Land Use Procedures Bylaw*, Amendment Bylaw (No. 22) at Council to follow this Committee of Whole meeting.
3. Direct staff to conduct additional review of the City's *Land Use Procedures Bylaw*, described as Phase 2 in this report, based on the scope and guiding values outlined in Attachment 3, and bring forward an amended bylaw for Council's consideration along with any feedback received through consultation with the Urban Development Institute and Community Association Land Use Committees.
4. Direct staff to report back to Council on Phase 3 items, including information on scoping, timing, and resource implications.

EXECUTIVE SUMMARY

In response to the Provincial Government's recent legislative changes regarding housing and development, amendments are proposed to the City's *Land Use Procedures Bylaw* (LUPB) to ensure the City's public hearing process is consistent with the *Local Government Act*. The proposed bylaw amendments relate specifically to rezoning applications for housing that are consistent with the Official Community Plan.

Additionally, staff are seeking direction from Council with regards to conducting a comprehensive review of the LUPB. The intent of the review is to simplify and streamline development processes as well as bring the bylaw into further alignment with provincial legislation.

As part of the review process, it is recommended that the City seek focused input from the Urban

Development Institute and the Community Association Land Use Committees to inform the proposed changes to the Land Use Procedures Bylaw.

PURPOSE

The purpose of this report is to propose amendments to the *Land Use Procedures Bylaw* (LUPB) in alignment with Bill 44 – *Housing Statutes (Residential Development) Amendment Act, 2023*. These amendments will prohibit public hearing requirements for certain residential development applications that are consistent with the Official Community Plan, to align with provincial legislation.

In addition, staff are seeking direction related to further review and changes to the LUPB as part of a broader effort to update and improve the City's development processes. The review is outlined in three phases based on the complexity of the potential changes.

- This report, with the public hearing amendments constitutes the first phase.
- Phase 2 involves modernization amendments that require minimal research and engagement as they are generally focused on creating alignment with legislation and updating bylaw language to create more clarity.
- Phase 3 changes could revise the pre-application process and community involvement in application submissions, review and adjust application fees, and update the delegation table and delegated authorities. As these changes would be more resource intensive, additional scope and details about Phase 3 actions would be provided to Council in a subsequent report.

BACKGROUND

The *Local Government Act* and *Community Charter* legislates the specific provisions and procedures for considering the following types of bylaw changes:

- official community plan bylaws
- zoning bylaws
- certain bylaws authorizing temporary use permits
- phased development agreement bylaws
- bylaws for the early termination of land use contracts
- bylaws for heritage revitalization agreements and designation of heritage properties.

Historically, as a part of Council's consideration and deliberation, municipalities were required to hold public hearings prior to final adoption of all zoning bylaw amendments. However, recent legislative changes, specifically through Bill 26 (November 2021) and Bill 44 (November 2023), have revised these requirements to streamline the development approvals process, particularly in response to the housing crisis.

With Bill 44 – *Housing Statutes (Residential Development) Amendment Act, 2023*, the *Local Government Act* was revised to prohibit local governments from holding a public hearing for rezoning applications that meet the following criteria:

- (a) an official community plan is in effect for the area that is the subject of the zoning bylaw
- (b) the bylaw is consistent with the official community plan
- (c) the sole purpose of the bylaw is to permit a development that is, in whole or in part, a residential development
- (d) the residential component of the development accounts for at least half of the gross floor

area of all buildings and other structures proposed as part of the development.

This legislative change came in effect on November 30, 2023 and builds upon existing authority under the *Local Government Act* to not hold public hearings for zoning amendment bylaws that are consistent with the Official Community Plan. The prohibition on public hearings for residential developments applies to all residential zoning amendment bylaws that have not yet received first reading from Council by the date of Royal Assent (November 30, 2023).

With the public hearing prohibition in place, the *Local Government Act* will only require public hearings for the following land use changes:

- OCP bylaws and amendments
- Zoning bylaws that are not consistent with an OCP
- phased development agreement bylaws
- bylaws for the early termination of land use contracts
- bylaws for heritage revitalization agreements and designation of heritage properties.

The *Local Government Act* also requires local governments (that have adopted an OCP or Zoning Bylaw) to define the procedures by which owners of land may apply for an amendment to the plan or bylaw. Most commonly a procedures bylaw would describe who is entitled to make an application, the information required to make an application, details about application forms, application fees, sign posting requirements, and reapplication restrictions. A procedures bylaw must, at minimum, comply with other statutory requirements set out in the *Act* (such as notification distances or public hearing requirements). Procedures bylaws are not required to specify the sequencing of steps in the application process, or time limits for each step.

The City of Victoria's *Land Use Procedures Bylaw* (LUPB) was adopted in 2016. In addition to what is required under the *Local Government Act*, the City's LUPB includes non-statutory requirements specific to the City. For example, pre-application consultation and Community Association Land Use Committees (CALUC) processes, Opportunities for Public Comment, and varied notification distances for different application types are all specific to the City of Victoria and are not required by legislation.

ISSUES & ANALYSIS

Public Hearing Changes

Under the current *Local Government Act*, the City must establish procedures for land development applications. As a result of changes to Provincial legislation, the LUPB requires updating to remain consistent with the *Local Government Act*. The following sections have been identified for the proposed bylaw amendment (see Attachment 1).

- **Section 29 - Public Hearing:**
The proposed bylaw amendment adds wording to clarify when a public hearing must be held, is not permitted to be held, or is optional, consistent with the *Local Government Act*.
- **Section 30 - Right to Waive a Public Hearing**
The proposed bylaw amendment clarifies that Council may only waive the holding of a public hearing for zoning amendment bylaw applications that are consistent with the Official Community Plan and where the hearing is not already prohibited.
- **Section 32 - Notice of Public Hearing**

Notification requirements are still included in the *Local Government Act*, and public notice requirements will continue to apply (including publishing and mailing of rezoning notices) and will need to be completed before first reading of the rezoning bylaw in cases where no public hearing is required or permitted. The proposed bylaw amendment adds wording to clarify that the notification distance is 100 m for zoning bylaw amendment applications when the public hearing has been waived, as well as for zoning bylaw amendment applications when a public hearing is not permitted.

The proposed amendments ensure alignment with the enabling legislation and clarify the circumstances under which a public hearing may be held or waived by Council for zoning bylaw amendments.

Additional Review of Land Use Procedures Bylaw

As the City's needs have changed since its adoption, the LUPB has been amended nineteen times, resulting in a complex bylaw that is challenging to understand and implement. Therefore, the bylaw could benefit from additional review to modernize and simplify the structure and language, as well as ensure alignment with Provincial legislation.

Phasing

Identifying the scope and objectives for further review requires Council direction for staff to implement. Three phases have been outlined in Attachment 3 for this purpose, recognizing that some aspects of the bylaw could be revised quickly, with minimal research and engagement, while other aspects of the bylaw are more complex, requiring additional resourcing and consultation.

The additional review options are described as Phase 2 and Phase 3 below, and these would be in addition to the immediate changes (described in Phase 1) that address changes to the *Local Government Act* public hearing procedures.

Phase 1 – Immediate Procedural Public Hearing Changes (Recommendations 1 and 2)

- These bylaw amendments, which are recommended for immediate adoption, will align the LUPB with the new Provincial legislation prohibiting public hearing requirements for certain residential development applications that are consistent with the Official Community Plan.

Phase 2 – Simple Modernization Changes (Recommendation 3)

- The goal of this phase of bylaw updates would be to simplify wording and processes across the bylaw, provide more flexibility and clarity for applicants and the public, and create more consistency with the *Local Government Act*.
- Areas of consideration include creating consistent notification distances, modifying the refund and sign posting sections, assessing Opportunity for Public Comment, and identifying other sections of the bylaw for updates to streamline the development application review process.
- These amendments would require minimal research and external engagement as they are generally straightforward technical updates.

Phase 3 – Additional Complex Changes (Recommendation 4)

- Some of the remaining sections of the LUPB would be more complex and could involve changes to the pre-application process, adjustment of application fees, and opportunities for further delegation.

- As these amendments may have additional resourcing requirements staff would report back on scoping, timing, and resource implications, to facilitate additional Council direction prior to implementation.

Development Process Review

The City's Development Process Review project is currently underway as well. The intent of this project is to review the Rezoning, Development and Building Permitting processes, identify the highest-priority opportunities for short and longer-term improvements, and build internal capacity for making continuous improvements. This project has been supported through an interdepartmental working group that will lead future process improvement efforts as identified.

Specific projects implemented and underway as part of the Development Process Review project have a strong customer service focus and include new tools and software to support application intake and review. In addition, staff are working on a priority review process for affordable and rental housing projects, an enhanced pre-application process to provide greater certainty for applicants and reduce the number of steps in the development approval process, and new training for staff to support these changes. These projects are intended to make the City's development process more effective and accelerate housing development. Several of these projects also align with the City's Housing Accelerator Fund work related to Process and Approvals Modernization, such as expanding e-apply, creating a new online customer portal and virtual assistant, and replacing legacy software.

It is anticipated that this project may also result in changes to the LUPB as part of Phase 2 particularly with regards to aspects of the bylaw that deal with application processing.

Guiding Values and Objectives

Overall, the bylaw review process would strive to promote cooperation, responsibility, and efficiency throughout the evaluation. Based on the City's Guiding Values and Objectives identified in the [2023-2026 Strategic Plan](#) and policy objectives in the [Official Community Plan](#) (2012) and the principles applied in the review of the City of Victoria's governance structures and processes (Governance Review), the following values are proposed to guide the review process (see additional details in Attachment 3).

1. **Alignment with Legislation:** Ensuring that the Land Use Procedures Bylaw is consistent with the *Local Government Act* and other relevant legislation.
2. **Innovation:** Seeking new and creative solutions to improve the development process, while incorporating best practices from other jurisdictions, leading industry standards, and the advancement of new technologies.
3. **Consistency and Clarity:** Ensuring that the bylaw is clear and coherent in its language and application.
4. **Efficiency:** Streamlining the development process to reduce processing times and improve service delivery.
5. **Inclusivity:** Ensuring that the development process is inclusive and accessible to all members of the community.

6. **Transparency:** Providing clear and transparent information about the development process to the public, staff, and applicants.

Consultation

It is recommended that the City seek targeted feedback from the Urban Development Institute (UDI) and the Community Association Land Use Committees (CALUCs) to inform the final recommended changes to be included in the Phase 3 related bylaw amendments. Phase 2 and Phase 3 changes could be brought forward to Council concurrently, though this would delay Phase 2 changes.

OPTIONS & IMPACTS

Option One (Recommended) - Amend the *Land Use Procedures Bylaw* as proposed to address immediate procedural public hearing changes, initiate Phase 2 amendments and report back on Phase 3 amendments. **See recommendations 1-4.**

Advantages:

- This approach quickly advances the changes required to be consistent with the Local Government Act and enables additional procedural changes to further simplify and streamline city development processes.
- With the OCP review, zoning modernization and other ongoing initiatives to improve development processes there is an opportunity to integrate this project to ensure policy alignment across all land use bylaws.
- A modernized bylaw would be written and structured to ensure ease of use.
- Aligns with City's housing objectives and could be reported as part of the progress towards meeting provincial and federal housing targets.

Disadvantages:

- Additional review will have implications for various departments including Development Services, Legal Services, and Legislative Services.
- Depending on Council's direction about the scope of the review for Phase 3, allocation of resources may be required to support research and consultation activities.

Option Two – Amend the *Land Use Procedures Bylaw* as proposed to address immediate procedural public hearing changes and conduct Phase 2 additional review of the bylaw with the intent of updating sections of the *Land Use Procedures Bylaw*. **See recommendations 1-3.**

Advantages:

- Quickly advances the changes required to be consistent with the Local Government Act.
- Enables some additional changes to the bylaw to further simplify and streamline city development processes.
- Resource implications are limited if Phase 3 scope is not considered for the review process, as Phase 2 requires no additional resources.

Disadvantages:

- The Phase 3 subjects for review may have some of the most significant impact on the development process and would not be addressed.

Option Three – Amend the *Land Use Procedures Bylaw* as proposed to address immediate procedural public hearing changes, but do not conduct any further review of the City’s development procedures. **See recommendations 1 & 2.**

Advantages:

- Quickly advances the public hearing changes required to be consistent with the Local Government Act.
- Staff time required to facilitate the review process will be allocated to other tasks and projects.

Disadvantages:

- Does not enable additional procedural changes to further simplify and streamline city development processes.
- Does not allow for broader research or engagement with key stakeholders to facilitate improved processes.

2023 – 2026 Strategic Plan

Reviewing the *Land Use Procedures Bylaw* aligns with the City’s goal to “Simplify City processes to accelerate housing development” and to “Streamline permitting and development processes to support small businesses and to reduce costs”.

Impacts to Financial Plan

The proposed scope of work will not impact the Financial Plan.

Official Community Plan Consistency Statement

Modernizing the City’s land use procedures supports effective, transparent, and consistent implementation of the OCP and may help facilitate increased housing construction by reducing development application processing times. This project also aligns with several of the 13 values that inform the goals, broad objectives, policies, and implementing actions identified within the OCP.

CONCLUSIONS

It is recommended that Council amend the *Land Use Procedures Bylaw*, as proposed, to align with the directives of Bill 44 – *the Housing Statutes (Residential Development) Amendment Act, 2023*.

It is also recommended that additional review of the City’s LUPB be conducted and that an updated or new bylaw be brought forward for Council’s consideration. The objective of this project would be to further simplify and streamline City development processes.

Respectfully submitted,

Katelyn McDougall
Manager of City Development Processes

Karen Hoese, Director
Sustainable Planning and Community

Report accepted and recommended by the City Manager.

List of Attachments

- Attachment 1: Bylaw Amendment No. 22
- Attachment 2: Consolidated *Land Use Procedures Bylaw* No. 16-028 with Amendments
- Attachment 3: Detailed Overview of Phases for LUPB Review

NO. 24-021

A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to amend the Land Use Procedures Bylaw to align the City's public hearings procedures with amendments to the *Local Government Act* from Bill 44 – *Housing Statutes (Residential Development) Amendment Act*, 2023.

The Council of The Corporation of the City of Victoria in an open meeting enacts the following provisions:

- 1 This Bylaw may be cited as the "Land Use Procedures Bylaw, Amendment Bylaw (No. 22)".
- 2 The Land Use Procedures Bylaw, 2016 is amended as follows:
 - (a) in the Table of Contents at section 32 by adding the words "or zoning bylaw amendment" after "Notice of public hearing";
 - (b) in section 29,
 - (i) subsection (a), by adding ", subject to section 29A and 29B" between "zoning bylaw" and the semicolon;
 - (ii) subsection (d), by deleting the period and inserting the words "or alter the zoning bylaw in relation to residential rental tenure;" after "applicable zoning";
 - (iii) by adding a new subsection (e):

"(e) heritage designate a property."
 - (c) by inserting the following two sections immediately after section 29:

"29A. A public hearing on a proposed zoning amendment bylaw is not permitted if:

 1. (a) the bylaw is consistent with the OCP,
 - (b) the sole purpose of the bylaw is to permit a development that is, in whole or in part, a residential development, and
 - (c) the residential component of the development accounts for at least half of the gross floor area of all buildings and other structures as part of the development; or
 2. the sole purpose of the bylaw is to comply with section 481.3 of the *Local Government Act*.

29B. A public hearing is not required on a proposed zoning amendment bylaw if the bylaw is consistent with the OCP."
 - (d) in section 30, by inserting "and does not meet the criteria in section 29A." after "OCP".
 - (e) in the heading above section 32, by inserting "**or zoning bylaw amendment**" after "**public hearing**";

(f) in section 32(d), by adding “or heritage designation bylaw” after “agreement bylaw”;
and

(g) by inserting the following section immediately after section 32:

- 3 “32A. The distance specified for the purpose of notification of a zoning amendment bylaw where a public hearing is not permitted or has been waived is 100 metres.”

This bylaw comes into effect on adoption.

READ A FIRST TIME the	day of	2024
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READ A SECOND TIME the	day of	2024
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READ A THIRD TIME the	day of	2024
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ADOPTED on the	day of	2024
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CITY CLERK

MAYOR



LAND USE PROCEDURES BYLAW

BYLAW NO. 16-028

This consolidation is a copy of a bylaw consolidated under the authority of section 139 of the *Community Charter*.
(Consolidated on October 5, 2023 up to Bylaw No. 23-085)

This bylaw is printed under and by authority of the Corporate Administrator of the Corporation of the City of Victoria.

NO. 16-028

LAND USE PROCEDURES BYLAW

A BYLAW OF THE CITY OF VICTORIA

(Consolidated to include Bylaws No.16-059, No.17-006, No.17-012, No.17-023, No.17-054, No.17-107, No. 18-018, No.18-090, No.19-037, No.19-067, No.20-076, 21-055, 22-014, 22-021, 22-072, 22-057, 22-026, 23-066, 23-085)

A Bylaw to define procedures under which an owner of land may apply for an amendment to the Official Community Plan, Zoning Bylaw 2018, or the Zoning Regulation Bylaw, for the issuance of a permit, to impose application fees, to specify notification distances, and to delegate Council's authority to make decisions in certain circumstances.

WHEREAS:

A local government that has adopted an official community plan bylaw or a zoning bylaw must, by bylaw, define procedures under which an owner of land may apply for an amendment to the plan or bylaw or for a permit under Part 14 of the *Local Government Act*; and

The Council of the City of Victoria has adopted an official community plan and a zoning bylaw; and

A local government may, by bylaw, impose application fees for an application to initiate changes to an official community plan or zoning bylaw, the issuance of a permit under Part 14 or Section 617 of the *Local Government Act*, or an amendment to a land use contract or a heritage revitalization agreement; and

A local government may by bylaw specify a distance from affected land for the purpose of notifying owners and tenants in occupation of proposed bylaw amendments and permits; and

The Council may, by bylaw, delegate its powers, duties and functions to an officer or employee of the municipality;

NOW THEREFORE, the Council of the City of Victoria, in open meeting assembled, enacts as follows:

PART 1 – INTRODUCTORY PROVISIONS

1. Title
2. Repeal
3. Severability
4. Definitions
5. Applications Subject to this Bylaw

PART 2 – APPLICATIONS

6. Pre-Application Community Meeting Requirements
7. Notification Distance
8. Waiving a Community Meeting
9. Applications Forms
10. Application Requirements
11. Evidence of Participation in a Community Meeting
12. Receipt of Applications
13. Incomplete applications
14. Notification of incomplete applications
15. Application referral
16. Application review summary
17. Council referral
18. Application Fee
19. – 20. Affordable Housing application fee
21. Refund
22. Refund of administration fee
23. Landscape Security
24. Cancellation of Applications
25. Reapplication – cancelled file
26. Application Sign Posting Requirements – permits
27. – 28. Application Sign Posting Requirements – other applications
29. Public hearing
30. Right to waive a public hearing
31. Opportunity for public comment
32. Notice of public hearing or zoning bylaw amendment
33. Notice of opportunity for public comment
34. Notice requirements for temporary use permits
35. Reapplications

PART 3 – DELEGATION AND RECONSIDERATION

- 36. Types of Permits
- 37. Referral
- 38. Referral consideration
- 39. Landscape security delegation
- 40. Council reconsideration
- 41. Time limit for reconsideration
- 42. Notice of reconsideration
- 43. Representation to Council
- 44. Council's authority

PART 4 – ENCROACHMENTS IN DELEGATED APPROVALS

- 45. – 49. Encroachments for decorative features
- 50. – 53. Encroachments for anchor rods
- 54. General

SCHEDULES

- | | |
|--------------|---|
| Schedule A | Application Fees |
| Schedule B | Procedures for Sign Posting– Permits |
| Schedule C | Procedures for Sign Posting – Other Applications |
| Schedule C-1 | Procedures for Sign Posting – Pre-Application Input |
| Schedule D | Delegated Approvals |
| Schedule D-1 | Criteria for Minor Variances |
| Schedule D-2 | Guidelines for Development Variance Permits |
| Schedule E | Landscape Security |
| Schedule F | Encroachment for Decorative Features |
| Schedule G | Encroachment for Anchor Rods |

23-085

PART 1 – INTRODUCTORY PROVISIONS

Title

1. This Bylaw may be cited as the "LAND USE PROCEDURES BYLAW, 2016".

Repeal

2. Bylaw No. 09-048, the "Land Use Procedures Bylaw" is repealed.

Severability

3. If any Section, subsection, sentence clause or phrase forming part of this Bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, the invalid portion shall be severed from the Bylaw without affecting the validity of the Bylaw or any remaining portion of the Bylaw.

Definitions

4. In this bylaw,

"affordable housing" means

any housing unit which is:

- (a) part of a development wholly owned and operated by a registered non-profit residential housing society or government agency, or operated by a registered non-profit residential housing society or government agency pursuant to a legally binding arrangement with the property owner; and
- (b) subject to a housing agreement with the City, or a covenant in favour of the City, securing its use as a below-market housing unit in perpetuity",

"ADP" means

the City's Advisory Design Panel

"anchor rod" means

any steel or other rod, pipe or thing an intended purpose of which is to shore or support an excavation face or to prevent subsidence

"CALUC" means

Community Association Land Use Committee

"Committee" means

a select or standing committee of Council

"Community Meeting" means

a public meeting held in association with a Community Association Land Use Committee operating under the Community Association Land Use

Committee Procedures for Processing Rezoning and Variance Applications as approved by a resolution of Council

“development permit” or “DP” means

a permit authorized by Section 490 of the *Local Government Act*

“development variance permit” or “DVP” means

a permit authorized by Section 489 of the *Local Government Act*

“Director” means

the City's Director of Sustainable Planning and Community Development Department

“Engineer” means

the City's Director of Engineering and Public Works or a person acting under his authority

“HAPL” means

the City's Heritage Advisory Panel;

“heritage alteration permit” means

a permit authorized by Section 617 of the *Local Government Act*

“heritage conservation area” or “HCA” means

an area designated pursuant to section 614(1) of the *Local Government Act*

“heritage registered property” means

property listed on the community heritage register under section 598 of the *Local Government Act*

“heritage revitalization agreement” means

an agreement authorized by Section 610 of the *Local Government Act*

“Official Community Plan” or “OCP” means

the City's Official Community Plan Bylaw, 2012

“public comment” means

members of the public addressing Council, other than at a public hearing, regarding the subject matter of a decision Council proposes to make

“public hearing” means

a public hearing that is required to be held under the *Local Government Act* before Council adopts a bylaw

“temporary use permit” or “TUP” means – new as per 17-054

a permit authorized by Section 493 of the *Local Government Act*

“TRG” means

the Technical Review Group composed of City of Victoria staff

“zoning bylaw” means

the City’s Zoning Regulation Bylaw and Zoning Bylaw 2018

Applications subject to this bylaw

5. This bylaw establishes fees and procedures in relation to applications for:
 - (a) an amendment to the zoning bylaw;
 - (b) an amendment to the OCP;
 - (c) an amendment to a land use contract;
 - (d) a temporary use permit;
 - (e) a heritage revitalization agreement;
 - (f) a development variance permit;
 - (g) a development permit;
 - (h) a heritage alteration permit.

PART 2 - APPLICATIONS

Pre-application requirements

6. Before submitting an application to initiate changes to the OCP or zoning bylaw, the applicant must:
 - (a) pay to the City the pre-application notification fee as calculated in accordance with Schedule A of this Bylaw;
 - (b) arrange and participate in a Community Meeting not more than six months in advance of the application submission date;
 - (c) submit plans for the proposed development to the City to post online for public comment not less than 30 days and not more than six months in advance of the application submission date; and
 - (d) post signage in accordance with Schedule C-1 of this Bylaw.
- 6A. The pre-application notification fee under section 6(a) does not apply where the requirements of section 6(b), (c) and (d) have all been waived pursuant to section 8.

- 6B. The Director may require the applicant to repeat the requirements in section 6 if the plans for the proposed development has had the following revisions:
- (a) additional uses added;
 - (b) increase in height or density; or
 - (c) decrease in setbacks or increase in site coverage equal to or greater than 20%.
- 6C. In the event section 6B is triggered and the requirements under 6(b), (c) and (d) have not been waived pursuant to section 8, the applicant must pay the pre-application notification fee as calculated in accordance with Schedule A.

Notification Distance

7. The City will provide owners and occupiers within the areas specified in Section 7A with notification of the date of the processes under section 6(b) and (c), if applicable.
- 7A. The notification under section 7 will be provided to the owners and occupiers of properties located within:
- (a) 100 metres of the property that is the subject of the application (the “subject property”) if the application is for one of the matters listed in Section 27 of this Bylaw;
 - (b) 200 metres of the property that is the subject of the application if the application is to amend the zoning bylaw and also requires an amendment to the Urban Place Designation for the subject property in the *Official Community Plan*; or
 - (c) 200 metres of the property that is the subject of the application if the application is to amend the zoning bylaw and requires the creation of or amendment to guidelines in the *Official Community Plan* for one or more Development Permit Areas or Heritage Conservation Areas.

Waiving Pre-application Requirements

8. The requirement under section 6(b) may be solely waived or the requirements under sections 6(b), (c) and (d) may be waived altogether, by:
- (a) Council;
 - (b) in writing by the CALUC in the area in which the proposed development is located; or

- (c) by the Director, if, in the Director's opinion:
 - i. the applicant has made reasonable attempts to hold a Community Meeting; or
 - ii. extraordinary circumstances exist that make it unsafe or impractical to hold a Community Meeting.

Application Forms

- 9. The Director is authorized to establish and revise the application form for any application to be used from time to time pursuant to this Bylaw.

Application requirements

- 10. All applications must be submitted to the Director on the form provided by the City for the purpose of the application, and must be accompanied by:
 - (a) all of the information and supporting documents specified in the application form;
 - (b) the fees set out in Schedule A to this Bylaw.

Evidence of participation in a Community Meeting

- 11. If a Community Meeting was required in relation to an application, the applicant must submit evidence that the applicant has participated in the Community Meeting.

Receipt of applications

- 12. If a person submits a complete application to the Director, the Director must process the application.

Incomplete applications

- 13. If a person submits an incomplete application to the Director, the Director may:
 - (a) process the application; or
 - (b) refuse to process the application.

Notification of incomplete applications

- 14. If the Director refuses to process an incomplete application, the Director must inform the applicant, either verbally or in writing, why the application is incomplete.

Application Referral

- 15. When processing an application, the Director may refer the application to other agencies or associations, the TRG, Advisory Committees or other staff members.

Application Review Summary

16. When processing an application the Director may provide an applicant with a summary of any feedback the Director receives following the referrals contemplated in Section 15.

Council Referral

17. Council or a Committee of Council may refer a development permit application or a heritage alteration permit to ADP or HAPL or a joint meeting of ADP and HAPL for its recommendations concerning the design of the application or other matters within the ADP's or HAPL's terms of reference.

Application fee

18. The application fee for an application under this Bylaw is the sum of the following amounts, each of which is set out in, or must be calculated in accordance with, Schedule A:
 - (a) the pre-application fee for giving notice;
 - (b) the base application fee;
 - (c) the administration fee; and
 - (d) the resubmission fee.

Affordable Housing application fee

19. Notwithstanding Section 18, for an application under this Bylaw where all of the dwelling units proposed in the development are affordable housing dwelling units, no base application fee or variance fee is required.
20. Notwithstanding Section 18, for an application under this Bylaw where a portion of the dwelling units proposed in the development are affordable housing dwelling units, the base application fee and variance fee are reduced based on the floor area of affordable housing units as a percentage of the total floor area of the building. Fees are not reduced for floor areas associated with common areas, parking or amenity space.

Refund

21. An applicant who has paid the base application fee is entitled to:
 - (a) a 90% refund if the application is withdrawn or cancelled within 15 business days from the date of submission; or
 - (b) a 75% refund if the application is withdrawn or cancelled within 40 business days from the date of submission.
- 22-057 21A. An applicant who has paid the base application fee pertaining to a proposed development in Development Permit Area 15F and complied with the applicable provisions of the City's Tenant Assistance Policy and a Tenant Assistance Plan consistent with such Policy is entitled to a refund of \$5000 of that fee after the City has issued an occupancy permit for the development.

Refund of administration fee

22. An applicant who has paid the administration fee in relation to an application is entitled to a refund of that fee if the application is cancelled, withdrawn or abandoned, and the applicant requests a refund, before the City has incurred any expenses in relation to the giving notice of a public hearing, the waiver of a public hearing, or an opportunity for public comment in relation to the application.

Landscape security

23. The City may require the applicant to provide landscape security calculated in accordance with Schedule E of this Bylaw, and if landscape security is required, it must be provided to the City before issuance of a building permit.

Cancellation of Applications

24. (a) If an application has been accepted by the Director for processing and further information from the applicant is requested after review by the Director, TRG Committee or Council, the applicant is required to provide the requested information within 6 months. If the applicant does not provide the requested information within 6 months of the request, the City will provide a final written notification to the applicant and if the requested information is not provided within 3 months of the final written notification, the file will be closed.
- (b) If an application is declined by Council resolution, the file will be closed.

Reapplication - cancelled file

25. (a) An applicant wishing to reopen a cancelled file under Section 24(a) must submit a new application and pay the applicable fee prescribed in Schedule A of this Bylaw, but the one year waiting period for reapplications under Section 35 of this Bylaw does not apply.
- (b) An applicant wishing to reopen a closed file under Section 24(b) must submit a new application in accordance with the timeline under Section 35 and pay the application fee prescribed in Schedule A of this Bylaw.

Application Sign Posting Requirements - Permits

- 23-085 26. If Council is providing an opportunity for public comment in relation to any of the following, the applicant must post signage in compliance with Schedule B of this Bylaw:
- (a) development variance permit;
 - (b) development permit with variances;
 - (c) heritage alteration permit with variances;
 - (d) a temporary use permit.

Application Sign Posting Requirements – Other applications

27. A person who submits an application for any of the following must post signage in compliance with Schedule C of this Bylaw:
- (a) A zoning bylaw amendment;
 - (b) an *Official Community Plan Bylaw* amendment;
 - (c) an application to amend a land use contract, if the amendment relates to the use or density of an area covered by the contract;
 - (d) a heritage revitalization agreement bylaw if the agreement or an amendment would permit a change to the use or density of use that is not otherwise authorized by the applicable zoning.
28. Section 27 does not apply to City-initiated amendments:
- (a) that involve ten or more parcels; or
 - (b) where, in the opinion of the Director, the posting of signage is not practical because the owner of the affected site does not consent and there is no suitable public property for the signage in sufficiently close proximity to the affected site.

Public hearing

29. In accordance with the *Local Government Act*, a public hearing is required before Council adopts a bylaw to:
- (a) amend the zoning bylaw, subject to section 29A and 29B;
 - (b) amend the OCP;
 - (c) amend a land use contract, if the amendment relates to density or use of an area covered by the contract;
 - (d) enter into or amend a heritage revitalization agreement, if the agreement or amendment would permit a change to the use or density of use that is not otherwise authorized by the applicable zoning or alter the zoning bylaw in relation to residential rental tenure;
 - (e) heritage designate a property.
- 29A. A public hearing on a proposed zoning amendment bylaw is not permitted if:
- 1. (a) the bylaw is consistent with the OCP,
 - (b) the sole purpose of the bylaw is to permit a development that is, in whole or in part, a residential development, and
 - (c) the residential component of the development accounts for at least half of the gross floor area of all buildings and other structures as part of the development; or

2. the sole purpose of the bylaw is to comply with section 481.3 of the *Local Government Act*.
- 29B. A public hearing is not required on a proposed zoning amendment bylaw if the bylaw is consistent with the OCP.

Right to waive a public hearing

30. Council may waive the holding of a public hearing in relation to a zoning amendment bylaw if the proposed amendment is consistent with the OCP and does not meet the criteria in section 29A.

Opportunity for public comment

31. Council may provide an opportunity for public comment before passing a resolution to issue:
 - (a) a development variance permit, other than a permit that varies a bylaw under Section 526 of the *Local Government Act*;
 - (b) a development permit with variances;
 - (c) a heritage alteration permit with variances; or,
 - (d) a temporary use permit.

Notice of public hearing or zoning bylaw amendment

32. The distance specified for the purpose of the notification of a public hearing required in relation to any of the following is 100 metres:
 - (a) an amendment to the zoning bylaw;
 - (b) an amendment to the OCP;
 - (c) an amendment to a land use contract, if the amendment relates to density or use of an area covered by the contract;
 - (d) a heritage revitalization agreement bylaw or heritage designation bylaw.

32A. The distance specified for the purpose of notification of a zoning amendment bylaw where a public hearing is not permitted or has been waived is 100 metres.

Notice of opportunity for public comment

33. If Council proposes to provide an opportunity for public comment, the City will mail or otherwise deliver notice of the opportunity to the owners and occupiers of all parcels that are the subject of, or that are adjacent to the parcels that are the subject of, the permit in relation to which Council proposes to make a decision.

Notice requirements for temporary use permits

34. For the purposes of Section 494 of the *Local Government Act*, if Council proposes to pass a resolution to issue a temporary use permit, the distance

specified for the purpose of notification is all parcels that are the subject of, or that are adjacent to, the parcels that are the subject of the permit in relation to which Council proposes to make a decision.

Reapplications

35. If the Council does not approve an application submitted in accordance with this bylaw, a person must not submit the same application within one year of the date of Council's decision to not approve the application. However, Council may, by an affirmative vote of at least 2/3 of its members that are eligible to vote on the reapplication, allow a person to reapply within the one year period.

PART 3 – DELEGATION AND RECONSIDERATION

Types of permits

36. Council delegates to the Director the authority to issue the types of permits listed in column A of the table attached as Schedule D to this Bylaw, in the areas listed in column B, accordance with the conditions set out in column C.

Referral

37. Before exercising the delegated authority to make a decision under this Bylaw, the Director may refer an application to other agencies or associations, ADP, HAPL, the TRG, or other staff as required.

Referral consideration

38. If the Director refers an application as contemplated in Section 37 above, the Director must consider but is not bound to accept any recommendations or comments of the body or bodies to which the Director has referred the application.

Landscape security delegation

39. Council delegates to the Director the authority to require landscape security in accordance with Section 23, which amount shall be calculated in accordance with Schedule E of this Bylaw.

Council reconsideration

40. If an application is refused, or if the applicant objects to a proposed provision of the permit or approval, the applicant may request that Council reconsider the decision of the Director in accordance with the provisions for reconsideration set out in this Part.

Time limit for reconsideration

41. Within 10 days of being notified in writing of a decision of the Director the applicant may apply to the City's Corporate Administrator to have Council reconsider a decision of the Director.

Notice of reconsideration

42. The City's Corporate Administrator must give the applicant at least 10 days' notice of the time and place of Council's reconsideration, and of the applicant's right to appear before Council to make representations concerning the application.

Representation to Council

43. A person exercising the right of reconsideration may make oral or written submission to Council and may appoint a representative to make representation.

Council's authority

44. Council may either confirm the decision made by the Director or substitute its own decision, including conditions of a permit or additional conditions of the permit.

PART 4 – ENCROACHMENTS IN DELEGATED APPROVALS

Encroachments for decorative features

45. Council delegates to the individual provided in section 46 the authority to approve an encroachment on the terms provided in sections 48 and 49, if all of the following requirements are satisfied:
 - (a) the application has been delegated to the Director in accordance with section 36 of this Bylaw;
 - (b) the proposed development does not require any approvals by Council;
 - (c) the application includes any awning, canopy, siding, sign or other decorative architectural feature that encroaches upon, under or over City property; and
 - (d) in the Engineer's opinion, the encroachment can be removed without affecting the support or stability of the building.
46. The delegated authority to approve an encroachment pursuant to section 45 is the following person (the "Delegated Authority"):
 - (a) for an encroachment upon, under or over City street, to the Engineer;
 - (b) for an encroachment upon, under or over City park, to the City's Director of Parks, Recreation and Facilities; and
 - (c) for an encroachment upon, under or over any other City property, to the City's Head of Strategic Real Estate.
47. The delegation authority in section 45 does not apply to any encroachment that contains habitable space, including balconies and bay windows.
48. Any owner of real property desiring permission to excavate for, construct, use or maintain any encroachment permitted by section 45 upon, under or over City property appurtenant to such real property, or desiring permission to continue the

existence, maintenance or use of any encroachment permitted by section 45 on City property appurtenant to such real property previously existing, maintained or used without City permission, shall submit to the Delegated Authority a written application accompanied by such plans as the Delegated Authority may require showing the details of such encroachment, to the satisfaction of the Delegated Authority; and the Delegated Authority, upon being satisfied as to the safety and advisability of such encroachment, may grant permission for such encroachment.

49. (a) Before proceeding with the excavation for or construction of or continuing the existence, use or maintenance of an encroachment for which permission has been granted by the City pursuant to section 48, the owner shall first enter into an agreement with the City in the form of Schedule F.
- (b) The Delegated Authority is authorized to execute the agreement in the Form of Schedule F if permission has been granted pursuant to section 48.

Encroachments for anchor rods

50. Council delegates to the Engineer the authority to approve an encroachment on the terms provided in sections 51 to 53, if both of the following requirements are satisfied:
 - (a) the proposed development has already been approved by Council or under the Director's delegated authority; and
 - (b) the application includes any installation of anchor rods that encroach upon, under or over City property.
51. A person intending the installation of anchor rods under any City property shall, before commencing the installation, submit to the Engineer a written application for permission accompanied by plans sealed by a professional engineer indicating the proposed:
 - (a) depth, length and number of anchor rods;
 - (b) area of excavation face abutting City property;
 - (c) details of which anchor rods will be removed, de-tensioned or fully grouted and the time by which they will be removed, de-tensioned or fully grouted; and
 - (d) such other details as the Engineer may require.
52. The Engineer, if of the opinion that the use of anchor rods will not adversely affect the City's property or interests, may permit the installation of anchor rods pursuant to section 50 in accordance with plans submitted under section 51, if the owner of the real property to which the anchor rods will be appurtenant first:
 - (a) pays the City a non-refundable fee of \$750;
 - (b) pays the City a one-time charge of \$25 per square metre of area of the proposed excavation face that will be supported by anchor rods and abuts a street or lane as calculated by the Engineer; and
 - (c) enters into an agreement with the City in the form of Schedule G.

53. The Engineer is authorized to execute the agreement in the Form of Schedule G if permission has been granted pursuant to section 52.

General

54. Council delegates to the Engineer and the City Solicitor the authority to grant permission for and authorize the execution by the Engineer of:
- (a) a termination of any agreement authorized under this Part 4 pertaining to an encroachment when such encroachment has been removed to the satisfaction of the Engineer;
 - (b) the assignment of an existing encroachment agreement authorized under this Part 4 to a new property owner; and
 - (c) the release of an existing encroachment agreement authorized under this Part 4 when such agreement is to be replaced by a new agreement.

READ A FIRST TIME on the **10th** day of **March** 2016.

READ A SECOND TIME on the **10th** day of **March** 2016.

READ A THIRD TIME on the **24th** day of **March** 2016.

ADOPTED on the **24th** day of **March** 2016.

“CHRIS COATES”

CORPORATE ADMINISTRATOR

“LISA HELPS”

MAYOR

City of Victoria
Bylaw No. 16-028
Schedule A
APPLICATION FEES

1. Pre-application fee

The pre-application fee for giving notice, is:

- (1) \$800 if notice must be given to owners and occupiers of properties within 100 metres of the subject property; or,
- (2) \$2400 if notice must be given to owners and occupiers of properties within 200 metres of the subject property.

2. Base application fee

- (1) The base application fee for an application to amend the Official Community Plan is \$2500.
- (2) The base application fee described in paragraph (3) applies to the following applications:
 - (a) a zoning bylaw amendment;
 - (b) an application to amend a land use contract, if the amendment relates to density or use of an area covered by the contract;
 - (c) a heritage revitalization agreement bylaw if the agreement or an amendment would permit a change to the use or density of use that is not otherwise authorized by the applicable zoning;
 - (d) a temporary use permit.
- (3) The base application fee for the applications listed in paragraph (2) is calculated as follows, plus \$250 for each variance that is requested or proposed in the application:
 - (a) For an application in which the proposed development is exclusively residential use:
 - (i) Proposal for one duplex: \$3000;
 - (ii) Proposal for one triplex: \$4000;

- (iii) Proposal for one, two or three dwelling units that are not captured by paragraph (3)(a)(i) or (ii): \$2000 per dwelling unit proposed;
 - (iv) Proposal pertaining to more than three dwelling units (regardless of dwelling unit type): \$6000 plus \$0.50 per square metre of floor area.
 - (b) For an application in which the proposed development is non-residential use or mixed use:
 - (i) Proposal equal to or under 500 square metres: \$3000 plus \$0.50 per square metre of floor area;
 - (ii) Proposal over 500 square metres: \$6000 plus \$0.50 per square metre of floor area.
 - (c) For an application in which the proposed development is not captured by paragraph (3)(a) or (b): \$2000.
 - (d) For an application described in paragraph (3)(a), (b), or (c), in which any accessory dwelling units are proposed, the accessory dwelling units are not counted as dwelling units for the purposes of calculating the base application fee.
 - (e) Notwithstanding paragraph (3)(d), an application in which only accessory dwelling unit(s) are proposed shall have a base application fee of \$2000.
- (4) The base application fee described in paragraph (5) applies to the following applications:
- (a) a development permit;
 - (b) a heritage alteration permit.
- (5) The base application fee for the applications listed in paragraph (4) is calculated as follows, plus \$250 for each variance that is requested or proposed in the application:
- (a) For an application in which the proposed development is exclusively residential use:
 - (i) Proposal for one duplex: \$3000;
 - (ii) Proposal for one triplex: \$4000;
 - (iii) Proposal for one, two or three dwelling units that are not captured by paragraph (5)(a)(i) or (ii): \$2000 per dwelling unit proposed;

- (iv) Proposal pertaining to more than three dwelling units (regardless of dwelling unit type): \$6000 plus \$2.50 per square metre of floor area;
- 22-057
 - (v) Notwithstanding the previous subparagraphs (i) – (iv), the following fees apply for proposed developments in Development Permit Area 15F:
 - (A) Proposal for up to six dwelling units: \$12,000,
 - (B) Proposal for more than six dwelling units: \$15,000.
- (b) For an application in which the proposed development is non-residential use or mixed use:
 - (i) Proposal equal to or under 500 square metres: \$3000 plus \$2.50 per square metre of floor area;
 - (ii) Proposal over 500 square metres: \$6000 plus \$2.50 per square metre of floor area.
- (c) For an application in which the proposed development is not captured by paragraph (5)(a) or (b): \$2000.
- 22-057
 - (d) With the exception of applications described in paragraph (5)(a)(v), for an application described in paragraphs (5)(a), (b), or (c), in which any accessory dwelling units are proposed, the accessory dwelling units are not counted as dwelling units for the purposes of calculating the base application fee.
 - (e) Notwithstanding paragraph (5)(d), an application in which only accessory dwelling unit(s) are proposed shall have a base application fee of \$2000.
 - (f) If a development permit or heritage alteration permit application is submitted under paragraph 5(a)(i), (ii) or (iii) in conjunction with an application under paragraph 2 for the same project:
 - (i) only one base application fee is payable, calculated in accordance with paragraph (3); and
 - (ii) only one variance fee is payable for each proposed variance, calculated in accordance with paragraph (3).
- (6) The base application fee for a development variance permit is \$750 (includes one variance), plus \$250 for each additional variance that is requested or proposed in the application beyond the first.

(7) The base application fee for a development permit for subdivision only is \$250 for each new lot that is proposed to be created in the application.

22-057

(8) Notwithstanding paragraphs (4) and (6), the base application fee for a permit which the Director is authorized to issue is as follows:

23-085

(a) the base application fee for a development permit in

(i) Development Permit Area 16 for buildings over 100 m² is 50% of the development permit fee as provided in paragraph (5);

(ii) Development Permit Area 15E is 50% of the development permit fee as provided in paragraph (5);

(iii) Development Permit Area 15F for a proposal for up to six dwelling units is \$10,000;

(iv) Development Permit Area 15F for a proposal for more than six dwelling units is \$13,000;

(b) the base application fee for a heritage alteration permit for a single family dwelling or duplex is \$0; and

(c) the base application fee for a permit not addressed in subparagraph (a) or (b) is \$200.

23-085

(9) Notwithstanding paragraph (4), the base application fee is \$500 for an application:

(a) proposing only emergency preparedness container(s) and equipment that are collectively under 100 m² in floor area; and

(b) that does not fall within paragraph (8).

(10) Notwithstanding paragraph (4), no base application fee is payable for a heritage alteration permit for a single family dwelling or duplex; however, where a variance is proposed, a fee of \$250 for each variance applies.

(11) Notwithstanding paragraph (2), the base application fee to allow any "storefront cannabis retailer" use is the greater of \$7500 and the application fee calculated in accordance with paragraph (3).

3. Administration Fee

(1) The administration fee for an application that requires a public hearing, payable when the Council forwards the bylaw to a public hearing, is as follows:

(a) For an application for heritage designation: No fee;

- (b) For all other applications: \$1800.
- (2) The administration fee for an application in respect of which Council provides an opportunity for public comment, payable when Council determines the date of the opportunity for public comment, is as follows:
 - (a) For a temporary use permit: \$1800;
 - (b) For all other applications: \$200.

4. Resubmission fee

- (1) If the plans submitted in support of the application require revisions as set out in an Application Review Summary as provided by the TRG, revised plans will be reviewed by City staff and no additional fees will be charged.
- (2) If plans are revised as a result of changes proposed by the applicant, and not requested by staff, Committee, Council, ADP or HAPL, then an additional fee of \$500 shall be required for each new submission.
- (3) There is no resubmission fee when an applicant resubmits revised plans in response to comments arising from City staff, Committee, Council, ADP or HAPL.

5. Amendments to existing legal agreements

The fee to have an existing legal agreement with the City amended is \$500 plus the City's legal costs to complete the amendment.

6. Request Council authorization

The fee to request staff to prepare and present a report to Council in order to request Council authorization is \$1000.

7. Site profile for contaminated sites

If a site profile for contaminated sites is required in conjunction with an application, the fee is \$100.

City of Victoria

Bylaw No. 16-028

Schedule B

PROCEDURES FOR SIGN POSTING – PERMITS

23-085

1. Where a notice or sign is required pursuant to section 26 of this Bylaw, a sign or signs shall be posted on the property or properties subject to the application in compliance with this Schedule.
2. The City shall determine the specifications, format, and information content of the sign or signs.
3. The applicant shall:
 - (a) obtain the sign or signs from the City or obtain the specifications for the sign from the City;
 - (b) post the sign or signs on the subject property for a minimum of 10 days prior to the date of the Council's meeting concerning the application;
 - (c) post additional meeting notices and additional signs if required;
 - (d) maintain the sign or signs on the subject property for the required time period.
4. The applicant shall post the sign or signs in a prominent location, clearly visible from the street, and on the site that is subject to the application. The City shall determine the required number and location of the sign or signs, taking into account the configuration of the site and visibility to the public.

City of Victoria

Bylaw No. 16-028

Schedule C

PROCEDURES FOR SIGN POSTING – OTHER APPLICATIONS

23-085

1. Where a notice or sign is required pursuant to section 27 of this Bylaw, a sign or signs shall be posted on the property or properties subject to the application in compliance with this Schedule.
2. The City shall determine the specifications, format, and content of the sign or signs, and provide the specifications to the applicant or the applicant's agent.
3. The applicant shall, at its sole expense:
 - (a) prepare the sign or signs in accordance with the specifications provided by the City;
 - (b) post the sign or signs on the subject property for a minimum of 10 days prior to the initial Committee meeting;
 - (c) post additional meeting notices and additional signs if required by the City;
 - (d) maintain the sign or signs on the subject property until the Public Hearing for the application has been held.
4. The applicant shall post the sign or signs in a prominent location, clearly visible from the street, and on the site that is subject to the application. The City shall determine the required number and location of the sign or signs, taking into account the configuration of the site and visibility to the public.

City of Victoria
Bylaw No. 16-028
Schedule C-1

PROCEDURES FOR SIGN POSTING – PRE-APPLICATION PUBLIC INPUT

1. The City shall determine the specifications, format, and content of the sign or signs, and provide the specifications to the applicant or the applicant's agent.
2. The applicant shall, at its sole expense:
 - (a) prepare the sign or signs in accordance with the specifications provided by the City;
 - (b) post the sign or signs on the subject property for 30 consecutive days and no longer than 35 days, with such period of time to be calculated starting from the same day the plans are posted online by the City for public input;
 - (c) post additional signs if required by the City;
 - (d) maintain the sign or signs on the subject property for the duration of the notice period under section 1.
3. The applicant shall post the sign or signs in a prominent location, clearly visible from the street, and on the site that is subject to the application. The City shall determine the required number and location of the sign or signs, taking into account the configuration of the site and visibility to the public.

City of Victoria

Bylaw No. 16-028

Schedule D

DELEGATED APPROVALS

The Director is authorized to issue the types of permits listed in Column A, in the areas set out in Column B, subject to the conditions specified in Column C of the following table.

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
1	DP for new buildings, building additions, structures and equipment	DPA 10A: Rock Bay DPA 10B (HC): Rock Bay Heritage DPA 16: General Form and Character	Permit valid for two years from the date of issuance.
2	HAP without variances for a single family dwelling or duplex	All DP Areas and all HCAs	The Director is satisfied that the application is consistent with any applicable guidelines in the OCP. Permit valid for two years from the date of issuance.
3 23-085	DP , HAP, or DVP authorizing minor amendments to plans attached to or referenced in an existing approved permit	All DP Areas and all HCAs	The Director is satisfied that the proposed amendments are substantially in accord with the terms and conditions of the original approved permit, including variances and are consistent with the guidelines under the OCP. The expiry date of the original permit applies.
4 23-085	DP or HAP for the renewal of an existing valid DP or HAP	All DP Areas and all HCAs	The permit being renewed must be: <ul style="list-style-type: none"> o unexpired at the time of application; o unchanged from the original application, unless the changes are for consistency with new policies or regulations. Permit valid for two years from the date of issuance.

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
5	DP for new buildings, building additions, structures and equipment	DPA 8: Victoria Arm - Gorge Waterway	The guidelines set out in the OCP must be satisfied. Permit is valid for two years from the date of issuance.
6	DP for new buildings, building additions, structures and equipment that are less than 100 m ² in floor area	DPA 2 (HC): Core Business DPA 3 (HC): Core Mixed-Use Residential DPA 4: Town Centres DPA 5: Large Urban Villages DPA 6A: Small Urban Villages DPA 6B (HC): Small Urban Villages Heritage DPA 7A: Corridors DPA 7B (HC): Corridors Heritage DPA 10A: Rock Bay DPA 10B (HC): Rock Bay Heritage DPA 11: James Bay and Outer Harbour DPA 12 (HC): Legislative Precinct DPA 13: Core Songhees DPA 14: Cathedral Hill Precinct	Permit is valid for two years from the date of issuance.
7	DP for an accessory building or buildings	DPA 15A: Intensive Residential - Small Lot DPA 15B: Intensive Residential - Panhandle DPA 15D: Intensive Residential – Duplex DPA 15E: Intensive Residential – Garden Suites	Permit is valid for two years from the date of issuance.
8	DP for floating buildings, floating building additions or floating structures of any size	Fisherman's Wharf Marine District Zone within DPA 11: James Bay and Outer Harbour	Permit is valid for two years from the date of issuance.
9	DP for floating buildings, floating building additions and	All DP Areas and all HCAs	Permit is valid for two years from the date of issuance.

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
	floating structures that do not exceed 100 m ² in floor area		
10	DP or HAP for the replacement of exterior materials on existing buildings	All DP Areas and all HCAs	Permit is valid for two years from the date of issuance.
22-057 22-026 23-085	11 DP or HAP for landscaping changes where there is an approved DP or HAP where no occupancy permit has been issued	All DP Areas and all HCAs, except: DPA 16A: General Urban Design, DPA 17 (HC): North Park Village Area, and HCA 2: Robert Street Heritage Conservation Area	The proposed landscaping must comply with applicable design guidelines or be in accordance with a landscape plan that is attached to and forms part of an approved permit.
22-026	12 DP or HAP for landscaping changes where there is an approved DP or HAP after the occupancy permit has been issued	DPA 1 (HC): Core Historic DPA 2 (HC): Core Business DPA 3 (HC): Core Mixed Use-Residential DPA 4: Town Centres DPA 5: Large Urban Village DPA 6A: Small Urban Village DPA 6B (HC): Small Urban Village Heritage DPA 7A: Corridors DPA 7B (HC): Corridors Heritage DPA 8: Victoria Arm-Gorge Waterway DPA 9 (HC): Inner Harbour DPA 10A: Rock Bay DPA 10B (HC): Rock Bay Heritage DPA 11: James Bay and Outer Harbour DPA 12 (HC): Legislative Precinct DPA 13: Core Songhees DPA 14: Cathedral Hill Precinct HCA 1: Traditional Residential	The proposed landscaping must comply with applicable design guidelines or be in accordance with a landscape plan that is attached to and forms part of an approved permit

	Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
			HCA 2: Robert Street	
22-026 23-085	13	DP or HAP for landscaping changes without an approved Development Permit or Heritage Alteration Permit	DPA 1 (HC): Core Historic DPA 2 (HC): Core Business DPA 3 (HC): Core Mixed Use-Residential DPA 4: Town Centres DPA 6B (HC): Small Urban Villages Heritage DPA 7B (HC): Corridors Heritage DPA 8: Victoria Arm - Gorge Waterway DPA 9 (HC): Inner Harbour DPA 10B (HC): Rock Bay Heritage DPA 12 (HC): Legislative Precinct HCA 1: Traditional Residential HCA 2: Robert Street	The proposed landscaping must comply with applicable guidelines. Permit is valid for two years from the date of issuance.
23-085	14	DP or HAP for temporary buildings and structures that do not exceed 100 m ² in floor area	All DP Areas and all HCAs	Temporary buildings and structures located on private property. Covenant in place to ensure removal of temporary buildings or structures within two years from the date of issuance of the Development Permit for the temporary building or structure.
22-085	15	DP or HAP for temporary construction trailers and temporary residential unit sales trailers	All DP Areas and all HCAs	Temporary construction trailers and temporary residential unit sales trailers located on private property. Covenant is in place to ensure removal of temporary construction trailers and temporary residential unit sales trailers subject to the following time frame:

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
			<ul style="list-style-type: none"> ○ Six months after the date the City issues an Occupancy Permit for the principal building or structure on the property; or ○ Six months after the date that the principal building or structure on the property is no longer the subject of a valid and subsisting Building Permit; or ○ If neither a Building Permit or Occupancy Permit is required or will be issued for the principal building on the property, then two years from the date of issuance of the Development Permit for the temporary construction trailers and temporary residential unit sales trailer.
16	DP for new buildings and building additions that are less than 150m ² in floor area.	CD-9 Zone, Dockside District within DPA 13: Core Songhees	<p>The proposed building and building addition must comply with applicable guidelines</p> <p>Permit is valid for two years from the date of issuance.</p>
17	DP for changes to landscaping previously approved under a Development Permit or Heritage Alteration Permit	CD-9 Zone, Dockside District within DPA 13: Core Songhees	<p>The proposed landscaping must comply with applicable guidelines or be in accordance with a landscape plan that is attached to and form part of an approved permit.</p> <p>Permit is valid for two years from the date of issuance.</p>
18	<p>A DP or HAP with a parking variance, where:</p> <ul style="list-style-type: none"> i) the DP or HAP is delegated elsewhere in this table; and ii) the change of use is permitted in the zoning bylaw; and iii) the variance does not exceed 20 motor vehicle parking stalls; and iv) the total variance of long-term and/or short- 	All DP Areas and all HCAs	The Director is satisfied that the proposal associated with the proposed parking variance does not adversely impact the neighbourhood by unduly contributing to curb or on-street parking issues and that suitable Transportation Demand Management measures are

23-085

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
	term bicycle parking stalls does not exceed 6 stalls.		secured by legal agreement as required. Permit is valid for two years from the date of issuance.
22-085	19 A DP or HAP with a parking variance, where: i) the DP or HAP is delegated elsewhere in this table; and ii) the change of use is permitted in the zoning bylaw; and iii) the existing number of parking stalls is lawfully non-conforming pursuant to section 525 and 529 of the <i>Local Government Act</i> ; and iv) the proposed new use requires no more than 20 additional motor vehicle parking stalls, even if the total variance for the building exceeds 20 motor vehicle parking stalls; and v) the proposed new use requires no more than 6 additional bicycle parking stalls, even if the total variance for the building exceeds 6 bicycle parking stalls.	All DP Areas and all HCAs	The Director is satisfied that the proposal associated with the proposed parking variance does not adversely impact the neighbourhood by unduly contributing to curb or on-street parking issues and that suitable Transportation Demand Management measures are secured by legal agreement as required. Permit is valid for two years from the date of issuance.
23-085	20 A DVP for a minor parking variance, where the criteria to determine if a variance is minor is as follows: i) the change of use is permitted in the zoning bylaw; and ii) the variance does not exceed 20 motor vehicle parking stalls; and iii) the total variance of long-term and/or short-term bicycle parking stalls does not exceed 6 stalls.	N/A	The Director is satisfied that the proposed variance is in accordance with the following guidelines: i) the proposed parking variance does not adversely impact the neighbourhood by unduly contributing to curb or on-street parking issues, and ii) suitable Transportation Demand Management

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
			<p>measures are secured by legal agreement as required.</p> <p>Permit is valid for two years from the date of issuance.</p>
21	<p>A DVP for a minor parking variance, where the criteria to determine if a variance is minor is as follows:</p> <ul style="list-style-type: none"> i) the change of use is permitted in the zoning bylaw; and ii) the existing number of parking stalls is lawfully non-conforming pursuant to section 525 and 529 of the <i>Local Government Act</i>; and iii) the proposed new use requires no more than 20 additional motor vehicle parking stalls, even if the total variance for the building exceeds 20 motor vehicle parking stalls; and iv) the proposed new use requires no more than 6 additional bicycle parking stalls, even if the total variance for the building exceeds 6 bicycle parking stalls. 	N/A	<p>The Director is satisfied that the proposed variance is in accordance with the following guidelines:</p> <ul style="list-style-type: none"> i) the proposed parking variance does not adversely impact the neighbourhood by unduly contributing to curb or on-street parking issues, and ii) suitable Transportation Demand Management measures are secured by legal agreement as required. <p>Permit is valid for two years from the date of issuance.</p>
22	DP, with or without variances, for new buildings, building additions, structures and equipment for residential developments with secured affordability	All DP Areas	<p>The proposed development complies with the applicable guidelines.</p> <p>The proposed development is:</p> <ol style="list-style-type: none"> 1. subject to a legal agreement securing affordability and rental tenure for a minimum period of 60 years, and is either: <ul style="list-style-type: none"> a. wholly owned and operated by a public housing body, as prescribed in the <i>Residential Tenancy Act</i>, or

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
			<p>b. operated by a public housing body, as prescribed in the <i>Residential Tenancy Act</i>, pursuant to a legally binding arrangement with the property owner; or</p> <p>2. subject to a legal agreement securing affordability for a minimum period of 60 years and is either wholly owned and operated by a housing cooperative meeting the below requirements, or operated by a housing cooperative that meets the below requirements and operates the development pursuant to a legally binding arrangement with the property owner:</p> <p>a. the housing cooperative must</p> <p>i. be a housing cooperative pursuant to the <i>Cooperative Association Act</i>,</p> <p>ii. have purposes including the provision of affordable housing to low- or moderate-income households, and</p> <p>iii. have constating documents preventing the remuneration of directors and providing for the disposition of assets on dissolution or wind-up to an organization with similar purposes and restrictions.</p> <p>Permit is valid for two years from the date of issuance.</p>

22-072
23-085

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
23	<p>A Development Variance Permit, a DP with a variance or a HAP with a variance where the variance relates to:</p> <ul style="list-style-type: none"> i) the number of accessible parking spaces or van accessible parking spaces ii) the design specifications of spaces described in i) above iii) the number of motor vehicle parking stalls resulting from a requirement to install accessible parking spaces or van accessible parking spaces 	All DP Areas	<p>The proposed development complies with the applicable guidelines</p> <p>The applicant has provided evidence to the satisfaction of the Director that demonstrates that site conditions prevent:</p> <ul style="list-style-type: none"> i) the number of required accessible or van accessible parking spaces from being installed; ii) full compliance with the design specifications; <p>and that all reasonable efforts have been made to maximize the provision of accessible or van accessible parking spaces and/or to comply with the design specifications.</p> <p>Where the provision of accessible parking results in a variance relating to motor vehicle parking stalls, including visitor stalls, the Director is satisfied that this variance does not adversely impact the neighbourhood by unduly contributing to on-street parking issues.</p> <p>Permit is valid for two years from the date of issuance.</p>
24	DPs for new buildings, building additions, structures, landscaping and equipment	DPA 15F: Missing Middle Housing	<p>The proposed development complies with the applicable guidelines.</p> <p>Permit is valid for two</p>

22-057
23-085

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
			years from the date is issuance.
23-085 25	DPs or HAPs, with or without variances, for new buildings, building additions, structures and equipment for child care facilities	All DP Areas	The proposed development complies with the applicable guidelines Permit is valid for two years from the date of issuance.
23-085 26	A DP or HAP with minor variance(s) related to size, siting, or dimensions of a building, structure or use that is permitted on the land, where: i) the DP or HAP is delegated elsewhere in this table; and ii) the criteria to determine if a proposed variance is minor is in Schedule D-1.	All DP Areas and all HCAs	The proposed development complies with the applicable guidelines. Permit is valid for two years from the date of issuance.
27	A DVP for minor variance(s) related to size, siting, or dimensions of a building, structure or use that is permitted on the land, where the criteria to determine if a proposed variance is minor is in Schedule D-1.	N/A	The Director is satisfied that the proposed variance is in accordance with the guidelines in Schedule D-2. Permit is valid for two years from the date of issuance.
28	A DP or HAP with minor variance(s) related to design standards of parking, where: i) the DP or HAP is delegated elsewhere in this table; and ii) the criteria to determine if a proposed variance is minor is when the variance is related to any of the following: • Sections 2-3 of Schedule C of the Zoning Regulation Bylaw; or • Sections 5.1.2-5.1.5 of Zoning Bylaw 2018.	All DP Areas and all HCAs	The Director is satisfied that the proposed variance would not result in any safety or accessibility concerns or operational issues. Permit is valid for two years from the date of issuance.

Row #	A. Permit Types	B. DPAs and HCAs	C. Conditions
29	<p>A DVP for minor variance(s) related to design standards of parking, where the criteria to determine if a proposed variance is minor is when the variance is related to any of the following:</p> <ul style="list-style-type: none"> • Sections 2-3 of Schedule C of the Zoning Regulation Bylaw; or • Sections 5.1.2-5.1.5 of Zoning Bylaw 2018. 	N/A	<p>The Director is satisfied that the proposed variance is in accordance with the following guidelines: the proposed variance would not result in any safety or accessibility concerns or operational issues.</p> <p>Permit is valid for two years from the date of issuance.</p>

City of Victoria

Bylaw No. 16-028

Schedule D-1

CRITERIA FOR MINOR VARIANCES

A permit for or with minor variances related to size, siting, or dimensions of a building, structure or use that is permitted on the land, may be considered by the Director if the variance is minor pursuant to the following criteria.

A variance is minor if:

1. the applicant has demonstrated to the satisfaction of the Director that:
 - a. they have explored all reasonable alternative solutions to the variance and none are available; and
 - b. any possible mitigations to issues related to the variance have been incorporated into the proposal; and
2. the Director is satisfied based on evidence provided by the applicant and the particular circumstances of the application, that the variance would:
 - a. be unnoticeable by a typical user of the site, and nearby private and public property; or,
 - b. not have a substantial negative impact on the livability and functionality of any of the subject site, nearby private property, or nearby public property, including impacts on:
 - i. Shadowing
 - ii. Privacy
 - iii. Usable outdoor space
 - iv. Natural features and vegetation
 - v. Access, connectivity or function for any pedestrians or vehicles (motorized and non-motorized)
 - vi. Access to or operations of underground infrastructure
 - vii. Street Vitality

City of Victoria

Bylaw No. 16-028

Schedule D-2

GUIDELINES FOR DEVELOPMENT VARIANCE PERMITS

23-085

These guidelines are intended to provide a framework for the Director when reviewing a development variance permit for minor variances related to siting, size, and dimensions of a building, structure, or use permitted on the land, in conjunction with the specific circumstances of the proposal including the site conditions, constraints, and context.

The Director shall consider the following guidelines when deciding whether to issue any development variance permit application for minor variances:

- a. For applications within the *Downtown Core Area Plan* (2011) boundaries:
 - i. Downtown Core Area Plan (2011) – with special attention to the following sections:
 - 1. Appendix 1: Public Outward View Guidelines
 - 2. Appendix 2: Public External View Guidelines
 - 3. Appendix 3: Sidewalk Width Guidelines
 - 4. Appendix 4: Building Design Guidelines
- b. For applications located outside of the *Downtown Core Area Plan* (2011) boundaries related to:
 - i. mixed-uses, uses other than residential, or residential with seven or more dwelling units:
 - 1. General Urban Design Guidelines (2022).
 - ii. residential uses with less than seven dwelling units:
 - 1. Missing Middle Design Guidelines (2022).

City of Victoria
Bylaw No. 16-028
Schedule E
LANDSCAPE SECURITY

1 Landscape security amount

The landscape security shall be calculated at 120% of the total landscaping cost, based on an estimate of the landscaping costs that the applicant provides to the Director, with a minimum landscape security of \$2000.

2 Landscaping costs

(a) The landscaping costs that must be included within the estimate provided to the Director include but are not limited to the following:

- (1) Tree protection measures;
- (2) Landscape grading;
- (3) Landscape retaining walls;
- (4) Landscape paving including structural bases;
- (5) Landscape structures, such as fences, screen walls, living walls, built-in planters, and shade structures;
- (6) Landscape furnishings, such as benches and seating, bicycle parking facilities, waste and recycling containers, recreational equipment, and play equipment;
- (7) Plant materials, such as trees, shrubs, perennials, grasses or other ground cover;
- (8) Green roofs;
- (9) Sod and seeding;
- (10) Growing medium;
- (11) Structural soil cells;
- (12) Water features;

- (13) Site lighting;
 - (14) Labour;
 - (15) Irrigation; and
 - (16) Other landscape materials.
- (b) All estimated costs provided under subsection (a) must include applicable taxes.

City of Victoria

Bylaw No. 16-028

Schedule F

ENCROACHMENT FOR DECORATIVE FEATURES

EASEMENT (ENCROACHMENT) AGREEMENT

THIS AGREEMENT dated for reference the ____th day of ____, _____

BETWEEN:

(the “Owner”)

AND:

CITY OF VICTORIA

1 Centennial Square, Victoria, British Columbia, V8W 1P6

(the “City”)

WHEREAS:

- A. The Owner is the owner of the Lands (as defined in this Agreement);
- B. The Owner has requested that the City grant its permission for the use of the Easement Area (as hereinafter defined), which areas are portions of City property in the City of Victoria, for the purposes of erecting and maintaining a part of a building such part being _____*[insert description of encroaching structures]* and all support structures related thereto (the “**Structures**”) over City property as shown on the Easement Area (as hereinafter defined);
- C. The City agrees to grant the Owner’s request to encroach on the Easement Area, subject to the provisions of the City’s bylaws as amended from time to time and subject to the terms and conditions of this Agreement, and the City agrees to grant the Owner an easement in that regard;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of permission to encroach herein granted, the sum of ONE DOLLAR (\$1.00) of lawful money of Canada paid by the Owner to the City, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both parties, the Owner hereby covenants, promises and agrees with the City as follows:

1. LANDS

- 1.1 The Owner owns lands situated in Victoria, British Columbia, which is more particularly described as:
Parcel Identifier: _____

(the “**Lands**”);

- 1.2 The City is the owner of that portion of _____ [insert legal description or name of street if roadway] comprising an area of _____ square meters as more particularly identified on Plan _____ [insert specifics of Plan or sketch] as the easement (the “**Easement Area**”), a reduced copy of which is attached hereto as Schedule “A” (the “**Servient Tenement**”).

2. EASEMENT - PERMISSION TO ENCROACH

- 2.1 Subject to the terms of this Agreement, the City as owner of the Servient Tenement, does hereby grant, convey and confirm unto the Owner as owner of the Lands (as Dominant Tenement) for the benefit of the Lands and to be appurtenant to the Lands for the use and enjoyment of the Owner and its servants, agents, tenants, invitees and licensees and the owner or owners of all or any part of the Lands an easement for the non-exclusive use from time to time in common with the City as owner of the Servient Tenement and its servants, agents, tenants, invitees and licensees, any other persons to whom the City has granted rights to use the Easement Area for the purposes of constructing, installing maintaining, repairing and replacing the Structures (the “**Works**”) including the right on the part of the Owner to allow the Structures to remain in and encroach upon the Easement Area in accordance with the terms of this Agreement.
- 2.2 The Owner shall not erect any work or encroachment in the Easement Area other than the Structures. The Owner shall not permit the Structures to encroach on any City property other than the Easement Area.

3. TERM

- 3.1 This Agreement commences on the date that it is fully signed by both parties and, subject to Part 13 hereof, expires when the building which the Owner has constructed on the Lands (the “**Building**”) is demolished or significantly structurally altered such that the Easement Area is no longer required for the purposes of erecting and maintaining the Structures. For certainty, the easement herein granted will terminate, and will be of no further effect in the event the Building is demolished or removed from the Lands or in the event that the Building is modified such that it no longer encroaches on the Servient Tenement.

4. TITLE

- 4.1 This Agreement does not give the Owner any legal or equitable interest of any kind in the Easement Area or any exclusive right to occupy the Easement Area. The Easement Area retains its status as a _____ [highway, park, City property].

5. MAINTENANCE

- 5.1 The Owner will carry out the Works in a proper and workmanlike manner so as to do as little injury to the Servient Tenement as possible.
- 5.2 The Owner shall at all times and at its own expense keep and maintain the Structures and the Easement Area in good and sufficient repair and in a neat and clean condition and in a manner which does not pose any risk to persons or property, all to the satisfaction of the City (without any obligation on the part of the City to determine what is sufficient repair or a safe condition).
- 5.3 The Owner shall make good at its own expense, all damage or disturbance which may be caused to the surface of the Servient Tenement in the exercise of their rights hereunder.
- 5.4 The Owner shall not make any structural alterations to any Structures in the Easement Area without the prior written consent of the City, which consent will not be unreasonably withheld or delayed, but provided that the Owner may make temporary alterations to any Structures in the event of an emergency in order to prevent or avoid risks to persons or property and that the Owner so soon thereafter as is reasonable in the circumstances applies for the consent of the City with respect to any necessary permanent structural alterations to such Structures.
- 5.5 If the Owner fails to keep the Structures and Easement Area in good repair and maintenance to the satisfaction of the City, the City may give notice to the Owner demanding that repairs and maintenance be done within the time specified by the City and if the Owner fails to do so, to the City's satisfaction, the City may, in its sole discretion (without any obligation to do so), cause such repairs to be made, including structural changes, as it deems necessary at the Owner's expense. The Owner shall pay the costs of the repairs to the City forthwith on demand.
- 5.6 In making repairs or doing maintenance, the City may bring and leave upon the Lands and the Easement Area, the necessary materials, tools and equipment and the City shall not be liable to the Owner for any inconvenience, annoyance, loss of business or other injuries suffered by the Owner by reason of the City effecting the repairs or maintenance or doing any work hereunder.

6. DESIGN SPECIFICATIONS

- 6.1 The Owner shall ensure that any Structures placed in the Easement Area conform to the requirements and specifications of the British Columbia Building Code and all other applicable statutes, regulations, bylaws and codes.

7. ENVIRONMENTAL PROTECTION

- 7.1 The Owner shall not do or permit to be done anything which may or does contaminate the Easement Area or any surrounding area and the Owner shall be solely responsible to remove all such contamination and remediate it to residential standards.

8. COMPLIANCE WITH LAWS

- 8.1 The Owner shall in respect of its use of the Easement Area and in relation to the Works and the use of the Structures comply with all applicable statutes, laws, regulations, bylaws, orders and other requirements of every governmental authority having jurisdiction.

9. INDEMNITY AND INSURANCE

- 9.1 The Owner shall indemnify and hold harmless the City and its elected and appointed officials, officers, employees and agents from all suits, proceedings, losses, damages, expenses, demands, claims, costs (including actual costs of professional advisors and costs associated with remediation of contamination) and harm of any kind, howsoever caused, whether related to death, bodily injury, property loss, property damage or consequential loss or damage, arising out of or in any way connected with:
- (a) The permission to encroach granted by this Agreement;
 - (b) The existence and use of the Easement Area for the purposes of the Works;
 - (c) Construction, maintenance, existence, use or removal of the Structures;
 - (d) The Owner's occupation or use of the Servient Tenement or the ground below or the air above for the purpose of such encroachment by the Building;
 - (e) Any failure to pay for labour and materials relating to the Structures;
 - (f) Any breach or default by the Owner under this Agreement; and
 - (g) Any wrongful act, omission or negligence of the Owner, its members, directors, officers, employees, contractors, subcontractors, licensees, invitees, customers and others for whom it is responsible.
- 9.2 The indemnity in Section 9.1 survives the expiry or earlier termination of this Agreement.
- 9.3 The Owner will take out and maintain during the Term, a policy of commercial general liability insurance against claims for bodily injury, death or property damage arising out of the use of the Lands by the Owner in the amount of not less than five million dollars per single occurrence, or such greater amount as the City may from time to time designate and shall provide the City with a certificate of insurance evidencing coverage, or a certified copy of such policy or policies if requested .
- 9.4 All policies of insurance required under section 9.3 shall:
- (a) name the City as an additional insured;
 - (b) contain a provision requiring the insurer not to cancel or change the insurance without first giving the City thirty (30) days notice in writing;
 - (c) contain a cross liability clause in favour of the City; and
 - (d) be in a form and on such terms, including with respect to deductible amounts, as are satisfactory to the City, in the City's sole and absolute discretion.
- 9.5 If the Owner does not provide or maintain in force the insurance required by this Agreement, then without limiting the City's right to terminate this Agreement, the City may take out the necessary insurance and pay the premium for periods of one year at a time and the Owner shall pay to the City the amount of the premium immediately on demand.

- 9.6 If both the City and the Owner claim to be indemnified under any insurance required by this Agreement, the indemnity shall be applied first to the settlement of the claim of the City and the balance, if any, to the settlement of the claim of the Owner.
- 9.7 Maintenance of such insurance shall not relieve the Owner of liability under the indemnity provisions of this Agreement.
- 9.8 The foregoing provisions shall not limit the insurance required by law, nor relieve the Owner from the obligation to determine what insurance it requires for its own purposes.
- 9.9 No finding of negligence, whether joint or several, as against the City in favour of any third party shall operate to relieve or shall be deemed to relieve the Owner in any manner from any liability to the City, whether such liability arises under this Agreement, under the provisions of the *Community Charter* as amended from time to time, or otherwise.

10. RELEASE

- 10.1 The Owner releases the City and its elected and appointed officials, officers, employees and agents from all claims of any kind, whether known or unknown, whether or not relating to negligence, which the Owner now has or at any future time may have, however caused, arising out of or in any way connected with the permission to encroach granted by this Agreement, the existence and use of the Easement Area, the Works, or the exercise by the City of any of its rights pursuant to this Agreement.
- 10.2 The release in Section 10.1 survives the expiry or earlier termination of this Agreement.

11. REMEDIES

- 11.1 The City retains the right on the termination of this Agreement to proceed with the enforcement of any indemnity or other remedy provided in this Agreement or otherwise.

12. COMPENSATION

- 12.1 Notwithstanding any provision of this Agreement, the Owner shall not be entitled to compensation for injurious affection or disturbance resulting in any way from the removal of the Structures in accordance with the terms of this Agreement and, without limitation, shall not be entitled to business losses, loss of profit, loss of market value, relocation costs or other consequential loss by reason of the removal of the Structures or by reason of the termination of this Agreement.

13. TERMINATION

- 13.1 If the Owner fails to comply with the provisions of this Agreement, including, but not limited to, sections 5.2, 6.1, 7.1, 8.1 and 9.3 of the Agreement, this Agreement shall be terminated and all rights of the Owner hereunder shall thereupon lapse and be absolutely forfeited.
- 13.2 The City may, at any time, in its sole discretion, but acting in good faith, withdraw the rights it has granted to the Owner in this Agreement and terminate this Agreement on 12 months' written notice.
- 13.3 On receipt of notice under Section 13.1 or 13.2, the Owner shall, within the time period stated in the notice, at its expense, remove the Structures and otherwise restore the Easement Area to the satisfaction of the City.

- 13.4 If the Owner fails to remove the Structures as required by the City within the time period specified pursuant to this Agreement, the City may, in its sole discretion, cause the Structures to be removed at the Owner's expense.
- 13.5 In the circumstances described in Section 13.1, the City may, acting reasonably and in good faith, remove the Structures without notice if the subsistence of the Structures constitutes an immediate hazard to the public and if there is no other practical remedy available to the City to alleviate such immediate hazard, at the sole cost of the Owner.

14. ASSIGNMENT

- 14.1 The Owner shall not assign any of its rights and obligations arising from this Agreement to any person other than to the then-current owner of the Lands.
- 14.2 The Owner covenants and agrees not to transfer the Lands, or any portion thereof, without advising the purchaser or transferee of this Agreement and assigning the Owner's rights and obligations pursuant to this Agreement to the new owner of the Lands by mutual agreement.
- 14.3 In the event that the Owner fails to assign the rights and obligations of this Agreement to a new owner of the Lands as described in Section 14.2, the Owner shall continue to be bound by this Agreement in all respects notwithstanding that the Owner no longer owns the Lands.

15. RIGHT OF ENTRY

- 15.1 The City's employees or agents shall have the right at any and all times to enter into and upon the Lands and the Building for the purpose of maintaining or removing the Structures under this Agreement.

16. ALTERATION TO CITY PROPERTY AND PUBLIC STRUCTURES

- 16.1 In the event of any alteration or change made necessary to any present or future meter, water service, sewer, or other public structures or utility in the vicinity of the Lands by the construction, maintenance, use or removal of the Structures, the Owner shall reimburse the City or other utility provider for whatever expenses it may incur in making the alterations or changes that are deemed necessary by the City or the utility provider.

17. CITY'S RIGHTS RESERVED

- 17.1 This Agreement does not in any way restrict the right of the City at any time to widen, raise or lower, or otherwise alter the Servient Tenement abutting or adjoining the Lands (including by allowing the installation of utilities by various utility providers), or make orders or regulations for the use of the Servient Tenement, even if the effect of the alteration or the order or regulation may be to render the Structures, the Easement Area, or both, useless for the purposes of the Owner.
- 17.2 Nothing contained or implied in this Agreement will derogate from the obligations of the Owner under any other agreement with the City
- 17.3 Nothing contained or implied in this Agreement shall prejudice or affect the rights and powers of the City in the exercise of its functions under any public or private statutes, bylaws, order and regulations, all of which may be fully and effectively exercised in relation

to the Easement Area as if this Agreement had not been executed and delivered by the parties.

18. LICENCES AND PERMITS

- 18.1 The Owner shall, at its own expense, obtain and maintain all permits and authorizations as may be necessary and required to erect and maintain the Structures, including any building permit or electrical permit. Nothing in this Agreement relieves the Owner from the ordinary jurisdiction of the City.

19. OTHER MATTERS

- 19.1 The waiver by the City of default by the Owner shall not be deemed to be a waiver by the City of any subsequent default by the Owner. All waivers must be in writing.
- 19.2 Whenever it is required or desired that either party deliver a notice to the other, the delivery shall be deemed to be satisfactory if and deemed to have occurred when the notice has been:

- (a) Delivered by hand, on the date of delivery; or
- (b) Mailed by Xpresspost (Canada Post) requiring signature of the addressee on delivery, on the date received or on the sixth day after receipt of mailing by any Canada Post Office, whichever is the earlier, except that in the event of a strike or disruption in postal service, the notice shall not be deemed to be received until actually received;

to the address for that party on the first page of this Agreement or to whatever other address that may have, from time to time, been given by that party.

- 19.3 Whenever the singular or masculine is used in this Agreement, the same is deemed to include the plural or the feminine or the body politic or corporate as the context requires.
- 19.4 Every reference to each party is deemed to include the heirs, executors, administrators, corporate successors, permitted assigns, employees, agents, officers, elected officials and invitees of such party whenever the context so requires or allows.
- 19.5 Section headings are included for convenience only. They do not form a part of this Agreement and shall not be used in its interpretation.
- 19.6 If any part of this Agreement is for any reason held to be invalid by the decision of a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this Agreement.
- 19.7 This Agreement shall be governed and construed in accordance with the laws of the Province of British Columbia.
- 19.8 The parties hereto shall execute and do all such further deeds, acts, things, and assurances as may be reasonably required to carry out the intent of this Agreement.

20. TIME OF ESSENCE

- 20.1 Time is of the essence of this Agreement.

21. INTERPRETATION

- 21.1 No part of the fee of the soil of the Servient Tenement will pass to or be vested under or by these presents in the Owner or the Owner's invitees, agents or successors in title.
- 21.2 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, successors, administrators and permitted assignees.
- 21.3 All provisions of this Agreement are to be construed as covenants and agreements as though the word importing covenants and agreements were used in each separate paragraph.
- 21.4 This Agreement is the entire agreement between the parties and the City had made no representations, warranties, guarantees, promises, covenants or agreements (oral or otherwise), to or with the Owner other than those expressed in this Agreement.

IN WITNESS WHEREOF the said Owner has hereunto set his hand and seal the day and year first above written.

The Corporation of the City of Victoria by its)
authorized signatories:)
)
)
)
_____)
)
[insert name and title of Delegated Authority])

_____ *[name of owner]*)
)
by its authorized signatories:)
)
)
_____)
Authorized Signatory)
)
_____)
Authorized Signatory)

SCHEDULE "A"

(insert plan)

City of Victoria
Bylaw No. 16-028
Schedule G

ENCROACHMENT FOR ANCHOR RODS

THIS AGREEMENT dated for reference the ____th day of ____, _____.

BETWEEN:

(the “**Owner**”)

AND:

CITY OF VICTORIA
1 Centennial Square, Victoria, British Columbia, V8W 1P6
(the “**City**”)

WHEREAS:

- A. The Owner is the owner of:
Parcel Identifier: _____

(the “**Land**”)
in the City;
- B. The Owner has applied to the City for approval of the construction of a _____ [*describe development*] upon the Land, under the terms and conditions of the City of Victoria _____ [*insert permit type and number*].
- C. In connection with the construction of the development referred to in Recital B, the Owner has requested the City to grant it permission to construct, use or continue the use or existence of an encroachment onto highways of which the City has the use and possession, which encroachment is appurtenant to the Land;
- D. The City has agreed to grant the Owner’s request, subject to the provision of all City bylaws and to the terms and condition herein set forth;

NOW THEREFORE, in consideration of the premises and the covenants herein contained and for other valuable consideration, receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereto covenant and agree each with the other as follows:

1.0 ENCROACHMENT

- 1.1** The City (so far as it legally can, but not otherwise, and subject to this Agreement and applicable statutes and bylaws), grants unto the Owner permission to construct and maintain an encroachment comprising _____ [insert description of works (e.g. anchor rods, shotcrete, soldier piles)] into those parts of _____ [insert street(s) or intersection] (collectively, the “Highways”) in the City of Victoria that adjoin the Land, all in accordance with the plans and specifications attached hereto as Schedule “A”, (which encroachment, including all excavation or other work now or hereafter performed in connection therewith, is hereinafter referred to as the “Works”).

2.0 USE

- 2.1** The Owner shall not erect any work or encroachment in the Highways other than the Works, nor shall the Owner use the Highways for any purpose save and except the Works. The Owner shall not permit the Works to encroach on any City property other than those portions of the Highways depicted on Schedule “A”.

3.0 TERM

- 3.1** This Agreement commences on the date that it is fully signed by both parties and, subject to Sections 6.15 and 6.16 hereof, expires on _____ [insert date].

4.0 CONSTRUCTION OF WORKS

- 4.1** The Owner shall retain a professional engineer licensed to practice in the Province of British Columbia with experience in the design and construction of works of a similar kind to those proposed to be installed under this Agreement (the said engineer to be referred to herein as the “**Owner’s Consultant**”). The Owner’s Consultant will be responsible for ensuring that the design and construction of the Works at all times is in accordance with sound engineering and construction practices, and is carried out in accordance with the terms of this Agreement.
- 4.2** The Owner’s Consultant must provide written confirmation to the City, prior to the commencement of the construction of the Works, that it has thoroughly investigated the location of existing services and utilities, and that the installation of the Works in their proposed location will not interfere with or cause damage to any existing underground utilities or services, whether of the City, the Capital Regional District, or any private or public utility. The Owner shall be solely responsible for the cost of the location of all such services for the purpose of obtaining and providing such confirmation.
- 4.3** Prior to the commencement of construction of the Works, the Owner’s Consultant must submit a detailed plan, bearing his professional seal showing in cross section the profile of all underground services within the area of the Highways covered by this Agreement, as well as, in relation thereto, the proposed location of all _____ [insert description of works] that are to form part of the Works. The City reserves the right to require that any portion of the Works be relocated, where in the reasonable opinion of the City’s Director of Engineering and Public works (the “**Director**”), the proposed location of

the Works or any portion thereof may interfere with or damage underground services of the City, the Capital Regional District or any private or public utility, or may impact the protected root zones of City street trees.

- 4.4** The Works shall be installed strictly in accordance with the plans and specifications that are attached as Schedule "A" to this Agreement, unless the Director authorizes the modification of such plans or specifications.
- 4.5** The Owner shall at all times and at its own expense keep and maintain the Works and the Highways in good and sufficient repair and in a manner which does not pose any risk to persons or property, all to the satisfaction of the Director (without any obligation on the part of the Director to determine what is sufficient repair or a safe condition).
- 4.6** If the Owner fails to keep the Works and the Highways in good repair and maintenance to the satisfaction of the Director, the Director may give notice to the Owner demanding that repairs and maintenance be done within the time specified by the City and if the Owner fails to do so, to the City's satisfaction, the City may, in its sole discretion (without any obligation to do so), cause such repairs to be made, including structural changes or filling up any excavation, as it deems necessary at the Owner's expense. The Owner shall pay the costs of the repairs to the City forthwith on demand.
- 4.7** The Owner shall in respect of its use of the Highways and in relation to the Works comply with all applicable statutes, laws, regulations, bylaws, orders and other requirements of every governmental authority having jurisdiction.
- 4.8** If during the course of construction the Owner's Consultant determines that any part of the _____ *[insert description of works]* comprising the Works are required to be placed in a location other than shown on the plans and specifications attached as Schedule "A", or determines that additional _____ *[insert description of works]* are required to be installed within the Highways, the Owner's Consultant must first obtain the authorization of the Director before proceeding with such modification to the Works.
- 4.9** The City makes no representation or warranty as to the subsurface soil conditions within the area of the Highways within which the Works are to be constructed, including as to whether the soil or groundwater within the Highways contains any contamination, special waste or prescribed substance in a quantity or concentration that exceeds the standards permitted under the provisions of the *Environmental Management Act* and Regulations thereto. The City will not be responsible for any increased or additional costs (including, without limitation, any costs associated with delays in proceeding with the Works), incurred by the Owner in constructing the Works as a result of the presence of any such special waste, contamination or prescribed substance, or any other soil or groundwater contamination within the Highways, environmental consultant's fees, the cost of any permits for removal or disposal of contaminated soils or groundwater, or the removal, disposal or treatment of contaminated soil or groundwater that is required to be removed from the Highways as a result of the Works being undertaken, or any other similar costs.
- 4.10** When backfilling the excavation made in connection with the Works, the Owner's Consultant will ensure that all anchor rods are de-tensioned prior to backfilling, and that all _____ *[insert description of works]* are removed to a depth of at least 4 feet below grade, or greater if achievable. Backfilling must be brought up to existing grade and completed to City standards and specifications and the satisfaction of the Director.

- 4.11** After the completion of backfilling, the Owner must provide to the City a set of engineered drawings prepared by the Owner's Consultant that identify in cross section and plan views the location of all anchor rods _____ [insert any additional works], as installed (referred to herein as the "**As Built Drawings**"). The Owner must also provide to the City a letter prepared by the Owner's Consultant and bearing his professional seal, certifying that the Works have been installed in accordance with the As Built Drawings hereto modified with the approval of the Director, and that all anchor rods left within the Highways have been de-tensioned.
- 4.12** The Owner will be responsible throughout the construction of the Works to protect persons and property in the vicinity of the Works from injury, loss or damage.
- 4.13** The Owner shall not do or permit to be done anything which may or does contaminate the Highways or the surrounding area and the Owner shall be solely responsible to remove all such contamination and remediate it to residential standards.
- 4.14** The Owner shall at its sole cost arrange to have all of the City's storm drains and sewer mains within the Highways, in the area of the Works, inspected by video camera before commencement and after completion of the Works to ensure that no damage has resulted through construction of the Works. This work shall be coordinated through the City's Underground Utilities Division.

5.0 NO RELIEF

- 5.1** It is understood, covenanted and agreed by and between the parties hereto that no provision of this Agreement and no act or omission or finding of negligence, whether joint or several, as against the City, in favour of any third party, shall operate to relieve the Owner in any manner whatsoever from any liability to the City in the premises, or under these presents, or under the provisions of the *Community Charter*, or any bylaw of the City and amendments thereto, or otherwise.

6.0 OWNER'S COVENANTS

The Owner further covenants and agrees as follows:

Fee

- 6.1** That it will pay to the City a non-refundable fee of \$750.00 and shall pay a one-time charge of \$25 per square meter of area of the proposed excavation face that will be supported by anchor rods and abuts a street or lane as calculated by the Engineer.

_____ [insert calculation of fee (e.g. 280 m² x \$25.00 / per m² [Face Area] = \$7000.00 + \$750.00 = \$ 7750.00)] This fee is to be paid prior to the commencement of the Works.

Save Harmless

- 6.2** To indemnify and hold harmless the City and its elected and appointed officials, officers, employees and agents from all suits, proceedings, losses, damages, expenses, demands, claims, costs (including actual costs of professional advisors and costs associated with remediation of contamination) and harm of any kind, howsoever caused, whether related

to death, bodily injury, property loss, property damage or consequential loss or damage, arising out of or in any way connected with:

- (a) the Works encroaching upon under or over the Highways,
- (b) construction, maintenance, existence, use or removal of the Works,
- (c) the Owner's occupation or use of the Highways or the ground below or the air above for the purpose of such encroachment by the Works,
- (d) the negligence of the Owner or its employees, agents, contractors, subcontractors or consultants, including the Owner's Consultant, in relation to the design or construction of the Works, and
- (e) any failure of or damage to the Works at any time, including without limitation, failure due to errors in design of the Works, or faulty or defective materials or workmanship, whether or not the result of negligence on the part of the Owner or its employees, agents, sub-contractors or consultants including the Owner's Consultant.

6.3 That the indemnity in section 6.2 survives the expiry or earlier termination of this Agreement.

6.4 To charge his interest in the Land in favour of the City for the payment of all sums which may at any time hereafter be payable by the City in respect of any claims, loss, damage or expense of whatsoever kind arising:

- (a) from the construction, maintenance or existence of the Works, or
- (b) from the permission hereby granted,

and to answer any indemnity or payment provided in the bylaws of the City or under the terms of this agreement.

Insurance

6.5 To take out and maintain during the term a policy of commercial general liability insurance against claims for bodily injury, death or property damage arising out of the use of the Land by the Owner in the amount of not less than five million dollars per single occurrence, or such greater amount as the City may from time to time designate and shall provide the City with a certificate of insurance evidencing coverage, or a certified copy of such policy or policies if requested.

6.6 All policies of insurance required under section 6.5 shall:

- (a) name the City as an additional insured;
- (b) contain a provision requiring the insurer not to cancel or change the insurance without first giving the City thirty (30) days notice in writing;
- (c) contain a cross liability clause in favour of the City; and
- (d) be in a form and on such terms, including with respect to deductible amounts, as are satisfactory to the City, in the City's sole and absolute discretion.

6.7 That if the Owner does not provide or maintain in force the insurance required by this Agreement, then without limiting the City's right to terminate this Agreement, the City may

take out the necessary insurance and pay the premium for periods of one year at a time and the Owner shall pay to the City as additional licence fees the amount of the premium immediately on demand.

- 6.8** That if both the City and the Owner claim to be indemnified under any insurance required by this Agreement, the indemnity shall be applied first to the settlement of the claim of the City and the balance, if any, to the settlement of the claim of the Owner.
- 6.9** That maintenance of such insurance shall not relieve the Owner of liability under the indemnity provisions of this Agreement.
- 6.10** That the foregoing provisions shall not limit the insurance required by law, nor relieve the Owner from the obligation to determine what insurance it requires for its own purposes.

Release

- 6.11** To release the City and its elected and appointed officials, officers, employees and agents from all claims of any kind, whether known or unknown, whether or not relating to negligence, which the Owner now has or at any future time may have, however caused, arising out of or in any way connected with the permission to encroach granted by this Agreement, the use of the Highways, the Works, or the exercise by the City of any of its rights pursuant to this Agreement.
- 6.12** That the release in Section 6.11 survives the expiry or earlier termination of this Agreement.

Remedies

- 6.13** That the City retains the right on the termination of this Agreement to proceed with the enforcement of any indemnity or other remedy provided in this Agreement or otherwise.

Compensation

- 6.14** That notwithstanding any provision of this Agreement, the Owner shall not be entitled to compensation for injurious affection or disturbance resulting in any way from the removal of the Works in accordance with the terms of this Agreement and, without limitation, shall not be entitled to business losses, loss of profit, loss of market value, relocation costs or other consequential loss by reason of the removal of the Works or by reason of the termination of this Agreement.

Termination

- 6.15** That if the Owner fails to comply with the provisions of this Agreement, including, but not limited to, sections 4.5, 4.7, 4.13 and 6.5 of the Agreement, this Agreement shall be terminated and all rights of the Owner hereunder shall thereupon lapse and be absolutely forfeited, but the City, nevertheless, shall be entitled to proceed with the enforcement of any security or indemnity herein provided, or upon any bond or otherwise in satisfaction of any claim, loss or expenses of whatsoever kind arising under this Agreement, or from the permission hereby granted.
- 6.16** That the City may, at any time, in its sole discretion, but acting in good faith, withdraw the rights it has granted to the Owner in this Agreement and terminate this Agreement on 3 months' written notice.

- 6.17** That on receipt of notice under Section 6.15 or 6.16, the Owner shall, within the time period stated in the notice, at its expense, remove the Works and otherwise restore the Highways to the satisfaction of the City.
- 6.18** That if the Owner fails to remove the Works as required by the City within the time period specified pursuant to this Agreement, the City may, in its sole discretion, cause the Works to be removed at the Owner's expense.

Entry

- 6.19** That the City reserves the right for itself, its servants or agents, at any and all reasonable times, to enter into and upon the Land for the purpose of inspecting the Works so as to determine whether the Owner is in compliance with this Agreement.

Works

- 6.20** That in the event that the construction, maintenance, use or removal of the Works necessitates any alteration or change to any meter, water service, sewer or other public works or utility in the vicinity of the Works, the Owner will reimburse the City for whatever sums may be incurred by the City in making such alterations or changes as may be deemed necessary by the Director.

7.0 ASSIGNMENT

- 7.1** The Owner shall not assign any of its rights and obligations arising from this Agreement to any person other than to the then-current owner of the Land.
- 7.2** The Owner covenants and agrees not to transfer the Land, or any portion thereof, without advising the purchaser or transferee of this Agreement and assigning the Owner's rights and obligations pursuant to this Agreement to the new owner of the Land by mutual agreement.
- 7.3** In the event that the Owner fails to assign the rights and obligations of this Agreement to a new owner of the Land as described in Section 7.2, the Owner shall continue to be bound by this Agreement in all respects notwithstanding that the Owner no longer owns the Land.

8.0 ALTERATION OF MUNICIPAL WORKS

- 8.1** This Agreement shall not in any way operate to restrict the right of the City at any time to:
- (a) alter the road, curb, gutter, sidewalk or boulevard abutting or adjoining the Land, notwithstanding that the effect of such alteration in width or elevation may be to render the Works useless or of less value for the purposes of the Owner; or
 - (b) construct or maintain any form of structure or utility on, over or under any portion of the Highways on or in which the Works encroach and for such purpose require that the Works be removed in part or in whole; and

the Owner covenants that, in the event of the City effecting any such alteration or construction or in requiring removal of all or part of the Works, the Owner will release and forever discharge, and hereby releases and forever discharges, the City from all manner of claims of any nature whatsoever, which may arise by reason of such alteration in width

or elevation as aforesaid, or by reason of the discontinuance and removal of the Works, as a result of such alteration in width or elevation or construction.

9.0 CITY'S RIGHTS RESERVED

- 9.1** Nothing contained or implied in this Agreement will derogate from the obligations of the Owner under any other agreement with the City.
- 9.2** Nothing contained or implied in this Agreement shall prejudice or affect the rights and powers of the City in the exercise of its functions under any public or private statutes, bylaws, order and regulations, all of which may be fully and effectively exercised in relation to the Highways as if this Agreement had not been executed and delivered by the parties.

10.0 LICENCES AND PERMITS

- 10.1** The Owner shall, at its own expense, obtain and maintain all permits and authorizations as may be necessary and required to erect and maintain the Works, including any building permit or electrical permit. Nothing in this Agreement relieves the Owner from the ordinary jurisdiction of the City.

11.0 OTHER MATTERS

- 11.1** The waiver by the City of default by the Owner shall not be deemed to be a waiver by the City of any subsequent default by the Owner. All waivers must be in writing.
- 11.2** Whenever it is required or desired that either party deliver a notice to the other, the delivery shall be deemed to be satisfactory if and deemed to have occurred when the notice has been:
- (a) Delivered by hand, on the date of delivery; or
 - (b) Mailed by Xpresspost (Canada Post) requiring signature of the addressee on delivery, on the date received or on the sixth day after receipt of mailing by any Canada Post Office, whichever is the earlier, except that in the event of a strike or disruption in postal service, the notice shall not be deemed to be received until actually received;
- to the address for that party on the first page of this Agreement or to whatever other address that may have, from time to time, been given by that party.
- 11.3** Whenever the singular or masculine is used in this Agreement, the same is deemed to include the plural or the feminine or the body politic or corporate as the context requires.
- 11.4** Every reference to each party is deemed to include the heirs, executors, administrators, corporate successors, permitted assigns, employees, agents, officers, elected officials and invitees of such party whenever the context so requires or allows.
- 11.5** Section headings are included for convenience only. They do not form a part of this Agreement and shall not be used in its interpretation.
- 11.6** If any part of this Agreement is for any reason held to be invalid by the decision of a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this Agreement.

11.7 This Agreement shall be governed and construed in accordance with the laws of the Province of British Columbia.

11.8 The parties hereto shall execute and do all such further deeds, acts, things, and assurances as may be reasonably required to carry out the intent of this Agreement.

12.0 TIME OF ESSENCE

12.1 Time is of the essence of this Agreement.

13.0 INTERPRETATION

13.1 No part of the fee of the soil of the Highways will pass to or be vested under or by these presents in the Owner or the Owner's invitees, agents or successors in title.

13.2 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, successors, administrators and permitted assignees.

13.3 All provisions of this Agreement are to be construed as covenants and agreements as though the word importing covenants and agreements were used in each separate paragraph.

13.4 This Agreement is the entire agreement between the parties and the City had made no representations, warranties, guarantees, promises, covenants or agreements (oral or otherwise), to or with the Owner other than those expressed in this Agreement.

IN WITNESS WHEREOF the said Owner has hereunto set his hand and seal the day and year first above written.

The Corporation of the City of Victoria by its)
authorized signatory)
)
)
_____)
[Insert name])
Director of Engineering and Public Works)
)
)

_____) [name of owner]
by its authorized signatories:)
)
)
)
_____)
Authorized Signatory)
)
)
)

Authorized Signatory

SCHEDULE "A"

(insert plans and specifications)

Detailed Overview of Phases for LUPB Review

Phases	Bylaw Section	Objective	Rationale	Guiding Values
Phase 1 – Immediate Procedural Public Hearing Changes	29 Public Hearing	Modify to clarify when a public hearing must be held, is not permitted to be held, or is optional so that public hearings will only be conducted when required under the <i>Local Government Act</i> .	Changes required to update bylaw to be consistent with the <i>Local Government Act</i> .	Alignment with Legislation
	30 Right to Waive Public Hearing	Clarify that Council may only waive the holding of a public hearing for zoning amendment bylaw applications that are consistent with the Official Community Plan and where the hearing is not already prohibited (housing specific developments).	Changes required to update bylaw to be consistent with the <i>Local Government Act</i> .	Alignment with Legislation
	32 Notice of Public Hearing	Clarify the notification distance when the public hearing has been waived or for when a public hearing must not be held.	Changes required to update bylaw to be consistent with the <i>Local Government Act</i> .	Alignment with Legislation
Phase 2 – Additional Simple Modernization Changes (Staff anticipate that these changes could be completed without additional resources)	7 Notification Distance	Notification distances currently range between 100-200 metres based on application type. Could establish a consistent public notification distance and ensure purpose of notification achieves intended objective.	Varying notification distances can be confusing. With changes to public hearings and delegations, reviewing purpose of notification will provide greater clarity to applicants and the public.	Alignment with Legislation Consistency and Clarity
	21 Refund	Modify wording about refunds to be more user friendly and identify clear timelines.	Simplify wording and clarify intent of the Bylaw.	Consistency and Clarity
	27 and 28 Application Sign Posting Requirements – Other applications	Simplify complex wording in section 28 by removing subsections (a) and (b) and ending the section with “City-initiated amendments” to indicate the application sign posting requirements (section 27) do not apply to city-initiated projects.	Simplify wording and clarify intent of the Bylaw.	Consistency and Clarity Efficiency Transparency
	31 Opportunity for public comment	The opportunity for public comment on DVPs, DPs, HAPs, and TUPs are set out in legislation and outline the steps local governments must follow.	Authority is already outlined in the <i>Local Government Act</i> .	Alignment with Legislation Efficiency

Phases	Bylaw Section	Objective	Rationale	Guiding Values
	33 Notice of opportunity for public comment	Assess section 33. Notification/mailling requirements are set out in legislation and outline the steps local governments must follow.	Authority is already outlined in the <i>Local Government Act</i> .	Alignment with Legislation
	12, 13, and 14 Receipt of applications, Incomplete applications Notification of Incomplete Applications	Consider introducing new wording to identify application submission requirements, and what would be deemed an incomplete application.	To establish standardization where possible, while also retaining flexibility to give staff the ability to request information that relates to the site/application specific circumstances.	Innovation Consistency and Clarity
	Schedule A Application Fees	Clarify the Development Permit fees for duplexes within Development Permit Area 15F: Missing Middle Housing. Increase the fees for new Garden Suite applications from \$1,000 to \$2,000.	Consistent with Council direction given May 2022. Align with Missing Middle policy and regulations and clarify fee structure within Schedule A and Schedule D. More reflective of staff resource requirements.	Consistency and Clarity Efficiency Transparency
	New Section Application Review Timelines	Consider the operational and planning impacts of introducing new wording/sections that would identify timelines for processing land use applications. Review and reflect best practices.	Timelines would provide certainty for applicants, but staff have concerns about impacts of dictating process timelines given the nature of the planning process.	Innovation Efficiency Consistency and Clarity
Phase 3 - Additional Complex Changes (Staff anticipate that additional resources may be required to support review and updates to these sections to support	6 and 8 Pre-application requirements and Waiving Pre-application Requirement	Review sections and modernize/simplify wording in the bylaw to reconsider the pre-application process, community meetings, and the role of CALUCs in development application review process.	Review and reflect best practices for pre-application consultation and community engagement. The <i>Local Government Act</i> does not set out pre-application processes, and only specifies requirements for notification and public hearings.	Alignment with Legislation Efficiency Inclusivity Transparency
	11 Evidence of Participation in a	Update wording to provide greater flexibility and allow for more diverse forms of pre-application consultation based on the specific land use proposal.	The <i>Local Government Act</i> does not currently outline pre-application consultation requirements. Providing greater flexibility could	Alignment with Legislation Innovation

Phases	Bylaw Section	Objective	Rationale	Guiding Values
necessary research and consultation)	Community Meeting		be of value to applicants and the broader community.	Efficiency
	Schedule A – Application Fees	Conduct a full fee review and modify Schedule A to make it more user-friendly, reduce fees if appropriate. May also want to establish new fees for resubmitted applications.	To modernize and simplify fees where possible, and to review and reflect best practices.	Best Practices Efficiency Transparency
	Part 3 – Delegation and Reconsideration Schedule D - Delegated Approvals	Conduct a full review of Part 3 – Delegation and Reconsideration to further simplify the table in Schedule D to make it more user friendly. Also bring forward additional opportunities for delegation.	Changes would allow staff to further simplify processes, update information to reflect best practices, and assess the status of ongoing changes to the <i>Local Government Act</i> .	Innovation Consistency and Clarity Alignment with Legislation

SUMMARY OF PHASES	LIST OF GUIDING VALUES
<ul style="list-style-type: none"> • Phase 1: Immediate amendments related to public hearings that are required to be consistent with the LGA. • Phase 2: Simple modernization amendments proposed could require minimal research and engagement as they generally are focused on creating alignment with legislation and cleaning up wording where possible to create more clarity, consider timelines for application review (not recommended), and update other sections of the bylaw. • Phase 3: More complex amendments proposed could revise the pre-application process and community involvement in application submissions, review and adjust application fees, and update the delegation table and delegated authorities. These changes would involve more research and consultation with applicants, developers, and CALUCs. 	<ul style="list-style-type: none"> • Alignment with Legislation • Innovation • Consistency and Clarity • Efficiency • Inclusivity • Transparency

VICTORIA CITY COUNCIL TO FOLLOW COTW
MEETING OF THURSDAY, MAY 23, 2024

D. CONSIDERATION OF MINUTES

D.1 Minutes from the Evening Council meeting held May 9, 2024

That the minutes from the May 09, 2024 Evening Council meeting be approved.

E. REPORTS OF COMMITTEE

E.1 Committee of the Whole

E.1.a Report from the May 09, 2024 COTW Meeting

E.1.a.a Downtown Victoria Business Association - 2024 Budget

That Council receive and approve the Downtown Victoria Business Association 2024 Budget.

E.1.a.b 1042 Richardson Street: Update on Rezoning Application No. 00753 and Development Permit with Variances Application No. 00158 (Fairfield)

1. That Council instruct the Director of Sustainable Planning and Community Development to prepare the necessary Zoning Regulation Bylaw amendment that would authorize the proposed development outlined in the staff report dated January 22, 2024 for 1042 Richardson Street.
2. That, after publication of notification in accordance with section 467 of the Local Government Act, first, second and third reading of the zoning regulation bylaw amendment be considered by Council.
3. That following the third reading of the zoning amendment bylaw, the applicant prepare and execute the following legal agreements, with contents satisfactory to the Director of Sustainable Planning and Community Development and form satisfactory to the City Solicitor prior to adoption of the bylaw:
 - a. Secure the rental tenure of all dwelling units in perpetuity
 - b. Secure two accessible units.
 - c. Restrict strata titling of the building,
 - d. Secure a housing agreement for 10% of the units in the building (a total of two bachelor units) at 95% of Canada Mortgage and Housing Corporation (CMHC) median market rates for the greater of 60 years or the life of the building.
 - e. Secure the following Transportation Demand Management measures to offset the proposed parking variance, with terms to the satisfaction of the Director of Engineering and Public Works:
 - i. one car share vehicle, secured through a developer-funded contribution of \$55,000

- ii. car share memberships and usage credits for all residential units
 - iii. one on-street dual head charger providing charge for one car share vehicle stall and one for public use
 - iv. 23 additional bicycle parking over schedule C requirements
 - v. 45% of required bicycle parking to be oversized
 - vi. 50% charging provision for all bicycle stalls
 - vii. a bike wash and maintenance station.
 - viii. a car share stall with EV charging capacity provided within the site.
4. That adoption of the zoning bylaw amendment will not take place until all of the required legal agreements that are registrable in the Land Title Office have been so registered to the satisfaction of the City Solicitor.
 5. That the above Recommendations be adopted on the condition that they create no legal rights for the applicant or any other person, or obligation on the part of the City or its officials, and any expenditure of funds is at the risk of the person making the expenditure.

Development Permit with Variance Application

That Council, after giving notice, consider the following motion:

1. "That subject to the adoption of Zoning Regulation Bylaw, Council authorize the issuance of Development Permit with Variances No. 00158 for 1042/1044 Richardson Street, in accordance with plans submitted to the Planning department and date stamped by Planning on January 22, 2024, subject to:
 - a. Proposed development meeting all City zoning bylaw requirements, except for the following variances:
 - i. increasing the maximum height from 18.5m to 19.46m
 - ii. increasing the maximum site coverage from 40 percent to 52.70 percent
 - iii. decreasing the minimum open site space from 50 percent to 39.8 percent
 - iv. decreasing the front setback from 4.0m to 2.4m (to the building) and 1.50m (to balconies)
 - v. decreasing the rear yard (north) setback from 10.0m to 5.0m
 - vi. decreasing the east side yard setback from 6.0m to 1.20m
 - vii. decreasing the west side yard setback from 6.0m to 2.89m (to the building) and 2.09m (to balconies)
 - viii. decreasing the vehicle parking from 19 stalls to 8 stalls.
2. That the Development Permit with Variances, if issued, lapses two years from the date of this resolution."

E.1.a.c Land Use Procedures Bylaw Amendment No. 22, 2024 - Prohibition on Certain Public Hearings following Bill 44 – Housing Statutes (Residential Development) Amendment Act

That Council:

1. Amend the Land Use Procedures Bylaw as proposed in Phase 1 and Phase 2 as described in Attachment 3, to align the City's public hearing procedures with Bill 44 – Housing Statutes (Residential Development) Amendment Act, 2023 that placed a prohibition on certain public hearings and to increase the consistency, clarity, efficiency, transparency and innovation of our land use procedures.
2. Give first three readings to the Land Use Procedures Bylaw, Amendment Bylaw (No. 22) at Council to follow the June 27, 2024, Committee of Whole meeting.
3. Direct staff to conduct additional review of the City's Land Use Procedures Bylaw, based on the scope and guiding values outlined in Attachment 3, and bring forward an amended bylaw for Council's consideration.
4. Direct staff to report back to Council before August 1, 2024, on Phase 3 items including information on scoping, timing, and resource implications.

F. BYLAWS

F.1 Bylaws for 225 Russell Street: Update Rezoning Application No. 00801, OCP Amendment Application and Development Permit with Variances Application No. 00189

That the following bylaws **be given third reading:**

1. Official Community Plan Bylaw, 2012, Amendment Bylaw (No. 49) No. 23-023
2. Zoning Regulation Bylaw, Amendment Bylaw (No. 1295) No. 23-022

That the following bylaws **be adopted:**

1. Official Community Plan Bylaw, 2012, Amendment Bylaw (No. 49) No. 23-023
2. Zoning Regulation Bylaw, Amendment Bylaw (No. 1295) No. 23-022
3. Housing Agreement (225 Russell Street) Bylaw (2023) No. 23-024

Development Permit with Variances Application

That Council authorize the issuance of Development Permit with Variances Application No. 00189 for 225 Russell Street, in accordance with:

1. Plans date stamped April 13, 2022.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
 - i. reduce the rear yard setback from 3.0m to 0.17m;

- ii. reduce the north side yard setback from 3.0m to 0.01m;
 - iii. reduce the south side yard setback from 3.0m to 0.05m;
 - iv. increase the site coverage from 40% to 57.5%;
 - v. reduce the open site space from 50% to 11%;
 - vi. reduce the vehicle parking from 12 stalls to 6 stalls;
 - vii. increase the fence height from 1.2m to 1.5m.
3. That the Development Permit, if issued, lapses in two years from the date of this resolution.

F.2 Amendment Bylaws for Parking Fines and Street Occupancy Fees and Fines

That the following bylaws **be adopted**:

- 1. Bylaw Notice Adjudication Bylaw, Amendment Bylaw (No. 4) No. 24-023
- 2. Streets and Traffic Bylaw, Amendment Bylaw (No. 17) No. 24-024
- 3. Ticket Bylaw, Amendment Bylaw (No. 15) No. 24-033

H. CLOSED MEETING

MOTION TO CLOSE THE MAY 23, 2024 COUNCIL MEETING TO THE PUBLIC

That Council convene a closed meeting that excludes the public under Section 90 of the Community Charter for the reason that the following agenda items deal with matters specified in Sections 90(1) and/or (2) of the Community Charter, namely:

Section 90(1) A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:

Section 90(1)(c) labour relations or other employee relations;

Section 90(1)(e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;

Section 90(1)(i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose; and

Section 90(2) A part of a council meeting must be closed to the public if the subject matter being considered relates to one or more of the following:

Section 90(2)(b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party.



Committee of the Whole Report

For the Meeting of May 2, 2024

To: Committee of the Whole **Date:** April 18, 2024

From: Karen Hoese, Director, Sustainable Planning and Community Development

Subject: **Bylaw Amendments Pursuant to Bill 44: Housing Statutes (Residential Development) Amendment Act, 2023, Bill 46: Housing Statutes (Development Financing) Amendment Act, 2023, & Bill 47: Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023**

RECOMMENDATION

1. That Council instruct the Director of Sustainable Planning and Community Development (the **"Director"**) to prepare the necessary Zoning Regulation Bylaw amendments in order to:
 - a) Comply with the requirements of Bill 44: Housing Statutes (Residential Development) Amendment Act, 2023 and allow the required number of housing units in accordance with the legislated requirements for small-scale multi-family housing while utilizing the zoning requirements contained in the Missing Middle Regulations (the **"SSMUH Bylaw"**), and
 - b) Comply with the requirements of Bill 47: Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023 and designate the Legislature Exchange as a transit-oriented area and eliminate parking requirements for residential uses in that area (the **"TOA Bylaw"**).
2. That, pursuant to section 30 of the *Land Use Procedures Bylaw*, Council waives the requirement for the holding of a public hearing with respect to the TOA Bylaw.
3. That, after publication of notification in accordance with section 467 of the *Local Government Act*, first, second and third reading of the SSMUH Bylaw and TOA Bylaw be considered by Council.
4. That Council instruct the Director to draft a bylaw to amend the *Land Use Procedures Bylaw* to delegate Development Permits and Development Permits with Variances, related to small-scale multi-unit housing in restricted zones, to the Director.
5. That Council:
 - a) Consider who would be affected by an Amenity Cost Charge Bylaw to support anticipated changes to zoning and land use as part of the ongoing OCP 10-year Update and the SSMUH Bylaw and determine that the following persons, organizations and authorities will be affected:
 - i. the general public;

- ii. the development community;
- iii. the Esquimalt and Songhees Nations;
- iv. the Township of Esquimalt;
- v. the District of Saanich;
- vi. the District of Oak Bay;
- vii. Greater Victoria Public Library; and
- viii. School District 61 Board.

- b) Provide an opportunity for broad public consultation pursuant to section 570.3 of the *Local Government Act* and instruct the Director to engage the entities identified in 5.a) on amenity needs associated with projected growth to inform an Amenity Cost Charge Bylaw as part of the OCP 10-year Update Process currently underway.
- c) Instruct the Director to report back to Council with a summary of the feedback received pursuant to the above resolution and any additional technical analysis required prior to seeking instructions to draft a bylaw.

6. That Council advance this matter for ratification at the May 2, 2024 daytime Council meeting.

EXECUTIVE SUMMARY

This report primarily discusses implications and Zoning Regulation Bylaw amendments that have been mandated by the Province through *Bill 44 Housing Statutes (Residential Development) Amendment Act, 2023* and *Bill 47 Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023*.

The proposal is to amend the *Zoning Regulation Bylaw* as required by *Bill 44 Housing Statutes (Residential Development) Amendment Act, 2023* and *Bill 47 Housing Statutes (Transit Oriented Areas) Amendment Act, 2023*, to:

- allow the mandated number of housing units in “restricted zones”, in accordance with the small-scale multi-unit housing (SSMUH) requirements
- designate the “Legislature Exchange” as a Transit Oriented Area (TOA)
- eliminate certain off-street parking requirements for SSMUH within 400m of prescribed bus stops and within TOAs.

It is anticipated that the amendments pertaining to the SSMUH housing unit requirements will be surpassed in the near future as a result of ongoing work relating to the *Official Community Plan* (OCP) 10-year update, Zoning Bylaw Modernization and a comprehensive review of off-street parking requirements.

Bill 46: Housing Statutes (Development Financing) Amendment Act, 2023, allows local governments to implement a new amenity cost recovery bylaw to support the provision of public amenities that may be needed as a result of new development. During the development of an amenity cost charge bylaw, local governments are required to consult with: the public and persons, public authorities and organizations that may be affected. The recommended motion would begin this consultation process.

BACKGROUND

On November 30, 2023, the Province of British Columbia (the Province) gave Royal Assent to *Bill 44: Housing Statutes (Residential Development) Amendment Act, 2023* (Bill 44) and *Bill 47:*

Housing Statutes (Transit Oriented Areas) Amendment Act, 2023 (Bill 47). These Bills made a number of changes to the *Local Government Act*, and as a result, the City is required to:

- allow small-scale multi-unit housing (SSMUH) in “restricted zones”
- designate a Transit Oriented Area (TOA)
- prohibit certain off-street parking requirements within TOAs and for SSMUH within 400m of prescribed bus stops.

Municipalities are required to pass bylaws by June 30, 2024, to comply with this legislation and subsequently notify:

- The Minister of Housing in writing that the final zoning bylaw amendment necessary for compliance with the SSMUH requirements has been adopted, the locations of any exempted lands and the legislative provisions supporting the exemptions.
- The Minister of Transportation and Infrastructure in writing of the final adoption of the bylaw that is compliant with TOA requirements, including a copy of the bylaw.

Failure to comply with the above requirements may result in a ministerial order directing the City to comply with the legislation or overriding the City’s bylaws altogether to meet the Provincial requirements associated with SSMUH and TOAs.

Therefore, this report outlines the required changes necessary to comply with Bill 44 and Bill 47.

The Province further amended the LGA through *Bill 46: Housing Statutes (Development Financing) Amendment Act, 2023* (Bill 46) to provide new tools for local governments to fund infrastructure, amenities and services associated with new development. In order to utilize the new Amenity Cost Charge (ACC) tool, Council must first consult with the public and affected parties to inform them of the development of the bylaw. It is recommended that this required consultation occur alongside the ongoing OCP 10-year update process.

Small-Scale Multi-Unit Housing

Similar to the City’s Missing Middle Regulations, the Province implemented regulations pertaining to Small-Scale Multi-Unit Housing with the expressed aim of providing more affordable and attainable housing for middle-income families. Examples of SSMUH include, but are not limited to:

- secondary suites
- garden suites
- duplexes
- houseplexes
- townhouses.

Bill 44 requires a minimum of three to six housing units to be permitted on properties that are subject to “Restricted Zones”, which are defined as follows:

a zone in respect of which the residential use would be restricted to:

- a. Detached single-family dwellings, or*
- b. Detached single-family dwellings and one additional housing unit located within the detached single-family dwelling or on the same parcel or parcels of land on which the detached single-family dwelling is located, or*
- c. duplexes, or*

- d. *duplexes with one additional housing unit located within each dwelling comprising the duplex or no more than 2 additional housing units on the same parcel or parcels of land on which the duplex is located.*

Where properties that qualify as “restricted zones” have a site area of 280m² or less, up to three housing units must be permitted. For properties over 280m², up to four housing units must be permitted. Finally, for properties greater than 281m² and within 400m of a prescribed bus stop (defined by frequency of bus service), up to six housing units must be permitted. For clarity, a single housing unit includes a dwelling unit, secondary suite or garden suite. Multiple housing units can be achieved through a variety of building forms and typologies including townhouses, houseplexes and multi-unit residential buildings.

Notwithstanding the above there are exemptions to the SSMUH requirements that are applicable to the City of Victoria:

- Land that is, on the date the SSMUH legislation came into force (December 7, 2023), protected under a heritage designation bylaw or subject to a heritage revitalization agreement.
- Parcels of land that are larger than 4,050m² or within a zone in respect of which the minimum lot size that may be created by subdivision is 4,050m².
- Land that is not connected to a water or sewer system (parcels must be connected to both) provided as a service by a municipality or regional district.
- Land within a designated Transit-Oriented Area (discussed in the following section).

The SSMUH legislation will have no impact on areas covered by the *Zoning Bylaw 2018*, which does not contain any restricted zones, and the impact on all other neighbourhoods will be minimal, as SSMUH requirements do not apply to properties where the site zoning permits greater residential development potential than a duplex with two secondary suites (i.e. such properties would not be considered a Restricted Zone).

The City of Victoria’s Missing Middle Regulations and the House Conversion Regulations in effect exempt most low-density properties from the new provincial requirements, since the City’s regulations would allow for an equal or greater number of housing units than required by the SSMUH regulations. A map of the restricted zone lots has been attached to this report.

Restricted zone lots in the City of Victoria primarily fall into two categories.

- The first category is small lot zones, as these zones only permit one single-family dwelling on a property. These will now allow for three to six units, depending on the size of the property and the location in relation to a frequent transit stop.
- The second category is a standard low-density residential zone (R1-A, R1-B, R1-G or R-2) that is not within the Traditional Residential Urban Place Designation (UPD) in the OCP and does not qualify for a house conversion.

Only low-density lots located within the Traditional Residential UPD are included within the City’s Missing Middle Regulations. This creates several unintended consequences:

- First, most parkland and school properties use the R1-B or R-2 Zone as a placeholder zone. However, these properties are identified as Parks, Institutional or Recreation in the OCP (so do not fall within the Missing Middle Regulations) and are therefore now considered restricted zones.
- Second, properties that are identified for higher density in the OCP such as in the Urban

Residential UPD, but are still zoned for low-density, are also now considered restricted zones. This could create an effect where the Provincial regulations are undermining planned increased densities in the City.

As previously noted, the requirement for six housing units applies only to restricted lots within 400m of a prescribed bus stop, which is determined by transit frequency and timing. A prescribed bus stop is defined as served by at least one bus route that is scheduled to stop at least every 15 minutes, on average, between the hours of:

- 7 am and 7 pm, Monday to Friday, and
- 10 am and 6 pm on Saturdays and Sundays.

BC Transit has identified Route 95, also known as the RAPIDBUS, as meeting these prerequisites. Fourteen of Route 95 bus stops are located within the City of Victoria and one bus stop is in Saanich where the 400m radius encroaches into the City of Victoria. These bus stops are primarily located along the Douglas Street corridor.

In addition to the requirement to permit six units, municipalities are not permitted to require residential parking minimums, including visitor parking minimums, for the first six housing units in SSMUHs located within 400m of a prescribed bus stop.

It was anticipated that as part of the ongoing work relating to the OCP 10-year update and Zoning Bylaw Modernization, there would be no zones that would be limited to single-family or duplex uses within the next two years. However, recommendations associated with these projects will not be ready for Council consideration until after the June 30, 2024 provincial deadline to adopt the SSMUH bylaws. Therefore, the City is required to proceed with a zoning bylaw amendment in advance of this work to address the requirements of Bill 44. In response, this report proposes the preparation of a bylaw that would meet the Provincial requirements and allow the mandated minimum number of housing units on lots that are “restricted zones”.

The primary consideration for Council at this time is in relation to siting and height regulations associated with SSMUH proposals. The Province has created one-size-fits-all site development standards to help meet the June 30, 2024 deadline; however, the City of Victoria has already created regulations that work for the Victoria context. Following the six-month review of the Missing Middle Housing Initiative, Council recently adopted revised regulations associated with Missing Middle projects of a similar scale (i.e. houseplexes with up to six dwelling units). These regulations are the result of rigorous architectural testing and review and have been developed to carefully balance the need to make it easy to build this type of housing while addressing objectives related to diversity of housing supply, climate action, and sustainable mobility. As the Missing Middle Regulations do not regulate a minimum lot size, they are also appropriate to be used for SSMUHs. Existing design guidelines would assist in ensuring new developments are compatible with the neighbourhood context.

Municipalities are generally not permitted to use density bonusing towards achieving the minimum number of SSMUH units required by the legislation. This means that unlike Missing Middle, the City cannot require a road dedication within the zoning. This will negatively impact the priorities from other City departments, such as land acquisition for the creation of separated boulevards and bicycle lanes. However, the Province recently introduced Bill 16: Housing Statutes Amendment Act, 2024, which may give tools to require road dedications. Staff will return to Council on this matter once there has been an opportunity to review the new legislation.

There is one exception in relation to density bonusing, which is that one unit can be used for density bonusing for lots within 400m of a frequent transit stop (i.e. the six unit lots to create affordable or special needs housing. It is not recommended that density bonusing be required in this instance.

As previously noted, existing heritage-designated properties are exempt from the SSMUH requirements. However, any restricted lots that are heritage-designated after December 7, 2023 would be allowed the minimum number of units required by the legislation.

The new legislation prohibits a public hearing on a zoning bylaw proposed for the sole purpose of complying with the SSMUH requirements, which is why the recommendation is silent on a public hearing with respect to this bylaw.

Transit Oriented Areas

Transit Oriented Areas are properties within a prescribed distance from a transit station. The Province has identified only one TOA within the City of Victoria boundaries at this time: the Legislature Exchange on Government Street directly adjacent to the Legislature Building. Pursuant to the new legislation, there is a 400m radius that is targeted for higher densities and heights.

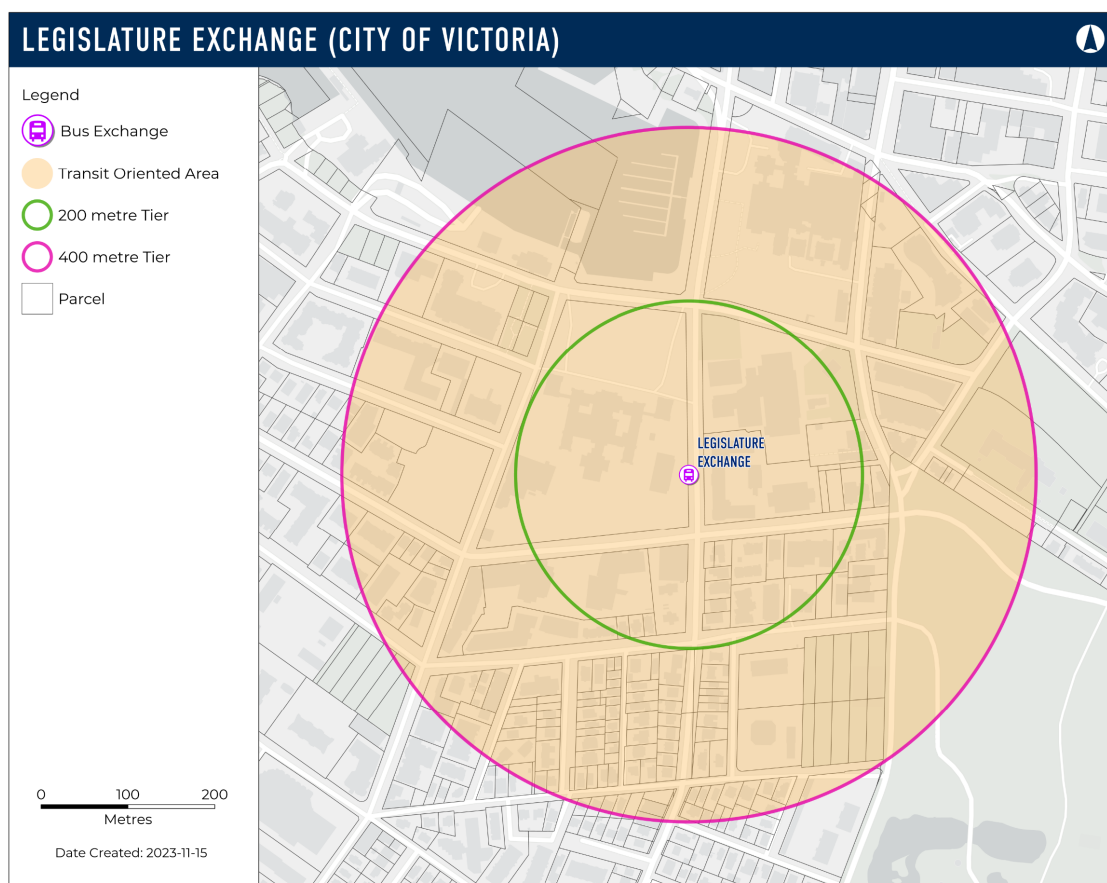


Figure 1: Map of the Legislature Exchange

Figure 1 above illustrates the provincially prescribed TOA at the Legislature Exchange and the two tiers that correlate with minimum heights and densities prescribed in Bill 47 for residential

development: a 200m tier and a 400m tier. The 200m tier represents minimum heights of ten storeys and minimum densities up to 3.5:1 Floor Space Ratio (FSR) for residential. The 400m tier represents minimum heights of six storeys and minimum densities of 2.5:1 FSR for residential. If a portion of a property is within a tier, then the whole property is within that tier. Municipalities are not required to proactively zone for these prescribed heights and densities, but they are required to not exercise their zoning power to prohibit or restrict the density or size prescribed.

While the City is required to designate the TOA in a bylaw, it is not recommended to apply new zones for the properties within these tiers at this time. It is not required by the new legislation, and these properties will be reviewed more closely as part of the comprehensive OCP 10-Year Update and Zoning Modernization processes, both of which are well-aligned and consistent with the intent of the new provincial legislation. An applied zoning approach that fulsomely considers the implications of these broader processes may be recommended once the work is complete.

In addition to height and density, municipalities are not permitted to require residential parking minimums, including visitor parking minimums, within TOAs. Instead, the Province has signalled that the market will dictate how much residential parking is provided on-site. Commercial, loading and accessible parking minimums can still be required when applicable.

The only requirements to comply with this legislation by June 30, 2024, are for municipalities to:

- Designate the TOA by bylaw and subsequently notify the Minister of Transportation and Infrastructure.
- Remove any requirements for off-street motor vehicle parking for residential development in the TOA.

It is proposed that a zoning bylaw amendment be drafted in accordance with the above requirements.

Amenity Cost Charges

Any new housing supply created imposes demand for new infrastructure, amenities and services. To this end, the Province passed Bill 46 which introduced new and updated tools for local governments to help fund the costs of infrastructure amenities required to support growth.

Amenity Cost Charge (ACC) bylaws are a new tool that allows local governments to collect funds for amenities like community centres, recreation centres, daycares, and libraries, while providing clarity and certainty to the development community through fixed rate charges. The purpose is to attempt to ensure that municipalities still obtain the infrastructure and other amenities that they previously obtained through negotiation during the rezoning application process. The legislation requires municipalities to:

- Identify areas where more housing supply is planned and what amenities are needed to support that supply.
- Determine the ACC amounts following the rules set out in legislation.
- During the development of the ACC bylaw and associated charge rates, consult with the public and those persons, public authorities and organizations who may be affected.
- Pass a bylaw that implements the charges.

At the time of writing this report, the Province has not yet released a policy manual on ACCs, but it is expected to be forthcoming in the coming months.

The OCP 10-year Update currently underway is a city-wide process that will define where new housing supply is planned. Part of the engagement is intended to explore what amenities are needed in these areas to support growth. As such, it is recommended that the City use the OCP 10-year Update engagement as an opportunity to meet the legislative requirements for consulting on a new ACC bylaw.

Community Consultation

Local governments must not hold a public hearing for zoning bylaw updates for the purposes of complying with the SSMUH legislation. Bylaws pursuant to the TOA legislation do not have the same exemption, but pursuant to the *Local Government Act*, a public hearing may be waived if the zoning bylaw amendment is consistent with the OCP.

In this case, the proposed bylaw is considered consistent with the OCP, particularly Section 7: Transportation and Mobility, which identifies numerous goals and objectives towards the creation of mobility hubs and encouraging growth along current and desired rapid transit corridors. As noted in the OCP: *“The City of Victoria supports transit provision through land use planning, investments, and development that supports transit viability and contributes to facility improvements.”*

Pursuant to section 467 of the LGA, notice that a public hearing will not be held must still be given for both the SSMUH bylaw and the TOA bylaw. Therefore, notice will be posted on the City of Victoria website and in the newspaper.

Regarding the development of a new ACC bylaw, the LGA requires municipalities to provide one or more opportunities for consultation with the public and any affected persons, public authorities and organizations. Given the close linkages of growth, housing and community needs being explored in the OCP 10-year Update, it is recommended that Council consider that engagement process as an appropriate opportunity to also consult on a potential new ACC bylaw and meet the legislative requirements.

Required Consideration of Provincial Policy Manual

In preparing, amending, and adopting bylaws pursuant to the SSMUH legislation and the TOA legislation, a local government must consider the applicable guidelines, including the two Provincial Policy Manual documents. Staff have dutifully considered the Policy Manuals and recommend against using the SSMUH site standard guidelines where there is not already alignment with existing City regulations.

The Provincial guidelines are in place to support municipalities on a large scale and are written in a one-size-fits-all manner. Instead, the City’s existing Missing Middle Regulations are recommended to be used for SSMUH regulations, which have been developed thoughtfully and specifically for Victoria to ensure high-quality urban design, liveability, and ecological as well as human health and resilience while still achieving the same intended outcomes as the SSMUH legislation: an increased number of units on low-density properties. Furthermore, the variance process exists for lots with constraints that may not fit fully within the zoning but can otherwise demonstrate there would be minimal impact to varying the regulations.

The policy manual also recommends not requiring a Development Permit for SSMUH. However, it is recommended to require a Development Permit for these types of development to ensure

design standards are met and community priorities for usable and accessible spaces are addressed through effective design solutions. Victoria's guidelines have been carefully crafted to be intent-focused, ensuring desired social and environmental benefits while still allowing for creative solutions in unique situations to not stifle development opportunities.

To ensure applications are processed in a timely manner a recommendation has been included to delegate SSMUH applications, with and without variances, to staff. This is consistent with previous direction regarding Missing Middle applications. SSMUH applications would be assessed based on their consistency with the *Small Lot Design Guidelines*, *Missing Middle Design Guidelines*, or the *General Urban Design Guidelines for Multi-Unit Residential, Commercial, and Industrial Development*, depending on the Development Permit Area that each property falls within. Proposals that are considered by staff to be inconsistent with the applicable design guidelines would be referred to Council with a staff recommendation of decline for Council's consideration.

For TOAs, the rezoning process will continue to be used to determine regulations on a site-by-site basis. This approach will give the City time to figure out appropriate heights and densities in this location through the OCP 10-Year Update and Zoning Bylaw Modernization, which could allow for regulations that exceed the provincial minimums (for instance to support greater provision of public space or local economic development) or could be more nuanced than simply allowing the minimum heights and densities (e.g. requiring podiums and tower stepbacks). Until the City regulations are adopted, rezoning applications would still be required. However, the provincial legislation states that the City cannot exercise its zoning power to prohibit or restrict the density or height prescribed by the legislation.

CONCLUSIONS

Council is required to pass a bylaw to comply with some specific aspects of the provincial legislation contained within Bills 44 and 47 by June 30, 2024, and staff are prepared to draft zoning bylaw amendments that address the requirements contained within the legislation for Council's consideration. It is suggested that the Missing Middle Regulations be used with the SSMUH zoning allowances to reduce additional work and maintain consistency with the requirements of Missing Middle.

Furthermore, the ongoing OCP 10-year Update provides an opportunity for Council to direct staff to undertake the required consultation to inform a new Amenity Cost Charge bylaw.

Therefore, it is recommended that Council direct staff to draft zoning amendment bylaws as described, to amend the *Land Use Procedures Bylaw* to delegate Development Permits (with and without variances) to the Director, and direct staff to consult on a new ACC bylaw.

Respectfully submitted,

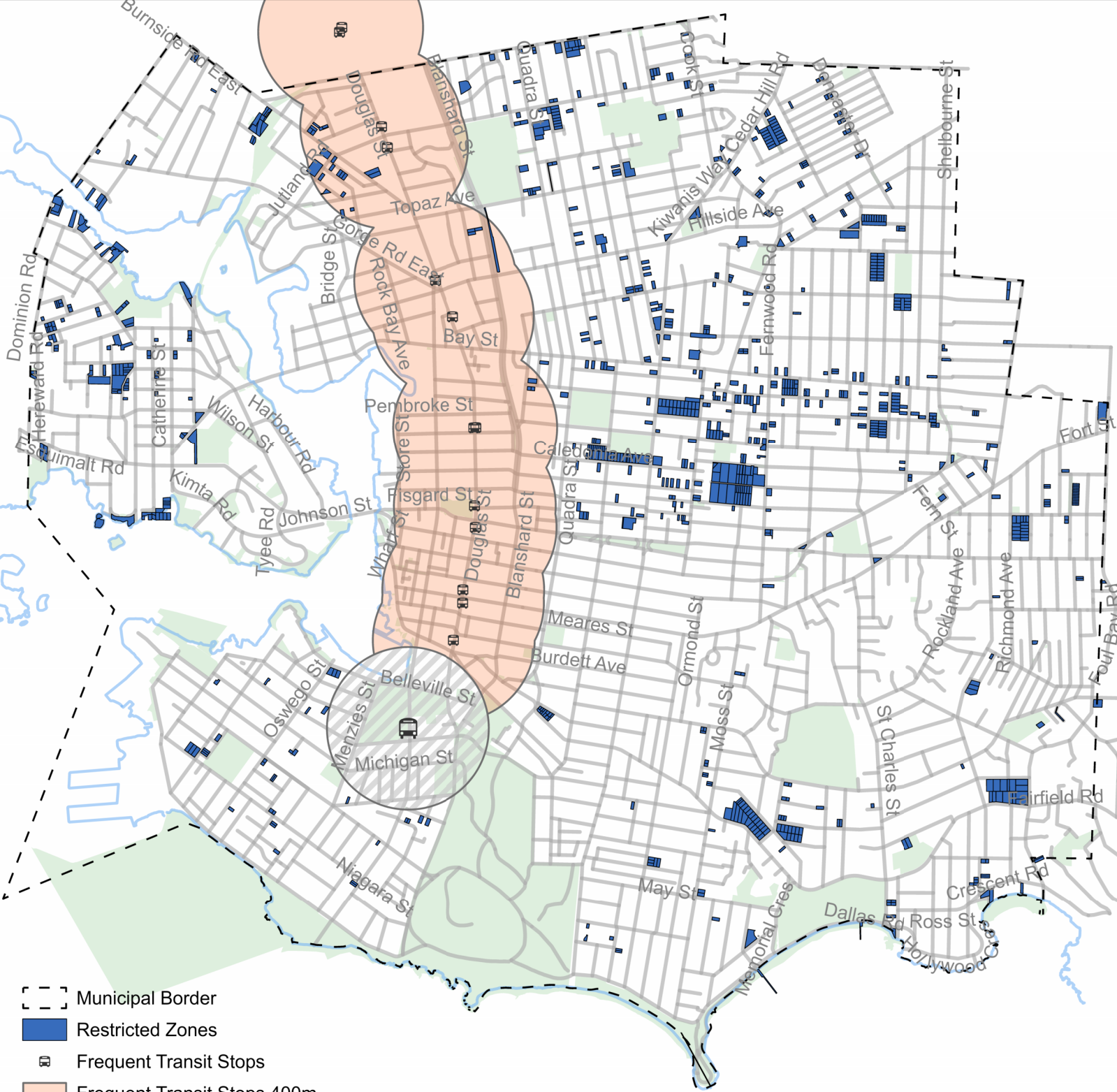
Mike Angrove
Senior Planner – Development Agreements
Development Services Division

Karen Hoesel, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager.

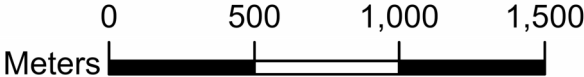
List of Attachments

- Attachment A: Map of Restricted Zones Under Bill 44



- [- - -] Municipal Border
- [Blue] Restricted Zones
- [Bus Icon] Frequent Transit Stops
- [Orange] Frequent Transit Stops 400m
- [Bus Icon] TOA Legislature Exchange
- [Dashed Circle] TOA Legislature Exchange 400m

NOTE:
This plan identifies properties based on a preliminary review of proposed Provincial policies and is subject to change.
A site-specific review will be necessary to determine the status of a specific property.



Restricted Lot Zones Under Bill 44



Scale: 1:26,000



Date: 03 APRIL, 2024

VICTORIA CITY COUNCIL TO FOLLOW COTW
MEETING OF THURSDAY, MAY 02, 2024

D. CONSIDERATION OF MINUTES

D.1 Minutes from the Evening Council meeting held April 11, 2024

That the minutes from the Evening Council meeting held April 11, 2024 be approved.

E. REPORTS OF COMMITTEE

E.1 Committee of the Whole

E.1.a Report from the April 18, 2024 COTW Meeting

E.1.a.a 1212 Vista Heights: Rezoning Application No. 00809 and Development Permit with Variances Application No. 000639 (Hillside/Quadra)

Rezoning Application

1. That Council instruct the Director of Sustainable Planning and Community Development to prepare the necessary Zoning Regulation Bylaw amendment that would authorize the proposed development outlined in the staff report dated April 4, 2024, for 1212 Vista Heights.
2. That, after publication of notification in accordance with section 467 of the Local Government Act, first, second, and third reading of the zoning regulation bylaw amendment be considered by Council.
3. That the above Recommendations be adopted on the condition that they create no legal rights for the applicant or any other person, or obligation on the part of the City or its officials, and any expenditure of funds is at the risk of the person making the expenditure.

Development Permit Application

That Council consider the following motion:

1. That subject to the adoption of the necessary Zoning Regulation Bylaw amendment, Council authorize the issuance of Development Permit No. 000639 for 1212 Vista Heights, in accordance with plans submitted to the Planning department and date stamped by Planning on February 15, 2024.
2. That the Development Permit, if issued, expires two years from the date of this resolution.

E.1.a.b 1011 Fort Street: Rezoning Application No. 00863 (Downtown)

1. That Council instruct the Director of Sustainable Planning and Community Development to prepare the necessary Zoning Regulation Bylaw amendment that would authorize the proposed development outlined in the staff report dated April 18, 2024 for 1011 Fort Street.

2. That, after publication of notification in accordance with section 467 of the Local Government Act, first, second and third reading of the zoning regulation bylaw amendment be considered by Council.
3. That the above recommendations be adopted on the condition that they create no legal rights for the applicant or any other person, or obligation on the part of the City or its officials, and any expenditure of funds is at the risk of the person making the expenditure.

E.1.a.c Electric Vehicle Strategy Bylaw Updates

1. That Council instruct the Director of Engineering and Public Works (the “**Director**”) to make an application to Measurement Canada for a dispensation for Level 3 Electric Vehicle Supply equipment in order to enable the City to set fees for access to its public DC Fast Chargers on a per kilowatt hour (kWh) basis, and authorize the Director to accept the terms and conditions of doing so in the form attached as Appendix B, and to execute the associated indemnification agreement with Measurement Canada, in the form attached as Appendix C.
2. Subject to the City being granted a dispensation from Measurement Canada pursuant to the above resolution, that Council instruct the City Solicitor to draft an amendment to the City Parkades Electric Vehicle Charging Fees Bylaw to update DC fast charging fees as required to support implementation of the EV and E-Mobility Strategy.
3. That Council instruct the City Solicitor to bring forward the necessary bylaw updates to allow for the following:
 - a) Delegate to the Director the authority to issue licences to owners and occupants of residential property in order to allow such persons to run electric vehicle (“**EV**”) charging cords across the City right of way adjacent to their property for the purpose of charging EVs, with considerations for accessibility concerns addressed to the satisfaction of the Director in partnership with an accessibility-focused organization and/or the city’s accessibility committee;
 - b) Expansion of the delegation to the Director allowing them to set fees for the use of public EV charging stations to also allow them to set fees for the use of car share EV charging stations where such charging stations are owned by the City;
 - c) Increase the fee for Street Occupancy Permits within Electric Vehicle Charging Zones to offset revenue lost from City-owned EV charging stations when the public are unable to utilize the charging stations; and
 - d) To allow the City to enforce the City Parkades Electric Vehicle Charging Fees Bylaw where the City has a licence or lease to operate EV charging stations on private property.

E.1.a.d UBCM Disaster Risk Reduction - Climate Adaption Grant Application

That Council:

1. Support the application of a grant including overall grant management through the Union of British Columbia Municipalities’ (UBCM) Community Emergency Preparedness Fund (CEPF), Disaster Risk Reduction – Climate Adaptation stream for \$350,000 in funding to develop the Gorge

- Coastal Flood Adaptation Strategy and \$467,500 in funding for Cooling centre infrastructure (HVAC systems and passive cooling awnings for three Community Centres); and
2. Authorize the Chief Financial Officer to enter on behalf of the City of Victoria, into a shared cost agreement with UBCM on the terms acceptable to the Chief Financial Officer, the Director of Engineering and Public Works, and the Fire Chief in a form acceptable to the City Solicitor

E.1.a.e Support for Canadian Senior Women's Basketball Team Event

That Council:

1. Approve up to \$25,000 in financial support for a 3-game series featuring the Canadian Senior Women's Basketball Team at Save-On-Foods Memorial Centre, to be funded through the Corporate Contingency budget, and
2. Authorize the Deputy City Manager to execute any necessary agreements with the proponent, in a form satisfactory to the City Solicitor.

E.1.a.f Council Member Motion: Reducing Reliance on Parks Sheltering in Victoria

1. That Council direct staff to work with BC Housing, relevant service providers, and the City's sheltering Relocation Coordinator, to offer indoor sheltering or housing to the people sheltering in Irving Park and Vic West Park as of April 18, 2024;
2. That, contingent upon the above taking place, Council direct staff to phase out and eventually prohibit overnight sheltering in Irving Park and Vic West Park by 1 August 2024, via an update to the Parks Regulation Bylaw.
3. That, to facilitate the relocation of those sheltering in parks, direct staff to identify at least three indoor or outdoor locations, excluding parks, where sheltering could be permitted, and report back to Council before June 15 with the sites.

E.1.b.a Bylaw Amendments Pursuant to Bill 44: Housing Statutes (Residential Development) Amendment Act, 2023, Bill 46: Housing Statutes (Development Financing) Amendment Act, 2023, & Bill 47: Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023

1. That Council instruct the Director of Sustainable Planning and Community Development (the "**Director**") to prepare the necessary Zoning Regulation Bylaw amendments in order to:
 - a) Comply with the requirements of Bill 44: Housing Statutes (Residential Development) Amendment Act, 2023 and allow the required number of housing units in accordance with the legislated requirements for small-scale multi-family housing while utilizing the zoning requirements contained in the Missing Middle Regulations (the "**SSMUH Bylaw**"), and
 - b) Comply with the requirements of Bill 47: Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023 and designate the Legislature Exchange as a transit-oriented area and eliminate parking requirements for residential uses in that area (the "**TOA Bylaw**").

2. That, pursuant to section 30 of the *Land Use Procedures Bylaw*, Council waives the requirement for the holding of a public hearing with respect to the TOA Bylaw.
3. That, after publication of notification in accordance with section 467 of the *Local Government Act*, first, second and third reading of the SSMUH Bylaw and TOA Bylaw be considered by Council.
4. That Council instruct the Director to draft a bylaw to amend the *Land Use Procedures Bylaw* to delegate Development Permits and Development Permits with Variances, related to small-scale multi-unit housing in restricted zones, to the Director.
5. That Council:
 - a) Consider who would be affected by an Amenity Cost Charge Bylaw to support anticipated changes to zoning and land use as part of the ongoing OCP 10-year Update and the SSMUH Bylaw and determine that the following persons, organizations and authorities will be affected:
 - i. the general public;
 - ii. the development community;
 - iii. the Esquimalt and Songhees Nations;
 - iv. the Township of Esquimalt;
 - v. the District of Saanich;
 - vi. the District of Oak Bay;
 - vii. Greater Victoria Public Library; and
 - viii. School District 61 Board.
 - b) Provide an opportunity for broad public consultation pursuant to section 570.3 of the *Local Government Act* and instruct the Director to engage the entities identified in 5.a) on amenity needs associated with projected growth to inform an Amenity Cost Charge Bylaw as part of the OCP 10-year Update Process currently underway.
 - c) Instruct the Director to report back to Council with a summary of the feedback received pursuant to the above resolution and any additional technical analysis required prior to seeking instructions to draft a bylaw.

F. BYLAWS

F.1 Bylaw for 480 and 492 Esquimalt Road: Rezoning Application No. 00794 and Development Permit with Variances Application No. 00183

That the following bylaw **be adopted**:

1. Zoning Regulation Bylaw, Amendment Bylaw (No. 1326) No. 24-012

Development Permit with Variances Application No. 00183

1. That Council authorize the issuance of Development Permit with Variances Application No. 00183 for 480 and 492 Esquimalt Road, in accordance with:
 - a. Plans date stamped June 6, 2023.
 - b. Development meeting all Zoning Regulation Bylaw requirements, except for the following variances:
 - i. increase the height from six storeys to seven storeys to accommodate the rooftop amenity access and mechanical room
 - ii. decrease the rear yard setback from 3.0m to 0.12m;
 - iii. decrease the residential vehicle parking from 95 stalls to 25 stalls;
 - iv. decrease the visitor vehicle parking from 10 stalls to 4 stalls;
 - v. decrease the commercial vehicle parking from 11 stalls to 5 stalls;

- vi. permit long-term bicycle parking to be in a stacked format.
2. That the Development Permit, if issued, lapses in two years from the date of this resolution.

F.2 Bylaw for 2848 and 2852 Shelbourne Street: Rezoning Application No. 00768 and Development Permit with Variances Application No. 000595

That the following bylaw **be adopted**:

1. Zoning Regulation Bylaw, Amendment Bylaw (No. 1315) No. 23-080

H. CLOSED MEETING

MOTION TO CLOSE THE MAY 02, 2024 COUNCIL MEETING TO THE PUBLIC

That Council convene a closed meeting that excludes the public under Section 90 of the Community Charter for the reason that the following agenda items deal with matters specified in Sections 90(1) and/or (2) of the Community Charter, namely:

Section 90(1) A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:

Section 90(1)(c) labour relations or other employee relations;

Section 90(1)(e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;

Section 90(1)(i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

Section 90(1)(k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the council, could reasonably be expected to harm the interests of the municipality if they were held in public; and

Section 90(2) A part of a council meeting must be closed to the public if the subject matter being considered relates to one or more of the following:

Section 90(2)(b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party.

COMMITTEE OF THE WHOLE REPORT
FROM THE MEETING HELD APRIL 21, 2022

For the Council meeting of May 5, 2022, the Committee recommends the following:

F.2 Options to Reduce Single-Use Items and Encourage Reuse

That Council:

1. Direct the City Solicitor to draft a bylaw for the protection of the natural environment, subject to the approval by the Minister prior to adoption, to reduce single-use items and encourage the use of reusable products by requiring that businesses:
 - a) distribute single-use straws, utensils, stir sticks, and condiment packages (made of any material) only when requested (three months after bylaw adoption),
 - b) use reusable products for food and beverages consumed on the premises of the business, with exemptions for businesses that cannot accommodate sanitization procedures for reusable products (nine months after bylaw adoption),
 - c) charge a fee starting at \$0.25 for any single-use takeout cup or container with exemptions for free drinks and drink vouchers, hospitals and community care facilities, and charitable food services (12 months after bylaw adoption for takeout and 24 months after bylaw adoption for delivery and drive-through).
2. Direct the Director of Engineering and Public Works to monitor impacts of the fee for cups and containers and report back to Council if adjustments are required to further motivate waste reduction.
3. Direct the Director of Engineering and Public Works to report back on options to prohibit specific single-use products if the final federal Single-Use Plastics Prohibition Regulations deviate significantly from their current draft.
4. Direct the Head of Engagement to develop a communication and outreach plan to support businesses transition to the changes considered in the proposed bylaw.
5. Advocate to the Minister of Environment and Climate Change Strategy to endorse and expedite approval of municipal bylaws that encourage reusable alternatives to single-use disposable items.
6. Work with partners to facilitate the provision of reusable water bottles and reusable cups free of charge for unhoused and other low-income community members, and reusable or non-plastic disposable straws from people with disabilities.
7. Direct staff to report back in 12 months on the feasibility of implementing a regulation requiring businesses to participate in a reusable cup and container program.

F.3 Garden Suite Program Review

1. Prepare and bring forward, for first and second readings, an Official Community Plan Amendment Bylaw to update the Garden Suites Policy and Guidelines, as identified in this report.
2. Consider consultation under Section 475(2)(b) of the Local Government Act and direct staff that no referrals of the Official Community Plan Amendment Bylaw are necessary to the Capital Regional District Board, Island Health, Songhees Nation, Esquimalt Nation, provincial or federal governments, Township of Esquimalt, District of Saanich and the District of Oak Bay.
3. Consider consultation under Sections 475(1) and 475(2) of the Local Government Act and direct staff to undertake focused consultation with the development industry and the Community Association Land Use Committees on the proposed amendments to the Official Community Plan through a 30-day notification and notice posted on the City website.
4. Prepare and bring forward, for first and second readings, amendments to the Land Use Procedures Bylaw revising the Development Permit application base fee for Garden Suites from \$1,000 to \$3,000, increasing to \$3,500 if the application is not consistent with the applicable Design Guidelines and must be referred to Council for consideration.

That the proposed fees in the report be reduced to \$2,000 for a base fee.



Council Report

For the Meeting of July 18, 2024

To: Council **Date:** July 9, 2024
From: C. Kingsley, City Clerk
Subject: 515 Foul Bay Road: Rezoning Application No. 00807

RECOMMENDATION

That the following bylaw be given first, second and third readings:

1. Zoning Regulation Bylaw, Amendment Bylaw (No. 1340), No. 24-048

BACKGROUND

Attached for Council's initial consideration is a copy of the proposed Bylaw No. 24-048.

The issue came before Council on May 9, 2024 where the following resolution was approved:

515 Foul Bay Road: Rezoning Application No. 00807, Development Permit with Variances Application No. 00255 and Heritage Designation Application No. 00163 (Fairfield)

Rezoning Application

1. *That Council instruct the Director of Sustainable Planning and Community Development to prepare the necessary Zoning Regulation Bylaw amendment that would authorize the proposed development outlined in the staff reports dated October 10, 2023 and April 3, 2024 for 515 Foul Bay Road.*
2. *That, after publication of notification in accordance with section 467 of the Local Government Act, first, second and third reading of the zoning regulation bylaw amendment be considered by Council.*
3. *That following the third reading of the zoning amendment bylaw, the applicant prepare and execute legal agreements securing the following, with form satisfactory to the City Solicitor prior to adoption of the bylaw:*
 - a. *provision of a 1.6m wide statutory right-of-way for highway purposes along the Foul Bay Road frontage, with terms to the satisfaction of the Director of Engineering and Public Works*
 - b. *provision of a detailed design, supply and installation of a new Rectangular Rapid Flashing Beacon (RRFB) pedestrian crossing of Foul Bay Road at its intersection with Chandler Avenue, including a curb extension at the west side of Foul Bay Road, wheelchair ramps, tactile indicators and all associated infrastructure, to the satisfaction of the Director of Engineering and Public Works*
 - c. *protection, restoration and maintenance of the existing greenspace with a site area of approximately 1,468 m² in accordance with the plans date stamped by Planning*

- on February 26, 2024, which includes provision of a bee colony in the conservation area for a period of at least two years and ensuring that design and construction in the area follows the recommendations in the February 23, 2024 arborist report from Gye & Associates to minimize impacts to trees, to the satisfaction of the Director of Parks, Recreation and Facilities
- d. a minimum of five units in the existing multiple dwelling as rental units for the life of the building as outlined in the report dated April 3, 2024, with contents satisfactory to the Director of Sustainable Planning and Community Development
 - e. provision of no less than one adaptable unit, in accordance with the standards in the British Columbia Building Code and BC's Building Accessibility Handbook, to the satisfaction of the Director of Sustainable Planning and Community Development; and
 - f. provision of transportation demand management measures, to the satisfaction of the Director of Engineering and Public Works, including:
 - i. two over-sized long-term bicycle parking spaces;
 - ii. 50% of required long-term bicycle parking with access to an electrical outlet;
 - iii. bicycle wash and maintenance facility.
4. That adoption of the zoning bylaw amendment will not take place until:
- a. third reading of an associated heritage designation bylaw to designate the property known as 515 Foul Bay Road, as described in the Statement of Significance attached as Attachment F, pursuant to Section 611 of the Local Government Act, to the satisfaction of the Director of Sustainable Planning and Community Development,
 - b. all of the required legal agreements that are registrable in the Land Title Office have been so registered to the satisfaction of the City Solicitor.
5. That the above Recommendations be adopted on the condition that they create no legal rights for the applicant or any other person, or obligation on the part of the City or its officials, and any expenditure of funds is at the risk of the person making the expenditure.

Development Permit with Variances Application

That Council, after giving notice, consider the following motion:

1. That subject to the adoption of the necessary Zoning Regulation Bylaw amendment, Council authorize the issuance of Development Permit with Variances No. 00255 for 515 Foul Bay Road, by plans submitted to the Planning department and date stamped by Planning on February 26, 2024, in accordance with the following:
 - a. Subject to submission of revised plans to align architectural site plans and landscape plans, to the satisfaction of the Director of Sustainable Planning and Community Development.
 - b. Subject to the proposed development meeting all City zoning and subdivision and development servicing bylaw requirements, except for the following variances:
 - i. reduce minimum front yard setback from 6.00m to 0.41m
 - ii. reduce minimum side yard setback (north) from 4.00m to 3.08m
 - iii. increase maximum eave projection from 0.75m to 0.79m
 - iv. permit vehicle parking in the front yard
 - v. reduce short-term bicycle storage from 18 spaces to 10 spaces
 - vi. increase maximum drive aisle slope from 8.00% to 11.36%
 - vii. reduce minimum two-way drive aisle width from 6.00m to 4.00m
 - viii. increase maximum accessory building height from 3.50m to 4.00m
 - ix. permit above-ground electrical, telecommunication and cable television services.
 - c. That pursuant to section 512(2) of the Local Government Act, Council exempts the existing property at 515 Foul Bay Road as well as the new proposed lot to

be created by subdivision, as generally shown in the plans submitted to the Planning department and date stamped by Planning on February 26, 2024 from the minimum frontage requirements of section 512(1) at the time of subdivision.

2. *That the Development Permit with Variances, if issued, expires two years from the date of this resolution.*

Heritage Designation Application No. 000163

That Council:

1. *Instruct staff to prepare a heritage designation bylaw to designate the property at 515 Foul Bay Road, that first and second reading of the bylaw be considered by Council and that a Public Hearing date be set.*
2. *Approve the Statement of Significance for 515 Foul Bay Road attached as Attachment F to this report recognizing the building exterior as the historic features of the property.*

Respectfully submitted,

Curt Kingsley
City Clerk

Report accepted and recommended by the City Manager

List of Attachments:

- Bylaw No. 24-048

A BYLAW OF THE CITY OF VICTORIA

The purposes of this Bylaw are to amend the Zoning Regulation Bylaw as follows:

- create the RTM-2 Zone, Foul Bay Multiple Dwelling District;
- create the R1-G9 Zone, Foul Bay Heritage District;
- rezone the eastern portion of the land known as 515 Foul Bay Road from the R1-G Zone, Gonzales Single Family District to the RTM-2 Zone, Foul Bay Multiple Dwelling District; and
- rezone the western portion of the land known as 515 Foul Bay Road from the R1-G Zone, Gonzales Single Family District to the R1-G9 Zone, Foul Bay Heritage District

The Council of The Corporation of the City of Victoria in an open meeting assembled enacts the following provisions:

- 1 This Bylaw may be cited as the “ZONING REGULATION BYLAW, AMENDMENT BYLAW (NO. 1340)”.
- 2 Bylaw No. 80-159, the Zoning Regulation Bylaw, is amended as follows:
 - (a) in the Table of Contents of Schedule “B” under the caption PART 2 – ATTACHED DWELLING ZONES by adding the following words:

“*2.169 RTM-2 Foul Bay Multiple Dwelling District”;
 - (b) in the Table of Contents of Schedule “B” under the caption PART 1 – DETACHED DWELLING ZONES by adding the following words:

“1.163 R1-G9 Zone, Foul Bay Heritage District”;
 - (c) in Schedule “B” after Part 2.168, by adding the provisions contained in Schedule 1 of this Bylaw;
 - (d) in Schedule “B” after Part 1.162, by adding the provisions contained in Schedule 2 of this Bylaw; and
 - (e) the land known as 515 Foul Bay Road, legally described as 030-899-630; Lot 1 Section 68 Victoria District Plan EPP75653 and shown on the attached map, is removed from the R1-G Zone, Gonzales Single Family District, and
 - (i) that portion of the lot marked “RTM-2” on the attached map is placed in the RTM-2 Zone, Foul Bay Multiple Dwelling District, and
 - (ii) that portion of the lot marked “R1-G9” on the attached map is placed in the R1-G9 Zone, Foul Bay Heritage District.

READ A FIRST TIME the day of 2024

READ A SECOND TIME the day of 2024

READ A THIRD TIME the day of 2024

ADOPTED on the day of 2024

CITY CLERK

MAYOR

PART 2.169 – RTM-2 ZONE, FOUL BAY MULTIPLE DWELLING DISTRICT**2.169.1 Definitions**

In this Part, “ground-oriented multiple dwelling” means a building having no less than three and no more than six self-contained dwelling units, at least half of which have individual and direct access to the outside for ingress and egress.

2.169.2 Permitted Uses in this Zone

The following uses are the only uses permitted in this Zone:

- a. Single family dwelling, subject to the regulations set out in Part 1.2 of the Zoning Regulation Bylaw
- b. Two family dwelling, subject to the regulations set out in Part 2.1 of the Zoning Regulation Bylaw
- c. Ground-oriented multiple dwelling
- d. Home occupation subject to the regulations in Schedule “D”
- e. Accessory building subject to the regulations in Schedule “F” except as otherwise specified by the regulations in this Part

2.169.3 Number of Buildings

Notwithstanding Section 19 of the Bylaw, up to three buildings are permitted on a lot provided each of the buildings is a ground-oriented multiple dwelling.

2.169.4 Lot Area

- a. Lot area (minimum) 920.00m²
- b. Lot width (minimum) 75.00m

2.169.5 Floor Area, Floor Space Ratio

- a. Total floor area (maximum) 1433.00m²
- b. Floor space ratio (maximum) 0.37:1.00

2.169.6 Height

- a. Building height (maximum) 10.30m

PART 2.169 – RTM-2 ZONE, FOUL BAY MULTIPLE DWELLING DISTRICT**2.169.7 Setbacks**

- | | |
|--|-------|
| a. <u>Front yard setback</u> (minimum) | 0.00m |
| b. <u>Rear yard setback</u> (minimum) | 5.00m |
| c. <u>Side yard setback</u> (minimum) | 3.00m |

2.169.8 Site Coverage, Open Site Space

- | | |
|-------------------------------------|--------|
| a. <u>Site Coverage</u> (maximum) | 18.00% |
| b. <u>Open site space</u> (minimum) | 59.00% |

2.169.9 Vehicle and Bicycle Parking

- | | |
|--|--|
| a. Vehicle parking (minimum) | Subject to the regulations in Schedule "C" except as otherwise specified by the regulations in this Part |
| b. Bicycle parking (minimum) | Subject to the regulations in Schedule "C" except as otherwise specified by the regulations in this Part |
| c. Notwithstanding Section 2.2 (1) and 2.2 (2) of Schedule "C", parking spaces may be provided on a different lot from the lot on which the building or use is to which they appertain. | |
| d. Notwithstanding Section 3.1(1) of Schedule "C", up to four <u>short-term bicycle parking</u> spaces may be provided on a different <u>lot</u> from the <u>lot</u> on which the <u>building</u> or use is to which they appertain. | |

2.169.10 General Regulations

Section 14(3) of the Bylaw does not apply in this zone.

2.169.11 Accessory Building Regulations

Sections 1 and 4b of Schedule "F" do not apply in this zone.

PART 1.163 – R1-G9 ZONE, FOUL BAY HERITAGE DISTRICT**1.163.1 Permitted Uses in this Zone**

- a. Single family dwelling with no more than one of the following accessory uses:
 - i. Secondary suite; or
 - ii. Garden suite subject to the regulations in Schedule “M”; or
 - iii. Roomers and/or Boarders up to a maximum of four
- b. The uses created as a result of a house conversion, subject to the regulations in Schedule “G” except as otherwise specified by the regulations in this Part
- c. Home occupation, subject to the regulations in Schedule “D”
- d. Accessory buildings, subject to the regulations in Schedule “F” except as otherwise specified by the regulations in this Part

1.163.2 Lot Area, Lot Width

- | | |
|-------------------------------|-----------------------|
| a. <u>Lot area</u> (minimum) | 1020.00m ² |
| b. <u>Lot width</u> (minimum) | 37.00m |

1.163.3 Floor Area, Floor Space Ratio

- | | |
|--|----------------------|
| a. <u>Total floor area</u> (maximum) | 910.00m ² |
| b. <u>Floor space ratio</u> (maximum) | 0.89:1.00 |
| c. <u>Floor area</u> , for the first and second storeys combined (maximum) | 600.00m ² |

1.163.4 Height, Storeys

- | | |
|---|--------|
| a. Principal <u>building height</u> (maximum) | 11.70m |
| b. Notwithstanding Section 6 of Schedule “G”, if applicable, the maximum number of storeys in this zone is 3.50 | |

1.163.5 Setbacks, Projections

- | | |
|--|-------|
| a. <u>Front yard setback</u> (minimum) | 6.00m |
| b. <u>Setback</u> from all other interior <u>lot lines</u> (minimum) | 1.10m |
| Except for the following maximum projections into the <u>setback</u> : | |
| • stairs | 0.49m |

PART 1.163 – R1-G9 ZONE, FOUL BAY HERITAGE DISTRICT**1.163.6 Site Coverage, Open Site Space**

- | | |
|--|--------|
| a. <u>Site Coverage</u> (maximum) | 33.00% |
| b. <u>Open site space</u> (minimum) | 58.00% |
| c. <u>Open site space</u> in the <u>front yard</u> (minimum) | 41.00% |

1.163.7 Vehicle and Bicycle Parking

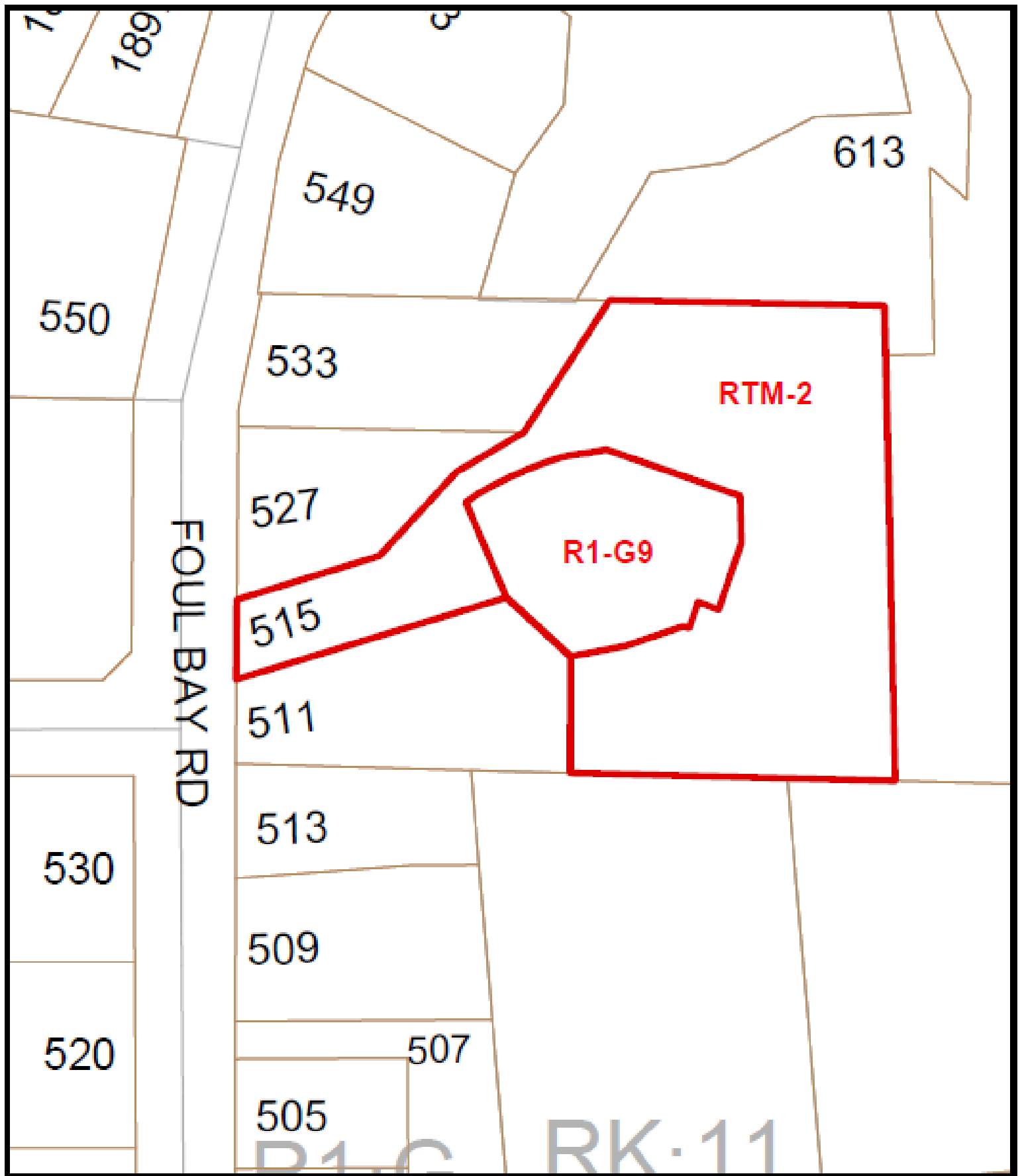
- | | |
|--|--|
| a. Vehicle parking (minimum) | Subject to the regulations in Schedule “C” except as otherwise specified by the regulations in this Part |
| b. Bicycle parking (minimum) | Subject to the regulations in Schedule “C” |
| c. Notwithstanding Section 2.2 (1) and 2.2 (2) of Schedule “C”, parking spaces may be provided on a different lot from the lot on which the building or use is to which they appertain | |

1.163.9 Panhandle Regulations

Section 14(3) of the Bylaw does not apply in this zone.

1.163.10 House Conversion Landscaping

For the uses created as a result of a house conversion, the following sections of Schedule “G” do not apply in this zone: Sections 7a, 7b and 7c.



515 Foul Bay Road
Rezoning No.00807





Council Report

For the Meeting of July 18, 2024

To: Council **Date:** July 4, 2024
From: Susanne Thompson, Deputy City Manager and Chief Financial Officer
Subject: Development Cost Charges Bylaw

RECOMMENDATION

That Council consider first, second and third readings of Development Cost Charges Bylaw No. 24-053

EXECUTIVE SUMMARY

On July 4, 2024, Council directed staff to bring forward an amended Development Cost Charges (DCC) bylaw for consideration of introductory readings.

After third reading, the bylaw will be forwarded to the Ministry of Municipal Affairs for review and approval. Staff anticipate that the approval from the Inspector of Municipalities would be received this fall. At that time, the bylaw will be brought to Council for consideration of adoption, and if adopted, the new rates would come into effect. A one-year protection period for all in-stream applications would be in place and the previous DCC levies would be applied to those applications.

Respectfully submitted,

Susanne Thompson
Deputy City Manager and Chief Financial Officer

Report accepted and recommended by the City Manager

DEVELOPMENT COST CHARGES BYLAW 2024

A BYLAW OF THE CITY OF VICTORIA

The purpose of this bylaw is:

- (a) to provide funds to assist the City in paying the capital costs of providing, constructing, altering, or expanding sanitary sewer, water, drainage and roads facilities, and providing and improving park land to service directly or indirectly, the development for which the charges are imposed; and
- (b) to repeal and replace the Development Cost Charges Bylaw No. 17-020.

In setting the development cost charges in this bylaw, Council has taken into consideration:

- (a) whether the charges:
 - (i) are excessive in relation to the capital cost of prevailing standards of service,
 - (ii) will deter development,
 - (iii) will discourage the construction of reasonably priced housing or the provision of reasonably priced serviced land, and
 - (iv) will discourage development designed to result in a low environmental impact;
- (b) future land use patterns and development, the phasing of works and services and the provision of park land described in the Official Community Plan, and how development designed to result in a low environmental impact may affect the capital costs of sanitary sewer, drainage, and roads, and providing and improving park land; and
- (c) capital costs attributable to projects included in the City's financial plan and long-term capital plans, and to capital projects consistent with the Official Community Plan.

Contents

1	Title
2	Definitions and Interpretation
3	Development Cost Charges
4	Exemptions
5	Calculation of Applicable Charges
6	Severability
7	Repeal
8	Effective Date

Schedule A – Development Cost Charges

Pursuant to its statutory powers, including sections 558-570 of the *Local Government Act*, the Council of the Corporation of the City of Victoria in an open meeting assembled enacts the following provisions:

Title

- 1 This bylaw may be cited as the “Development Cost Charges Bylaw 2024”.

Definitions and Interpretation

- 2 (1) This bylaw applies to all applications for subdivisions and for issuance of a building permit for parcels located in the City of Victoria.
- (2) In the event of a conflict with any term of this bylaw with the provisions of the *Local Government Act* authorizing the imposition of development cost charges, this bylaw is to be interpreted so that it is consistent with the authority set out in the *Local Government Act*.
- (3) For the purposes of this bylaw, the words or phrases that are not defined in this section shall have the meaning assigned to them in the zoning bylaw.
- (4) In this bylaw:
- “**building**” means anything constructed or placed on a lot used or intended for supporting or sheltering any use, excluding landscaping, docks, wharfs and piers;
- “**building permit**” means any permit required under the Building and Plumbing Regulation Bylaw, 2017;
- “**City**” means the City of Victoria;
- “**commercial**” means a commercial development in a commercial zone listed in the Zoning Bylaw or a similar development in another zone permitted in accordance with the zoning bylaw, in which the predominant use of the zone, as determined by its purpose and list of permitted uses, is of a commercial nature;
- “**construction**” includes building, erection, installation, repair, alteration, addition, enlargement, moving, relocating, reconstruction, demolition, removal, excavation, or shoring requiring a building permit;
- “**dwelling unit**” means a self-contained set of rooms, including provisions for living, sleeping, cooking and sanitation; containing not more than one kitchen, with a direct entrance to the open air or to a common hallway or corridor, without passing through any other dwelling unit; includes secondary suites or accommodation units and mobile homes, and modular homes or prefabricated dwellings;

"garden suite" means a building attached to a foundation, used or designed as a self-contained dwelling unit located on a lot with a single family dwelling and does not include a strata lot;

"high density residential" means a building or portion of building containing 3 or more self-contained dwelling units, one or more of which are wholly or partly above another self-contained dwelling unit;

"industrial" means an industrial development in a zone listed in the zoning bylaw, or similar development in another zone permitted in accordance with the zoning bylaw, in which the predominant use, as determined by its general purpose and list of permitted uses, is of an industrial nature;

"institutional" means an institutional development in a public or institutional zone listed in the zoning bylaw or a similar development in another zone permitted in accordance with the zoning bylaw, in which the predominant use of the zone, as determined by its purpose and list of permitted uses, is of an institutional nature;

"lot" means any lot, parcel, block or other area in which land is held or into which it is legally subdivided, and for certainty, includes a bare land strata lot under the *Strata Property Act*;

"low density residential" means a single-family dwelling unit, which may contain one additional dwelling unit in the form of an attached secondary suite, or a two-family dwelling comprising two self-contained dwelling units;

"medium density residential" means a garden suite (detached secondary suite) or a ground-oriented building that is used or designed as 3 or more self-contained dwelling units, each having direct access to the outside at grade level and does not contain a self-contained dwelling unit wholly or partly above another self-contained dwelling unit;

"parcel" means any lot, block or other area in which land is held or into which it is subdivided but does not include a highway;

"secondary suite" has the same meaning as under the *British Columbia Building Code*, and does not include a strata lot;

"single family dwelling" means a detached building having independent exterior walls and containing only one self-contained dwelling unit. Where specially permitted in the zoning bylaw, this use may contain one additional dwelling unit in the form of a secondary suite or accommodation unit;

"subdivision" means a subdivision as defined in the *Land Title Act* or *Strata Property Act*;

"total floor area" shall have the same meaning as that contained in the zoning bylaw;

“two family dwelling” means a building consisting of two self-contained dwelling units which share a common wall or an area that forms the floor of one unit and the ceiling of the other and are not linked by a trellis, deck, breezeway or similar connection;

“zone” means the zones identified and defined in the zoning bylaw;

“zoning bylaw” means the Zoning Regulation Bylaw (No. 80-159) or the Zoning Bylaw 2018 (No. 18-072), as applicable.

Development Cost Charges

- 3** The Development Cost Charges set out in Schedule A are hereby imposed on every person who obtains:
- (a) approval of a subdivision of land under the *Land Title Act* or the *Strata Property Act*, that results in two or more parcels on which the zoning bylaw permits the construction of a low density residential dwelling unit;
 - (b) approval of a building permit authorizing the construction of a low density residential dwelling unit on an existing parcel; or
 - (c) approval of a building permit authorizing the construction of medium density residential, high density residential, commercial, industrial, or institutional;

and the development cost charge shall be paid upon approval of a subdivision or issuance of a building permit, as the case may be.

Exemptions

- 4** Despite any other provision of this bylaw, a development cost charge is not payable if any of the following applies in relation to a development authorized by a building permit:
- (a) the permit authorizes the construction of a building or part of a building that is, or will be, after the construction, exempt from taxation under section 220(1)(h) or 224(2)(f) of the *Community Charter*;
 - (b) the permit authorizes the construction of dwelling units in a building, the area of each dwelling unit is no larger than 29m², and each dwelling unit will be put to no other use than residential use;
 - (c) the permit authorizes a residential development with fewer than four (4) self-contained dwelling units;
 - (d) the value of the work authorized by the permit does not exceed \$50,000;
 - (e) a development cost charge has previously been paid for the development unless, as a result of further development, new capital cost burdens will be imposed on the municipality; or

- (f) The *Local Government Act* or any regulations thereunder provide that no development cost charge is payable.

Calculation of Applicable Charges

- 5** (1) The amount of development cost charges payable in relation to a particular development shall be calculated using the applicable charges set out in Schedule A of this bylaw.
- (2) Where a type of development is not specifically identified in Schedule A, the amount of development cost charges to be paid to the City shall be equal to the development cost charges that are payable for type of development that in the opinion of the Director of Sustainable Planning and Community Development imposes the most similar cost burden on the City's transportation, sewer, water, drainage and park services.
- (3) The amount of development cost charges payable in relation to mixed-use type of development shall be calculated separately for each portion of the development, in accordance with Schedule A, based on the mix of uses included in the building permit application and the total development cost charges payable shall be the sum of the charges payable for each type.

Severability

- 6** If any portion of this bylaw is declared invalid by a court of competent jurisdiction, then the invalid portion must be severed, and the remainder of the bylaw remains valid.

Repeal

- 7** The Development Cost Charges Bylaw No. 17-020 is repealed.

Effective Date

- 8** This bylaw comes into force on adoption.

READ A FIRST TIME the	day of	2024
READ A SECOND TIME the	day of	2024
READ A THIRD TIME the	day of	2024
APPROVED BY THE INSPECTOR OF MUNICIPALITIES	day of	2024
ADOPTED on the	day of	2024

CITY CLERK

MAYOR

SCHEDULE A

DEVELOPMENT COST CHARGES BYLAW NO. 24-053

	Unit	Transportation	Water	Drainage	Sewer	Parks	Total
Low density residential	Per lot / Per dwelling unit	\$9,254.76	\$4,071.05	\$571.55	\$2,104.61	\$8,580.10	\$24,582.06
Medium density residential	Per dwelling unit	\$4,212.51	\$2,770.24	\$276.25	\$1,432.13	\$5,838.53	\$14,529.66
High density residential	Per dwelling unit	\$3,957.21	\$1,686.23	\$138.12	\$871.73	\$3,553.89	\$10,207.18
Commercial	Per square metre of total floor area	\$63.83	\$13.25	\$1.52	\$6.85	\$5.58	\$91.03
Industrial	Per square metre of total floor area	\$19.15	\$5.42	\$1.05	\$2.80	\$2.28	\$30.70
Institutional	Per square metre of total floor area	\$63.83	\$13.25	\$1.52	\$6.85	\$5.58	\$91.03



Council Report

For the Meeting of July 18, 2024

To: Council **Date:** July 9, 2024
From: Sarah Webb, Assistant Director Corporate Planning and Strategic Project Support
Subject: Delegation Bylaw No. 24-045

RECOMMENDATION

That Council:

- i. Give first, second and third readings to Delegation Bylaw No. 24-045
- ii. Direct the Deputy City Manager to report back to Council within 18 months of adoption of the bylaw with an update on how the bylaw is operating in practice and propose any further modifications if necessary.

EXECUTIVE SUMMARY

On May 23, 2024, Council directed staff to develop a new comprehensive bylaw to delegate select administrative powers to staff in support of goals to increase efficiency of service delivery, provide greater responsiveness to residents and businesses, and improve the focus of Council business. Under the new bylaw, senior staff may take faster and more flexible action to respond to routine agreements and matters.

Staff will report back within 18 months of adoption with a summary of how newly delegated authorities have been put into practice and, if required, bring forward any further modifications or changes for Council's consideration.

Respectfully submitted,

Sarah Webb
Assistant Director
Corporate Planning and Strategic Project Support

Report accepted and recommended by the City Manager

List of Attachments: Delegation Bylaw No. 24-045

DELEGATION BYLAW

A BYLAW OF THE CITY OF VICTORIA

The purpose of this bylaw is to facilitate more efficient operations by expanding the types of Council-approved documents that designated City positions may sign and to expand the types of delegations that designated City employees can approve, negotiate and administer on behalf of the City without a need for specific Council approval in individual instances.

Contents

1	Title
2	Definitions
3	Signing Authority
4	Delegated Authority
5	Power to Act for Directors
6	Policies to Govern Delegation
7	Referral to Council
8	No Sub-Delegating
9	Consequential Amendments
10	Commencement
	Schedule A: Signing Authority
	Schedule B: Delegated Authority
	Appendix 1: Decorative Encroachment Agreement
	Appendix 2: Anchor Rod Encroachment Agreement

Pursuant to its statutory powers, including sections 146 and 154 of the *Community Charter*, the Council of the Corporation of the City of Victoria in an open meeting assembled enacts the following provisions:

Title

- 1 This bylaw may be cited as the “Delegation Bylaw”.

Definitions

- 2 In this bylaw:

“acquiring department” means:

- a) the City department that will manage a purchase agreement and on whose behalf that purchase agreement is mainly solicited, negotiated, or entered into, or
- b) Supply Management Services, where no other City department is responsible for managing a purchase agreement.

“anchor rod” means any steel or other rod, pipe or thing an intended purpose of which is to shore or support an excavation face or prevent subsistence.

“authority to negotiate, enter into, execute, and administer” includes the power to offer, advertise, establish terms and conditions, register, extend, renew, amend, enforce, and otherwise exercise all City powers under an agreement or instrument.

“Chief Financial Officer” means the person exercising the powers, duties and functions described in section 149 of the *Community Charter*.

“Chief Information Officer” means the person employed by the City as the head of its Information Technology department or a successor position with the same responsibilities as the position designated in this bylaw.

“City Clerk” has the same meaning as in the *Council Procedures Bylaw*.

“City Manager” means the person exercising the powers, duties and functions described in section 147 of the *Community Charter*.

“City Property” means any land, other than street, that is owned or held under a lease by the City and includes buildings or other improvements on that land.

“City Solicitor” means the person employed by the City as the head of its Legal Services department and includes lawyers acting under their direction and authority.

“Department Director” means the person employed by the City as the head of a City department, and in relation to a purchase agreement, means the head of the acquiring department.

“Director of Business and Community Relations” means the person employed by the City as the head of its Business and Community Relations department or a successor position with the same responsibilities as the position designated in this bylaw.

“Director of Engineering” means the person employed by the City as the head of its Engineering and Public Works department or a successor position with the same responsibilities as the position designated in this bylaw.

“Director of Parks” means the person employed by the City as the head of its Parks, Recreation and Facilities department or a successor position with the same responsibilities as the position designated in this bylaw.

“Director, People and Culture” means the person employed by the City as the head of its People and Culture department or a successor position with the same responsibilities as the position designated in this bylaw.

“Director of Planning” means the person employed by the City as the head of its Planning and Development department or a successor position with the same responsibilities as the position designated in this bylaw.

“Director of Strategic Real Estate” means the person employed by the City as the head of its Strategic Real Estate department or a successor position with the same responsibilities as the position designated in this bylaw.

“Financial Plan” has the same meaning as in the *Community Charter*.

“Manager” means the person employed by the City as the manager of its Supply Management Services division of the City’s Finance Department.

“park” includes a public park, playground, square, green, footpath, beach, road in a park, Bastion Square, Centennial Square, garden, and other City land that is under the custody, care and management of the Director of Parks.

“Project Manager” means an employee of the City designated by the Department Director or their business unit manager for contract administration of a purchase agreement.

“public body” means a local, provincial, federal or Indigenous government or their agencies or corporations; or educational body or health care body as those terms are defined in the *Freedom of Information and Protection of Privacy Act*.

“purchase agreement” means a contract under which the City will obtain goods, services or both, but does not include partnering agreements, cooperative or cost-sharing agreements or grant agreements.

“remnant parcel” means a City-owned lot that cannot be practically developed unless it is consolidated with adjacent lots.

“street” includes a highway, as defined in the *Motor Vehicle Act*.

Signing Authority

- 3 The authority to execute agreements in relation to matters identified in Column A of Schedule A is delegated to City positions identified in the corresponding row in Column B of that Schedule, subject to any terms or conditions identified in the corresponding row in Column C.

Delegated Authority

- 4 (1) The authority to negotiate, enter into, execute, and administer agreements in relation to matters listed in Schedule B is delegated to City employees specified

in the corresponding row in Column B of Schedule B, subject to any terms or conditions in the corresponding row in Column C.

- (2) Where the agreement requires the publication of notice, the person to whom authority is delegated under subsection (1) is also delegated the duty to publish notice in accordance with the *Community Charter* or *Local Government Act*.

Power to Act for Directors

- 5 (1) If a director to whom a power, duty, or function has been delegated under this bylaw is absent or unable to act, their deputy, assistant director or equivalent position, may exercise that power, duty, or function.
- (2) Subsection (1) applies whether or not the office of the director is vacant.

Policies to Govern Delegation

- 6 (1) Council may, by resolution, adopt policies to govern the exercise of the powers, duties, or functions delegated under this bylaw.
- (2) If Council adopts a policy under subsection (1) or a City department has an established policy approved by the Department Director in relation to a power, duty, or function delegated under this bylaw, such power, duty, or function must only be exercised in accordance with that policy.

Referral to Council

- 7 (1) Nothing in this bylaw prevents a person to whom a power, duty, or function has been delegated under this bylaw from referring the matter to Council for a decision.
- (2) Council may exercise any power, duty, or function delegated under this bylaw, provided that it has not been previously exercised in accordance with this bylaw.

No Sub-Delegating

- 8 For clarity, a person to whom a power, duty, or function has been delegated under this bylaw has no authority to further delegate to another person that power, duty, or function.

Repeal

- 9 The following bylaws or bylaw sections are repealed:
 - (a) Delegation of Council Powers Bylaw No. 01-44;
 - (b) Delegation of Signing Authority Bylaw No. 09-031;

- (c) Delegation Bylaw No. 23-079; and
- (d) Part 4 – Encroachments in Delegated Approvals, Schedule F – Encroachment for Decorative Features and Schedule G – Encroachment for Anchor Rods of the Land Use Procedures Bylaw No. 16-028.

Commencement

10 This bylaw comes into force on adoption.

READ A FIRST TIME the day of 2024

READ A SECOND TIME the _____ day of _____ 2024

READ A THIRD TIME the _____ day of _____ 2024

ADOPTED on the _____ day of _____ 2024

CITY CLERK

MAYOR

SCHEDULE A

Signing Authority

Row #	Column A	Column B	Column C
1.	Agreement, contract, memorandum of understanding, deed, debenture, instrument or plan	Mayor and City Clerk; or City Manager	Approved by Council resolution or bylaw
2.	Heritage revitalization agreements	Director of Planning	Approved by heritage revitalization agreement bylaw
3.	Heritage tax exemption agreements	Director of Planning	Associated heritage tax exemption bylaw; exemption agreement terms approved by Council resolution or bylaw
4.	Housing agreements	Director of Planning	Approved by housing agreement bylaw
5.	Housing grant (Victoria Housing Fund Reserve) agreements	Director of Planning	Approved by Council resolution or bylaw
6.	Land title documents including Form A (freehold transfer), Form C (charges or release of charge), Form 17 (fee simple registration or charge, notation or filing or release of charge, notation or filing), Application to Deposit Plans, Claim of Lien (<i>Builders Lien Act</i>), declarations, land owner transparency forms	City Solicitor; or City Clerk; or City Manager	1. Must be one of the following types of documents: <ol style="list-style-type: none"> a. Documents required as a condition of subdivision or building permit b. Documents entered into to secure commitments in a development approved by Council or by delegated employee c. Documents to complete an agreement or transaction approved by Council or by delegated employee d. Documents that, in the

			<p>opinion of the City Solicitor, do not impose a duty or obligation on the City</p> <p>e. Releases or cancellation of charge, notation or filing approved by Council</p> <p>2. Signatures witnessed in accordance with <i>Land Title Act</i></p>
7.	Lease or licence, in relation to:		<p>1. Approved by Council resolution or bylaw</p> <p>2. In a form satisfactory to the City Solicitor</p>
	a. all matters	City Manager	
	b. City Property	Director of Strategic Real Estate	
	c. parks	Director of Parks	
	d. streets	Director of Engineering	
8.	Offers to purchase, purchase and sale agreement and all documents necessary to complete a purchase or sale including land title documents	Director of Strategic Real Estate	<p>1. Approved by Council resolution or bylaw</p> <p>2. In a form satisfactory to the City Solicitor</p> <p>3. Land title documents witnessed by City Solicitor</p>
9.	Revitalization tax exemption agreements	Director of Planning	In the form prescribed by bylaw or on terms approved by Council resolution
10.	Works and services agreements	Director of Engineering	In the form prescribed by Subdivision and Development Servicing bylaw

SCHEDULE B**Part 1: Land**

Row #	Column A	Column B	Column C
1.	Lease or licence (City as landlord or licensor), in relation to:		1. Maximum term, including any rights of renewal, not to exceed 15 years 2. Fair market rent or licence fee of no more than \$250,000 per year, except renewals not subject to this limit 3. Rent or licence fee to non-profit organization or public body (except housing-related entities or entities operating a business) may be nominal (\$10/year) subject to a term limit of 10 years including any rights of renewal 4. Leases or licences may include terms and conditions for operating on behalf of City 5. In a form satisfactory to City Solicitor
	a. City Property	Director of Strategic Real Estate	
	b. parks	Director of Parks	
	c. streets	Director of Engineering	
	d. emergency shelter on City Property	Fire Chief	
	e. Victoria Conference Centre, excluding retail or business units	Director of Business and Community Relations	
2.	Lease or licence (City as tenant or licensee), in relation to:		1. Rent or licence fee up to maximum funding amount in Financial Plan 2. In a form satisfactory to City Solicitor
	a. non-City owned real property	Director of Strategic Real Estate	
	b. public art installation on private property	Director of Business and Community Relations	
	c. emergency shelter on non-City owned property	Fire Chief	
3.	Acquisition of real property including interests not covered elsewhere in this schedule,	Director of Strategic Real Estate	1. Acquisition is either: i) necessary to facilitate a Council-approved project,

	and all documents necessary to complete the transaction		<p>program or initiative and budget approved in Financial Plan or capital plan; or</p> <p>ii) consistent with Strategic Plan and purchase price and expenditures to a maximum of \$250,000</p> <p>2. In a form satisfactory to the City Solicitor</p> <p>3. Land title documents witnessed by City Solicitor</p>
4.	Sale of remnant parcel and all documents necessary to complete the transaction	Director of Strategic Real Estate	<p>1. Sale price to be based on independent appraisal</p> <p>2. Sale agreement and all associated documents necessary to complete transaction in a form satisfactory to the City Solicitor</p> <p>3. Land title documents witnessed by City Solicitor</p>
5.	Amendment to purchase and sale agreement where the original acquisition was approved by Council	Director of Strategic Real Estate	<p>1. Original acquisition approved by Council resolution or bylaw</p> <p>2. Minor amendments including to make corrections, alter transaction or condition removal dates or other deadlines or procedures</p> <p>3. In a form satisfactory to City Solicitor</p>
6.	Acting or voting on behalf of City in relation to City-owned strata lots or airspace parcels and related agreements	Director of Strategic Real Estate	Agreements in a form satisfactory to City Solicitor
7.	Release of registered charge or cancellation of charge, filing or notation on title to property	City Solicitor	<p>1. Expired, obsolete or superseded by new documents</p> <p>2. Signature witnessed in accordance with <i>Land Title Act</i></p>

8.	Decorative encroachment agreements, in relation to encroachments over, under or on:		1. Encroachments that meet the following criteria: a. Any awning, canopy, siding, sign or other decorative architectural feature that encroaches upon, under or over City land; and b. In the Director of Engineering's opinion, the encroachment can be removed without affecting the support or stability of the building; c. Encroachment does not contain any habitable space, including balconies or bay windows; d. Owner enters into encroachment agreement, which must be in the form prescribed at Appendix 1 of this bylaw and registered on title; and e. Land title documents witnessed in accordance with <i>Land Title Act</i>
	a. streets	Director of Engineering	
	b. City Property	Director of Strategic Real Estate	
	c. parks	Director of Parks	
9.	Anchor rod encroachment agreements	Director of Engineering	1. Owner has applied to the City for permission in a form to the satisfaction of the Director of Engineering 2. Owner has paid a non-refundable fee of \$750 and a one-time fee of \$25 per square metre of area of the proposed excavation face that will be

			<p>supported by anchor rods and abuts a street, lane or park.</p> <p>3. In the Director of Engineering's opinion, the use of anchor rods will not adversely affect the City's property or interests.</p> <p>4. Owner enters into encroachment agreement in the form prescribed at Appendix 2 of this bylaw</p>
10.	Encroachment agreements, in relation to encroachments over, under or on:		1. Owner enters into encroachment agreement in a form satisfactory the City Solicitor
	a. streets	Director of Engineering	2. In the Director of Engineering's opinion, the encroachment will not structurally affect the City's property or interests.
	b. City Property	Director of Strategic Real Estate	3. Land title documents witnessed in accordance with <i>Land Title Act</i>
	c. parks	Director of Parks	
11.	Statutory right of way agreements and associated s. 219 covenants, or road dedication, and all documents necessary for land title registration, in favour of:		1. Acquisition is either:
	a. the City, for City services (including sanitary, water, storm drainage or emergency access) necessary to facilitate a development; or to secure existing City services or access; or to secure public pedestrian or transportation access; or for any other	Director of Engineering	<p>i) necessary to facilitate a Council-approved project, program or initiative and budget approved in Financial Plan or capital plan; or</p> <p>ii) consistent with Strategic Plan and expenditures to a maximum of \$250,000</p> <p>2. In a form satisfactory to the City Solicitor</p> <p>3. Land title documents witnessed by City Solicitor</p>

	purpose that meets the City's objectives		
	b. a public or private utility or public body, on, over or under City Property	Director of Strategic Real Estate	
	c. the City, for any purpose, to facilitate a real estate transaction	Director of Strategic Real Estate	
12.	Section 219 covenants for private easements required to facilitate subdivision or development	City Solicitor	<ol style="list-style-type: none"> 1. Purpose of covenant to ensure private easement between property owners for servicing (including storm drainage, sanitary, water, etc.) or access is not discharged without the City's knowledge or consent. 2. Agreement with contents to satisfaction of Approving Officer or Deputy Approving Officer for subdivision or the Director of Planning for development 3. In a form satisfactory to the City Solicitor 4. Signatures witnessed in accordance with <i>Land Title Act</i>
13.	Exempt a parcel from statutory or bylaw minimum parcel frontage on highway	Approving officer	<ol style="list-style-type: none"> 1. Pursuant to section 512, <i>Local Government Act</i> 2. Only applies to parcels being created by subdivision
14.	Remediation indemnity agreements in relation to contamination that has migrated to City property	Director of Engineering	<ol style="list-style-type: none"> 1. Responsible person for source site to indemnify City for claims resulting from contamination migrating to City property 2. In a form satisfactory to the City Solicitor

SCHEDULE B**Part 2: Financial or capital commitments**

Row #	Column A	Column B	Column C
1.	Any contract, other than a purchase agreement, for which funding has been provided in the annual budget approved by Council	1. City Manager; or 2. Department Director	1. Up to a maximum of \$500,000 2. Contract is necessary to carry out budget item approved by Council and is in accordance with Strategic Plan 3. Agreement in a form satisfactory to City Solicitor
2.	Donation agreements for receipt of donations to the City, in relation to:		1. Must be in accordance with City's corporate donation policy; 2. Charitable tax receipt to be provided where applicable 3. Agreement in a form satisfactory to City Solicitor
	a. All matters	City Manager	
	b. Arts or culture	Director of Business and Community Relations	
	c. Land or statutory right of way	Director of Strategic Real Estate	
3.	Revenue agreements to receive revenue in relation to sponsorship of City assets	Director of Business and Community Relations	In accordance with Council-approved strategic revenue partnership policies
4.	Approval of annual grant allocations from Cultural Infrastructure Grant Program or Festival Investment Grant Program or other grant programs related to Business and Community Relations, and associated grant agreements	Director of Business and Community Relations	1. In accordance with Council-approved program guidelines 2. Up to the maximum annual program funding in the Financial Plan
5.	Agreement to sell carbon credits	Director of Engineering and Chief Financial Officer	1. Sale price must be at fair market as identified in low carbon fuel credit market reports 2. Agreement in a form satisfactory to the City Solicitor
6.	Approval of release and indemnification by City to owners of real property who allow City to use that property for training City employees	City Manager	1. Granting release from any claims made by the City in relation to its use of the real property for training purposes

			2. Indemnification by the City in connection with any claim made against the owner by a third party in relation to the City's use of real property for training purposes
7.	Software licence agreements	Chief Information Officer	Associated with approved software purchase agreement

SCHEDULE B

Part 3: Intergovernmental or partnering agreements

Row #	Column A	Column B	Column C
1.	Grant funding agreement to receive grants from a public body or other entity	1. City Manager; or 2. Department Director	1. Purpose of grant to facilitate Council-approved project or initiative or further Strategic Plan goals 2. May include grant by City if approved in Financial Plan
2.	Agreements with BC Transit related to transit infrastructure, services and programs within the City	Director of Engineering	Agreement in a form satisfactory to the City Solicitor
3.	Partnering agreement with person or public authority, in relation to:		1. Purpose to provide municipal service, activity or works on behalf of the City that delivers Council priorities identified in the Financial Plan 2. Agreement in a form satisfactory to the City Solicitor
	a. any municipal service, activity or works	City Manager	
	b. events or downtown revitalization	Director of Business and Community Relations	
4.	Information sharing agreement with other public bodies	Head of the public body pursuant to the <i>Freedom of Information and Protection of Privacy Act</i>	1. Purpose for information sharing furthers Council priorities identified in Financial Plan 2. Agreement in a form satisfactory to the City Solicitor
5.	Non-disclosure agreement with person or public body	City Manager	Terms of agreement do not preclude sharing information with Council in a closed meeting
6.	Cost-sharing agreement with person or public body to install City infrastructure or services on behalf of City	Director of Engineering	1. In accordance with Financial Plan 2. Agreement in a form satisfactory to the City Solicitor
7.	Joint use agreement with School District No. 61 in relation to use or maintenance of parks or SD61 property	Director of Parks	Agreement in a form satisfactory to the City Solicitor

SCHEDULE B**Part 4: Legal Action**

Row #	Column A	Column B	Column C
1.	Initiate legal proceedings on behalf of City: <ol style="list-style-type: none"> for debt owing or damages; or to collect unpaid taxes (s. 231, 250, 251 <i>Community Charter</i>); or to prevent or restrain erection, alteration or use of a building or land in contravention of the <i>Community Charter</i>, <i>Local Government Act</i> or a City bylaw or resolution; or for orders respecting dangerous dogs (s. 49(10), <i>Community Charter</i>); or to enforce any agreement, contract or covenant where the City is a party 	City Manager	<ol style="list-style-type: none"> On the recommendation of and with advice from City Solicitor In relation to item d., with advice from City Solicitor and on the recommendation of the animal control officer
2.	Defend legal action, accept service on behalf of the City and take all steps necessary to defend the City		<ol style="list-style-type: none"> To defend any action or proceeding, in any court of law or before any tribunal, arbitrator or any other person; May pursue a counterclaim, third party claim or similar ancillary claim in respect of an action or proceeding defended under this row
	<ol style="list-style-type: none"> in relation to all matters except employment or labour issues 	City Solicitor	
	<ol style="list-style-type: none"> in relation to employment or labour issues 	Director, People and Culture	
3.	Settlement of any claims for or against the City:		
	<ol style="list-style-type: none"> Up to \$250,000, in relation to all matters 	City Manager	<ol style="list-style-type: none"> On the recommendation of and with advice from City Solicitor in relation to all matters

			except employment or labour issues 2. On the advice of the Director, People and Culture in relation to employment or labour issues
	b. Up to \$50,000, in relation to all matters except employment or labour issues	City Solicitor	
	c. Up to \$50,000, in relation to employment or labour issues	Director, People and Culture	

SCHEDULE B**Part 5: Procurement**

Row #	Column A	Column B	Column C
1.	Purchase agreements over \$500,000	City Manager; or Project Manager but only in respect of administration, amendments and renewals	<ol style="list-style-type: none"> 1. Purchase agreement must be in writing and in a form satisfactory to the City Solicitor. 2. Any amendments that add to the work, service, or goods must be integrally related to and necessary to fulfill the objectives of the subject contract as described in the underlying solicitation. 3. Any renewal term not to exceed that set out in the underlying solicitation.
2.	Purchase agreements up to and including \$500,000	Chief Financial Officer; or Project Manager, but only in respect of administration, amendments and renewals	<ol style="list-style-type: none"> 1. Purchase agreement must be in writing and in a form satisfactory to the City Solicitor. 2. Any amendments that add to the work, service, or goods must be integrally related to and necessary to fulfill the objectives of the subject contract as described in the underlying solicitation. 3. Any renewal term not to exceed that set out in the underlying solicitation.
3.	Purchase agreements up to and including \$74,999.99	Department Director; or Manager; or Project Manager, but only in respect of administration, amendments and renewals	<ol style="list-style-type: none"> 1. Purchase agreement must be in writing and in a form satisfactory to the City Solicitor. 2. Any amendments that add to the work, service, or goods must be integrally related to and necessary to fulfill the objectives of the subject contract as described in the underlying solicitation. 3. Any renewal term not to exceed that set out in the underlying solicitation.
4.	Purchase agreement for goods up to and including \$10,000	Project Manager	<ol style="list-style-type: none"> 1. Purchase agreement must be in writing and in a form satisfactory to the City Solicitor. 2. Any amendments that add to the work, service, or goods must be integrally related to and necessary to fulfill the objectives of the subject contract as described in the underlying solicitation.

			3. Any renewal term not to exceed that set out in the underlying solicitation.
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Appendix 1
Decorative Encroachment Agreement

ENCROACHMENT FOR DECORATIVE FEATURES

TERMS OF INSTRUMENT - PART 2

THIS EASEMENT (ENCROACHMENT) AGREEMENT (this "Agreement") is entered into by and

BETWEEN:

(the "**Owner**")

AND:

THE CORPORATION OF THE CITY OF VICTORIA
 1 Centennial Square, Victoria, British Columbia, V8W 1P6

(the "**City**")

WHEREAS:

- A. The Owner is the owner of the Lands;
- B. The Owner has requested that the City grant its permission for the use of the Easement Area for the purposes of erecting and maintaining the Structures over City property as shown on the Easement Area;
- C. The City agrees to grant the Owner's request to encroach on the Easement Area, subject to the provisions of the City's bylaws as amended from time to time and subject to the terms and conditions of this Agreement, and the City agrees to grant the Owner an easement in that regard;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of permission to encroach herein granted, the sum of ONE DOLLAR (\$1.00) of lawful money of Canada paid by the Owner to the City, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both parties, the Owner hereby covenants, promises and agrees with the City as follows:

1. DEFINITIONS

1.1 In this Agreement,

- a) "**Building**" means the *[describe the building to which the Structures are affixed to]* on the Lands;

- b) **“Director of Engineering”** means the person employed by the City as the head of its Engineering and Public Works department or a successor position with the same responsibilities as this position;
- c) **“Dominant Tenement”** means the Lands;
- d) **“Lands”** means:
Civic address:
PID:
Legal description:
- e) **“Servient Tenement”** has the meaning ascribed to that term in section 2.1;
- f) **“Structures”** means _____[insert description of encroaching structures] and all support structures related thereto;
- g) **“Term”** has the meaning ascribed to that term in section 4.1;
- h) **“Works”** means constructing, installing, maintaining, cleaning, repairing and replacing the Structures;
- i) **“Volumetric Easement Area”** has the meaning ascribed to that term in section 2.2.

2. LANDS

- 2.1 The City is the owner of that portion of _____ [insert legal description or name of street if roadway] comprising an area of _____ square metres as more particularly identified on plan EPP _____ a reduced copy of which is attached at Schedule A (the **“Servient Tenement”**).
- 2.2 The Owner has requested and the City has agreed to grant an easement over a volumetric area of _____ cubic metres within the Servient Tenement as more particularly identified on volumetric plan EPP _____, a reduced copy of which is attached at Schedule B (the **“Volumetric Easement Area”**).

3. EASEMENT - PERMISSION TO ENCROACH

- 3.1 Subject to the terms of this Agreement, the City grants the Owner as owner of the Lands (and Dominant Tenement) for the benefit of the Lands and to be appurtenant to the Lands for the use and enjoyment of the Owner and its servants, agents, tenants, invitees and licensees, an easement for the non-exclusive use from time to time for the Works and to keep the Structures within the Easement Area.
- 3.2 The easement in section 3.1 is held in common with the City as owner of the Servient Tenement and its servants, agents, tenants, invitees and licensees, and any other persons to whom the City has granted rights to use the Easement Area.
- 3.3 The Owner shall not:
 - a) erect any structure or encroachment in the Easement Area other than the Structures; or

- b) permit the Structures to encroach on any City property other than the Easement Area.

4. TERM

- 4.1 This Agreement commences on the date that it is fully signed by both parties and, subject to Part 13 hereof, expires when the Building is demolished or significantly structurally altered such that the Easement Area is no longer required for the purposes of erecting and maintaining the Structures (the “**Term**”). For certainty, the easement herein granted will terminate, and will be of no further effect in the event the Building is demolished or removed from the Lands or in the event that the Building is modified such that it no longer encroaches on the Servient Tenement.

5. TITLE

- 5.1 This Agreement does not give the Owner any legal or equitable interest of any kind in the Easement Area or any exclusive right to occupy the Easement Area. The Easement Area retains its status as a _____[*highway, park, City property*].

6. MAINTENANCE

- 6.1 The Owner will carry out the Works in a proper and workmanlike manner so as to do as little injury to the Servient Tenement as possible.
- 6.2 The Owner shall, at all times and at its own expense, keep and maintain the Structures and the Easement Area in good and sufficient repair and in a neat and clean condition and in a manner which does not pose any risk to persons or property, all to the satisfaction of the City (without any obligation on the part of the City to determine what is sufficient repair or a safe condition).
- 6.3 The Owner shall make good at its own expense, all damage or disturbance which may be caused to the surface of the Servient Tenement in the exercise of their rights hereunder.
- 6.4 The Owner shall not make any structural alterations to any Structures in the Easement Area without the prior written consent of the Director of Engineering, which consent will not be unreasonably withheld or delayed.
- 6.5 Notwithstanding section 6.4, the Owner may, without prior consent of the Director of Engineering, make temporary alterations to any Structures in the event of an emergency in order to prevent or avoid risks to persons or property. The Owner as soon thereafter as is reasonable in the circumstances, shall apply for the consent of the Director of Engineering with respect to any necessary permanent structural alterations to such Structures.
- 6.6 If the Owner fails to keep the Structures and Easement Area in good repair and maintenance to the satisfaction of the City, the City may give notice to the Owner demanding that repairs and maintenance be done within the time specified by the City and if the Owner fails to do so to the City’s satisfaction, the City may, in its sole discretion (without any obligation to do so), cause such repairs to be made, including structural changes, as it deems necessary at the Owner’s expense. The Owner shall pay the costs of the repairs to the City forthwith on demand.
- 6.7 In making repairs or doing maintenance, the City may bring and leave upon the Lands and the Easement Area, the necessary materials, tools and equipment and the City shall not be liable to the Owner for any inconvenience, annoyance, loss of business or other injuries

suffered by the Owner by reason of the City effecting the repairs or maintenance or doing any work hereunder.

7. DESIGN SPECIFICATIONS

- 7.1 The Owner shall ensure that any Structures placed in the Easement Area conform to the requirements and specifications of the British Columbia Building Code and all other applicable statutes, regulations, bylaws and codes.

8. ENVIRONMENTAL PROTECTION

- 8.1 The Owner shall not do or permit to be done anything which may or does contaminate the Easement Area or any surrounding area and the Owner shall be solely responsible to remove all such contamination and remediate it to standards required by the *Environmental Management Act* (BC) and all applicable laws.

9. COMPLIANCE WITH LAWS

- 9.1 The Owner shall in respect of its use of the Easement Area and in relation to the Works and the use of the Structures comply with all applicable statutes, laws, regulations, bylaws, orders and other requirements of every governmental authority having jurisdiction.

10. INDEMNITY AND INSURANCE

- 10.1 The Owner shall indemnify and hold harmless the City and its elected and appointed officials, officers, employees and agents from all suits, proceedings, losses, damages, expenses, demands, claims, costs (including actual costs of professional advisors and costs associated with remediation of contamination) and harm of any kind, howsoever caused, whether related to death, bodily injury, property loss, property damage or consequential loss or damage, arising out of or in any way connected with:
- (a) the permission to encroach granted by this Agreement;
 - (b) the existence and use of the Easement Area for the purposes of the Works;
 - (c) construction, maintenance, existence, use or removal of the Structures;
 - (d) the Owner's occupation or use of the Servient Tenement or the ground below or the air above for the purpose of such encroachment by the Building;
 - (e) any failure to pay for labour and materials relating to the Structures;
 - (f) any breach or default by the Owner under this Agreement; and
 - (g) any wrongful act, omission or negligence of the Owner, its members, directors, officers, employees, contractors, subcontractors, licensees, invitees, customers and others for whom it is responsible.
- 10.2 The indemnity in Section 10.1 survives the expiry or earlier termination of this Agreement.
- 10.3 The Owner will take out and maintain during the Term, a policy of commercial general liability insurance against claims for bodily injury, death or property damage arising out of the use of the Lands by the Owner in the amount of not less than five million dollars per single occurrence, or such greater amount as the City may from time to time designate

and shall provide the City with a certificate of insurance evidencing coverage, or a certified copy of such policy or policies if requested .

10.4 All policies of insurance required under section 10.3 shall:

- (a) name the City as an additional insured;
- (b) contain a provision requiring the insurer not to cancel or change the insurance without first giving the City thirty (30) days notice in writing;
- (c) contain a cross liability clause in favour of the City; and
- (d) be in a form and on such terms, including with respect to deductible amounts, as are satisfactory to the City, in the City's sole and absolute discretion.

10.5 If the Owner does not provide or maintain in force the insurance required by this Agreement, then without limiting the City's right to terminate this Agreement, the City may take out the necessary insurance and pay the premium for periods of one year at a time and the Owner shall pay to the City the amount of the premium immediately on demand.

10.6 If both the City and the Owner claim to be indemnified under any insurance required by this Agreement, the indemnity shall be applied first to the settlement of the claim of the City and the balance, if any, to the settlement of the claim of the Owner.

10.7 Maintenance of such insurance shall not relieve the Owner of liability under the indemnity provisions of this Agreement.

10.8 The foregoing provisions shall not limit the insurance required by law, nor relieve the Owner from the obligation to determine what insurance it requires for its own purposes.

10.9 No finding of negligence, whether joint or several, as against the City in favour of any third party shall operate to relieve or shall be deemed to relieve the Owner in any manner from any liability to the City, whether such liability arises under this Agreement, under the provisions of the *Community Charter* as amended from time to time, or otherwise.

11. RELEASE

11.1 The Owner releases the City and its elected and appointed officials, officers, employees and agents from all claims of any kind, whether known or unknown, whether or not relating to negligence, which the Owner now has or at any future time may have, however caused, arising out of or in any way connected with the permission to encroach granted by this Agreement, the existence and use of the Easement Area or the Structures, the Works, or the exercise by the City of any of its rights pursuant to this Agreement.

11.2 The release in Section 11.1 survives the expiry or earlier termination of this Agreement.

12. REMEDIES

12.1 The City retains the right on the termination of this Agreement to proceed with the enforcement of any indemnity or other remedy provided in this Agreement or otherwise.

13. COMPENSATION

13.1 Notwithstanding any provision of this Agreement, the Owner shall not be entitled to compensation for injurious affection or disturbance resulting in any way from the removal

of the Structures in accordance with the terms of this Agreement and, without limitation, shall not be entitled to business losses, loss of profit, loss of market value, relocation costs or other consequential loss by reason of the removal of the Structures or by reason of the termination of this Agreement.

14. TERMINATION

- 14.1 If the Owner fails to comply with the provisions of this Agreement, this Agreement shall be terminated and all rights of the Owner hereunder shall thereupon lapse and be absolutely forfeited.
- 14.2 The City may, at any time, in its sole discretion, but acting in good faith, withdraw the rights it has granted to the Owner in this Agreement and terminate this Agreement on 12 months' written notice.
- 14.3 On receipt of notice under Section 14.1 or 14.2, the Owner shall, within the time period stated in the notice, at its expense, remove the Structures and otherwise restore the Easement Area to the satisfaction of the City.
- 14.4 If the Owner fails to remove the Structures as required by the City within the time period specified pursuant to this Agreement, the City may, in its sole discretion, cause the Structures to be removed at the Owner's expense.
- 14.5 In the circumstances described in Section 14.1, the City may, acting reasonably and in good faith, remove the Structures without notice if the subsistence of the Structures constitutes an immediate hazard to the public and if there is no other practical remedy available to the City to alleviate such immediate hazard, at the sole cost of the Owner.

15. ASSIGNMENT

- 15.1 The Owner shall not assign any of its rights and obligations arising from this Agreement to any person other than to the then-current owner of the Lands.
- 15.2 The Owner covenants and agrees not to transfer the Lands, or any portion thereof, without advising the purchaser or transferee of this Agreement and assigning the Owner's rights and obligations pursuant to this Agreement to the new owner of the Lands by mutual agreement.
- 15.3 In the event that the Owner fails to assign the rights and obligations of this Agreement to a new owner of the Lands as described in Section 15.2, the Owner shall continue to be bound by this Agreement in all respects notwithstanding that the Owner no longer owns the Lands.

16. RIGHT OF ENTRY

- 16.1 The City's employees or agents shall have the right to enter into and upon the Lands and the Building for the purpose of:
 - a) maintaining or removing the Structures in the event of an emergency or in order to prevent or avoid risks to persons or property;
 - b) inspecting the Structures; or
 - c) maintaining, repairing or replacing the Structures pursuant to sections 6.6 and 6.7.

- 16.2 Except in the case of section 16.1a), the City will make reasonable efforts to provide the Owner with 12 hours' notice prior to entering the Lands or Building. In the case of section 16.1a), the City will notify the Owner if such action was taken.

17. ALTERATION TO CITY PROPERTY AND PUBLIC STRUCTURES

- 17.1 In the event of any alteration or change made necessary to any present or future meter, water service, sewer, or other public structures or utility in the vicinity of the Lands by the construction, maintenance, use or removal of the Structures, the Owner shall reimburse the City or other utility provider for whatever expenses it may incur in making the alterations or changes that are deemed necessary by the City or the utility provider.

18. CITY'S RIGHTS RESERVED

- 18.1 This Agreement does not in any way restrict the right of the City at any time to widen, raise or lower, or otherwise alter the Servient Tenement abutting or adjoining the Lands (including by allowing the installation of utilities by various utility providers), or make orders or regulations for the use of the Servient Tenement, even if the effect of the alteration or the order or regulation may be to render the Structures, the Easement Area, or both, useless for the purposes of the Owner.
- 18.2 Nothing contained or implied in this Agreement will derogate from the obligations of the Owner under any other agreement with the City
- 18.3 Nothing contained or implied in this Agreement shall prejudice or affect the rights and powers of the City in the exercise of its functions under any public or private statutes, bylaws, order and regulations, all of which may be fully and effectively exercised in relation to the Easement Area as if this Agreement had not been executed and delivered by the parties.

19. LICENCES AND PERMITS

- 19.1 The Owner shall, at its own expense, obtain and maintain all permits and authorizations as may be necessary and required to erect and maintain the Structures, including any building permit or electrical permit. Nothing in this Agreement relieves the Owner from the ordinary jurisdiction of the City.

20. OTHER MATTERS

- 20.1 The waiver by the City of default by the Owner shall not be deemed to be a waiver by the City of any subsequent default by the Owner. All waivers must be in writing.
- 20.2 Whenever it is required or desired that either party deliver a notice to the other, the delivery shall be deemed to be satisfactory if and deemed to have occurred when the notice has been:
- (a) delivered by hand, on the date of delivery; or
 - (b) mailed by Xpresspost (Canada Post) requiring signature of the addressee on delivery, on the date received or on the sixth day after receipt of mailing by any Canada Post Office, whichever is the earlier, except that in the event of a strike or disruption in postal service, the notice shall not be deemed to be received until actually received;

to the address for that party on the first page of this Agreement or to whatever other address that may have, from time to time, been given by that party.

- 20.3 Whenever the singular or masculine is used in this Agreement, the same is deemed to include the plural or the feminine or the body politic or corporate as the context requires.
- 20.4 Every reference to each party is deemed to include the heirs, executors, administrators, corporate successors, permitted assigns, employees, agents, officers, elected officials and invitees of such party whenever the context so requires or allows.
- 20.5 Section headings are included for convenience only. They do not form a part of this Agreement and shall not be used in its interpretation.
- 20.6 If any part of this Agreement is for any reason held to be invalid by the decision of a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this Agreement.
- 20.7 This Agreement shall be governed and construed in accordance with the laws of the Province of British Columbia.
- 20.8 The parties hereto shall execute and do all such further deeds, acts, things, and assurances as may be reasonably required to carry out the intent of this Agreement.

21. TIME OF ESSENCE

- 21.1 Time is of the essence of this Agreement.

22. INTERPRETATION

- 22.1 No part of the fee of the soil of the Servient Tenement will pass to or be vested under or by these presents in the Owner or the Owner's invitees, agents or successors in title.
- 22.2 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, successors, administrators and permitted assignees.
- 22.3 All provisions of this Agreement are to be construed as covenants and agreements as though the word importing covenants and agreements were used in each separate paragraph.
- 22.4 This Agreement is the entire agreement between the parties and the City had made no representations, warranties, guarantees, promises, covenants or agreements (oral or otherwise), to or with the Owner other than those expressed in this Agreement.

The parties hereto acknowledge that this Agreement has been duly executed and delivered by the parties executing the land title forms to which these Terms of Instrument are attached.

SCHEDULE A

(insert "flat" easement plan)

SCHEDULE B

(insert volumetric easement plan)

Appendix 2
Anchor Rod Encroachment Agreement

ENCROACHMENT FOR ANCHOR RODS

THIS AGREEMENT dated for reference the ____ day of ____, _____.

BETWEEN:

(the “**Owner**”)

AND:

THE CORPORATION OF THE CITY OF VICTORIA
 1 Centennial Square, Victoria, British Columbia, V8W 1P6

(the “**City**”)

WHEREAS:

- A. The Owner is the owner of the Land.
- B. The Owner has applied to the City for approval of the construction of a ### [describe development] upon the Land, under the terms and conditions of the City of Victoria ### [insert permit type and number].
- C. In connection with the construction of the development referred to in Recital B, the Owner has requested the City to grant it permission to construct, use or continue the use or existence of an encroachment onto highways of which the City has the use and possession, which encroachment is appurtenant to the Land;
- D. The City has agreed to grant the Owner’s request, subject to the provision of all City bylaws and to the terms and condition herein set forth;

NOW THEREFORE, in consideration of the premises and the covenants herein contained and for other valuable consideration, receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereto covenant and agree each with the other as follows:

1.0 DEFINITIONS

1.1 In this Agreement,

- a. "**As Built Drawings**" has the meaning ascribed to that term in section 5.12.
- b. "**Authenticate**" means the Owner's Consultant's seal, signature and date carried out in accordance with the *Professional Governance Act* (BC).
- c. "**Director**" means the City's Director of Engineering and Public Works or their authorized designate.
- d. "**Highways**" has the meaning ascribed to that term in section 2.1.
- e. "**Land**" means the land and premises with the following address and legal description:

Civic address: ##

Parcel Identifier: ##
Legal description: ##
- f. "**Owner's Consultant**" means a professional engineer licensed to practice in the Province of British Columbia with experience in the design and construction of works of a similar kind to those proposed to be installed under this Agreement.
- g. "**Term**" has the meaning ascribed to that term in section 4.1.
- h. "**Works**" means ### [insert description of works (e.g. anchor rods, shotcrete, soldier piles)] as shown in Schedule "A".

2.0 ENCROACHMENT

- 2.1 The City grants the Owner permission to construct and maintain an encroachment comprising of the Works into those parts of ### [insert street(s) names or intersection] (collectively, the "**Highways**") in the City that adjoin the Land, all in accordance with the plans and specifications attached hereto as Schedule "A".

3.0 USE

- 3.1 The Owner shall not erect any work or encroachment in the Highways other than the Works, nor shall the Owner use the Highways for any purpose save and except the Works. The Owner shall not permit the Works to encroach on any City property other than those portions of the Highways depicted on Schedule "A".

4.0 TERM

- 4.1 This Agreement commences on the date that it is fully signed by both parties and, subject to Sections 6.15 and 6.16 hereof, expires on ### [insert date] (the "**Term**").

5.0 CONSTRUCTION OF WORKS

- 5.1** The Owner shall retain the Owner's Consultant who will be responsible for ensuring that the design and construction of the Works at all times is in accordance with sound engineering and construction practices, and is carried out in accordance with the terms of this Agreement.
- 5.2** The Owner's Consultant must provide written confirmation to the City, prior to the commencement of the construction of the Works, that they have thoroughly investigated the location of existing services and utilities, and that the installation of the Works in their proposed location will not interfere with or cause damage to any existing underground utilities or services, whether of the City, the Capital Regional District, or any private or public utility. The Owner shall be solely responsible for the cost of the investigation of all such services for the purpose of obtaining and providing such confirmation.
- 5.3** Prior to the commencement of construction of the Works, the Owner's Consultant must submit an Authenticated detailed plan indicating property lines showing in cross section the profile of all underground services within the area of the Highways covered by this Agreement, as well as, in relation thereto, the proposed location of all Works.
- 5.4** The City reserves the right to require that any portion of the Works be relocated, where in the reasonable opinion of the Director, the proposed location of the Works or any portion thereof may interfere with or damage underground services of the City, the Capital Regional District or any private or public utility, or may impact the protected root zones of City street trees.
- 5.5** The Works shall be installed strictly in accordance with the plans and specifications that are attached as Schedule "A" to this Agreement, unless the Director authorizes the modification of such plans or specifications.
- 5.6** The Owner shall at all times and at its own expense keep and maintain the Works and the Highways in good and sufficient repair and in a manner which does not pose any risk to persons or property, all to the satisfaction of the Director (without any obligation on the part of the Director to determine what is sufficient repair or a safe condition).
- 5.7** If the Owner fails to keep the Works and the Highways and City underground utilities in good repair and maintenance to the satisfaction of the Director, the Director may give notice to the Owner demanding that repairs and maintenance be done within the time specified by the City and if the Owner fails to do so, to the City's satisfaction, the City may, in its sole discretion (without any obligation to do so), cause such repairs to be made, including structural changes or filling up any excavation, as it deems necessary at the Owner's expense. The Owner shall pay the costs of the repairs to the City forthwith on demand.
- 5.8** The Owner shall in respect of its use of the Highways and in relation to the Works,

comply with all applicable statutes, laws, regulations, bylaws, orders and other requirements of every governmental authority having jurisdiction.

- 5.9 If during the course of construction of the Works, the Owner's Consultant determines that any part of the Works are required to be placed in a location other than shown on the plans and specifications attached as Schedule "A", or determines that additional works are required to be installed within the Highways, the Owner's Consultant must first obtain the authorization of the Director before proceeding with such modification to the Works.
- 5.10 The City makes no representation or warranty as to the subsurface soil conditions within the area of the Highways within which the Works are to be constructed, including as to whether the soil or groundwater within the Highways contains any contamination, special waste or prescribed substance in a quantity or concentration that exceeds the standards permitted under the *Environmental Management Act*. The City will not be responsible for any increased or additional costs (including, without limitation, any costs associated with delays in proceeding with the Works), incurred by the Owner in constructing the Works as a result of the presence of any such special waste, contamination or prescribed substance, or any other soil or groundwater contamination within the Highways, environmental consultant's fees, the cost of any permits for removal or disposal of contaminated soils or groundwater, or the removal, disposal or treatment of contaminated soil or groundwater that is required to be removed from the Highways as a result of the Works being undertaken, or any other similar costs.
- 5.11 When backfilling the excavation made in connection with the Works, the Owner's Consultant will ensure that all anchor rods are de-tensioned prior to backfilling, and that all works from the surface to a depth of at least 2 metres below grade, or greater if achievable, are removed. Backfilling must be brought up to existing grade and completed to City standards and specifications and to the satisfaction of the Director.
- 5.12 After the completion of backfilling, the Owner must provide to the City a set of engineered drawings prepared by the Owner's Consultant that identify in cross section and plan views the location of all anchor rods _____ [*insert any additional works*], as installed (referred to herein as the "**As Built Drawings**"). The Owner must also provide to the City a letter Authenticated by the Owner's Consultant, certifying that the Works have been installed in accordance with the As Built Drawings hereto modified with the approval of the Director, and that all anchor rods left within the Highways have been de-tensioned.
- 5.13 The Owner will be responsible throughout the construction of the Works to protect persons and property in the vicinity of the Works from injury, loss or damage.
- 5.14 The Owner shall not do or permit to be done anything which may or does contaminate the Highways or the surrounding area and the Owner shall be solely responsible to remove all such contamination and remediate it in accordance with

the *Environmental Management Act* (BC) and all applicable laws.

- 5.15** The Owner shall at its sole cost arrange to have all of the City's storm drains and sewer mains within the Highways, in the area of the Works, inspected by video camera before commencement and after completion of the Works to ensure that no damage has resulted through construction of the Works, and provide the video recordings to the City. This work shall be coordinated through the City's Underground Utilities Division.

6.0 NO RELIEF

- 6.1** It is understood, covenanted and agreed by and between the parties hereto that no provision of this Agreement and no act or omission or finding of negligence, whether joint or several, as against the City, in favour of any third party, shall operate to relieve the Owner in any manner whatsoever from any liability to the City in the premises, or under these terms, or under the provisions of the *Community Charter*, or any bylaw of the City and amendments thereto, or otherwise.

7.0 OWNER'S COVENANTS

The Owner further covenants and agrees as follows:

Fee

- 7.1** That it will pay to the City, prior to commencement of the Works:

\$750.00, plus:

Open face excavation fee, calculated as follows:

Area of open face abutting City street (in square metres) x \$25

(e.g. $280\text{ m}^2 \times \$25.00\text{ per m}^2 = \$7000.00 + \$750.00 = \$ 7750.00$)

Save Harmless

- 7.2** To indemnify and hold harmless the City and its elected and appointed officials, officers, employees and agents from all suits, proceedings, losses, damages, expenses, demands, claims, costs (including actual costs of professional advisors and costs associated with remediation of contamination) and harm of any kind, howsoever caused, whether related to death, bodily injury, property loss, property damage or consequential loss or damage, arising out of or in any way connected with:

- (a) the Works encroaching upon under or over the Highways,
- (b) construction, maintenance, existence, use or removal of the Works,

- (c) the Owner's occupation or use of the Highways or the ground below or the air above for the purpose of such encroachment by the Works,
- (d) the negligence of the Owner or its employees, agents, contractors, subcontractors or consultants, including the Owner's Consultant, in relation to the design or construction of the Works, and
- (e) any failure of or damage to the Works at any time, including without limitation, failure due to errors in design of the Works, or faulty or defective materials or workmanship, whether or not the result of negligence on the part of the Owner or its employees, agents, sub-contractors or consultants including the Owner's Consultant.

7.3 That the indemnity in section 7.2 survives the expiry or earlier termination of this Agreement.

7.4 To charge this interest in the Land in favour of the City for the payment of all sums which may at any time hereafter be payable by the City in respect of any claims, loss, damage or expense of whatsoever kind arising:

- (a) from the construction, maintenance or existence of the Works, or
- (b) from the permission hereby granted,

and to answer any indemnity or payment provided in the bylaws of the City or under the terms of this agreement.

Insurance

7.5 To take out and maintain during the Term a policy of commercial general liability insurance against claims for bodily injury, death or property damage arising out of the use of the Land by the Owner in the amount of not less than five million dollars per single occurrence, or such greater amount as the City may from time to time designate and shall provide the City with a certificate of insurance evidencing coverage, or a certified copy of such policy or policies if requested.

7.6 All policies of insurance required under section 7.5 shall:

- (a) name the City as an additional insured;
- (b) contain a provision requiring the insurer not to cancel or change the insurance without first giving the City thirty (30) days notice in writing;
- (c) contain a cross liability clause in favour of the City; and
- (d) be in a form and on such terms, including with respect to deductible amounts, as are satisfactory to the City, in the City's sole and absolute discretion.

- 7.7** That if the Owner does not provide or maintain in force the insurance required by this Agreement, then without limiting the City's right to terminate this Agreement, the City may take out the necessary insurance and pay the premium for periods of one year at a time and the Owner shall pay to the City as additional licence fees the amount of the premium immediately on demand.
- 7.8** That if both the City and the Owner claim to be indemnified under any insurance required by this Agreement, the indemnity shall be applied first to the settlement of the claim of the City and the balance, if any, to the settlement of the claim of the Owner.
- 7.9** That maintenance of such insurance shall not relieve the Owner of liability under the indemnity provisions of this Agreement.
- 7.10** That the foregoing provisions shall not limit the insurance required by law, nor relieve the Owner from the obligation to determine what insurance it requires for its own purposes.

Release

- 7.11** To release the City and its elected and appointed officials, officers, employees and agents from all claims of any kind, whether known or unknown, whether or not relating to negligence, which the Owner now has or at any future time may have, however caused, arising out of or in any way connected with the permission to encroach granted by this Agreement, the use of the Highways, the Works, or the exercise by the City of any of its rights pursuant to this Agreement.
- 7.12** That the release in Section 7.11 survives the expiry or earlier termination of this Agreement.

Remedies

- 7.13** That the City retains the right on the termination of this Agreement to proceed with the enforcement of any indemnity or other remedy provided in this Agreement or otherwise.

Compensation

- 7.14** That notwithstanding any provision of this Agreement, the Owner shall not be entitled to compensation for injurious affection or disturbance resulting in any way from the removal of the Works in accordance with the terms of this Agreement and, without limitation, shall not be entitled to business losses, loss of profit, loss of market value, relocation costs or other consequential loss by reason of the removal of the Works or by reason of the termination of this Agreement.

Termination

- 7.15** That if the Owner fails to comply with the provisions of this Agreement, including,

but not limited to, sections 5.5, 5.7, 5.13 and 7.5 of the Agreement, this Agreement shall be terminated and all rights of the Owner hereunder shall thereupon lapse and be absolutely forfeited, but the City, nevertheless, shall be entitled to proceed with the enforcement of any security or indemnity herein provided, or upon any bond or otherwise in satisfaction of any claim, loss or expenses of whatsoever kind arising under this Agreement, or from the permission hereby granted.

- 7.16** That the City may, at any time, in its sole discretion, but acting in good faith, withdraw the rights it has granted to the Owner in this Agreement and terminate this Agreement on 3 months' written notice.
- 7.17** That on receipt of notice under Section 7.15 or 7.16, the Owner shall, within the time period stated in the notice, at its expense, remove the Works and otherwise restore the Highways to the satisfaction of the City.
- 7.18** That if the Owner fails to remove the Works as required by the City within the time period specified pursuant to this Agreement, the City may, in its sole discretion, cause the Works to be removed at the Owner's expense.

Entry

- 7.19** That the City reserves the right for itself, its servants or agents, at any and all reasonable times, to enter into and upon the Land for the purpose of inspecting the Works so as to determine whether the Owner is in compliance with this Agreement.

Works

- 7.20** That in the event that the construction, maintenance, use or removal of the Works necessitates any alteration or change to any meter, water service, sewer or other public works or utility in the vicinity of the Works, the Owner will reimburse the City for whatever sums may be incurred by the City in making such alterations or changes as may be deemed necessary by the Director.

8.0 ASSIGNMENT

- 8.1** The Owner shall not assign any of its rights and obligations arising from this Agreement to any person other than to the then-current owner of the Land.
- 8.2** The Owner covenants and agrees not to transfer the Land, or any portion thereof, without advising the purchaser or transferee of this Agreement and assigning the Owner's rights and obligations pursuant to this Agreement to the new owner of the Land by mutual agreement.
- 8.3** In the event that the Owner fails to assign the rights and obligations of this Agreement to a new owner of the Land as described in Section 8.2, the Owner shall continue to be bound by this Agreement in all respects notwithstanding that the Owner no longer owns the Land.

9.0 ALTERATION OF MUNICIPAL WORKS

9.1 This Agreement shall not in any way operate to restrict the right of the City at any time to:

- (a) alter the road, curb, gutter, sidewalk or boulevard abutting or adjoining the Land, notwithstanding that the effect of such alteration in width or elevation may be to render the Works useless or of less value for the purposes of the Owner; or
- (b) construct or maintain any form of structure or utility on, over or under any portion of the Highways on or in which the Works encroach and for such purpose require that the Works be removed in part or in whole.

9.2 The Owner covenants that, in the event of the City effecting any such alteration or construction or in requiring removal of all or part of the Works pursuant to section 9.1, the Owner will release and forever discharge, and hereby releases and forever discharges, the City from all manner of claims of any nature whatsoever, which may arise by reason of such alteration in width or elevation as aforesaid, or by reason of the discontinuance and removal of the Works, as a result of such alteration in width or elevation or construction.

10.0 CITY'S RIGHTS RESERVED

10.1 Nothing contained or implied in this Agreement will derogate from the obligations of the Owner under any other agreement with the City.

10.2 Nothing contained or implied in this Agreement shall prejudice or affect the rights and powers of the City in the exercise of its functions under any public or private statutes, bylaws, order and regulations, all of which may be fully and effectively exercised in relation to the Highways as if this Agreement had not been executed and delivered by the parties.

11.0 LICENCES AND PERMITS

11.1 The Owner shall, at its own expense, obtain and maintain all permits and authorizations as may be necessary and required to erect and maintain the Works, including any building permit or electrical permit. Nothing in this Agreement relieves the Owner from the ordinary jurisdiction of the City.

12.0 OTHER MATTERS

12.1 The waiver by the City of default by the Owner shall not be deemed to be a waiver by the City of any subsequent default by the Owner. All waivers must be in writing.

12.2 Whenever it is required or desired that either party deliver a notice to the other, the delivery shall be deemed to be satisfactory if and deemed to have occurred when

the notice has been:

- (a) Delivered by hand, on the date of delivery; or
- (b) Mailed by Xpresspost (Canada Post) requiring signature of the addressee on delivery, on the date received or on the sixth day after receipt of mailing by any Canada Post Office, whichever is the earlier, except that in the event of a strike or disruption in postal service, the notice shall not be deemed to be received until actually received;

to the address for that party on the first page of this Agreement or to whatever other address that may have, from time to time, been given by that party.

- 12.3** Whenever the singular is used in this Agreement, the same is deemed to include the plural or the body politic or corporate as the context requires.
- 12.4** Every reference to each party is deemed to include the heirs, executors, administrators, corporate successors, permitted assigns, employees, agents, officers, elected officials and invitees of such party whenever the context so requires or allows.
- 12.5** Section headings are included for convenience only. They do not form a part of this Agreement and shall not be used in its interpretation.
- 12.6** If any part of this Agreement is for any reason held to be invalid by the decision of a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this Agreement.
- 12.7** This Agreement shall be governed and construed in accordance with the laws of the Province of British Columbia.
- 12.8** The parties hereto shall execute and do all such further deeds, acts, things, and assurances as may be reasonably required to carry out the intent of this Agreement.

13.0 TIME OF ESSENCE

- 13.1** Time is of the essence of this Agreement.

14.0 INTERPRETATION

- 14.1** No part of the fee of the soil of the Highways will pass to or be vested under or by these presents in the Owner or the Owner's invitees, agents or successors in title.
- 14.2** This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, successors, administrators and permitted assignees.
- 14.3** All provisions of this Agreement are to be construed as covenants and agreements

as though the word importing covenants and agreements were used in each separate paragraph.

- 14.4** This Agreement is the entire agreement between the parties and the City had made no representations, warranties, guarantees, promises, covenants or agreements (oral or otherwise), to or with the Owner other than those expressed in this Agreement.

IN WITNESS WHEREOF the parties have set their hand and seal the day and year first above written.

The Corporation of the City of Victoria by its)
 authorized signatory)
)
)
)
)
)
 _____)
 [Insert name])
 Director of Engineering and Public Works)

_____ [name of)
 owner])
)
 by its authorized signatories:)
)
)
 _____)
 Authorized Signatory)
)
 _____)
 Authorized Signatory)

Schedule A
The Works



Council Report

For the Meeting of July 18, 2024

To: Council **Date:** July 4, 2024
From: Susanne Thompson, Deputy City Manager and Chief Financial Officer
Subject: Temporary Borrowing Bylaws – Transportation, Public Washrooms and Parks
Redevelopment and Security Issuing Resolutions

RECOMMENDATION

1. That Council consider first, second and third readings of:
 - a. Temporary Borrowing (Transportation Improvements Capital Projects) Bylaw No. 24-064
 - b. Temporary Borrowing (Public Washroom Improvements Capital Projects) Bylaw No. 24-065
 - c. Temporary Borrowing (Parks Redevelopment Capital Projects) Bylaw No. 24-066
2. That Council approve borrowing from the Municipal Finance Authority of British Columbia, as part of the 2025 Spring Borrowing Session, \$32 million as authorized through Loan Authorization (Transportation Improvements Capital Projects) Bylaw, No. 24-018 and that the Capital Regional District be requested to consent to our borrowing over a 20 year term and include the borrowing in a Security Issuing Bylaw.
3. That Council approve borrowing from the Municipal Finance Authority of British Columbia, as part of the 2025 Spring Borrowing Session, \$3 million as authorized through Loan Authorization (Public Washroom Improvements Capital Projects) Bylaw, No. 24-019 and that the Capital Regional District be requested to consent to our borrowing over a 20 year term and include the borrowing in a Security Issuing Bylaw.
4. That Council approve borrowing from the Municipal Finance Authority of British Columbia, as part of the 2025 Spring Borrowing Session, \$18 million as authorized through Loan Authorization (Parks Redevelopment Capital Projects) Bylaw, No. 24-020 and that the Capital Regional District be requested to consent to our borrowing over a 20 year term and include the borrowing in a Security Issuing Bylaw.

EXECUTIVE SUMMARY

On June 13, 2024, Council adopted the following bylaws:

1. Loan Authorization (Transportation Improvements Capital Projects) Bylaw, No. 24-018
2. Loan Authorization (Public Washroom Improvements Capital Projects) Bylaw, No. 24-019
3. Loan Authorization (Parks Redevelopment Capital Projects) Bylaw, No. 24-020

A one-month quashing period is required after adoption, after which the City Clerk can issue a Corporate Officers Certificate which will be submitted to the Ministry of Municipal Affairs requesting their Certificate of Approval. After the Ministry's certificate has been received, the City is able to submit a request to the CRD to participate in the next borrowing opportunity through the Municipal Finance Authority (MFA). MFA borrowing takes place twice per year – once in the spring and once in the fall. As part of the submission package to the CRD, a security issuing resolution from Council is required.

For the fall borrowing, the cutoff for submitting the documentation to the CRD was in June and the next opportunity will not be until the spring of 2025. Therefore, to enable short-term borrowing in the interim to fund the approved projects for 2024, temporary borrowing bylaws are required.

Staff recommend Council give introductory readings to these three temporary borrowing bylaws and adopt the required security issuing resolutions for the spring 2025 long-term borrowing opportunity. Once the long-term borrowing is in place, that funding will be used to repay the short-term loans under the temporary borrowing bylaws.

Respectfully submitted,

Susanne Thompson
Deputy City Manager and Chief Financial Officer

Report accepted and recommended by the City Manager

TEMPORARY BORROWING (TRANSPORTATION IMPROVEMENTS CAPITAL PROJECTS) BYLAW

A BYLAW OF THE CITY OF VICTORIA

Bylaw 24-018, Loan Authorization (Transportation Improvements Capital Projects) Bylaw, authorized the borrowing, by the issuing of debentures, of \$32 million for transportation infrastructure improvements.

The purpose of this Bylaw is to provide for the temporary borrowing of that amount, for that purpose, pending the sale of debentures.

Contents

- 1 Title
- 2 Definition
- 3 Borrowing authorized
- 4 Form of borrowing
- 5 Proceeds from sale of debentures to be used for repayment

Under its statutory powers, including section 181 of the *Community Charter*, the Council of the City of Victoria, in an open meeting assembled, enacts the following provisions:

Title

- 1 This Bylaw may be cited as the "TEMPORARY BORROWING (TRANSPORTATION IMPROVEMENTS CAPITAL PROJECTS) BYLAW".

Definition

- 2 In this Bylaw,

"Director" means the City's Director of Finance.

"Works" means the planning, study, design and construction of transportation infrastructure improvements.

Borrowing authorized

- 3 The Director is authorized, on behalf of the City, to arrange for the temporary borrowing from or through the Municipal Finance Authority of British Columbia, of an amount of money not exceeding \$32 million, which funds are to be used only for the following purposes:
 - (a) the planning, study, design and construction of transportation infrastructure improvements.

4 The Director may arrange borrowing under this Bylaw by means of a promissory note or notes bearing the corporate seal of the City, and signed by the Mayor and the Director.

5 The proceeds from the sale of debentures under the Loan Authorization (Transportation Improvements Capital Projects) Bylaw or as much of those proceeds as is necessary, must be used as necessary to repay the money borrowed under this Bylaw.

ADOPTED on the _____ day of _____ 2024

MAYOR

TEMPORARY BORROWING (PUBLIC WASHROOM IMPROVEMENTS CAPITAL PROJECTS) BYLAW

A BYLAW OF THE CITY OF VICTORIA

Bylaw 24-019, Loan Authorization (Public Washroom Improvements Capital Projects) Bylaw, authorized the borrowing, by the issuing of debentures, of \$3 million for public washroom improvements.

The purpose of this Bylaw is to provide for the temporary borrowing of that amount, for that purpose, pending the sale of debentures.

Contents

- 1 Title
- 2 Definition
- 3 Borrowing authorized
- 4 Form of borrowing
- 5 Proceeds from sale of debentures to be used for repayment

Under its statutory powers, including section 181 of the *Community Charter*, the Council of the City of Victoria, in an open meeting assembled, enacts the following provisions:

Title

- 1 This Bylaw may be cited as the "TEMPORARY BORROWING (PUBLIC WASHROOM IMPROVEMENTS CAPITAL PROJECTS) BYLAW".

Definition

- 2 In this Bylaw,

"Director" means the City's Director of Finance.

"Works" means the planning, study, design and construction of public washroom improvements.

Borrowing authorized

- 3 The Director is authorized, on behalf of the City, to arrange for the temporary borrowing from or through the Municipal Finance Authority of British Columbia, of an amount of money not exceeding \$3 million, which funds are to be used only for the following purposes:
 - (a) the planning, study, design and construction of public washroom improvements.
 - (b) to acquire all real and personal property, including, but not limited to, easements, rights-of-way, leases, licenses, rights, or authorities as may be required or desirable in connection with the Works.

**TEMPORARY BORROWING (PARKS REDEVELOPMENT CAPITAL PROJECTS)
BYLAW**

A BYLAW OF THE CITY OF VICTORIA

Bylaw 24-020, Loan Authorization (Parks Redevelopment Capital Projects) Bylaw, authorized the borrowing, by the issuing of debentures, of \$18 million for park redevelopment.

The purpose of this Bylaw is to provide for the temporary borrowing of that amount, for that purpose, pending the sale of debentures.

Contents

- 1 Title
- 2 Definition
- 3 Borrowing authorized
- 4 Form of borrowing
- 5 Proceeds from sale of debentures to be used for repayment

Under its statutory powers, including section 181 of the *Community Charter*, the Council of the City of Victoria, in an open meeting assembled, enacts the following provisions:

Title

- 1 This Bylaw may be cited as the “TEMPORARY BORROWING (PARKS REDEVELOPMENT CAPITAL PROJECTS) BYLAW”.

Definition

- 2 In this Bylaw,

“Director” means the City’s Director of Finance.

“Works” means the planning, study, design and construction of parks redevelopments.

Borrowing authorized

- 3 The Director is authorized, on behalf of the City, to arrange for the temporary borrowing from or through the Municipal Finance Authority of British Columbia, of an amount of money not exceeding \$18 million, which funds are to be used only for the following purposes:
 - (a) the planning, study, design and construction of parks redevelopment.
 - (b) to acquire all real and personal property, including, but not limited to, easements, rights-of-way, leases, licenses, rights, or authorities as may be required or desirable in connection with the Works.

