

CITY OF NANAIMO

BYLAW NO. 7224.02

A BYLAW TO AMEND "BUILDING BYLAW 2016 NO. 7224"

---

The Council of the City of Nanaimo in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. Title

This Bylaw may be cited as the "Building Bylaw Amendment Bylaw 2019 No. 7224.02".

2. Amendments

"Building Bylaw 2016 No. 7224" is hereby amended as follows:

- (1) By deleting the first explanatory paragraph under Section 2 "Definitions" in its entirety and replacing with the following:

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

- (2) By adding the following definitions to Section 2:

"BC ENERGY STEP CODE" means the system of energy performance requirements set out in Subsections 9.36 and 10.2.3 of the Building Code.

"ENERGY ADVISOR" means a consultant registered by a Service Organization licensed by Natural Resources Canada (NRCan) to deliver NRC's EnerGuide Rating System for New Homes and R-2000 programs.

"WORKS AND SERVICES" means the works and services referred to in Section 24.

- (3) By inserting a new Section immediately following Section 4.5, as follows:
- “4.6 Notwithstanding Sections 4.7 and 13.4, every permit for demolition will expire 6 months from the date of issuance of the permit.”
- (4) By deleting Section 4.6 in its entirety and replacing with the following:
- “4.7 Every permit is issued upon the condition that:
- 4.7.1 construction of a nature significant enough to require an inspection as set out in Section 17 of this bylaw is to be started within 6 months from the date of issuance of the permit;
- 4.7.2 construction is not to be discontinued or suspended for a period of more than 1 year;
- 4.7.3 the permit shall expire in the event that either of the conditions stated in 4.7.1 or 4.7.2 are not met; and
- 4.7.4 all permits shall expire after 24 months from the date of issuance, unless the permit has previously expired or the permit has been renewed in accordance with Section 4.8.
- (5) By deleting Section 18.1 in its entirety and replacing with the following:
- “18.1 No person shall occupy a building or structure or part of a building or structure until a Certificate of Occupancy has been issued in the form prescribed by the municipality.”
- (6) By deleting Section 25.1 to 25.1.5 in its entirety and replacing with the following:
- “25.1 The requirements in Section 24 shall not apply where:
- 25.1.1 the construction will take place on a parcel of land which is zoned:
- 25.1.1.1 “I-1” (Highway Industrial) and the value of construction does not exceed \$150,000;
- 25.1.1.2 “I-2” (Light Industrial) and the value of construction does not exceed \$250,000;
- 25.1.1.3 “I-3” (High Tech Industrial); or
- 25.1.1.4 “I-4” (Industrial).
- 25.1.2 the construction will result in the addition to an existing building and the additional floor area will not exceed 25% of the existing floor area of the building, or a maximum of 600 square meters, whichever is lesser;
- 25.1.3 the construction will result in the creation and/or location of no more than a total of four residential units on the site being developed; or

25.1.4 the construction will not result in an increase in floor area to an existing building or structure.”

(7) By deleting Section 27 in its entirety and replacing with the following:

“27. Bonding

27.1 An owner required to install Works and Services must deposit security for the proper completion of the Works and Services in the form of a cash deposit, certified cheque, or a standby irrevocable letter of credit.

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

27.3 If the owner requests issuance of a building permit prior to completion of construction and the installation of all Works and Services required to be installed by and at the expense of the owner, the owner shall enter into an Agreement with the municipality prior to issuance of the building permit.

27.4 The owner shall be responsible for maintaining and correcting the Works and Services against any defects arising from installation, materials, workmanship, or engineering design which may appear within a period of one year from the date of Substantial Completion of the Works and Services.

27.5 Defects discovered during the maintenance period referred to in Section 27.4 shall be rectified to the satisfaction of the Municipal Engineer by replacing faulty materials, correcting failed work or taking other necessary steps specified by the Municipal Engineer to rectify the defect. The same one-year maintenance period shall apply to such replacement materials or rectified work, and the maintenance period for the rectified defect shall begin on the date the Municipal Engineer accepts such replacement materials or rectified defects. If it is discovered by use, tests, or inspection of the Works and Services prior to the end of a maintenance period that a deficiency or defect exists in the materials, workmanship, or design in respect of the Works and Services, the owner shall arrange to rectify the deficiency or defect within a reasonable time frame acceptable to the Municipal Engineer. In the event that this work, in the opinion of the Municipal Engineer, must be done immediately to prevent injury or loss of life, or injury or serious damage to property, the municipality may perform or cause to be performed the necessary work and will notify the owner accordingly.

- 27.6 Work required during the maintenance period shall, except as otherwise provided herein for emergencies, be carried out by the owner or his representative within 10 days of the Municipal Engineer's written instruction to perform the work. In the event that this work is not done by the owner within the 10-day period, or such period as may be approved by the Municipal Engineer, the Municipal Engineer is authorized to take whatever action is necessary to have the work completed at the cost of the owner.
- 27.7 The owner shall pay on written demand from the municipality all costs incurred by the municipality resulting from the performance by the municipality, or contractors on the municipality's behalf, of work during the maintenance period under Sections 27.5 and 27.6 of this bylaw, subject to the municipality's right to draw down on the security deposited with the municipality under Section 27.1 of this bylaw.
- 27.8 The municipality shall hold security deposited for the maintenance period and may from time to time draw down on the security to pay for costs incurred by the municipality to do work under this section.
- 27.9 If the security deposited under this bylaw is insufficient to cover the costs incurred by the municipality to do work during the maintenance period, the owner shall pay to the municipality the amount of such difference immediately on written demand.
- 27.10 At the termination of the maintenance period, the municipality shall return to the owner the security or any amount remaining in the security to the extent that such amount may not be retained by the municipality under Section 27.8 of this bylaw."
- (8) By inserting a new section to follow Section 28 "Establishing Fire Limit Areas" as follows:
- "29. BC Energy Step Code
- 29.1 Any new building or structure to which Part 3 or Part 9 of the Building Code applies and is within the scope of application of the Energy Step Code, as described in the Building Code, must be designed and constructed to meet performance requirements specified in Step 1 of the BC Energy Step Code where the building permit application is submitted six months after adoption of this bylaw.
- 29.2 In the case of a building permit submitted after 2021-JAN-01, a new building or structure to which Part 9 of the Building Code applies and which is within the scope of application of the BC Energy Step Code must be designed and constructed to meet the performance requirements specified in Step 2 of the BC Energy Step Code.

- 29.3 In the case of a building permit application submitted after 2022-JAN-01, a new building or structure to which Part 9 of the Building Code applies and is within the scope of application of the Energy Step Code as described in the Building Code must be designed and constructed to meet the performance requirements specified in Step 3 of the BC Energy Step Code.
- 29.4 In the case of a building permit application submitted after 2022-JAN-01, a new building or structure to which Part 3 of the Building Code applies and is within the scope of application of the BC Energy Step Code as described in the Building Code must be designed and constructed to meet the performance requirements specified in Step 2 of the BC Energy Step Code.
- 29.5 When an Energy Advisor or an architect, as required, provides energy reports or field reviews in accordance with this bylaw, the City will rely solely on field reviews undertaken by the Energy Advisor or architect and the reports submitted pursuant to this bylaw as assurance that the construction or applicable aspect thereof substantially conforms to the design, and that the construction or applicable aspect thereof substantially complies with the Building Code, this bylaw, and other applicable enactments respecting energy efficiency.
- 29.6 Requirements for Energy Advisor:
- 29.6.1 With respect to a building permit for a building or structure that falls within the scope of Part 9 of the Building Code, the owner must provide, to the satisfaction of the Building Official, all the materials and documentation required by the BC Energy Step Code, prepared and signed by an Energy Advisor, and such other reports and materials as required by the Building Official.
- 29.6.2 The Energy Advisor, providing the required materials and documentation set out in the BC Energy Step Code, must provide evidence to the building inspector that he or she is an Energy Advisor registered and in good standing with Natural Resources Canada in accordance with the EnerGuide Rating System Administrative Procedures and adheres to the technical standards and procedures of the ERS.

29.6.3 For certainty, and notwithstanding Sections 29.6.1 above, where a registered professional is required under this bylaw, in respect of a building permit for a building or structure that falls within the scope of Part 3 or Part 9 of the Building Code, the professional design and field review shall include the materials and documentation required by the applicable step of the BC Energy Step Code, and such other reports and materials as required by the Building Official.

- (9) By deleting in its entirety Section 29 “Penalties and Enforcement” and replacing with the following:

“30. Penalties and Enforcement

30.1 Every person who:

30.1.1 violates any of the provisions of this bylaw, or who causes, suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this bylaw;

30.1.2 neglects or refrains from doing anything required to be done by any of the provisions of this bylaw;

30.1.3 carries out or who suffers, causes or permits to be carried out any development in a manner prohibited by or contrary to any of the provisions of this bylaw; or

30.1.4 who fails to comply with any order, direction or notice given under this bylaw shall be liable:

(a) on summary conviction to a fine not exceeding Ten Thousand Dollars (\$10,000.00) in addition to the costs of prosecution; or

(b) if an information is laid by means of a Municipal Ticket Information in accordance with the procedure set out in Part 8, Division 3 of the *Community Charter*, to a fine as stipulated in Schedule “A” of this bylaw; or

(c) if the *Local Government Bylaw Notice Enforcement Act* applies, and a Bylaw Notice is laid in accordance with that Act, to a penalty in accordance with Schedule ‘A to the Bylaw Notice Enforcement Bylaw 2012 No. 7159”.

- 30.2 Any breach of this bylaw as noted under 30.1 may be considered as a separate offense for every separate day the offense occurs, with fines applied accordingly.
- 30.3 A Building Official may order the cessation of any work that is proceeding in contravention of the Building Code or this bylaw by posting a Stop Work Order in a form prescribed from time to time by the municipality.
- 30.4 The owner of property on which a Stop Work Order has been posted, and every other person, shall cease all construction work immediately and shall not do any work until all applicable provisions of this bylaw have been substantially complied with and the Stop Work Order has been rescinded in writing by a Building Official.
- 30.5 Where a person occupies a building or structure or part of a building or structure in contravention of Section 6.2 of this bylaw, a Building Official may post a Do Not Occupy notice in a form prescribed from time to time by the municipality.
- 30.6 The owner of property on which a Do Not Occupy notice has been posted, and every person, shall cease occupancy of the building or structure immediately and shall refrain from further occupancy until all applicable provisions of the Building Code and this bylaw have been substantially complied with and the Do Not Occupy notice has been rescinded in writing by a Building Official.
- 30.7 Every person who commences work requiring a building permit without first obtaining such permit shall pay to the municipality double the building permit fee prescribed by the Development Services Department Fees and Charges Bylaw.
- (10) By adding a new Section to follow Section 31 "Repeal":
- "Schedules
- Council authorizes that Schedule 'A' may be omitted and established by resolution where the schedule can be more conveniently contained in a resolution."
- (11) By adding Schedule "A" as appended to this bylaw.
- (12) By renumbering the sections in numerical order.

PASSED FIRST READING: 2019-SEP-16  
PASSED SECOND READING: 2019-SEP-16  
PASSED THIRD READING: 2019-SEP-16  
THIRD READING RESCINDED: 2019-OCT-07  
PASSED THIRD READING AS AMENDED: 2019-OCT-07  
ADOPTED: \_\_\_\_\_

---

MAYOR

---

CORPORATE OFFICER



**Schedule "A"**

**Fine Schedule**

<b>Offence</b>	<b>Section</b>	<b>Fine</b>
Construct without permit	6.1	\$300.00
Occupy building without valid Certificate of Occupancy	6.2	\$300.00
Supply false information	6.3	\$300.00
Tamper with posted Notice	6.4	\$500.00
Work in variance of plans	6.5	\$300.00
Obstruct Building Official	6.6	\$500.00
Occupy when occupancy changed	6.7	\$300.00
Continue to construct when not permitted	6.8	\$500.00
Fail to leave site clean and safe	20.3	\$300.00
Fail to leave the site in a safe, neat condition, free of debris and compatible with the neighbouring property	21.2.2	\$300.00
Cover or conceal plumbing	22.3	\$300.00
Install pool without a permit	23.1	\$300.00