

CITY OF NANAIMO

BYLAW NO. 7159.08

A BYLAW TO AMEND “BYLAW NOTICE ENFORCEMENT BYLAW 2012 NO. 7159”

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

1. Title

This Bylaw shall be cited as “BYLAW NOTICE ENFORCEMENT AMENDMENT BYLAW 2020 NO. 7159.08”.

2. Amendments

“BYLAW NOTICE ENFORCEMENT BYLAW 2012 NO. 7159” is hereby amended as follows:

- (A) By deleting the fine schedule for “Zoning Bylaw 2011 No. 4500” in Schedule “A” in its entirety and replacing it with the following fine schedule for “Zoning Bylaw 2011 No. 4500”.

Zoning Bylaw 2011 No. 4500

Section	Description	Penalty	Early Payment Penalty	Late Payment Penalty
6.1.2	Exceed Allowable Storage of Combustibles	200.00	150.00	250.00
6.1.3	Not in Compliance with Urban Food Garden Use	200.00	150.00	250.00
6.2.1.2	Unlawful Shipping Container	200.00	150.00	250.00
6.2.1.4	Container in Setback	200.00	150.00	250.00
6.2.1.5	Fail to Remove Container within 14 days	200.00	150.00	250.00
6.2.1.6	Exceed Permitted Number of Containers	200.00	150.00	250.00
6.3.2	Impermeable Surface Within a Leave Strip	500.00	375.00	625.00
6.3.5	Unlawful Watercourse Leave Strip Use	500.00	375.00	625.00
6.5.1	Unlawful Projection Into Yard	200.00	150.00	250.00
6.5.2	Unlawful Location of Heat Pump or Central Air Conditioning Unit	200.00	150.00	250.00
6.5.3	Unlawful Projection from Accessory Building	200.00	150.00	250.00
6.6.1	Use, Building, or Structure Not Permitted	200.00	150.00	250.00
6.6.2	Accessory Building too close to Residential or Principal Building	200.00	150.00	250.00
6.6.3	Accessory Building in Rear Yard Setback	200.00	150.00	250.00

6.6.4	Accessory Building in Setback Area	200.00	150.00	250.00
6.6.5	Accessory Building Exceeds Maximum Height	200.00	150.00	250.00
6.6.6	Accessory Building Exceeds Maximum Floor Area	200.00	150.00	250.00
6.7.1	Unlawful Temporary Use, Building or Structure	200.00	150.00	250.00
6.7.6	Fabric Covered Structure Exceeding 120 Days	200.00	150.00	250.00
6.7.7	Unlawful Occupation of Recreational Vehicle	200.00	150.00	250.00
6.7.8	Occupy Recreational Vehicle Exceeding 42 Days	200.00	150.00	250.00
6.8.2	Exceed Two Times Allowable Height	200.00	150.00	250.00
6.9.1	Obstruct Line of Vision	200.00	150.00	250.00
6.10.2	Exceed Maximum Fence Height	200.00	150.00	250.00
6.10.5	Exceed Fence Height Outside of Setback	200.00	150.00	250.00
6.11.1	Location of Pool or Hot Tub Not Permitted	200.00	150.00	250.00
6.11.2	Swimming Pool Not Enclosed	200.00	150.00	250.00
6.12.1	Derelict Vehicles on Property	200.00	150.00	250.00
6.12.1	Exceed Two Unlicensed Vehicles	200.00	150.00	250.00
6.12.2	Prohibited Vehicle on Residential Lot	200.00	150.00	250.00
6.12.3	Exceed Number of Vehicles Permitted on Lot	200.00	150.00	250.00
6.12.4	Commercial Boat Not Permitted	200.00	150.00	250.00
6.12.5	Commercial Vehicle Not Permitted	200.00	150.00	250.00
6.12.5.1	Exceed Identifiable Vehicles	200.00	150.00	250.00
6.12.5.1	Marshalling or Staging of Vehicles	200.00	150.00	250.00
6.12.6	Storage of Vehicle Over 8,600kg	200.00	150.00	250.00
6.12.6	Repair of Vehicle Over 8,600kg	200.00	150.00	250.00
6.19.1.7	Daycare Storage Not Contained Within Building	200.00	150.00	250.00
6.20.1	Home Based Business Does Not Meet Requirements	200.00	150.00	250.00
6.20.2	Resident Failed to Have Business Licence	200.00	150.00	250.00
6.20.3	Home Based Business Exceeds Maximum Floor Area	200.00	150.00	250.00
6.20.3	Home Based Business Exceeds Number of Vehicle Trips	200.00	150.00	250.00
6.20.3	Home Based Business Exceeds Maximum Number of Non-Resident Employees	200.00	150.00	250.00

6.20.3	Use Not Permitted	200.00	150.00	250.00
6.20.5	Prohibited Home Based Business	200.00	150.00	250.00
6.20.6	Unlawful Vehicle Trip Hours	200.00	150.00	250.00
6.20.7	Vehicle and Equipment Not Contained In Building	200.00	150.00	250.00
6.20.8	Discharge or Emission Not Permitted	200.00	150.00	250.00
6.20.9	Fail To Meet Requirements in Accessory Building	200.00	150.00	250.00
6.20.10	Home Based Business Storage Not Contained	200.00	150.00	250.00
7.2.1	Use Not Permitted in Residential Zone	300.00	225.00	375.00
8.2.1	Use Not Permitted in Agriculture Rural Residential Zone	300.00	225.00	375.00
9.2.1	Use Not Permitted in Corridor Zone	300.00	225.00	375.00
10.2.1	Use Not Permitted in Commercial Centre Zone	300.00	225.00	375.00
11.2.1	Use Not Permitted in Downtown Zone	300.00	225.00	375.00
12.2.1	Use Not Permitted in Parks, Recreation and Culture Zone	300.00	225.00	375.00
13.2.1	Use Not Permitted in Industrial Zone	300.00	225.00	375.00
14.2.1	Use Not Permitted in Community Service Zone	300.00	225.00	375.00
15.2.1	Use Not Permitted in Waterfront Zone	300.00	225.00	375.00
16.1.2	Use Not Permitted in CD1 Zone	300.00	225.00	375.00
16.2.1	Use Not Permitted in CD2 Zone	300.00	225.00	375.00
16.4.1	Use Not Permitted in CD4 Zone	300.00	225.00	375.00
16.5.1	Use Not Permitted in CD5 Zone	300.00	225.00	375.00
16.6.1	Use Not Permitted in CD6 Zone	300.00	225.00	375.00
16.7.1	Use Not Permitted in CD7 Zone	300.00	225.00	375.00
16.8.1	Use Not Permitted in CD8 Zone	300.00	225.00	375.00
16.9.1	Use Not Permitted in CD9 Zone	300.00	225.00	375.00
16.10.1	Use Not Permitted in CD10 Zone	300.00	225.00	375.00

- 2.2 By adding the following fine schedule for “Management and Protection of Trees Bylaw 2013 No. 7126” to Schedule “A”

MANAGEMENT AND PROTECTION OF TREES BYLAW 2013 NO. 7126

Section	Description	Penalty	Early Payment Penalty	Late Payment Penalty
5(1)(a)	Cut any tree	500.00	-	625.00
5(1)(b)	Work contrary to tree removal permit conditions	250.00	-	312.50
5(1)(c)	Cut or damage roots	500.00	-	625.00

5(1)(d)	Place prohibited material inside the drip line	150.00	-	187.50
5(1)(e)	Operate equipment inside drip line	250.00	-	312.50
5(1)(f)	Damage trunk or branches	250.00	-	312.50
5(1)(g)	Remove bark	500.00	-	625.00
5(1)(h)	Place structure inside drip line	150.00	-	187.50
5(1)(i)	Remove soil from inside drip line	150.00	-	187.50
5(1)(j)	Blast inside drip line	500.00	-	625.00
5(1)(k)	Undermine roots inside drip line	500.00	-	625.00
5(1)(l)	Improper cable or brace	250.00	-	312.50
5(1)(m)	Improper pruning or topping	500.00	-	625.00
5(1)(n)	Attach sign to tree	150.00	-	187.50
7(1)(a)	Fail to notify within 48 hours	150.00	-	187.50
7(1)(b)	Fail to replace tree	150.00	-	187.50
10(1)	Illegal transfer of permit	150.00	-	187.50
10(2)	Failure to notify the Director	150.00	-	187.50
10(3)	Failure to notify the Director for work not carried out	150.00	-	187.50
10(4)	Failure to mark trees	150.00	-	187.50
10(5)	Failure to prune with proper practices	150.00	-	187.50
10(6)	Failure to clean up site	300.00	-	375.00
10(7)	Work after expiry of permit	500.00	-	625.00
13(1)	Fail to replace tree	150.00	-	187.50

2.3 By deleting Schedule “B” in its entirety and replacing it with the “Schedule “B” attached to and forming part of this Bylaw.

PASSED FIRST READING: 2020-OCT-19
 PASSED SECOND READING: 2020-OCT-19
 PASSED THIRD READING: 2020-OCT-19
 ADOPTED:

MAYOR

CORPORATE OFFICER

SCHEDULE “B”

NANAIMO BYLAW NOTICE DISPUTE ADJUDICATION

REGISTRY AGREEMENT

This Agreement dated _____ day of _____, 2020 (the “Agreement”).

BETWEEN:

CITY OF NANAIMO, 455 Wallace Street, Nanaimo, BC V9R 5J6

(“Nanaimo”)

AND:

CITY OF DUNCAN, 200 Craig Street, Duncan, BC V9L 1W3

(“Duncan”)

AND:

CITY OF PARKSVILLE, Box 1390, 100 Jensen Avenue East, Parksville, BC V9P 2H3

(“Parksville”)

AND:

DISTRICT OF TOFINO, PO Box 9, 121 – 3rd Street, Tofino, BC V0R 2Z0

(“Tofino”)

AND:

THE VILLAGE OF PORT CLEMENTS, PO Box 198, 36 Cedar Avenue West, Port
Clements, BC V0T 1R0

(“Port Clements”)

AND:

THE REGIONAL DISTRICT OF NANAIMO, 6300 Hammond Bay Road, Nanaimo, BC
V9T 6N2

(Regional District of Nanaimo)

AND:

THE REGIONAL DISTRICT OF ALBERNI-CLAYOQUOT, 3008 Fifth Avenue, Port Alberni, BC V9Y 2E3

THE CITY OF PORT ALBERNI, 4850 Argyle Street, Port Alberni, BC V9Y 1V8

ADDITIONAL LOCAL GOVERNMENTS (to be included in Schedule A, without further modification of this Agreement)

(the “Parties”)

WHEREAS:

1. The *Local Government Bylaw Notice Enforcement Act* (the “Act”) provides that a local government may, by bylaw, deal with a bylaw contravention by Bylaw Notice in accordance with the Act;
2. The Act also provides that two or more local governments may enter into an agreement adopted, by bylaw, by each local government that is party to it;
3. The Parties wish to:
 - (a) Share the costs of a bylaw notice Dispute Adjudication Registry System (“DARS”); and
 - (b) Enter an agreement to establish DARS, and to provide for the sharing of costs.

NOW THEREFORE in consideration of the mutual promises contained herein, the Parties agree as follows:

INTRODUCTORY PROVISIONS

1. Definitions

1.1 In this Agreement, the following definitions apply:

“Act”	Means the <i>Local Government Bylaw Enforcement Act</i> .
“Adjudication Fee”	Means the sum of \$25.00 payable to the applicable Party should the disputant be unsuccessful in the dispute adjudication.
“Agreement”	Means this Agreement.
“Authorizing Bylaw”	Means a bylaw adopted by each Party for the purposes of section 2 of the Act (application of the Act).
“Bylaw Adjudication Clerk”	Means a person who facilitates a hearing and assists the adjudicator.
“Bylaw Notice”	Has the same meaning as in the Act.
“Consult”	Means to contact the Screening Officer via telephone, email, regular mail, or in-person for the purpose of obtaining information.
“Disputant”	Has the same meaning as in the Regulation.
“Dispute Adjudication Registry System”	Means a system established in accordance with the Act that provides for the hearing and determination of disputes in respect of whether: <ol style="list-style-type: none">a) a contravention in a Bylaw Notice occurred as alleged; or

or “DARS”	b) the terms and conditions of a compliance agreement were observed or performed.
“Host Municipality”	Means the City of Nanaimo.
“Parties”	Means all of Nanaimo, Duncan, Parksville, Tofino, Port Clements or any additional local governments that may be added later in Schedule A
“Party”	Means any one of Nanaimo, Duncan, Parksville, Tofino, , Port Clements or any additional local governments that may be added later in Schedule A
“Regulation”	Means the Bylaw Notice Enforcement Regulation.
“Roster Organization”	Has the same meaning as the Regulation.
“Screening Officer”	Has the same meaning as in the <i>Act</i> .
“Terms”	Means the terms of this Agreement as set out herein.

2. Establishment of DARS

- 2.1 Subject to the *Act* and to the adoption of the Authorizing Bylaws, the Parties agree that DARS is hereby established.

ADJUDICATION

3. Screening Officer

- 3.1 The Parties agree that where a Screening Officer position has been established by a Party in accordance with the *Act*, a Bylaw Notice must be reviewed by that Screening Officer in that local government before a dispute adjudication may be scheduled. If a Disputant Consults a Screening Officer of the Host Municipality, a fee will be assessed under Schedule B.

4. Dispute Adjudication Registry System

- 4.1 The Parties agree that a DARS will be established as a function to manage disputes heard by an adjudicator who is selected by a Roster Organization in accordance with the Regulation.
- 4.2 The Parties agree that Nanaimo will enter into a contract with a designated Roster Organization for the purpose of providing dispute adjudication services to DARS.

DARS OPERATIONS

5. Location

- 5.1 DARS will be located in the Service and Resource Center, City of Nanaimo, 411 Dunsmuir Street, Nanaimo, BC V9R 5J6

6. Services Provided

- 6.1 Nanaimo will provide all administrative services required by DARS, including:
- (a) providing the venue and facilities to hear dispute adjudications in accordance with the *Act*;
 - (b) submitting requests to the Roster Organization for the assignment of an adjudicator;
 - (c) providing a Bylaw Adjudication Clerk on each hearing date to facilitate and support the hearing and the adjudicator;
 - (d) providing venue security;
 - (e) providing for the collection of Adjudication Fees and any penalties payable to a Party for a bylaw contravention;
 - (f) obtaining legal advice and services to ensure this DARS is operating pursuant to the *Act*;
 - (g) Issuing cheques to the applicable Party for penalty amounts collected with the Bylaw Notice number(s); and
 - (h) Issuing invoices to the applicable Party in accordance with Schedule B.
- 6.2 Despite section 6.1 (e), the collection of penalties will be the responsibility of the applicable Party if not collected by DARS immediately following the adjudication.

7. Payments and Disbursements

- 7.1 The Parties agree to pay the City of Nanaimo proportionate costs of the fees charged by the Roster Organization. Amounts owing are to be calculated based on the Fee Schedule at Schedule B and in accordance with the Municipality Rate Schedule at Schedule C.
- 7.2 Nanaimo will issue an invoice to the applicable Party within 30 days of the service being rendered. Amounts owing are due and payable within 30 days of receipt of the invoice.
- 7.3 For certainty, the Parties agree that hearing costs relating to witnesses, screening officers, bylaw enforcement officers or prosecuting lawyers will be borne by the Party that issued the Bylaw Notice and not by DARS.

GENERAL PROVISIONS

8. Amendments

- 8.1 The Parties may, in good faith, negotiate amendments to this Agreement upon request of any Party. All amendments will be in writing, approved by a two-thirds majority of the Parties by response letter only and listed as an itemized Amendment at Schedule D.

9. Dispute Resolution

- 9.1 If a dispute arises under this Agreement and is not resolved by the Parties within 60 days, it will be settled by final and binding arbitration conducted under the *Commercial Arbitration Act of British Columbia*.

10. Term

10.1 This Agreement comes into effect upon adoption of the authorizing bylaws and continues in effect until December 31, 2025. With the consent of a two-thirds majority of the Parties, the effect of this agreement can be extended until a new agreement is in place or until December 31st, 2026, whichever comes first. Any Party may withdraw from this Agreement upon 30 days' written notice to the other Parties.

11. Execution of Agreement

11.1 This Agreement may be executed in counterparts through original copies, facsimile copies, or by email PDF copies. Each counterpart will be deemed to be an original that, together with the other counterparts, constitutes one agreement having the same effect as if the Parties had signed the same document.

IN WITNESS WHEREOF all Parties have executed this Agreement on the date first above written.

THE CITY OF Nanaimo

THE City of Duncan

Mayor

Mayor

Corporate Officer

Corporate Officer

THE CITY OF Parksville

THE DISTRICT OF Tofino

Mayor

Mayor

Corporate Officer

Corporate Officer

THE REGIONAL DISTRICT OF Nanaimo

THE VILLAGE OF Port Clements

Chair

Mayor

Corporate Officer

Corporate Officer

THE CITY OF Port Alberni

**THE REGIONAL DISTRICT OF ALBERNI
CLAYOQUOT**

Chair

Chair

Corporate Officer

Corporate Officer

(FEES)

DARS will operate under the following cost recovery fees:

SUBJECT

FEE

Hearing	\$25.00 per bylaw notice dispute resulting in a hearing
Screening Officer from Host Municipality	\$25.00 per bylaw notice Consult if Disputant contacts Screening Officer from Host Municipality
Adjudicator Cost	Apportioned amongst attending Parties at scheduled hearing proportionate to use as determined by the Screening Officer
Security	\$25.00 per bylaw notice hearing per attending Party
Maintenance and Hospitality	\$15.00 per bylaw notice hearing per attending Party
½ Day Hearings	\$400.00 charged in addition to Adjudicator Cost where a single dispute on a bylaw notice hearing ranges between 1-3 hours
Full Day Hearings	\$800.00 charged in addition to Adjudicator Cost where a single dispute on a bylaw notice hearing exceeds 3 hours
Annual Membership Fee—Fee Level 1	\$100.00
Annual Membership Fee—Fee Level 2	\$200.00
Annual Membership Fee—Fee Level 3	\$300.00

(ADDITIONAL LOCAL GOVERNMENTS)

The following local governments have been added as parties to this Agreement as additional local governments:

Local Government	Date Joined	Fee Level