

CITY OF NANAIMO

BYLAW NO. 7346

A BYLAW TO ESTABLISH PROCEDURES AND POLICIES FOR REQUIRING
DEVELOPMENT APPROVAL INFORMATION

WHEREAS under Section 485 of the *Local Government Act*, Council has specified in the Official Community Plan circumstances and designated areas for which development approval information may be required.

AND WHEREAS Section 486 of the *Local Government Act* requires the City to establish, by bylaw, procedures and policies on the process for requiring development approval information.

NOW THEREFORE the Council of City of Nanaimo enact as follows:

PART I – GENERAL

1. Title

This Bylaw may be cited as “Development Approval Information Bylaw 2022 No. 7346”.

2. Definitions

In this bylaw:

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| “Applicant” | means a person who applies for: a) an amendment to the City’s zoning bylaw; b) a development permit; or c) a temporary use permit. |
| “City” | means the City of Nanaimo |
| “Council” | means the Council of the City of Nanaimo |
| “Qualified Professional” | means an individual who is certified by a professional governing body or under the <i>Professional Governance Act</i> , where applicable, and is in good standing with the regulatory body for the individual’s profession, and when carrying out an assessment the individual is acting: a. within the individual’s area of expertise; b. within the scope of professional practice for the individual’s profession; and, c. under the code of ethics of the applicable regulatory body. |
| “Report” | means any study or information containing development approval information that fulfils or is intended to fulfil the requirements of this Bylaw and the Terms of Reference, if provided. |
| “Terms of Reference” | means a document prepared by the City regarding matters outlined in Schedule “A” of this Bylaw that defines the scope of development approval information and the deliverables required to be provided by the Applicant. |

3. Procedures and Policies

- 3.1 An official or designate referred to in Section 3.2 may require that an Applicant provide development approval information in accordance with this Bylaw.
- 3.2 The authority to require development approval information is delegated by Council to the following City officials or designates:
 - a. General Manager, Development Services.
 - b. Director, Development Approvals.
 - c. General Manager, Engineering & Public Works.
 - d. Director, Engineering
 - e. Director, Community Development.
- 3.3 Development approval information must be provided by the Applicant at the Applicant's expense, in the form of a Report certified and signed by a Qualified Professional.
- 3.4 A Report provided under Section 3.3 must be prepared by an appropriately Qualified Professional including, but not limited to, those as outlined in Schedule "B" of this Bylaw.
- 3.5 The Report must be prepared in accordance with the professional practice standards and complete with the signature and seal of any Qualified Professional involved in its creation.
- 3.6 A Report provided under Section 3.3 must comply with and fully address the Terms of Reference that are provided.
- 3.7 The City may distribute the Report, publicize the results of any Report, and be able to rely on the findings and conclusions contained in the Report.

4. Terms of Reference

- 4.1 The Terms of Reference may require one or more Reports, as identified in Schedule "A" attached to this Bylaw, related to one or more of the subject areas identified.
- 4.2 In general, a Report must contain the following:
 - a. The legal description and property identifier (PID) for the subject property;
 - b. A description of all relevant land use covenants, easements, statutory rights-of-way or other charges that affect the use and development of the property registered on title for the subject property;
 - c. A location and context map for the property;
 - d. A description of the methodology and assumptions used to undertake the Report or sufficient detail regarding assessment and the methodology to facilitate a professional third party review if required under Section 5.2;
 - e. Identification and definition of the context, interaction, scope, magnitude and significance of the anticipated impacts of the proposed activity or development, as well as the data and methodological accuracy, assumptions, uncertainties, acceptability thresholds and how the anticipated impact may cumulatively contribute to existing risks stressors and threats; and,

- f. Recommendations for conditions or requirements that Council or its official or designate may impose to mitigate anticipated impacts.

5. Report Review

- 5.1 If the City determines that a Report is incomplete or deficient, it will notify the Applicant in writing of the nature of the deficiencies. The Applicant will be required to submit a new and/or updated Report to address the deficiencies.
- 5.2 Without limiting Section 5.1, the official or designate may, after receiving and reviewing a Report under this Bylaw, require a third party review of a Report at the expense of the Applicant.

6. Reconsideration

- 6.1 An Applicant may apply to Council for the reconsideration of an official or designate decision to require development approval information under this Bylaw by delivering to the City a written application for reconsideration within thirty (30) days after the decision is communicated in writing to the Applicant.
- 6.2 An application for reconsideration must set out the grounds upon which the Applicant considers the decision inappropriate and what, if any, decision the Applicant considers the Council ought to substitute and must include a copy of any materials considered by the Applicant to be relevant to the reconsideration by Council.
- 6.3 The City must place each application for reconsideration on the agenda of a regular council meeting as soon as reasonable and practicable after the delivery of a complete application for reconsideration and must notify the Applicant of the date of the meeting at which the reconsideration will occur.
- 6.4 At that meeting, Council may hear from the Applicant and may either confirm the decision or substitute their own decision.

7. Severability

If any section, subsection, sentence, clause, definition or phrase of this Bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, such decision will not affect the validity of the remaining portions of the Bylaw.

PASSED FIRST READING: _____
PASSED SECOND READING: _____
PASSED THIRD READING: _____
ADOPTED: _____

MAYOR

CORPORATE OFFICER

SCHEDULE "A"

The following are potential components that could create the Terms of Reference for the Reports that may be requested of the Applicant for a proposed development. The scope of the Terms of Reference will vary depending on the scale and potential impact of the specific development.

A. Transportation

If the City requires development approval information relating to the impact of development on transportation, the following may be required:

- A Traffic Impact Assessment Report in accordance with the criteria outlined within the City's *Development Transportation Impact Assessment Guidelines*. The Report must outline the process, outcomes, and mitigation strategies needed to support the proposed development. Parking demand will be addressed through the City of Nanaimo Off-Street Parking Regulations Bylaw, as amended from time to time, and Policy for Consideration of a Parking Variance.

B. Local Infrastructure

If the City requires development approval information in the form of a Report relating to the impact of development on the local infrastructure, the following information may be required:

- Servicing report(s) for stormwater management, sanitary sewer, water supply. The report(s) should include capacity analysis of the existing system, impacts of the development on the existing system(s), proposed improvements to the existing system(s) whether on-site or off-site to accommodate the development, and include consideration for the development of adjacent or tributary lands.

C. Stormwater Management / Erosion

If the City requires development approval information in the form of a Report relating to the impact of development on stormwater, surface runoff and erosion, the following information may be required:

- Complete a stormwater management plan and downstream drainage system analysis as per City of Nanaimo *Manual of Engineering Standards & Specifications* (MoESS), as amended from time to time.
- Complete an erosion & sediment control plan for the property to ensure that local infrastructure, watercourses, ponds, lakes, wetlands, ocean and adjacent properties are not impacted by the proposed development.

D. Environmentally Sensitive Lands and Hazard Lands

If the City requires development approval information in the form of a Report relating to the impact of development on environmentally sensitive lands, hazard lands or steep slopes, the following information may be required:

- Provide an analysis and Report on the natural environment, including ecosystems, biological diversity, species at risk, regionally significant species, and riparian ecosystems.
- Provide a bio-inventory assessment in accordance with the most recent edition of the Provincial "*Develop with Care: Bio-Inventory Terms of Reference*".
- A detailed biophysical assessment of the property, prepared by a *Qualified Registered Professional*.
- Vegetation Management Plan including recommendations for restoration and maintenance.

- Demonstrate how the development will protect, retain and restore environmentally valuable resources.
- Provide a tree analysis and detailed tree retention strategy for the site and any potential impacts of tree removal on adjacent properties.
- Provide an analysis of the proposed development's impact on fish and wildlife habitat as well as the ground (ie: aquifer) and surface water quality, including pollution, nutrients, silt and pathogens.
- Provide an analysis of the geotechnical conditions of the site, as per the following City Guidelines:
 - *Guidelines for Geotechnical Reports;*
 - *Seismic Design Guidelines for Water, Sewer, Utilities and Roads.*
- Provide mapping of any hazardous lands or natural environmental features to be added to the City of Nanaimo base mapping.

E. Above Abandoned Mine Workings Hazards

If the City requires development approval information in the form of a Report relating to the impact of development on above abandoned mine workings hazards, the following information may be required:

- Provide an analysis of the geotechnical conditions of the site, as per the following City Guidelines:
 - *Guidelines for Geotechnical Assessments Above Abandoned Mine Workings;*
 - *Seismic Design Guidelines for Water, Sewer, Utilities and Roads.*
- Provide mapping of any hazardous lands or coal mine workings features to be added to the City of Nanaimo base mapping.

F. Sea Level Rise

If the City requires development approval information in the form of a Report relating to the impact of development on lands subject to sea level rise and associated risks to the development, the following information may be required:

- Provide an analysis of the geotechnical conditions of the site, including but not limited to: sea-level rise, 1:200 year flood event and inundation, and demonstrate that the lands are safe for the intended buildings and uses, in accordance with the Engineers and Geoscientists BC professional practice guidelines.
- Complete 1:200 year flood analysis and mapping for the site where the City has not completed mapping.

G. Wildfire Hazards

If the City requires development approval information in the form of a Report relating to the impact of development on the risk of wildfire hazards, the following information may be required:

- Complete a wildfire interface assessment of the property.
- Provide wildfire interface planning recommendations for the proposed development, including if required, windbreaks, setbacks, landscape plans, forest management strategy and modified building or subdivision design.

H. Climate Action

If the City requires development approval information in the form of a Report relating to the impact of development on climate change, the following information may be required:

- Demonstrate how the proposed development will contribute to greenhouse gas reduction targets, energy conservation and water conservation.
- Provide an analysis of the proposed development on air quality, including pollution, dust, fumes, smoke and odours.
- Demonstrate how the development incorporates elements of LEED guidelines for building materials and resources to be used, indoor environmental quality, use of natural light, innovation in design, and support for the reduction of personal vehicle use.
- Demonstrate that the development supports alternative transportation options.
- Provide an evaluation of embodied emissions of the proposed development.

I. Public Facilities and Services

If the City requires development approval information in the form of a Report relating to the impact of development on public facilities and services (including community services, parks and schools), the following information may be required:

- Identify services within a 5-minute walking distance of the proposed development.
- Identify the impacts on community services from the proposed development, including demand on: schools, protective services (e.g. police, fire, ambulance), health care and parks, recreation and cultural facilities and services.

J. Economic and Social Development

If the City requires development approval information in the form of a Report relating to the impact of development on the economic and social health of the community, the following information may be required:

- Provide an analysis of the economic impacts of the proposed development and how it may affect the day-to-day quality of life of residents, visitors and the community as a whole, including direct and indirect economic impacts, demographics, housing, local services and socio-cultural issues.
- If the application includes commercial uses, provide an analysis of the impacts of the development on: competition, traffic impacts, the effects on tenancy, and the impacts on neighbourhood stability.
- If the application includes industrial uses, provide an analysis of the impacts of the development on: supply and use of industrial land in the City.
- Provide an analysis of how affordable housing will be incorporated into the development, including: replacement of lost affordable housing (housing demolished to accommodate the new development), amount of rental housing proposed, variety of housing types, and the inclusion of new affordable housing.
- Examine the potential financial impacts of the proposed development on the existing community public facilities, such as schools, fire halls, police detachments, recreation and cultural facilities and parks.
- Outline any potential costs and identify possible strategies to mitigate against the potential impacts, including an outline of the potential funding sources for the provision of additional community services and public facilities that may be required as a consequence of the proposed development.

K. Archaeology

If the City requires development approval information in the form of a Report relating to the impact of development on the archaeological site, the following information may be required:

- A Report or letter submitted by a Qualified Professional providing clearance from the Archaeology Branch of the Province.

- If there is a known archaeological site impacting the subject property, the Applicant will need to contact the Provincial Government's Archaeology Branch to determine what permit/report requirements apply and provide this information to the City.
- If at any time during the construction process archaeological materials are identified on the site, work must stop, the Archaeology Branch must be contacted, and a Report submitted to the City.
- If a study was required, demonstrate how First Nations were involved in the archaeological study.

L. Heritage

If the City requires development approval information in the form of a Report relating to the impact of development on recognized heritage resources, the following information may be required:

- Complete a heritage impact assessment and impact mitigation study or heritage conservation plan that provides an analysis of the proposed development's impact on heritage resources on the site.
- Provide an analysis of how a building or site design reflects, conserves or enhances the heritage of the site.

M. Form and Character / Built Environment

If the City requires development approval information in the form of a Report relating to the impact of development on the form and character of the built environment, the following information may be required:

- Provide plans, sections, streetscapes, 3D or perspective architectural drawings, renderings, digital modelling.
- Demonstrate how the development complies with City bylaws and meets the goals and objectives of the Official Community Plan and any adopted Neighbourhood Plans and relevant Design Guidelines.
- Provide an analysis of landscape and visual impacts, including the impact on view corridors, the creation of shadows, prominent features, and experiential characteristics.
- Provide information on the phasing and timing of the activity or development and how this may impact the surrounding community.

SCHEDULE “B”

| | SUBJECT | QUALIFIED PROFESSIONAL |
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| A | Transportation | Professional Engineer (P.Eng.) with applicable expertise in traffic and transportation. |
| B | Local Infrastructure | Professional Engineer (P.Eng.) with applicable expertise in civil engineering. Registered Onsite Wastewater Professional (ROWP) for septic systems only. |
| C | Stormwater Management / Erosion | Professional Engineer (P.Eng., P.Geo.) with applicable expertise in hydrology, geotechnical, geology, civil. Landscape Architect (BCSLA) Certified Professional in Erosion and Sediment Control (CPESC) |
| D | Environmentally Sensitive Lands and Hazard Lands | Registered Professional Biologist (R.P.Bio) Registered Biology Technologist (RBTech) Applied Biology Technician (ABTech) Qualified Environmental Professional (QEP) Professional Engineer (P.Eng., P.Geo.) with applicable expertise in hydrology, geotechnical, geology. Registered Professional Forester (RPF) Landscape Architect (BCSLA) Professional Agrologist (P.Ag.) |
| E | Above Abandoned Mine Workings Hazards | Professional Engineer (P.Eng., P.Geo.) with applicable expertise in hydrology, geotechnical, geology, civil, in relation to coal mining and subsidence due to coal workings. |
| F | Sea Level Rise | Professional Engineer (P.Eng., P.Geo.) with applicable expertise in hydrology, geotechnical, geology, civil, in relation to sea level rise. |
| G | Wildfire Hazards | Registered Professional Forester (RPF) Registered Forest Technologist |
| H | Climate Action | Registered Professional Planner (MCIP, RPP) Architect (MAIBC) Landscape Architect (BCSLA) LEED Approved Professional (AP) Certified Energy Manager Professional Engineer (P.Eng.) with applicable expertise such as mechanical engineering. Registered Professional Biologist (R.P.Bio) Economist |

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| I | Public Facilities and Services | Registered Professional Planner (MCIP, RPP) Architect (MAIBC) Professional Engineer (P.Eng.) with applicable expertise such as civil engineering. Registered Social Worker (BCCSW) Chartered Professional Accountant (CPA) |
| J | Economic and Social Development | Registered Professional Planner (MCIP, RPP) Chartered Professional Accountant (CPA) Economist Appraiser (AIC) Land Economist (DULE) |
| K | Archaeology | Registered Professional Archaeologist (BCAPA) |
| L | Heritage | Qualified Heritage Conservation Professional (CAHP) Registered Professional Planner (MCIP, RPP) Architect (MAIBC) |
| M | Form and Character / Built Environment | Registered Professional Planner (MCIP, RPP) Architect (MAIBC) Landscape Architect (BCSLA) LEED Approved Professional (AP) |