

“OFFICERS APPOINTMENT AND DELEGATION BYLAW 2006 NO. 7031”

Consolidated Version

2020-OCT-05

Includes Amendments: 7031.01, 7031.02, 7031.03, 7031.04, 7031.05, 7031.06, 7031.07

CITY OF NANAIMO

BYLAW NO. 7031

A BYLAW TO PROVIDE FOR THE APPOINTMENT OF OFFICERS
AND THE DELEGATION OF AUTHORITY

WHEREAS under Section 146 of the *Community Charter*, the Council must, by bylaw, establish officer positions in relation to the powers, duties and functions under sections 148 and 149 and assign powers, duties and functions to its officer positions;

AND WHEREAS under Section 154 of the *Community Charter*, Council may, by bylaw, delegate its powers, duties and functions, including those specifically established by an enactment, to its officers and employees;

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

1. Title

This Bylaw may be cited as "OFFICERS APPOINTMENT AND DELEGATION BYLAW 2006 NO. 7031".

2. Definitions

In this Bylaw, unless the context otherwise requires,

"DEVELOPMENT PERMIT AREA"	means a development permit area created by an Official Community Plan adopted by the City of Nanaimo.
"CITY"	means the City of Nanaimo.
"COUNCIL"	means the Council of the City of Nanaimo.
"ESTIMATED COST"	means the estimated value of all construction proposed in connection with the Development for which the application is made as determined by the City.
"OFFICER"	means a person holding the offices of the City of Nanaimo as set out in this bylaw.
"ZONING BYLAW"	means the City of Nanaimo "ZONING BYLAW 1993 NO. 4000" and amendments thereto and any subsequent bylaws which may be enacted in substitution thereof.

3. Officers of the City

3.1 The persons holding the following positions are officers of the City:

- (a) Chief Administrative Officer
- (b) Director of Finance
- (c) Director of Legislative Services

(Bylaws 7031.01, 7031.02, 7031.04, 7031.05, 7031.06, 7031.07)

3.2 The person holding the office of Chief Administrative Officer is assigned the responsibility of the chief administrative officer of the City including the powers, duties and functions set out in Section 147 of the *Community Charter*. (Bylaw 7031.05)

3.3 The person holding the office of Director of Legislative Services is assigned the responsibilities of corporate administration, including the powers, duties and functions set out in Section 148 of the *Community Charter*. (Bylaws 7031.01, 7031.05, 7031.07)

3.4 The person holding the office of Director of Finance is assigned the responsibilities of financial administration including the powers, duties and functions set out in Section 149 of the *Community Charter*. (Bylaw 7031.05, 7031.07)

3.5 Notwithstanding any other section of this Bylaw, only the persons holding positions set out in s 3.1 are considered "Officers" for the purposes of s.152 of the Community Charter. A person appointed as an officer's deputy or appointed to act in the place of an officer from time to time is not considered an "Officer" for the purposes of s.152 of the Community Charter. (Bylaw 7031.07)

4. Deputy Positions (Bylaw 7031.01, 7031.07)

4.1 A delegation of a power, duty or function under this bylaw includes a delegation to a person who is the deputy of the delegate or who has been appointed to act in the delegate's place from time to time.
(Bylaw 7031.02, 7031.07)

5. Appointment

5.1 Nothing in this bylaw shall prevent the appointment of the same person to two or more positions;

5.2 Council delegates to the Chief Administrative Officer the authority to appoint, promote, discipline, suspend and terminate its employees, subject to the terms of a contract of employment or a collective agreement. This authority excludes the authority to terminate those employees who are Officers as set out in s. 3.1 of this bylaw, in accordance with sections 152 and 154(2)(e) of the *Community Charter*." (Bylaw 7031.05, 7031.07)

6. Land and Land Use Agreement Delegation

The Council delegates the following powers, duties and functions to the General Manager, Development Services and the Director of Legislative Services: (Bylaws 7031.01, 7031.02, 7031.05, 7031.07)

- 6.1 the power to accept a restrictive covenant or amendment to a restrictive covenant under Section 56 of the *Community Charter* or section 219 of the *Land Title Act*;
- 6.2 the power to execute on behalf of the City a discharge of a restrictive covenant referred to in subsection (1) which is no longer required or is to be replaced;
- 6.3 the power to acquire a statutory right of way or easement or amendment to a statutory right of way or easement on behalf of the City in connection with the operation of a sewer, water or drainage works, or for the purpose of trails or pedestrian or vehicular access;
- 6.4 the power to execute a discharge of a statutory right of way or easement referred to in subsection (3) which is no longer required by the City or is to be replaced;
- 6.5 the power to enter into a lease or license of real property or a renewal or amendment of a lease or license of real property necessary or convenient for the operation and maintenance of the works or activities of the City;

7. Development Permits

- 7.1 The Council delegates to the General Manager, Development Services the power to issue a development permit under Section 920 of the *Local Government Act*. (Bylaws 7031.01, 7031.02, 7031.07)
- 7.2 Without limiting the generality of the delegation of authority in Section 7.1, the authority delegated includes:
 - (a) the power to require an applicant for a Development Permit to provide, at the applicant's expense, a report, certified by a professional engineer with experience in geotechnical engineering, to assist in determining what conditions or requirements will be imposed under Section 920 of the *Local Government Act*.
 - (b) the power to require an applicant for a development permit to provide security in an amount stated in the permit by way of an irrevocable letter of credit or the deposit of securities in a form satisfactory to the City.
- 7.3 The delegation does not include:
 - (a) development permits within the Development Permit Area created under Section 919.1 of the *Local Government Act* in relation to protection from hazardous conditions as Development Permit Area No. 1 (North Slope) where:
 - (i) the Estimated Cost is greater than \$400,000

- (b) development permits within the Development Permit Area created under Section 919.9 of the *Local Government Act* in relation to the protection of the natural environment as Development Permit Area No. 23, (Watercourses) where:
 - (i) the applicant has requested a variance greater than 20 percent from the Zoning Bylaw standard or requirement for leave strips; and/or
 - (ii) a variance in excess of 50% of any other Zoning Bylaw standard or requirement.
- (c) development permits within a Development Permit Area created under Section 919.1 of the *Local Government Act* in relation to form and character of commercial development, including institutional and mixed use development, where one or more of the following is applicable:
 - (i) the gross floor area of the proposed development exceeds 6967 square metres; or
 - (ii) the applicant has requested a variance that is greater than 50 percent of the Zoning Bylaw standard or requirement; or
- (d) development permits within a Development Permit Area created under Section 919.1 of the *Local Government Act* in relation to form and character of multi-family development, where one or more of the following is applicable:
 - (i) the number of dwelling units proposed exceeds 100 units; or
 - (ii) the applicant has requested a variance greater than 50 percent of the Zoning Bylaw standard or requirement; or
- (e) development permits within a Development Permit Area created under Section 919.1 of the *Local Government Act* in relation to form and character of industrial development where one or more of the following is applicable:
 - (i) the applicant has requested a variance greater than 50 percent of the Zoning Bylaw standard or requirement;
- (f) development permits where the applicant has requested a variance for signage that is not considered by the General Manager, Development Services to be an integral part of a building's design. (Bylaws 7031.01, 7031.02, 7031.07)
- (g) development permits where the applicant has requested a variance to increase height greater than one metre above the Zoning Bylaw standard or requirement.

8. Temporary Use Permits

The Council delegates the following powers, duties and functions to the General Manager, Development Services: (Bylaws 7031.01, 7031.02, 7031.07)

- 8.1 The power to issue a temporary commercial use permit or a temporary industrial use permit under Section 921 of the *Local Government Act*.
 - 8.2 The power to require as a condition of the issue of temporary commercial and industrial use permit:
 - (a) demolition or removal of a building or structure; and
 - (b) restoration of land described in a permit to a condition specified in the permit by a date specified in the permit.
 - 8.3 The power to require an applicant for a temporary use permit to provide security in an amount stated in the permit by way of an irrevocable letter of credit or the deposit of securities in a form satisfactory to the City.
 - 8.4 The amount of security to be provided under Section 925 of the *Local Government Act* in relation to a temporary commercial use permit or a temporary industrial use permit shall be determined as 110 percent of the cost of removing or demolishing a building or structure, or 110 percent of the cost of restoring land.
 - (a) 65 percent of the cost of installation of landscaping required to be completed in accordance with the development permit.
 - (b) 15 percent of the Estimated Cost for the purpose of remedying an unsafe site condition.
 - (c) the lesser of:
 - (i) five percent of the Estimated Cost; and
 - (ii) \$50,000.00.for the purpose of remedying damage to the environment which may result from a contravention of the permit.
 - 8.5 The General Manager, Development Services shall provide an opportunity for interested persons to make submissions regarding the issuance of a permit at the date, time and place specified in the notice under Section 921 of the *Local Government Act*. (Bylaws 7031.01, 7031.02, 7031.07)
9. Provision of Park Land through Subdivision (Bylaw 7031.03)
- The Council hereby delegates to the Approving Officer the authority to determine whether the owner must provide land or cash in lieu of land under Section 941 of the *Local Government Act*.
10. Park and Recreation Facility Use Permits
- The Council hereby delegates to the General Manager, Parks, Recreation and Culture the power and function to issue a license or permit to use a community park or a recreation facility. (Bylaw 7031.05, 7031.07)

11. Authority to Commence or Defend Legal Proceedings

The Council hereby delegates to the Chief Administrative Officer the power to instruct counsel to commence or defend any action or proceeding in any court of law, or before any tribunal, arbitrator or any other person, for or on behalf of the City. (Bylaw 7031.05)

12. Reconsideration by Council

12.1 An applicant may have a decision of the Chief Administrative Officer, Director of Finance, General Manager, Parks, Recreation and Culture, or General Manager, Development Services in relation to a permit, reconsidered by Council by submitting a written request for reconsideration to the Director of Legislative Services, within thirty days after the decision is delivered to or made available to the applicant. (Bylaws 7031.01, 70301.02, 7031.05, 7031.07)

12.2 The request for reconsideration must include the following:

- (a) the applicant's address for receiving correspondence related to the request for reconsideration;
- (b) a copy of the written decision;
- (c) reasons why the applicant wishes the decision to be reconsidered by Council;
- (d) the decision which the applicant requests be made by Council;
- (e) reasons in support of the decision requested from Council; and
- (f) a copy of any documents which support the applicant's request for reconsideration by Council.

12.3 At the reconsideration of a decision, the applicant is entitled to be heard by the Council in person or by a representative.

12.4 The Council may, following completion of its reconsideration, do one or more of the following:

- (a) confirm all or part of the delegate's decision;
- (b) set aside all or part of the delegate's decision;
- (c) amend the delegate's decision or make a new decision.

12.5 The Council may adjourn a reconsideration under this section.

13. Notice of Reconsideration (Bylaw 7031.01, 7031.05, 7031.07)

The Director of Legislative Services must, upon receiving an application for reconsideration:

- (a) place the request for reconsideration on the agenda for a regular meeting of Council to be held at least two weeks after the date on which the request for reconsideration is delivered to the Director of Legislative Services;
- (b) notify the applicant of the date for reconsideration by regular mail sent to the applicant's address provided under Section 12;
- (c) if the General Manager, Development Services provided notice to any person other than the applicant regarding the initial application for a development permit or temporary use permit, in addition to the notice requirements under Section 12, similar notice must be given of the reconsideration.
(Bylaws 7031.07)

14. No Delegation by a Delegate

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 any power, duty or function that has been delegated by this Bylaw.

15. Repeal

"OFFICERS APPOINTMENT AND DELEGATION BYLAW 2005 NO. 7001" is hereby repealed.