

CITY OF NANAIMO

BYLAW NO. 2960

A BYLAW TO AUTHORIZE THE MUNICIPALITY TO ENTER UPON,
EXPROPRIATE, BREAK UP, TAKE AND ENTER INTO POSSESSION
OF AND USE LANDS FOR SEWER PURPOSES

WHEREAS the Council of the City of Nanaimo deems it necessary to acquire property for sewer purposes; and

WHEREAS Section 611 of the Municipal Act provides that the Council may, by bylaw, provide for the establishment of a system of sewerage works for the collection, conveyance and disposal of sewage; and

WHEREAS Section 611(4) of the Municipal Act provides that, the City Council may, by expropriation, enter into possession of and use property and have free entry thereon.

THEREFORE BE IT RESOLVED that the Council of the City of Nanaimo, in open meeting assembled, ENACTS AS FOLLOWS:

1. This bylaw may be cited as the "EXPROPRIATION BYLAW 1986 NO. 2960".
2. Pursuant to Section 611(4) and subject to Division 4 of Part XII of the Municipal Act, the City of Nanaimo is hereby authorized to enter on, expropriate, break up, take and enter into possession of and use and does hereby expropriate for sewer purposes all that interest as set out in the right-of-way documents attached hereto and forming a part of this bylaw in and to, all and singular that certain parcel or tract of land and premises situate, lying and being in the municipality of Nanaimo, in the Province of British Columbia, more particularly described as all that part of Lot 238, Douglas Island (also known as Protection Island), Nanaimo District, Plan 14111 lying to the north of a line parallel to and perpendicularly distant 6 metres from the northerly boundary of said Lot;

and

That part of said Lot 238 lying to the west of a line parallel to and perpendicularly 6 metres from the westerly boundary of said Lot and to the south of a line parallel to and perpendicularly distant 6 metres from the northerly boundary of said Lot 238.

3. This bylaw shall not come into effect until it has been published once in the B. C. Gazette and in a newspaper published or circulated in the City of Nanaimo, and a certified copy of the bylaw has been filed in the Victoria Land Title Office, and a Notice of Expropriation has been served on the registered owners of the land.

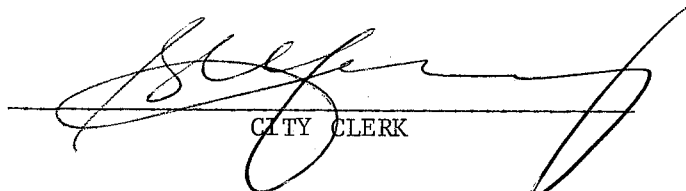
PASSED FIRST, SECOND AND THIRD READINGS 1986-MAR-03.

ADOPTED 1986-MAR-17.

REPEALED 1986-APR-07



MAYOR



CITY CLERK

-----DO NOT WRITE ABOVE THIS LINE, FOR LAND TITLE OFFICE USE ONLY-----

FORM 17

File 2777

Nature of Charge(s): Right-of-way	Full name, postal address and telephone number of person presenting instrument for registration:
Address of person entitled to be registered, if different from that shown in instrument:	P.W. McKechnie
British Subject: Yes	City of Nanaimo
True Value: \$ 1.00	455 Wallace Street
Herewith fees of \$ 10.00	Nanaimo, B.C.
	V9R 5J6 754-4251

	Signature of Applicant (Solicitor or Agent)

THIS SEWAGE AND DRAINAGE RIGHT-OF-WAY AGREEMENT was made the _____ day of _____ 19 .

BETWEEN: Hettie Rhoda-Marie Wilfert
 #4 - 2654 Lancelot Place
 R.R.#1, Saanichton, B.C.
 VOS IMO
 (hereinafter called "the Grantor")

AND:
 City of Nanaimo,
 455 Wallace Street, Nanaimo, B.C.
 (hereinafter called "the Corporation")

IN CONSIDERATION OF \$ 1.00 , (the receipt whereof is hereby acknowledged by the Grantor), the Grantor hereby grants to the Corporation, its successors and assignees, forever, the full and exclusive rights by its officers, agents, servants, workmen, contractors, and subcontractors, in, over, across and under the land described in Schedule "A" hereto, (hereinafter called "the right-of-way area") to enter, cross and recross; to install, construct, operate, maintain, inspect, alter, remove, replace, reconstruct, and repair one or more sewers, drains, valves, fittings, meters, pumps, manholes, and other equipment and appurtenances of every kind (all or any of which are hereinafter called "facilities") which may be required by the Corporation, its successors and assignees for the collection, conveyance and treatment of sewage and to convey sewage or treated sewage effluent through the facilities or any of them.

THE CORPORATION covenants with the Grantor:

1. Insofar as it may be practicable, the Corporation will bury all facilities so as not to interfere unreasonably with the use of the surface of the ground within the land described in Schedule "A"; and
2. Upon completion of any construction or any installation of facilities, or alteration, removal, replacement, reconstruction, or repair of facilities, the Corporation will restore the surface of the ground as nearly as possible to the condition thereof at the time of commencement of that work and will repair any injury to property caused directly or indirectly by the Corporation, its officers, agents, servants, workmen, contractors or subcontractors in the course of carrying out that work.

THE GRANTOR covenants with the Corporation:

1. Not to install, erect, or construct or permit to be installed, erected or constructed any building or fixture within the right-of-way area without the consent in writing of the Corporation and not to diminish or permit to be diminished or substantially add to or allow to be substantially added to the soil cover over any of the facilities installed within the right-of-way area without the consent in writing of the Corporation, and not to do any act or knowingly suffer or permit any act to be done within the right-of-way area which may interfere with the facilities or any of them, and

2. If at the date hereof, the Grantor is not the sole owner of the parcel of land wherein the right-of-way area is located, this instrument shall nevertheless bind the Grantor to the full extent of his interest therein, and if he shall later acquire a greater interest therein, the provisions hereof shall extend to such after acquired interest.

THE PARTIES MUTUALLY AGREE that the facilities shall at all times remain the property of the Corporation, its successors and assignees, notwithstanding that they may be affixed to the land and the facilities or any of them may at any time and from time to time be removed by the Corporation, its successors and assignees, but the Corporation shall be under no obligation to remove the facilities or any of them from the land.

The provisions of this instrument shall be binding upon and enure to the benefit of the Grantor's heirs, executors, administrators, successors and assignees and the Corporation's successors and assignees, and wherever the singular or masculine is used herein, it shall be construed as if the feminine, plural or neuter, as the case may be, had been used where the context so requires, and the rest of the sentence shall be construed as if the grammatical and terminological changes thereby rendered necessary have been made.

IN WITNESS WHEREOF the parties have executed this agreement effective on the date hereof.

SIGNED, SEALED AND DELIVERED)
in the presence of:)
)

_____)
Name:)

_____)
Address:)

_____)
Occupation:)

SIGNED, SEALED AND DELIVERED)
in the presence of:)
)

_____)
Name:)

_____)
Address:)

_____)
Occupation:)

THE CORPORATE SEAL OF)
was affixed in the presence of:)
)

_____)
_____)

THE CORPORATE SEAL OF)
was affixed in the presence of:)
)

_____)
_____)

SCHEDULE "A"

That part of Lot 238, Douglas Island (also known as Protection Island), Nanaimo District, Plan 14111 lying to the north of a line parallel to and perpendicularly distant 6 metres from the northerly boundary of said Lot; That part of said Lot 238 lying to the west of a line parallel to and perpendicularly 6 metres from the westerly boundary of said Lot and to the south of a line parallel to and perpendicularly distant 6 metres from the northerly boundary of said Lot 238.

MEMORANDUM AS TO ENCUMBRANCES, LIENS AND INTERESTS

CONSENT

The undersigned, being the holder of an encumbrance or entitled to a lien or interest referred to in the Memorandum above written, for valuable consideration (the receipt from the Corporation whereof is hereby acknowledged) hereby joins in and consents to the grant to the Corporation of the rights set out in the annexed instrument in priority to the interest of the undersigned in and registered as an encumbrance upon the title to the land described in Schedule "A" above written.

SIGNED, SEALED AND DELIVERED in the presence of:

.....
Name

.....
Address

.....
Occupation

THE CORPORATE SEAL OF

was affixed in the presence of:
.....
.....

CONSENT

The undersigned, being the holder of an encumbrance or entitled to a lien or interest referred to in the Memorandum above written, for valuable consideration (the receipt from the Corporation whereof is hereby acknowledged) hereby joins in and consents to the grant to the Corporation of the rights set out in the annexed instrument in priority to the interest of the undersigned in and registered as an encumbrance upon the title to the land described in Schedule "A" above written.

SIGNED, SEALED AND DELIVERED in the presence of:

.....
Name

.....
Address

.....
Occupation

THE CORPORATE SEAL OF

was affixed in the presence of:
.....
.....

CONSENT

The undersigned, being the holder of an encumbrance or entitled to a lien or interest referred to in the Memorandum above written, for valuable consideration (the receipt from the Corporation whereof is hereby acknowledged) hereby joins in and consents to the grant to the Corporation of the rights set out in the annexed instrument in priority to the interest of the undersigned in and registered as an encumbrance upon the title to the land described in Schedule "A" above written.

SIGNED, SEALED AND DELIVERED in the presence of:

.....
Name

.....
Address

.....
Occupation

THE CORPORATE SEAL OF

was affixed in the presence of:
.....
.....

LAND TITLE ACT
FORM 2
(Sections 43 (a) and 44 (a))

AFFIDAVIT OF WITNESS

I, of
..... in
British Columbia, make oath and say:

1. I was present and saw this instrument duly signed and executed by
....., the party(ies) to it, for the purposes named in it.
2. The instrument was executed at
3. I know the party(ies), who is(are) 19 years old or more.
4. I am the subscribing witness to the instrument and am 16 years old or more.

Sworn before me at
in British Columbia, this day
of, 19

*

*Write name and qualifications under section 48, e.g., A Commissioner for Taking Affidavits for British Columbia.
NOTE—This affidavit must be sworn by a witness who is not a party to the instrument.

LAND TITLE ACT
FORM 3
(Sections 43 (b) and 44 (b))

CERTIFICATE OF ACKNOWLEDGMENT OF TRANSFEROR

I certify that on the day of, 19, at in the of

*(Whose identity has been proved by the evidence on oath of
....., who is) personally known to me,
(State full name, address, and occupation)

appeared before me and acknowledged to me that he/she/they is(are) the person(s) mentioned in this instrument as a transferor (or attorney of a transferor) that his/her/their name(s) is(are) subscribed to it, that he/she/they know(s) the contents of the instrument and executed it voluntarily, and is(are) of the age of 19 years or more.

In testimony of which I set my hand and seal of office at
this day of, 19

†

*Where the person making the acknowledgment is personally known to the officer taking it, strike out the words in brackets.
†Write name and qualifications under section 48, e.g., A Commissioner for Taking Affidavits for British Columbia.

LAND TITLE ACT
FORM 6
(Section 46)
PROOF OF EXECUTION BY CORPORATION

I certify that on the day of, 19, at
in British Columbia,

(*whose identity has been proved by the evidence on oath of
..... who is) personally known to me, appeared
(State full name, address, and occupation)

before me and acknowledged to me that he/she is the authorized signatory of
..... and that he/she is the person who subscribed his/her name and affixed the seal of the corporation to the instrument, that he/she was authorized to subscribe his/her name and affix the seal to it, †(and that the corporation existed at the date the instrument was executed by the corporation.)

In testimony of which I set my hand and seal of office at
this day of, 19

‡

*Where the person making the acknowledgment is personally known to the officer taking it, strike out these words in brackets.
†These words in brackets may be added, if the applicant wishes the registrar to exercise his discretion under section 162 (5) not to call for further evidence of the existence of the corporation.
‡Write name and qualifications under section 48, e.g., A Commissioner for Taking Affidavits for British Columbia.

