

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

BYLAW NO. 3119

A Bylaw to amend Bylaw No. 2791, cited as the
Development Application Procedures and Fees Bylaw No. 2791, 2012

The Council of the Corporation of the Township of Esquimalt, in open meeting assembled, enacts as follows:

1. This Bylaw may be cited as the “Development Application Procedures and Fees Bylaw No. 2791, 2012, Amendment Bylaw, 2024, No. 3119.”
2. That Bylaw No. 2791, cited as the “Development Application Procedures and Fees Bylaw No. 2791, 2012” be amended as follows:
 - (1) Add after subsection 1(d):
(d.1) Minor DVP [*Defined in Section 38A*]
 - (2) In Section 4, replace the reference to “development variance permit” with “development variance permit or Minor DVP”.
 - (3) In Section 5, add the following as the last sentence:

For certainty, in accordance with the *Local Government Act*, a minor DVP does not require notice.
 - (4) In Section 14, add after the first comma “or by the Director of Development Services in the case of a minor DVP”, so that the provision reads as follows:

14. If the application is withdrawn before being considered by the Council or a committee of the Council at any meeting, or by the Director of Development Services in the case of a minor DVP, the applicant shall be entitled to a refund of 50% of the application fee to a maximum refund of \$1000.00 and if the application is withdrawn prior to the filing of notice in the Land Title Office, the applicant shall be entitled to a refund of the filing fee.
 - (5) In Section 37, add “unless the variance may be approved as a minor DVP” after “*Local Government Act*”, so that the provision reads as follows:

37. The Council delegates to the Director of Development Services the authority to issue development permits described in Schedule C that do not involve the variance of a bylaw under Division 5, 11, 12, 13 or 14 of Part 14 of the Local Government Act, unless the variance may be approved as a minor DVP, and the Director may refer such applications to the Advisory Planning Commission for recommendations.

(6) In Section 38(b), add “unless the variance may be approved as a minor DVP” at the end, so that the provision reads as follows:

(b) increases any variance authorized by the development permit, unless the variance may be approved as a Minor DVP, or

(7) After Section 38, add as a new section, Section 38A **Delegation of Minor DVPs in accordance with LGA s.498.1**, the provisions identified in Schedule A of this Bylaw.

(8) In Section 40A, add “, or the Director of Development Services if subject to an application for a minor DVP,” after the word “Council”, so that the opening language of the provision reads as follows:

Notwithstanding Section 40, the following applications will be directly referred to Council, or the Director of Development Services if subject to an application for minor DVP, and not to the Advisory Planning Commission:

(9) In Section 40A, delete subsection “(i) All subdivision Development Permits.”

(10) In Section 43, add a reference to Section 38A after the references to Section 37 and 38.

(11) After Section 46, add the following as new Sections 46A and 46B:

46A *Council delegates to the Subdivision Approving Officer the authority to accept on the Township's behalf a covenant or other document that is required by the Subdivision Approving Officer as a condition of subdivision approval, and Council authorizes the Mayor and Corporate Officer to sign the covenant and other documents.*

46B *Council delegates to the Subdivision Approving Officer the authority to exempt a parcel from the statutory (10%) or bylaw minimum frontage provided for in subsection 512(1) of the Local Government Act.*

(12) In **Schedule A Public Consultation Procedure**, delete the third bullet point which states, “Notice of the public meeting must be provided by mail or hand delivery to the residents and owners at least 3 and not more than 10 days before the meeting” and replace it with, “The applicant must supply a copy of the Neighbourhood Open House notices to the File Manager, a minimum of 20 days before the proposed date of the Neighbourhood Open House and the Township will mail the applicant's notices at least 10 days prior to the Neighbourhood Open House”.

(13) In **Schedule B Development Application Fees**, the first two rows under the DEVELOPMENT PERMIT section are deleted (for clarity they are the fees for “Single Family Infill dwelling unit” and “Duplex” rows).

(14) In **Schedule B Development Application Fees**, the row under the DEVELOPMENT PERMIT section that states, “Delegated Development Permit” is amended to state, “Non-Dwelling Unit Delegated Development Permit”.

(15) In **Schedule B Development Application Fees**, following row is added after the row for “Non-Dwelling Unit Delegated Development Permit”:

Dwelling Unit Delegated Development Permit	\$1000 per Dwelling Unit
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(16) In **Schedule B Development Application Fees**, the following row under the DEVELOPMENT PERMIT section of the Table is deleted:

Development Permit for a sign only	\$50 [Amendment Bylaw, 2016, No. 2862]
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(17) In **Schedule B Development Application Fees**, add the following as the third row under the OTHER FEES section of the Table:

Minor DVPs	\$500
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(18) In **Schedule B Development Application Fees**, amend the first row after OTHER FEES section in the Table, as follows:

Development Variance Permit (excluding signs and Minor DVPs)	\$1000
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(19) In **Schedule C Delegation of Development Permit Powers**, delete the following items 2 - 6:

- “2. Development permits for secondary suites.
- 3. All signs not requiring variances.
- 4. All accessory buildings not requiring variances.
- 5. All single family residential dwellings not requiring variances.
- 6. Subdivision (including under the Strata Property Act) creating 5 or fewer lots.”

and replace them with the following items 2 - 5:

- “2. All residential development, in any building form, up to and including six (6) units on a fee simple parcel.
- 3. All Signage in DPA # 11 and within 20 m of the Gorge Waterway high watermark, 10 m of the Strait of Juan de Fuca, or within the Hazardous Conditions Development Permit Area.
- 4. Accessory Buildings that contain plumbing that are not otherwise exempt for a development permit requirement.
- 5. All Accessory Buildings within 20 m of the Gorge Waterway high watermark, 10 m of the Strait of Juan de Fuca, or within the Hazardous Conditions Development Permit Area.”

READ a first time by the Municipal Council on the 5th day of February, 2024.

READ a second time by the Municipal Council on the

READ a third time by the Municipal Council on the

ADOPTED by the Municipal Council on the

BARBARA DESJARDINS
MAYOR

DEBRA HOPKINS
CORPORATE OFFICER

Schedule “A”

Minor DVPs - Note: The following to be added as Section 38A of the Bylaw and is provided in this Schedule for ease of reference.

38A. Delegation of Minor DVPs in accordance with LGA s.498.1

(a) The Council delegates to the Director of Development Services the authority to issue minor development variance permits in accordance with section 498.1 of the *Local Government Act* and the provisions of this Bylaw (described as “minor DVP”).

(b) A minor variance includes:

- i. Variances to maximum fence heights of less than 25%;
- ii. Variances to maximum building heights of less than 25%;
- iii. Variances to minimum setbacks of less than 25%;
- iv. Variances to minimum parking requirements of less than 25%;
- v. Variances to site coverage less than 25%;
- vi. Variance to sign regulations up to 25%;
- vii. Notwithstanding the above, the full scope of variances authorized by the *Local Government Act* can be increased beyond 25% if, in the opinion of a Registered Professional Planner working for the Township, the variance, or development facilitated by the variance, is consistent with good land-use planning, and any one or more of the following applies:
 - A. the variance relates to an existing building or structure;
 - B. the variance facilitates subdivision of land, except in the ALR;
 - C. the variance facilitates the provision of dwelling units provided that maximum density of the applicable zone and Official Community Plan land use designation is not exceeded;
 - D. the variance facilitates a development that advances Township policy as identified in the Official Community Plan, bylaw or other plan or policy endorsed by resolution of Council;
 - E. the variance relates to section 50 of the *Community Charter* [trees];
 - F. the variance results in enhanced accessibility for persons with disabilities.

(c) The percentage of a variance shall be calculated by the following equation, noting v_1 is the bylaw's existing regulation and v_2 is the proposed regulation if the variance is granted:

$$\frac{|v_1 - v_2|}{\left[\frac{v_1 + v_2}{2} \right]} \times 100 = \% \text{ variance}$$

(d) The Director must consider the following guidelines in deciding whether to issue a minor DVP:

- i. The variance should not result in inappropriate development of the site.
- ii. The variance should not adversely affect the natural environment.
- iii. The variance should not substantially affect the use and enjoyment of adjacent land.
- iv. The variance should not defeat the intent of the bylaw.
- v. The variance or development facilitated by the variance should, in the opinion of a Registered Professional Planner working for the Township, be consistent with good land-use planning.
- vi. In support of additional housing initiatives, greater leeway may be given for variances that facilitate the provision of dwelling units provided that maximum density of the applicable zone and Official Community Plan designation is not exceeded.
- vii. In support of Council priorities, greater leeway may be given for variances that advance Township policy as identified in the Official Community Plan, bylaw or other plan or policy endorsed by resolution of Council.
- viii. If the variance is likely to have more than minor adverse impacts on the public realm that are not justifiable by other criteria, has the applicant proposed sufficient mitigations or alternative benefits either to benefit surrounding property, the broader neighbourhood, or the Township, as determined in the sole discretion of the Director.

(e) For certainty, the delegation to the Director of Development Services of the power to issue a development variance permit includes all the powers of Council in relation to such permits, including the power to impose conditions and requirements, require security and set standards on the issuance of a permit.

(f) The Director of Development Services must notify the applicant in writing of a refusal by the Director to issue a minor DVP within fifteen days of the date of refusal.