

# CORPORATION OF THE TOWNSHIP OF ESQUIMALT

## BYLAW NO. 2938

A Bylaw to amend Bylaw No. 2050, cited as the  
"Zoning Bylaw, 1992, No. 2050"

THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF ESQUIMALT, in open meeting assembled, enacts as follows:

1. This bylaw may be cited as the *"Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2938"*.
2. That Bylaw No. 2050, cited as the "Zoning Bylaw, 1992, No. 2050" be amended as follows:

(1) at **PART 1 – INTERPRETATION** Section **2. DEFINITIONS**, by adding the following definitions:

- a. **Access Route:** Amend existing definition so that it reads:

"**Access Route**" means lands forming a corridor that provides vehicular access to the bare land strata lots in a bare land strata subdivision, but does not include a Highway.

- b. **Accessory Building:** Amend existing definition so that it reads:

"**Accessory Building**" means a Building or Structure:

- (1) having an area greater than 1.0 square metre;
- (2) located on the same Parcel as the Principal Building yet subordinate in area and extent, and whose purpose is customarily incidental to the Principal Building; and
- (3) having no shower/ bathtub or cooking facilities;

and includes but is not limited to a detached Garage, garden/storage shed, gazebo, workshop, studio and greenhouse, but does not include Landscaping.

- c. **Balcony:** Amend existing definition, so that it reads:

"**Balcony**" means a platform which projects from the wall of a Building above existing ground level and that is partially enclosed by a low parapet or Guard in such a manner as to remain permanently exposed to outside weather.

- d. Add the following definition for **Boat** in alphabetical order:

"**Boat**" means Vessel.

- e. **Fence:** Add “or a hedge”, and replace the “or” before “a Guard” with a comma such that the definition of “Fence” reads:

**"Fence"** means a vertical barrier which accomplishes any one or more of the following:

- (1) prevents access;
  - (2) provides physical separation;
  - (3) provides visual separation;
  - (4) provides enclosure of a Parcel or portion of a Parcel;
- but does not include a Retaining Wall, a Guard or a hedge.

- f. **Floor Area:** Amend existing definition so that it reads:

**"Floor Area"** means the entire area which in plan is enclosed by the interior face of the exterior walls of a Building, calculated in accordance with Section 14.

- g. **Floor Area Ratio:** Remove “and Storeys” from existing definition so that it reads:

**"Floor Area Ratio"** means the figure obtained when the Floor Area of all floor levels in all Buildings on a Parcel is divided by the Area of the Parcel, calculated in accordance with Section 14.

- h. **Grade:** Amend existing definition, so that it reads:

**"Grade"** means the average of the existing ground (as determined by a BC Land Surveyor) of those points of a polygon having the shortest perimeter that will encompass the outermost walls of a building or structure, provided that localized depressions such as vehicle or pedestrian entrances need not be considered in the determination of the average of existing ground.

- i. **Landscaping:** Amend existing definition, including to add subsection (7) and to amend the exclusion, so that it reads:

**"Landscaping"** means:

- (1) the planting and maintenance of trees, shrubs, gardens, and lawns,
- (2) walking paths and patios,
- (3) a wooden surface (deck) less than 0.4 metres vertical distance above the existing ground at any point,
- (4) Fences permitted within a Zone,
- (5) Retaining Walls less than 1.2 metres in Height,
- (6) Pergolas, Arbours and Trellis less than 10 square metres in area and with a height less than 2.5 metres; and
- (7) children’s play structures, including playhouses and tree forts, less than

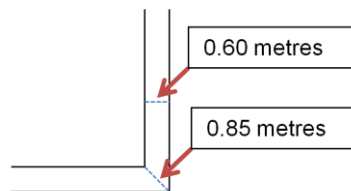
4.0 square metres in area where the height to the mid-point of the roof is less than 1.8 metres above existing ground.

and specifically excluding driveways and parking areas of concrete, asphalt or a similar paving material.

- j. **Lot Coverage:** Amend existing definition, including to add subsections (3) and (4) and a diagram, so that it reads:

**"Lot Coverage"** means the percentage of the Area of a Parcel that is covered by all Buildings and Structures and specifically excludes:

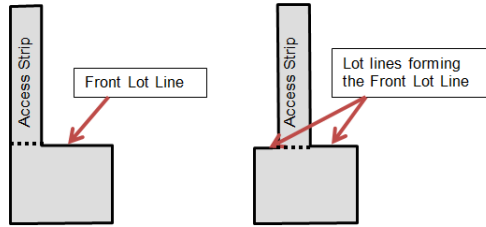
- (1) Landscaping and parking areas,
- (2) the portion of swimming pools, hot tubs, exterior stairs and window wells that are at or below existing ground,
- (3) that portion of exterior stairs less than 0.4 metres vertical distance above the existing ground at any point, and
- (4) building gutters, sills, sunlight control projections, eaves and canopies that extend no more than 0.60 metres from the building's exterior wall and no more than 0.85 metres at the building corners (generally as shown on the following diagram).



- k. **Lot Line, Front:** Amend existing definition, in particular section (2), and add a diagram, so that it reads:

**"Lot Line, Front"** means the Lot Line(s) common to the Parcel and an abutting Highway or Access Route, but:

- (1) Where a Parcel has Lot Lines abutting two or more Highways, or Access Routes, the Lot Line (or combined Lot Lines abutting one Highway) having the shorter length abutting a Highway or Access Route is the Front Lot Line;
- (2) Where a Parcel is a Panhandle Lot, the Front Lot Line means the Lot Line(s) adjoining and approximately perpendicular to the Access Strip, excluding any lot line in the Access Strip (generally as shown on the following diagrams).



- I. **Dwelling - Townhouse:** Replace existing definition with the following:

**“Dwelling – Townhouse” (also “Townhouse Residential”)** means a Building which contains three or more Dwelling Units, with each Dwelling Unit having its principal access from a separate exterior entrance, and

- (1) may be accompanied by Accessory Buildings where specifically permitted by this bylaw; and
- (2) may be accompanied by other Accessory Uses where specifically permitted by this bylaw.

- m. **Dwelling - Two Family:** Amend existing definition to add parenthetical **“(also “Two Family Residential”)** so that it reads:

**"Dwelling - Two Family" (also “Two Family Residential”)** means a detached Building consisting of two principal Dwelling Units, each of which is occupied or intended to be occupied as the Permanent Residence by one Family, with each Dwelling Unit having its principal access from a separate exterior entrance , and

- (1) may include Boarding as an accessory use only;
- (2) may be accompanied by Accessory Buildings; and
- (3) may be accompanied by other Accessory Uses where specifically permitted by this bylaw.

- n. **Parcel:** Amend existing definition so that it reads:

**"Parcel"** means any lot, block or other area in which land is held or into which it is subdivided, but does not include a Highway or Access Route.

- o. **Retaining Wall:** Amend existing definition so that it reads:

**"Retaining Wall"** means a structure constructed to hold back or stabilize material (usually soil), not forming part of a building.

- p. Add the following definition for **Vessel** in alphabetical order:

**“Vessel”** means the same meaning as the Navigation Protection Act R.S.C., 1985, c. N-22.

(2) at **PART 4 – GENERAL REGULATIONS** Section 14. **CALCULATION OF FLOOR AREA AND FLOOR AREA RATIO:**

Replace the entirety of Section 14(1) - (3) with the following Section 14(1) - (2):

**14. CALCULATION OF FLOOR AREA AND FLOOR AREA RATIO:**

- (1) The following shall not be included as Floor Area for the purposes of computing Floor Area Ratio:
- (a) balconies,
  - (b) open decks and sun decks,
  - (c) unenclosed porches and verandas,
  - (d) chimneys forming part of an exterior wall,
  - (e) projecting bay windows where the bottom of the window is located a minimum 0.3 metres above the floor, and no area of the bay window in plan exceeds 1.0 square metre,
  - (f) Accessory Buildings,
  - (g) all portions of a Building used or intended to be used for the parking or temporary storage of vehicles,
  - (h) Notwithstanding subsection (f) and (g) the area used and maintained as a Garage, in a Principal Building, equal to or less than:
    - (i) 45 square metres in a Single Family Dwelling;
    - (ii) 40 square metres in a Two Family Dwelling;
    - (iii) 40 square metres per Dwelling Unit in a Townhouse Dwelling;

(For certainty, the area of Garages exceeding the above amounts must be included),
  - (i) stairs and stairwells,
  - (j) areas that have no surface on which to stand and are open to below,
  - (k) any portion of a penthouse containing elevator or ventilating machinery,
  - (l) any portion of a Building where the ceiling height is less than 1.2 metres above the floor; and
  - (m) any Basement, ground floor, or portion thereof, within a Single Family, Two Family, or Townhouse Dwelling where the ceiling is less than 1.2 metres above the natural ground level at any point.
- (2) In addition, the following shall not be included as Floor Area in Multiple Family Dwellings, Mixed Commercial/ Residential Buildings, Mixed Institutional/ Residential Buildings and Mixed Commercial/ Institutional Buildings:
- (a) the floor of any and all portions of the Building intended to be used by all occupants of the building, including but not limited to the following:
    - (i) mezzanines,

- (ii) corridors and hallways,
- (iii) foyers;
- (iv) elevator shafts; and
- (v) secure bicycle storage facilities (bike lockers) not located within a Dwelling Unit.

(3) at **PART 4 – GENERAL REGULATIONS** Section 15. **HEIGHT CALCULATIONS:**

Amend Section 15(2) to add “or equal to” as shown below, so that it reads:

- (2) For Buildings and Structures with a gable, hip, gambrel, or a sloping roof with a pitch greater than or equal to 3:12 and less than 12:12, height is measured from Grade to the midpoint between the eaves and highest ridge.

Amend Section 15(4) to replace “stairway” with “stairwell” as shown below, so that it reads:

- (4) The following Structures may exceed the maximum heights provided elsewhere in this bylaw, provided they conform to all the provisions of Section 15: parapets, guards for roof top patios, church spires, chimneys, masts, satellite dishes, aerials, fluid storage tanks, monuments, transmission towers, elevator shafts, roof stairwell entrances, solar panels, ventilation machinery, and flagpoles for federal, provincial and municipal flags. However,
  - (a) If projecting from a Building or Structure, all such Structures (except solar panels) must occupy less than 7% of the area of the roof;
  - (b) Elevator shafts and roof stairwell entrances for direct access to rooftop common areas shall not project more than 4.0 metres above the highest point of a roof;
  - (c) Chimneys, satellite dishes, transmission towers, fluid storage tanks, ventilation machinery, and ventilation machinery screening shall not project more than 1.5 metres above the highest point of the roof;
  - (d) Parapets shall not project more than 1.0 metre above the roof surface;
  - (e) Guards for rooftop patios;
    - (i) shall not project more than 1.2 metres above the roof surface or as required by the BC Building Code; and
    - (ii) shall step back a minimum of 1.5 metres from the building edge.

(4) at **PART 4 – GENERAL REGULATIONS** Section 16. **SITING EXCEPTIONS:**

Amend Section 16(1) to add subsection (f) so that it reads:

- (1) The required Setback may be reduced by not more than 0.6 metres only for the following features if projecting beyond the face of a Building:
  - (a) chimneys,
  - (b) gutters, sills, and eaves,

- (c) sunlight control projections and canopies,
- (d) bay windows having no Floor Area, where the bottom of the window is located a minimum 0.3 metres above the floor, and no area of the bay window in plan exceeds 1.0 square metre,
- (e) ornamental features, and
- (f) that portion of exterior stairs less than 0.4 metres vertical distance above the existing ground at any point.

Amend Section 16(2) so that it reads:

- (2) The required Setback may be reduced by not more than 0.9 metres (plus the width of their supporting walls that are below ground level) only for the following features if projecting beyond the face of a Building:

- (a) below existing ground stairs, and
- (b) below existing ground window wells.

- (5) at **PART 4 – GENERAL REGULATIONS** Section **22. FENCES and RETAINING WALLS:**

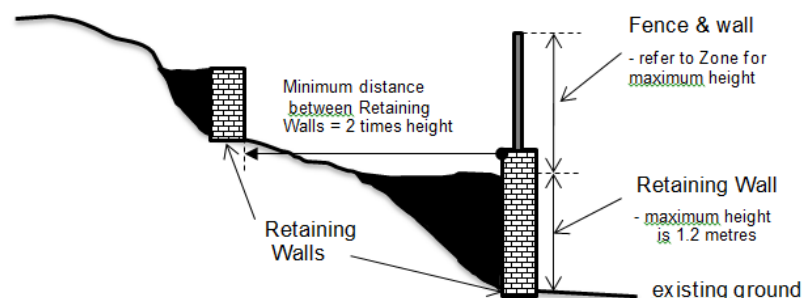
Amend Section 22 to replace subsection (1) and (2) with the following:

## **22. FENCES and RETAINING WALLS**

- (1) Retaining Walls shall not exceed a height of 1.2 metres above the existing ground measured from the low side of the Retaining Wall, to the highest point of the Retaining Wall.
- (2) Retaining Walls must be spaced at a minimum of 1:2 height to horizontal separation ratio of the Retaining Wall having the greater height.

Amend the Section 22 diagram, replace with the following diagram:

**Retaining walls**



- (6) at **PART 4 – GENERAL REGULATIONS** Section **30.6 SECONDARY SUITES**:

Amend Section 30.6 to delete subsection (5) in its entirety.

- (7) at **PART 5 – ZONING DISTRICTS** Section **34. SINGLE FAMILY RESIDENTIAL [RS-1]**:

- a. Add to the following to the **Permitted Uses** under Section 34. (1):

(f) 'Group Children's Day Care Centre, located at Lot 16, Section 10, Esquimalt District, Plan 3060 [PID 001-543-547] [846 Phoenix Street].

- b. Amend Section (4) **Floor Area Ratio** of Section 34 with the following so it reads:

**(4) Floor Area Ratio**

(a) The Floor Area Ratio shall not exceed 0.35.

(b) Notwithstanding Section (4) (a) the Floor Area Ratio for the Group Children's Day Care Centre shall not exceed 0.50.

- c. Amend Section (11) **Off Street Parking** of Section 34. with the following, so it reads:

**(11) Off-Street Parking**

(a) Off-street parking shall be provided in accordance with the requirements of Parking Bylaw, 1992, No. 2011(as amended).

(b) Notwithstanding Section 11(a) No parking space need be provided for a Group Children's Day Care Centre.

- (8) at **PART 5 – ZONING DISTRICTS** Sections **38(8.1), 39(7.1), 40(8.1)**:

Amend the **Building Massing** regulations under each of Sections **38(8.1), 39(7.1), 40(8.1)** with the following, and add a diagram, so that it reads:

**Building Massing**

- (1) Second and Third Storey Setback: The front face of the second and third storey(s) shall be set back a minimum of 1.5 metres from the front face of the First Storey of the Principal Building.
- (2) Design Guideline: Articulation of building elements is encouraged, to add visual interest and reduce apparent building height and volume.





(9) at **PART 5 – ZONING DISTRICTS** Sections **38(8.1), 39(7.1), 40(8.1)**:

Amend the **Siting Requirements – Garage Setback** regulations within each of Section **38(9)(c), 39(8)(c), 40(9)(c)** with the following, so that it reads:

Detached Garages, and that portion of a Principal Building used as a Garage, shall be set back a minimum of 1.5 metres from the front face of the Principal Building.

(10) at **PART 5 – ZONING DISTRICTS** Section **48.1 Town Centre [TC]**:

Delete Section 48.1 (6) **Off Street Parking** Section (b) in its entirety and replace with:

(b) Notwithstanding section 9(1) and 9(6) of Parking Bylaw, 1992, No. 2011 (as amended), up to 100% of the required parking stalls may be located on adjacent parcels.

(11) at **PART 5 – ZONING DISTRICTS** Sections **47. NEIGHBOURHOOD COMMERCIAL [C-2], 48. CORE COMMERCIAL [C-3], 48.2 CORE COMMERCIAL LIQUOR [C-3A]**:

Amend the **Permitted Uses** within each of **Sections 47. (1), 48. (1), 48.2 (1)** to add the following in alphabetical order to the existing Permitted Uses in each section:

- Art Gallery
- Arts and Craft Studios excluding Wood and Metal working
- Arts and Wellness Teaching Centre
- Catering Service
- Charitable Organization Office
- Counselling Services
- Commercial Instruction and Education
- Educational Institution
- Fitness Centre
- Laboratory and Clinic
- Printing Establishment, Printing and Publishing
- Research Establishment
- Veterinary Clinic, Veterinary Services

In addition, add “Group Children’s Daycare Centre” to the list of Permitted Uses in **Section 48.2 (1) Core Commercial Liquor [C-3A]**.

(12) at **PART 5 – ZONING DISTRICTS** Section **53. LIGHT INDUSTRIAL [I-1]:**

Amend the **Permitted Uses** within Section 53(1) to add the following in alphabetical order to the existing Permitted Uses in each section:

- Arts and Wellness Teaching Centre
- Catering Service
- Charitable Organization Office

(13) at **PART 5 – ZONING DISTRICTS** Section **63. MARINE NAVIGATION [M-4]:**

Delete Section 63(2) **Prohibited Uses** in its entirety and replace with the following, so that it reads:

**(2) Prohibited Uses**

- (a) The anchoring or mooring of vessels for a continuous period exceeding 48 hours.
- (b) The anchoring or mooring of vessels for more than 72 hours within a 30-day period.
- (c) Anchoring buoys.

(14) at **PART 5 – ZONING DISTRICTS** Section 67.86 **COMPREHENSIVE DEVELOPMENT DISTRICT NO. 99 [CD NO. 99]:**

Amend the **Permitted Uses** within Section (1) to add the following in alphabetical order to the existing Permitted Uses in that section:

- Arts and Wellness Teaching Centre
- Charitable Organization Office

READ a first time by the Municipal Council on the 16<sup>th</sup> day of July, 2018.

READ a second time by the Municipal Council on the 16<sup>th</sup> day of July, 2018.

RESCIND second reading by the Municipal Council on the 27<sup>th</sup> day of August, 2018.

AMEND AND READ ANEW at second reading by Municipal Council on the 27<sup>th</sup> day of August, 2018.

A Public Hearing was held pursuant to Sections 464, 465, 466, and 468 of the *Local Government Act* on the 7<sup>th</sup> day of January, 2019.

READ a third time by the Municipal Council on the 7<sup>th</sup> day of January, 2019.

**ADOPTED** by the Municipal Council on the \_\_\_\_ day of \_\_\_\_\_, 2019.

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BARBARA DESJARDINS  
MAYOR

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ANJA NURVO  
CORPORATE OFFICER