



# CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall  
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## Legislation Text

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### REQUEST FOR DECISION

**DATE:** April 1, 2020

Report No. DEV-20-020

**TO:** Laurie Hurst, Chief Administrative Officer

**FROM:** Bill Brown, Director of Development Services

**SUBJECT:**

Proposed amendment to the Development Application Procedures Bylaw No. 2791, 2012, allowing Council or the Director of Development Services to waive the requirement for public consultation if Council or the Director of Development Services determines that such consultation may involve a contravention of a federal or provincial enactment.

**RECOMMENDATION:**

That Council gives first, second and third readings to "Development Application Procedures and Fees Bylaw No. 2791, 2012, Amendment Bylaw (No. 4), 2020, No. 2997 and further, adoption of the bylaw as authorized under section 9 of Ministerial Order No. M083 - Order of the Minister of Public Safety and Solicitor General/ *Emergency Program Act*, attached as Appendix "D" to Staff Report DEV-20-020.

**RELEVANT POLICY:**

- Development Application Procedures and Fees Bylaw No. 2791, 2012 (Appendix B).
- Mass Gathering Order of the Provincial Health Officer Pursuant to the Public Health Act - re: COVID-19 Notice to owners, occupiers and operators of places at which large numbers of people gather (Appendix C).
- Provincial Ministerial (COVID - 19) Order - Local Government Meetings and Bylaw Process (Appendix D).
- *Local Government Act*.
- Community Charter

**STRATEGIC RELEVANCE:**

Although not related to a specific strategic priority, the proposed amendment helps ensure that rezoning applications continue to move forward through the rezoning process, and hence contribute economic inputs into the local economy during the COVID-19 event.

**BACKGROUND:**

Section 2 of the Development Application Procedures and Fees Bylaw No. 2791, 2012, states that:

*“In the case of an application for a zoning amendment or amendment of the Official Community Plan that proposes a change of land use or change in the permitted density of land use, the applicant must comply with the public consultation procedures and provide the information on public consultation set out in Schedule A (Appendix B).”*

Schedule “A” requires that the applicant have a public meeting within 45 days of the date that the application was submitted. Staff are concerned that these meetings are not in the spirit of the March 16, 2020, order issued by Dr. Bonnie Henry, prohibiting gatherings of over 50 people. In addition, Dr. Henry has been imploring everyone to maintain a minimum 2.0 m separation. Although these public meetings rarely have more than 50 people in attendance, they still represent a government sanctioned meetings that could be construed as contrary to the Public Health imperative to minimize contact with people outside of your household and to maintain a minimum 2.0m separation between people.

It should be noted that, unlike public hearings, there is no statutory obligation to have this type of public meeting. The purpose of these meetings is to allow the applicant to obtain the thoughts and ideas of neighbours about a proposal at the beginning of the rezoning process so any issues that are identified can be addressed early in the process and the application adjusted accordingly. Applicants could still opt to have notices sent to neighbours outlining their proposals and requesting that concerns be submitted to the applicant by e-mail, phone, or social media if they so desired. This would be voluntary on the part of the applicant.

## **ISSUES:**

### **1. Rationale for Selected Option**

The Provincial Health Officer has issued an Order prohibiting gathering of more than 50 people. In addition, she is strongly encouraging people to avoid unnecessary contact and to maintain a 2.0 m physical separation among each other. Furthermore, the public consultation meetings are not required by any enactment other than the subject bylaw.

### **2. Organizational Implications**

Due to issues of privacy, staff mail out the notices of these meetings on behalf of the applicant. The applicant could still request that notices be sent out but offer to accept comments in a form other than a public meeting.

### **3. Financial Implications**

Although there are no direct financial implications, the notices are mailed out on a cost recover basis, it is imperative that rezoning applications continue to be processed as they often represent a significant economic input into our local economy.

### **4. Sustainability & Environmental Implications**

There are no significant sustainability or environmental implications associated with the proposed

amendment.

## 5. Communication & Engagement

The proposed amendment would remove a non-statutory public meeting from the rezoning process. This would only occur when federal or provincial enactments prohibit or discourage public gatherings. Applicants could voluntarily opt for an alternative consultation process that does not involve an in person meeting.

### ALTERNATIVES:

- 1) That Council gives first, second and third readings to “Development Application Procedures and Fees Bylaw No. 2791, 2012, Amendment Bylaw (No. 4), 2020, No. 2997, and further adoption of the bylaw as authorized under section 9 of Ministerial Order No. M083 - Order of the Minister of Public Safety and Solicitor General/ *Emergency Program Act*, attached as Appendix “D” to Staff Report DEV-20-020.
- 2) That Council does not give first, second and third readings and further, adoption to “Development Application Procedures and Fees Bylaw No. 2791, 2012, Amendment Bylaw (No. 4), 2020, No. 2997.