

CONSOLIDATED VERSION

THE CORPORATION OF THE CITY OF COURTENAY

BYLAW NO. 1401

A bylaw to regulate the subdivision of lands and to establish a standard of services to be provided in new subdivisions

Now Therefore the Municipal Council of the Corporation of the City of Courtenay in open meeting assembled enacts as follows:

1. This bylaw may be cited for all purposes as “Subdivision Control Bylaw No. 1401, 1986”.

2. **Definitions**

In this bylaw, unless the context otherwise requires:

“**City**” means the Corporation of the City of Courtenay.

“**City Superintendent**” means the Public Works Superintendent of the City, or his duly authorized representative.

“**Council**” means the Council of the Corporation of the City of Courtenay.

“**Major Street**” means a street or road which, in addition to serving local needs, is, or is designed to form, part of the major or arterial street system of the City wherein a significant proportion of the traffic or travel along the same has both its origin and destination outside the area under consideration.

“**Minor Street**” means a street or road, used primarily for travel and access to and from the parcels contiguous thereto created in the subdivision.

“**Owner**” and “**Registered Owner**” means any person registered in the books of the Land Registry Office as owner of the land.

“**Street**” includes highway, road, square, thoroughfare, and any public way, but not lane, trail or bridge.

“**Subdivision**” shall include “Re-subdivision” and means the division of land or re-division of land into two or more parcels, whether by plan or by metes and bounds description or otherwise.

3. Unless otherwise defined herein, any word or expression in this bylaw shall have the same meaning as any similar word or expression contained in the “Land Title Act”.

4. **Part I - Scope**

No land shall be subdivided within the City of Courtenay unless and until the subdivision has first received the approval of the Approving Officer.

5. The Approving Officer for the City of Courtenay shall be the Superintendent of Public Works, or other officer duly authorized for such purpose by a resolution of City Council.

6. The Approving Officer shall refuse to approve the subdivision of any parcel or land unless all the relevant requirements of this bylaw have been observed.

Part II - Preliminary Application

BL 1746 7. The Approving Officer may grant approval in principle of a subdivision provided that the applicant for approval in principle submits with the application a letter to the City agreeing that any bylaw adopted by the City under Part 29 of the Municipal Act after the application for approval in principle is submitted shall have immediate effect with respect to the subdivision and the lands that are the subject of the application.

8. The applicant shall apply to the Approving Officer for approval in principle, and the application shall be accompanied by a sketch-plan drawn to a convenient scale and not less than 60.96 metres (200 feet) to 2.54 centimetres (1 inch), showing the proposed subdivision, or alteration of lot lines with the estimated dimensions of the proposed new or altered parcels and of each street and lane which the owner proposes to create, and shall show the locations of all existing buildings, structures, sanitary disposal facilities, water courses and steep banks and proposed sanitary sewers, storm sewers and water mains, within the bounds of the parcel or parcels which are the subject of the application.

9. The Approving Officer shall consider the material submitted by the applicant, and may approve the application in principle subject to such modifications, if any, as he may require pursuant to the provisions of this Bylaw, or may reject the same.

10. The Approving Officer shall advise the applicant for approval in principle of his decision within thirty (30) days from the furnishing by the applicant of such information as he may require.

11. Approval in principle of any proposed subdivision shall not be construed as final approval for land registration purposes, nor shall approval in principle impose any obligation upon the Approving Officer to grant final approval unless all of his further requirements are duly met.
12. Approval in principle shall not be valid after six (6) months unless, upon application in writing of the owner, the Approving Officer extends such period.

Part III - Additional Information Which May Be Required

13. The Approving Officer shall require the applicant to produce satisfactory evidence that his is duly authorized by the owner or owners of the lands concerned to make application under this bylaw.
14. If the Approving Officer has reason to anticipate a further re-subdivision of the relevant lands, the applicant, at the request of the Approving Officer, shall furnish a sketch plan showing the ultimate method of subdivision and showing how the present intermediate step fits into such ultimate subdivision.
15. The Approving Officer shall require the applicant to furnish profiles of every proposed new street and such topographical details as may indicate the engineering problems to be dealt with in opening up the said streets.
16. Where unusual soil or drainage conditions are found on part or all of the subdivision area, the Approving Officer may require the applicant to furnish such information as will enable the Approving Officer to determine the area, shapes and orientations of parcels which will be adequate in view of the nature of the ground and the anticipated use of the land.
17. If the expressed or obvious intention in the application for approval involves the establishment of a boundary or boundaries in reconciliation with existing buildings on the affected parcels or where the position of a proposed new boundary is controlled by the location of such buildings and in all cases where the proposed boundary establishment cannot be sufficiently identified on the ground by inspection, the Approving Officer shall require the applicant for approval to produce a plan or sketch verified by a British Columbia Land Surveyor, showing the proposed new boundary or boundaries in relation to the affected parcels and to the buildings thereon.
18. If the Approving Officer is of the opinion that the location of any building, structure, water course or high bank, situate or adjacent, or adjoining properties, might affect the desirable development of the area of which the land subject of the application in part, he shall require the applicant for approval to produce a plan or sketch, verified by a British Columbia Land Surveyor showing their location in relation to the boundary or boundaries of the parcel or parcels on which they are situated.

19. Where the Approving Officer considers that a proposed subdivision would not comply with an applicable condition established under Section 82 of the Land Title Act pertaining to designated flood plain areas and other lands subject to flood, he shall not approve the plan of subdivision without the consent of the Minister of Environment.

Part IV - Effect of Proposal On Other Parties

20. The Approving Officer shall require that notice in writing of the proposed subdivision be served on any owner or other person whose land or interest therein, in his opinion, might be detrimentally affected by it, and shall make such further inquiry into the affect of the proposed subdivision upon adjoining neighbouring lands as will establish to his satisfaction the desirability or otherwise of the proposed subdivision.
21. In considering a subdivision application, the Approving Officer may refuse to approve the subdivision if, in his opinion, the anticipated development of the subdivision would injuriously affect the established amenities of adjoining or adjacent properties or would increase the general cost of public utilities or be otherwise against the public interest and/or welfare.

Part V - Conformity With Other Regulations

22. In considering an application for subdivision approval, the Approving Officer shall refuse to approve the subdivision if the location and bulk of any existing building or structure in relation to any new parcels created would not comply with the relevant provisions of the Building, Storm Sewer, Water, Sanitary Sewer and Zoning Regulation Bylaws of the City.
23. In examining any proposed plan of subdivision, the Approving Officer shall consider the sufficiency and suitability of the proposed street system and shall determine the adequacy, thereof in relation to anticipated traffic, not only within the area being subdivided, but with due regard to the street system already established or which may be required to provide access to the lands lying beyond or around and to the general street pattern of the City. Without limiting the generality of the foregoing and subject to the limitation set out in Section 995 of the Municipal Act, the principles and standards to be observed are as follows:
 - (a) Major streets are to be continued through the area being subdivided, without jogs, with a width deemed appropriate by the Approving Officer for the particular major street involved but in no case shall be less than 18.288 metres (60 feet).
 - (b) Minor streets shall be created to a width deemed appropriate by the Approving Officer having regard for the requirements of the area being subdivided but in no case shall a road allowance be less than 15.24 metres (50 feet) in width.
 - (c) Where a subdivision borders or contains a controlled access highway, as designated by the Lieutenant-Governor in Council, the Approving Officer shall withhold approval subject to such regulations as are made under the terms of the "Controlled

Access Highway Act” and may require that separate access roads be provided to service parcels adjacent to such highways.

- (d) Jogs in street alignment shall be avoided, unless the distances between centre lines at the jog is 38.1 metres (125 feet) or more.
- (e) Where bends occur in street alignment, the Approving Officer may require that the same shall be a curve of suitable radius.
- (f) Reversed curves in street alignment shall be separated by tangents of a minimum length of 30.48 metres (100 feet).
- (g) The gradient of major streets shall not exceed eight percent (8%) and the gradient of minor streets shall not exceed twelve percent (12%).
- (h) Intersecting streets shall meet at right angles except in special circumstances. No streets shall intersect at any angle of less than seventy (70) degrees, unless corner-cut-offs are provided to the satisfaction of the Approving Officer.

Bylaw 2358

- 23.1 Cul-de-sac streets shall have an ample turn-around at their closed end, with proper facilities for street drainage. Such turn-around shall have a minimum diameter of 30.48 metres (100 feet). The length of any such cul-de-sac shall not exceed 152.4 metres (500 feet) to the end of the turnaround, and shall permit a direct line of vision from the point of entry to the closed end, except in special circumstances. These requirements do not apply to temporary cul-de-sacs on streets built in phases where the Road Network Plan shows these roads as being ultimately built as through streets. Each phase of a temporary cul-de-sac street shall have a temporary turn-around area acceptable to the City.
- 24. A lane system ordinarily shall be provided through each block, in order that, as far as possible, secondary access shall be afforded to every lot. Where, however, driveway accommodation can conveniently be provided for each lot leading into an abutting minor street, the Approving Officer may, at his discretion dispense with the requirement of any lane system in such block.
- 25. Lanes shall be 6.096 metres (20 feet) in width and shall be free from curves. The Approving Officer may, at his discretion, approve the creation of a portion of a lane where there is reasonable expectation that the additional width may be acquired through subdivision of contiguous parcels.
- 26. At bends or where lanes intersect, triangular corner cut-offs, measuring not less than 3.048 metres (10 feet) each way from the corner, shall be required by the Approving Officer.
- 27. Acute angled intersection of lanes with streets shall be avoided, but due consideration shall

be given to the continuity of lanes from block to block, in order to facilitate pole line and other utility construction.

Part VI - Services Required

28. All structures encroaching upon and obstructions of any kind to the free and uninterrupted use by the public of the full width and length of all new streets, lanes, walks, and utility easements shall be removed therefrom.

BL1542 29. (a) All new streets and lanes shown upon any proposed subdivision plan as intended to be dedicated to the public use for highway purposes shall be cleared and graded for the full width of the road or lane allowances, and proper road and land drainage facilities, including all necessary culvert work, shall be provided. The owner shall submit to the City, in a form satisfactory to the Approving Officer, a plan showing the alignment, cross sections, and centreline profile of each road to be constructed. The Approving Officer may require that additional information be submitted and may direct that the owner obtain a certificate from a competent Professional Engineer signifying that the street grades and alignment have been established in accordance with accepted engineering practise. All roads and lanes created by the subdivision shall be constructed in accordance with the City's specifications, to the satisfaction of the City Superintendent.

(i) Such specifications may be obtained from the office of the City Superintendent. Generally, and without limiting the effect of such specifications, all roads shall consist of a granular sub base of 7.62 centimetres minus (3 inch minus) gravel not less than 15.24 centimetres (6 inches) in depth, placed and compacted on a firm sub grade. If, in the opinion of the City Superintendent, the sub grade is not sufficiently stable to support the anticipated traffic loads, he shall require that such unstable material be removed by excavation and the depth of the compacted sub base increased by a like amount. A granular base course of 1.905 centimetres minus (: inch minus) crushed gravel not less than 7.62 centimetres (3 inches) in depth shall be placed, shaped, and compacted on the finished sub base.

(ii) Except as the Approving Officer may permit, all roads shall be paved to a width of not less than 9.144 metres (30 feet), using hot mix, machine laid asphalt of approved design, to a compacted depth of not less than 5.08 centimetres (2 inches).

(iii) The Approving Officer may require that the width of pavement on certain streets be increased beyond 9.14 metres (30 feet), wherever the anticipated volume of traffic may necessitate a greater width.

(b) Except as the Approving Officer may permit, concrete curb and gutter of approved design shall be constructed on both sides of the road and, a concrete sidewalk of

- approved design shall be constructed on one side of the road.
- (c)
 - (i) All streets shall be provided with catch basins and enclosed storm drains to the standards required by the City Superintendent. The system of storm drains shall be designed so as to form a part of the City's overall storm drainage plan in accordance with the City's Storm Sewer Regulation Bylaw.
 - (ii) The owner shall install individual connections to the storm drain for every property designated by the City Superintendent. Each such connection shall extend to the property line.
 - (d) Boulevards shall be rough graded between the curb and the property line so as to provide an even, free draining surface.
 - (e) Lanes created by the subdivision shall be graded to the approval of the City Superintendent and gravelled to a depth of 10.16 centimetres (4 inches) with approved granular material.
 - (f)
 - (i) In those areas which are tributary to an existing municipal sanitary sewer system, the owner shall install, to the satisfaction of the City Superintendent, sanitary sewer accommodation within the subdivision area in accordance with the City's Sanitary Sewer Regulation Bylaw.
 - (ii) The owner shall install individual connections to the sanitary sewer for every property designated by the City Superintendent in accordance with the City's Sanitary Sewer Regulation Bylaw. Each such connection shall extend to the property line.
 - (g) Where sanitary sewer accommodation is not available to serve each of the parcels in a subdivision under application for approval, the Approving Officer shall withhold approval of the subdivision until he is satisfied that arrangements satisfactory to the Medical Health Officer have been made for the proper disposal of such sewerage or industrial waste as may result from the anticipated use of the parcels; such arrangements with the Medical Health Officer shall be in written form.

- (h) The owner shall install water mains within the subdivision area adequate to supply domestic water and for fire fighting purposes in accordance with the City Water Regulation Bylaw and the owner shall install:
 - (i) Individual connections to the water main for every property designated by the City Superintendent, each connection shall extend to the property line.
 - (ii) A fire hydrant system throughout the subdivision in accordance with the standards, and at the locations designated by the City Superintendent.
 - (i) Except as the Approving Officer may permit, the owner, at his expense, shall install and provide underground wiring and conduit for electric power, telephone, and cablevision installations within the subdivision.
 - (j) The owner, at his expense, shall install and provide ornamental street lighting of approved design, along with the necessary underground wiring and conduit, where electric power installations within the subdivision are to go underground.
- 30. The Approving Officer may require that permanent right-of-ways be granted as registered easements to accommodate natural watercourses, storm drains, sanitary sewers, water mains, or other public services.
- 31. All work required to be done hereunder in connection with the subdivision of any lands shall be carried out at the sole expense of the owner of such lands and to the satisfaction of the Approving Officer before approval of such subdivision hereunder, provided however, that upon the due execution of an agreement in writing between the owner and the City, satisfactory to the Approving Officer and the City Solicitor, and registrable as a charge satisfactory to the City Solicitor, against the adjoining lands, providing for the due performance of such work at a date subsequent to approval of the subdivision, the Approving Officer may approve of the subdivision prior to the completion of such work.
- 32. Where, by reason of the creation of any subdivision, the necessity arises for public street access across a railway right-of-way, the Approving Officer shall require the owner to furnish, or cause to be furnished at the expense of the owner, an order of the Board of Transport Commissioners or other competent administrative body approving of such street crossing of the railway right-of-way before approval is granted for the subdivision.

33. Where, according to any plan aforesaid, any new street or lane aforesaid or the necessary continuation thereof, will cross any existing railway right-of-way, the owner before any approval as aforesaid is granted shall provide such surfacing across the said right-of-way and make such provision for safety or precautionary measures at the crossings as the City, the company operating the railway or the Board of Transport Commissioners aforesaid may require.

BL1440

34. Where, by reason of the creation of any subdivision, the necessity arises for the upgrading of the works and services on a highway immediately adjacent to the land being subdivided, the Approving Officer shall require the owner of the land being subdivided to carry out the necessary works on that portion of a highway immediately adjacent to the site being subdivided up to the centre line of the highway at the sole expense of the owner before approval of the subdivision is granted.

Part VII - Final Application

35. The final subdivision shall conform substantially to the approved preliminary plan but the application for final approval need not necessarily cover the whole project in one application. If the subdivision project is submitted in sections, a separate application may be made covering each section.

BL 1651

- (a) All engineering drawings shall be prepared under the supervision and sealed by a Professional Engineer registered in the Province of British Columbia, and the owner shall through a Professional Engineer provide general supervision and sufficient resident supervision of the works and services required to ensure that such works and services are constructed and installed in accordance with the 'approved for construction' plans and standards as herein contained. Where the owner is acting as the contractor in the construction of any works required under this bylaw, an independent Professional Engineer registered in the Province of British Columbia shall be retained by the City to inspect the installation of such works in accordance with City specifications and the rules of good engineering practice. The cost of the said independent engineering shall be paid to the City by the owner prior to approval of the final subdivision plan.
- (b) The City will not accept the work, or any part of the work required to be completed until:
- (i) The works have been certified by a Professional Engineer to the best of his knowledge as complete and constructed in accordance with the specifications and standards as herein contained.

- (ii) The owner has deposited with the City one set of paper prints and one set of transparencies of the drawing showing the works as actually constructed, certified correct by a Professional Engineer.
 - (iii) The City Superintendent has inspected the said works and notified the owner in writing of their completion to his satisfaction, and in accordance with the plans, specifications and standards as herein contained. Said inspection will normally be carried out within seven days of request for same.
- (c) (i) The owner of the land being subdivided shall at his option in accordance with Section 992 of the Municipal Act,
- (a) provide, without compensation, park land not exceeding 5% of the land being proposed for subdivision and in the location acceptable to Council;
 - (b) pay to the City an amount that equals the market value of the land that is required for parkland purposes as determined under Subsection (6) of Section 992 of the Municipal Act.
- (ii) Notwithstanding subsection (c) (i) where the official community plan contains policies and designates the location and type of future parks, the Council may determine whether the owner shall provide land or money under subsection (c)(i) (a) & (b).
36. If the subdivision is to be made by recourse to a subdivision plan, prepared in accordance with the provisions of the "Land Title Act", the plan, or plans, required for registration purposes tendered with the application for approval shall be accompanied by two blue or white print paper copies thereof, which copies shall be retained by the City.
37. Where a subdivision plan is tendered for examination and approval after the expiration of three (3) months from the date of the completion of the survey, the Approving Officer may require that the surveyor inspect the survey and satisfy himself that all posts and monuments are in place and that the survey has not been affected by an intervening survey or railway or right-of-way location, and certify the same on the plan by the work "inspected", with the date and his signature. The surveyor may so inspect and certify before the plan is tendered for approval.

Part VIII - Approving Officer's Decision

38. Subject to any contrary regulation prescribed pursuant to Section 85 of the Land Title Act; the Approving Officer shall either approve or reject the proposed subdivision within two months from the date on which an application is tendered for examination and final approval, or within two months from the furnishing by the applicant of such further information as the Approving Officer may require, including satisfactory evidence that all of the relevant provisions of this bylaw have been duly complied with.
39. When any subdivision plan is approved, the Approving Officer shall sign and date the plan in the form provided on such plan under the provisions of the "Land Title Act". The subdivision plan approved shall be returned to the applicant less two paper copies which shall be retained for the use of the City.
40. Where approval is granted to any subdivision created without a plan, approval shall be attested by a certificate signed by the Approving Officer, and dated.
41. A certificate of final approval shall be valid for thirty (30) days from the date thereof, after which time approval shall be deemed to have been revoked unless an extension of time is granted under the provisions of the "Land Title Act".
42. Notwithstanding the provisions of Section 40 hereof, certificate of final approval which has not been used for registration purposes and which is deemed to be revoked as aforesaid may be renewed on application in writing to the Approving Officer for a further period not exceeding thirty (30) days, provided the time elapsed since the issue of the original certificate does not exceed six (6) months. Thereafter a fresh application for approval of the subdivision shall be required and shall be dealt with as an original application.
43. If the subdivision is rejected, the applicant for approval shall be so advised in writing by the Approving Officer. If subdivision plans are tendered with the application, they shall be returned to the applicant unsigned, less two paper copies which shall be retained for the use of the City.
44. Where there is any conflict between any of the provisions of this bylaw and the provisions of the Land Title Act, the Municipal Act or any regulations made pursuant thereto, the provisions of such legislation or regulations shall apply.

Part IX - Miscellaneous

45. The Subdivision Control Bylaw 1971, No. 1045 and amendments thereto are hereby repealed.

Read a first time the 3rd day of February, 1986

Read a second time the 3rd day of February, 1986

Read a third time the 3rd day of February, 1986

Reconsidered, finally passed and adopted the 17th day of February, 1986.

“G. Cochrane”

Mayor

“John E. Wilson”

Deputy Clerk