

## REQUEST FOR DECISION

**DATE:** November 6, 2015

Report No. DEV-15-062

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

**FROM:** Karen Hay, Planner

**SUBJECT:**

**Interim Amendment to Zoning Bylaw 1992, No. 2050 – Amendment Bylaw No. 2861**

### **RECOMMENDATION:**

That Council resolves that AMENDMENT BYLAW NO. 2861 attached as Appendix 'A' to Staff Report DEV-15-062, which would amend Zoning Bylaw, 1992, No. 2050, by replacing text and figures as detailed in the content of the amending bylaw be considered for **first and second reading**; and

That Council authorizes the Corporate Officer to schedule a Public Hearing for Zoning Amendment Bylaw No. 2861, and advertise for same in the local newspaper.

### **RELEVANT POLICY:**

Official Community Plan Bylaw, 2006, No. 2646

Zoning Bylaw, 1992, No 2050

Development Approval Procedures Bylaw, 2003, No. 2562

Advisory Planning Commission Bylaw, 2012, No. 2792

### **STRATEGIC RELEVANCE:**

Council's Strategic Priorities 2015-2019: Ensure the Township's processes for business and development are clear and predictable.

### **BACKGROUND:**

Appendix A: Amendment Bylaw No. 2861 – Amendment to Zoning Bylaw, 1992, No. 2050

## Purpose:

Esquimalt's Zoning Bylaw, 1992, No. 2050 was adopted on April 5, 1993. In the past twenty-two years there have been substantial changes in staff, provincial legislation, and local development culture. There are challenges to interpreting the language, and lack of language contained within the current Zoning Bylaw. With Council just beginning an Official Community Plan review, it will be another two - three years before a new zoning bylaw can be envisioned.

This interim amendment bylaw is intended to provide clarification for Council, staff, residents and developers. It is largely based on staff interpretations of the intent of the language contained within the current bylaw over the last twenty years. Where there are gaps in the current legislation staff have attempted to provide reasonable requirements. Only upon undertaking this amendment process has staff recognized the extent that interpretation, in lieu of written regulation, has become the norm over the years.

A substantial amount of time has been spent drafting the new Definitions and it is the opinion of staff that they now provide the required clarity for interpreting the General Regulations, and should reduce the number of development variance applications that are currently being considered.

## Summary of changes to the General Regulations:

1. Commercial vehicle repair: New language provides improved clarity; prohibiting commercial vehicle repair on residential property, whether it occurs within a building or in a yard; further clarifies the scope of commercial vehicle repair; and clearly states that all types of vehicle and appliance repair cannot be a 'Home Occupation'.
2. Permitted Uses on land: An additional regulation has been added which would allow the use of land in all zones as a temporary 'laydown site', for short periods of time [up to 60 days], for uses directly related to a public highway construction or a public infrastructure project. It also allows land within any zone within the municipality to be used for a Park.
3. Home Occupations: An updated regulation is provided which would allow two businesses per dwelling unit instead of the current one. This change reflects the current employment culture in Canada, where many more people are now private contractors, work from home, often almost exclusively on a computer, with no impact on their neighbours. It supports small business. The use 'Home Occupation' would also be added to several residential zones where it was inadvertently omitted in the past.
4. Calculation of Floor Area and Floor Area Ratio: This section has been substantially rewritten to fill in the blanks where staff has relied on past interpretation. It provides

clarity on what portions of buildings and structures are counted when calculating a parcel's floor area ratio.

5. Height Calculations: This section has been substantially rewritten to provide greater certainty on how the height of buildings and structures are calculated. It also more clearly outlines which features may exceed the Zoning Bylaw's prescribed heights, and provides limits on the heights of those features.
6. Siting Exemptions: This section regulates the features of a building that may protrude into required setbacks. The rewrite provides greater clarity for large bay windows that have become popular on new buildings, and sometimes include interior features such as cabinets and countertops but no floor area. There are also added regulations dealing with below ground stairwells and window wells that are an integral part of a building. The 0.9 metre exemption is based on BC Building Code requirements for satisfactory egress from a building.

An additional section has been added which would respond to the increasing number of 'Accessibility Ramps' that are being added to buildings, and the challenge of locating them, while respecting the setbacks. This change should make Esquimalt more accessible, and age friendly.

7. Special Siting Requirements (heat pumps): The regulation is being completely removed due to recent advice that a heat pump is an integral part of a building's mechanical system and as such should not be regulated by zoning. This change should have the positive result of making Esquimalt a more energy efficient community, and would support a new BC wide 'Oil to Heat Pump Incentive Program' being promoted by the Capital Regional District [CRD]. New technology has made modern heat pumps far quieter than their predecessors.
8. Fences: The current regulation for fences on top of a retaining wall has caused considerable confusion over the years and only allows for very short fences on some taller retaining walls; which could pose a safety hazard. New regulations have been written to allow more clarity for retaining walls, providing a maximum height that would not be impacted by the fence height requirements that exist in the individual zones. A diagram has been added to assist with interpretation.  
  
Greater clarity is also provided for fencing located along the access strip portion of a panhandle lot.
9. Screening and Landscaping: A very small change was made to add 'Landscaping' to the regulations in this section since there was no reference to landscaping, except in the heading.
10. Visibility at Intersections: The language in this section, as it exists, has proven to be confusing, unenforceable and does not respond to the inherent width variations of existing streets. New language and distances are offered, which would provide for

improved areas of visibility around intersection corners, and diagrams are provided to assist with interpretation.

11. Wrecked Vehicles / Derelict Vehicles: Language has been aligned with the current regulations in the Maintenance of Property and Nuisance Regulation Bylaw, 2014, No. 2826. Land use regulations must reside within the Zoning Bylaw.
12. Major Road Setback / Marine Setback: The 'Major Road Setback' requirement has proven to be undesirable and has caused additional variances. The municipality no longer has plans to add additional driving lanes to either Esquimalt Road or Admirals Road. If land is required at specific locations in the future, then it could be obtained through negotiation or expropriation.

A new 'Marine Setback' regulation has been written, to better achieve the new Provincial requirements for damage mitigation resulting from tsunami, coastal flooding, king tide, storm surge and sea level rise.

13. Boarding: Regulations have been rewritten providing for greater clarity and enforceability; clarifying that 'Boarding' is a rental use, rather than simply attempting to regulate people. The new regulation would allow 'Boarding' as an accessory use in all zones where single family residential and two family residential uses are permitted; which would also include the majority of the comprehensive development districts.
14. Urban Hens: 'Urban Hens' have been identified as a type of 'urban agricultural land use' within Esquimalt, therefore; Urban Hen regulations must remain in the Zoning Bylaw. Zoning regulations have been rewritten to align with regulations that exist in the new Animal Management Bylaw, 2015, No. 2841. The other regulations that govern the siting of structures which house animals, and that currently reside in Bylaw No. 2841, would also be added to the Zoning Bylaw.
15. Secondary Suites: The regulations have be rewritten for greater clarity, eliminating regulations that were found to be unmanageable to implement (the 'suite registry'), and unenforceable ('owner occupancy'). Secondary suites are an important form of housing within Esquimalt, providing affordable housing for many, additional income for home owners ('mortgage helpers'), and have proven to have minimal impact on neighbours when well built and maintained.

Staff believe there is still a concern that single family dwellings with suites should have restricted commercial opportunity. Therefore, the new regulations have been written to restrict the rental of either the suite or the principal dwelling unit at any time, not allowing a secondary suite where a community care facility [daycare] is operating, and continuing to limit the type of Home Occupation that may exist in a suite to ones that do not generate more than one client at any time. Though the Community Charter does consider operating a secondary suite as a business, and income generated from a suite is taxable under the Income Tax Act, the primary function of secondary suites is to provide increased housing within the community.

16. Unit Size: Staff is recommending the removal of the minimum 'Unit Size' regulations from the 'Multiple Family Residential' zones, as it has been shown that the market will dictate unit sizes. Single people are now quite willing to live in well-designed small units.

17: General housekeeping:

- 'Assembly Use' has been added as a permitted use in the Public/Institutional [P-1] zone and the Parks and Open Space [P-2] zone; as this use is allied with several of the other permitted uses in these zones. Currently, 'Assembly Use' is only a permitted use in the Core Commercial [C-3] and Town Centre [TC] zones;
- Two zoning districts that have no associated parcels would be deleted; and
- The names of Provincial Acts would be updated.

#### Advisory Planning Commission:

The Advisory Planning Commission members considered the proposed amendments at their meeting held on October 21, 2015 and were supportive of the proposed changes.

The APC recommended that Amending Bylaw No. 2861, which would amend Zoning Bylaw, 1992, No. 2050 by replacing text and figures as detailed in the content of the amending bylaw, be forwarded to Council with a **recommendation of approval**.

#### **ISSUES:**

1. Rationale for Selected Option

The proposed changes support Council's strategic priority to ensure the Township's processes for business and development are clear and predictable. The Advisory Planning Commission members considered the amendments at their meeting held on October 21, 2015 and were supportive of the proposed changes.

2. Organizational Implications

The proposed amendments will make the Zoning Bylaw much easier to interpret thereby saving staff a significant amount of time. In addition, there will be fewer development variance permit applications allowing staff more time to work on other types of applications and speed up processing times.

3. Financial Implications

There are no extraordinary financial implications.

4. Sustainability & Environmental Implications

Removing the overly restrictive regulations around heat pumps should help make Esquimalt a more energy efficient community. The Marine Setback regulations are designed to make Esquimalt more resilient to the consequences of climate change.

5. Communication & Engagement

A statutory public hearing will be required. Notice of the public hearing would be placed in two editions of the Victoria News.

**ALTERNATIVES:**

1. That Council resolves that AMENDMENT BYLAW NO. 2861 attached as Appendix 'A' to Staff Report DEV-15-062, which would amend Zoning Bylaw, 1992, No. 2050, by replacing text and figures as detailed in the content of the amending bylaw be considered for **first and second reading**; and

That Council authorizes the Corporate Officer to schedule a Public Hearing for Zoning Amendment Bylaw No. 2861, and advertise for same in the local newspaper.

2. That Council request further clarification from staff.

**CORPORATION OF THE TOWNSHIP OF ESQUIMALT**

**BYLAW NO. 2861**

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. 2861*".
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 deleting the following definitions:

"Area"  
"Accessory Building",  
"Boarder",  
"Boarding Use",  
"Comprehensive Development Plan",  
"Corner Lot",  
"Dwelling - Apartment",  
"Dwelling - Single Family",  
"Dwelling - Two Family",  
"Exterior Side Lot Line",  
"Floor Area",  
"Floor Area Ratio",  
"Front Lot Line",  
"Front Building Line",  
"Garage, Private",  
"Height",  
"Interior Side Lot Line",  
"Landscaping",  
"Rear Lot Line",  
"Roomer",  
"Secondary Suite",  
"Setback",  
"Side Lot Line",  
"Structure",  
"Urban Hens",  
"Use, Apartment",  
"Use, Single Family Residential",  
"Use, Townhouse Residential",  
"Use, Two Family Residential",  
"Wrecked Motor Vehicle",  
"Yard",  
"Yard - Front",

"Yard - Rear", and  
"Yard - Side".

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

**"Area of a Parcel"** means the total horizontal area contained within the Lot Lines of a Parcel.

**"Access Route"** means that part of Parcel forming a corridor that provides vehicular access to the bare land strata lots in a bare land strata subdivision.

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

- (1) having an area greater than 1.0 square metres,
- (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,
- (3) having no shower/ bathtub or cooking facilities.  
and includes but is not limited to a Garage, garden/storage shed, gazebo, workshop, studio and greenhouse.

**"Apartment"** see "Dwelling, Multiple Family".

**"Boarding"** means the accessory Use of a Single Family Dwelling or Two Family Dwelling for the provision of residential lodging, with or without meals, for compensation, where the rooms and area used for such lodging do not include a separate kitchen, and the boarder is not provided with separate cooking facilities or appliances.

**"Corner Lot"** means a Parcel having a continuous Frontage along two or more Highways, or Access Routes (or combination), but excluding lanes.

**"Derelict Vehicle"** means a Vehicle which is any one or more of the following:

- (1) physically wrecked or disabled;
- (2) not capable of operating under its own power;
- (3) not displaying a current and valid licence plate in accordance with the *Motor Vehicle Act*.

**"Dwelling – Multiple Family" (also "Multiple Family Residential", also "Apartment")** means a Building which contains three or more Dwelling Units each of which is occupied or intended to be occupied as the Permanent Residence by one Family, with the majority of Dwelling Units having their principal access from an entrance, hallway or exterior walkway common to the other Dwelling Units, and

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

**"Dwelling - Single Family" (also "Single Family Residential", also "Single Family Residence")**, means any detached Building consisting of one Dwelling Unit containing only one kitchen with cooking facilities, which is occupied or intended to be occupied as the Permanent Residence by one Family; and



- (1) may include Boarding as an accessory use only;
- (2) may contain a second subordinate Dwelling Unit (Secondary Suite) if in full compliance with this bylaw;
- (3) may be accompanied by Accessory Buildings; and
- (4) may be accompanied by other Accessory Uses where specifically permitted by this bylaw.

**"Dwelling - Two Family"** 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.

**"Fence"** means boundary fences, screens, gates and walls that enclose or provide a visual and physical barrier for all or part of an area on a Parcel, but does not include a Retaining Wall or a Guard.

**"Floor Area"** when used in reference to a floor, Storey or Building means the entire area which in plan is enclosed by the interior face of the exterior walls of the Storey or floor level, calculated in accordance with Section 14.

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

**"Front Building Line"** means a line most parallel to the Highway, on which a Parcel has its Frontage, at:

- (1) where a Parcel has an existing or previous Principal Building, the Front Face of that Principal Building, or
- (2) where a Parcel has not yet been developed with a Principal Building, the maximum required Front Setback for that Parcel.

**"Front Face"** means the nearest projection of a Principal Building measured at right angles to the Front Lot Line.

**"Garage"** means an Accessory Building or a portion of a Principal Building used primarily for the parking or temporary storage of vehicles owned by residents of the Parcel.

**"Guard"** means a protective barrier around openings in floors, or at the open side of stairs, landings, balconies, mezzanines, galleries, or raised walkways to prevent accidental falls from one level to another.

**"Habitable Areas"** means Floor Area as calculated in accordance with Section 14.

**"Height"** means the vertical distance of a Building or Structure measured from Grade to a defined point on a Building or Structure in accordance with Section 15. of this Bylaw.

**"Landscaping"** means:

- (1) the planting and maintenance of trees, shrubs, gardens, and lawns
  - (2) walking paths and patios,
  - (3) a wooden surface (deck/patio) less than 0.4 metres vertical distance above the natural surface of the ground at any point,
  - (4) Fences permitted within a Zone,
  - (5) Retaining Walls less than 1.2 metres in Height, and
  - (6) Pergolas/Arbours and Trellis less than 10 square metres in area and with a height less than 2.5 metres.
- and specifically excluding driveways of concrete/asphalt or a similar paving material.

**"Lane"** means a Highway more than 3 metres but not greater than 8 metres in width, intended to provide secondary access to a Parcel.

**"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 driveways,
- (2) the portion of swimming pools, hot tubs, stairwells and window wells that are at or below ground .

**"Lot Line, Exterior Side"** means a Lot Line(s) that is not a Front Lot Line or the Rear Lot Line and is common to the Parcel and, a Highway or Access Route.

**"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 a Lot Line adjoining and approximately perpendicular to the Access Strip, excluding any lot line in the Access Strip.

**"Lot Line, Interior Side"** means a Lot Line(s), not being a Front or Rear Lot Line, common to more than one Parcel, or a Parcel and a body of water.

**"Lot Line, Rear"** means the Lot Line opposite to and most distant from the Front Lot Line(s) or, in the case of triangle shaped Parcel, a line 3 metres in length entirely within the Parcel, parallel to and at a maximum distance from the Front Lot Line.

**"Mixed Commercial/Residential"** means a Building which contains at least one Commercial Use or Institutional Use (or both), and at least one Dwelling Unit which is occupied or intended to be occupied as the Permanent Residence by one Family.

**"Park"** means an area of natural, semi-natural, or planted space set aside for human enjoyment and recreation or for the protection of wildlife or natural habitats.

**"Retaining Wall"** means a structure constructed to hold back or stabilize a soil

bank as a result of differences in natural ground level.

**"Secondary Suite"** means a secondary Dwelling Unit that is contained within and subordinate to, a principal Dwelling Unit located within a detached Single Family Dwelling.

**"Setback"** means the required minimum distance between a Building, Structure, or Use and each of the respective Lot Lines.

**"Structure"** means any material or combination of materials that is erected or constructed that is attached to, supported by or sunk into land or water (including hot tubs and swimming pools); but does not include Landscaping or driveways.

**"Urban Hen"** means a domesticated female chicken or duck that is at least 4 months old.

**"Yard"** means an open space within a Parcel which is unoccupied and unobstructed by Structures or Buildings, except as otherwise provided for in this Bylaw.

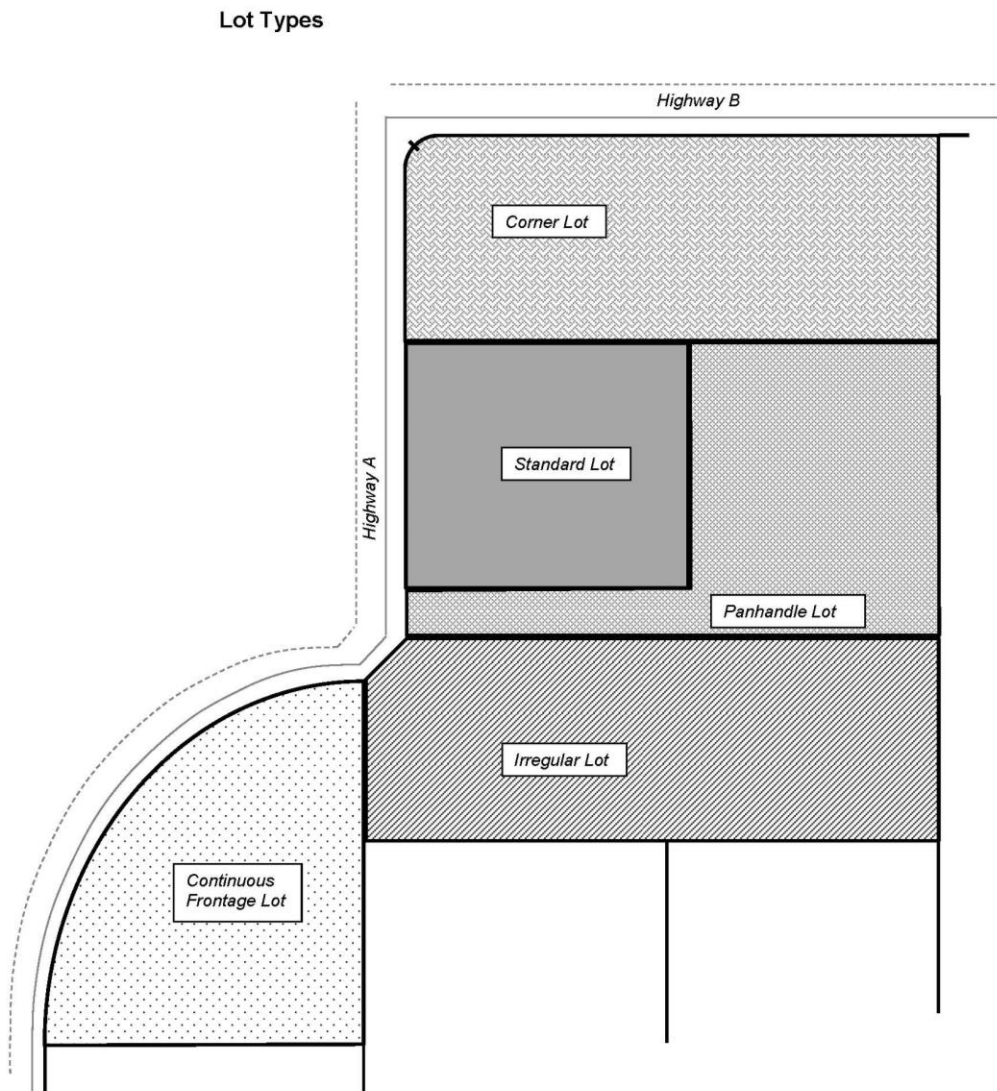
**"Yard, Front"** means that portion of the Parcel, extending across the full width of the Parcel from the Front Lot Line to the nearest projection of the Principal Building and measured at right angles to the Front Lot Line.

**"Yard, Rear"** means that portion of the Parcel extending across the full width of the Parcel from the Rear Lot Line to the nearest projection of the Principal Building measured at right angles to the Rear Lot Line.

**"Yard, Side"** means those portions of a Parcel extending from the Front Yard to the Rear Yard and lying between:

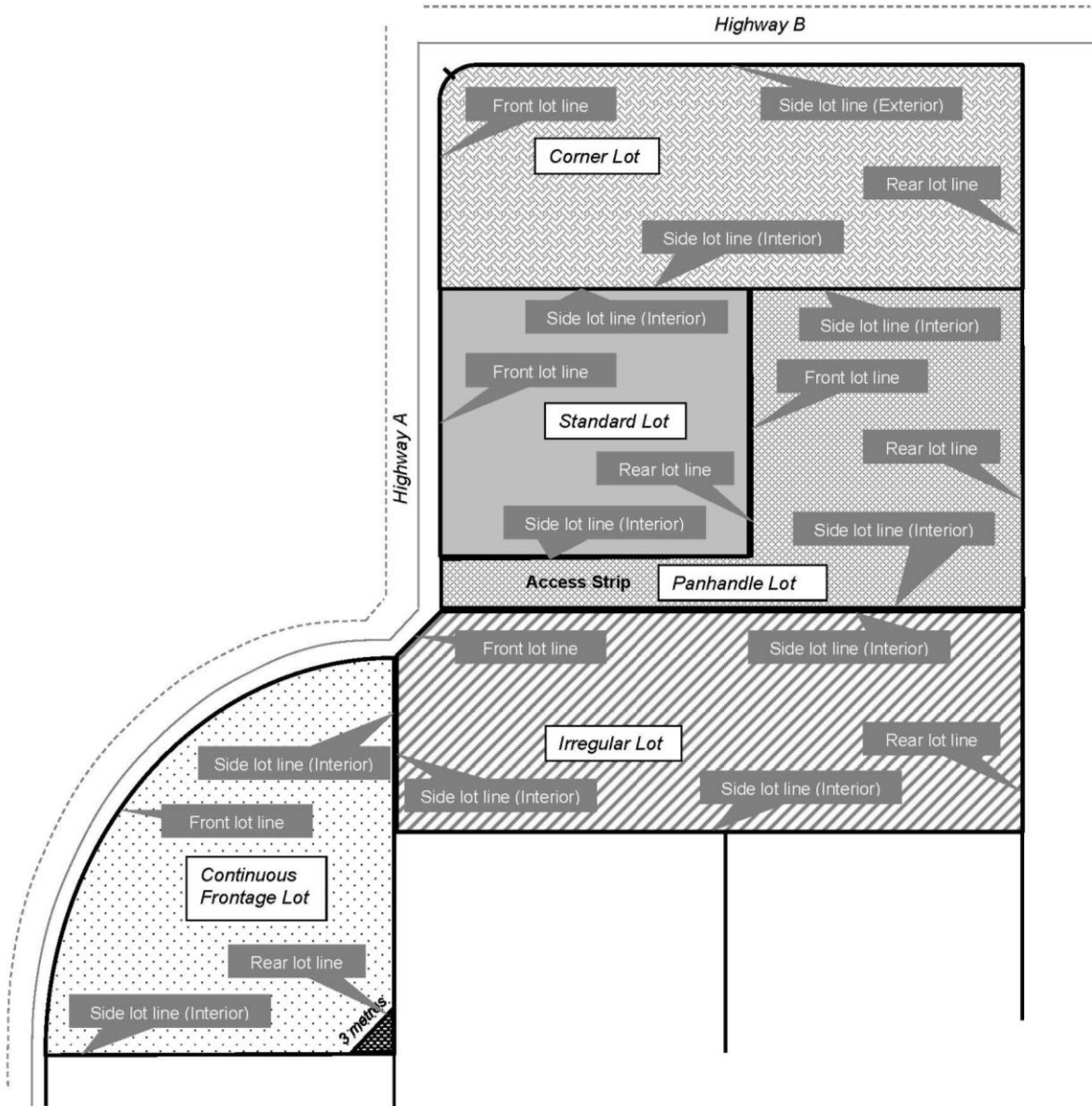
- (1) the Interior Side Lot Line(s), and the nearest projection of the Principal Building, and measured at right angles to the Interior Side Lot Line (s): and
- (2) if applicable, the Exterior Side Lot Line(s) and the nearest projection of the Principal Building, and measured at right angles to the Exterior Side Lot Line(s).

- (3) at **PART 1 – INTERPRETATION** Section **2. DEFINITIONS**, inserting the following figure titled "Lot Types" after "Panhandle Lot":



- (4) at **PART 1 – INTERPRETATION** Section **2. DEFINITIONS**, inserting the following figure titled "Lot Lines" after "Lot Line, Rear":

**Lot Lines**



(5) at **PART 1 – INTERPRETATION** Section 2. **DEFINITIONS**, inserting the following figure titled "Yards" after "Yard, Front":

**Yards**



(6) at **PART 4 – GENERAL REGULATIONS** Section 11. **PERMITTED USES**, deleting:

- (2) No Private Garage shall be used for repairing or servicing of motor vehicles, other than minor repairs and maintenance of vehicles owned by residents of the Parcel. No commercial vehicle repair equipment or facilities shall be located in a Private Garage.

and replacing with the following:

- (2) No Accessory Building, Garage, or any portion of a parcel shall be used for repairing or servicing of vehicles, other than minor repairs and maintenance of vehicles owned by the primary residents of the Parcel. For greater certainty no commercial vehicle repair equipment or facilities shall be located in an Accessory Building, Garage or on any portion of a parcel zoned for residential use.

(7) at **PART 4 – GENERAL REGULATIONS** Section 11. **PERMITTED USES** adding the following:

- (4) Where the parcel is at least 530.0 square metres in area, and is developed solely for Single Family Residential use, one Secondary Suite may be permitted in the Single Family Dwelling, if in full compliance with this bylaw.

(5) The following Uses shall be permitted in all zones:

- (a) Temporary "laydown site" Use of lands for any combination of temporary structures, storage of construction materials, equipment parking, and the mobilization of equipment all directly related to a public Highway construction or public infrastructure projects; provided:

- (i) there is only one such "laydown site" per project; and,
- (ii) the "laydown site" ceases and is restored to its previous state or improved Landscaped condition within fourteen [14] days of substantial completion of the project, within sixty [60] days of first establishment of the "laydown site", whichever occurs first.

(b) Park.

(8) at **PART 4 – GENERAL REGULATIONS** Section 13. **HOME OCCUPATIONS**, deleting:

- (1) there is only one Home Occupation per Dwelling Unit;
- (9) no automobile, boat or other machinery servicing or repair is permitted;

and replacing with the following:

- (1) There is only one Home Occupation that typically involves the presence of more than one (1) customer or client on the premises at any one time

permitted in a Dwelling Unit, subject however to a maximum of two (2) Home Occupations per Dwelling Unit, irrespective of clientele.

(9) no automobile, vehicle, boat, bicycle, machinery, heavy equipment, or major appliance servicing or repair is permitted;

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

#### **14. CALCULATION OF FLOOR AREA RATIO**

The following shall not be included as Floor Area for the purpose of computing Floor Area Ratio:

- (1) Structures which are permitted as projections into required Yards in Section 16 of this Bylaw.
- (2) Swimming pools, open sun decks, unenclosed porches and verandas, and Accessory Buildings.
- (3) Any portion of a penthouse containing elevator or ventilating machinery.
- (4) Any Basement or ground floor, or portion thereof, within a Single Family or Two Family Dwelling, where the ceiling is less than 1.2 metres above the natural Grade at any point.
  - (4.1) The exemption to the calculation of Floor Area provided in Section 14(4) above, does not apply to floor areas within a Multiple Family Residential Building.
- (5) In a Single Family Residential Zone, not more than 45 square metres of Floor Area used and maintained as a garage, in a Principal Building, for the parking of motor vehicles.
- (6) In a Two Family Residential Zone, not more than 40 square metres of Floor Area used and maintained as a garage, in a Principal Building, for the parking of motor vehicles.
- (7) In Multiple Family Residential Zones, any portion of the Building used or intended to be used for the parking or movement of motor vehicles.

and replacing with the following:

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

- (1) The following shall not be included as Floor Area:
  - (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) 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); and

- (g) Accessory Buildings.

- (2) In addition, the following shall not be included as Floor Area in Multiple Family Dwellings and in residential portions of Mixed Commercial/Residential Buildings:

- (a) the area of the floor of any and all portions of the Building used or intended to be used for the parking or movement of vehicles,

- (b) secure bicycle storage facilities (bike lockers);

- (b) the area of the floor of any and all portions of the Building intended to be used by all residents of the building, including but not limited to the following:

- (i) mezzanines,
- (ii) corridors and hallways,
- (iii) landings and foyers,
- (iv) staircases and stairwells; and
- (v) elevator shafts.

- (3) In addition, the following shall not be included as Floor Area for the purposes of computing Floor Area Ratio:

- (a) Any portion of a penthouse containing elevator or ventilating machinery;

- (b) Any portion of a Building where the ceiling height is less than 1.2 metres above the floor; and

- (c) 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.

- (11) at **PART 4 – GENERAL REGULATIONS** Section 15. **HEIGHT EXCEPTIONS**, deleting:

### **HEIGHT EXCEPTIONS**

The following Structures are exempt from the Height requirements of this Bylaw: church spires, chimneys, flagpoles, masts, satellite dishes, aerials, water tanks, monuments, transmission towers, elevators and ventilation machinery, provided that such Structures occupy less than 7% of the Area of the Parcel.

and replacing with the following:

### **HEIGHT CALCULATIONS**

- (1) For Buildings and Structures with a flat roof, those with a pitch less than 3:12, those with a pitch greater than 12:12, and including a mansard roof or domed (curved or barrel) roof, height is measured from Grade to the highest point.
- (2) For Buildings and Structures with a gable, hip, gambrel, or a sloping roof with a pitch greater than 3:12 and less than 12:12 height is measured from Grade to the midpoint between the eaves and highest ridge.
- (3) For all other Buildings, and for Structures without a roof, height will be measured to the highest point of the structure.
- (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 stairway 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 stairway 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.

- (12) at **PART 4 – GENERAL REGULATIONS** Section 16. **SITING EXEMPTIONS**, deleting:

Where chimneys, gutters, sills, eaves, sunlight control projections, canopies, bay windows having no Floor Area, or ornamental features project beyond the face of a Building, the minimum distance to an abutting Lot Line or as required elsewhere in this Bylaw, may be reduced by not more than 0.6 metres, providing that such a reduction applies only to the projecting feature.

and replacing with the following:

**SITING EXCEPTIONS**

- (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, and
  - (e) ornamental features.
- (2) The required Setback may be reduced by not more than 0.9 metres only for the following features if projecting beyond the face of a Building:
  - (a) below ground stairwells, and
  - (b) below ground window wells.
- (3) Accessibility ramps authorized by a Building Permit, and located a minimum of 1.0 metre from all Lot Lines, shall be exempt from the regulations under the “Lot Coverage” and “Siting Requirements” headings of the applicable Zone.

- (13) at **PART 4 – GENERAL REGULATIONS** Section 17. **SPECIAL SITING REQUIREMENTS** deleting entirely and insert the following:

*This section deleted by ZONING BYLAW, 1992, NO. 2050, AMENDMENT BYLAW NO. 2861.*

- (14) at **PART 4 – GENERAL REGULATIONS** Section 21. **ACCESSORY BUILDINGS AND USES**, deleting:

- (3) Notwithstanding the restriction, contained elsewhere in this Bylaw, on placing Accessory Building in front of the front face of a Principal Building. Structures used to house Urban Hens, as regulated by the Animal Bylaw,

may be located within the front yard setback provided that the Structure is screened by vegetation of a sufficient height and width to prevent the Structure being visible from the street or from any adjacent residence.

(15) at **PART 4 – GENERAL REGULATIONS** Section **22. FENCES**, deleting:

### **FENCES**

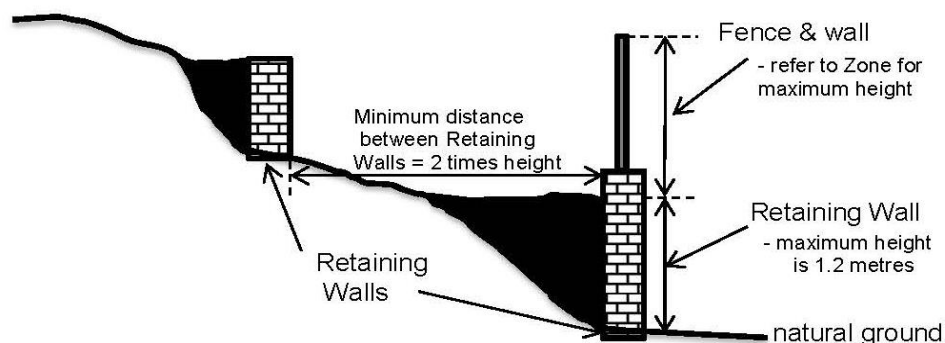
- (1) Where a fence, or similar Structure is located on top of a retaining wall, the Height of the fence shall include the Height of the retaining wall. Where their combined Height exceeds 1.8 metres, the fence, wall or similar Structure alone shall have a Height of not more than 1.1 metres.

and replacing with the following, and renumbering the remaining (5), (6), (7), (8) accordingly:

### **FENCES and RETAINING WALLS**

- (1) Retaining Walls shall not exceed a height of 1.2 metres above the natural 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.

#### **Retaining wall placement**



- (3) Where a Parcel has an Exterior Side Lot Line, no Fence shall exceed a Height of 1.2 metres, within the Front Yard and the Exterior Side Yard.
- (4) On a Panhandle Lot no Fence in a Front Yard shall exceed a height of 2.0 metres, however; fencing along the Access Strip (or Access Route) shall be subject to the Fence height requirements of the properties abutting the Access Strip (or Access Route).

(16) at **PART 4 – GENERAL REGULATIONS** Section 24. **SCREENING AND LANDSCAPING**, deleting:

- (4) Screening required by this Bylaw shall be maintained at all times by the owner of the Parcel on which it is required.

and replacing with the following:

- (4) Screening and Landscaping required by this Bylaw shall be maintained at all times by the owner of the Parcel on which it is required.

(17) at **PART 4 – GENERAL REGULATIONS** Section 24. **VISIBILITY AT INTERSECTIONS**, deleting:

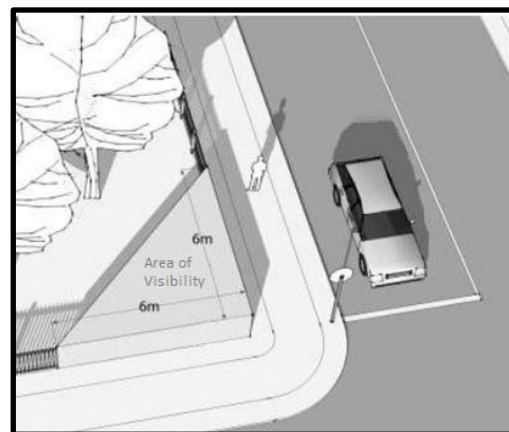
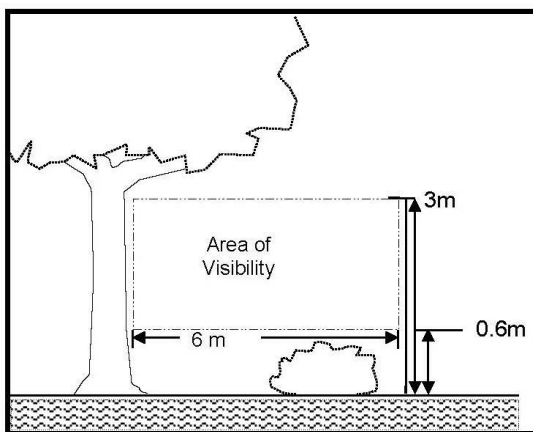
There shall be no obstruction to the line of vision by Buildings, Structures, or vegetation between the Heights of 1 metre and 3 metres above the established Grade of streets within an Area bounded by the centre lines of intersecting streets and a line joining a point on each of the centre lines 25 metres from their intersection.

and replacing with the following:

In the area bounded by the intersecting lot lines at the intersections of two or more Highways, and a line joining points along the lot lines 6.0 metres from their point of intersection:

- (1) No Structure or other visual obstruction shall be located within 0.6 metres to 3.0 metres above the crown of the abutting Highways; and
- (2) No Landscaping, Screening or other vegetation shall be maintained or allowed to grow so as to obstruct the zone of visual clearance between 0.6 metres and 3.0 metres above the crown of the abutting Highways;

all generally as shown on the following diagrams.



- (18) at **PART 4 – GENERAL REGULATIONS** Section 25. **WRECKED VEHICLES**: deleting

### **WRECKED VEHICLES**

- (1) The keeping of wrecked motor vehicles is not permitted in any Zone unless specifically provided for in that Zone, unless wrecked motor vehicles are required for the operation of business and in such case the wrecked motor vehicles shall be completely enclosed within a Building or a walled or fenced Area. The total number of wrecked motor vehicles stored on a Parcel shall not exceed five at any time.
- (2) Not more than one unlicensed vehicle shall be kept on any Parcel of land outside of a Building or Structure unless specifically permitted within a particular Zone. Unlicensed vehicles shall not be located within a Front Yard.

and replacing with the following:

### **DERELICT VEHICLES**

- (1) No owner, occupier or other person shall cause or permit the parking, storage or accumulation of one or more Derelict Vehicles on a Parcel, or parts of a Derelict Vehicle or of a wrecked, broken or dismantled trailer, boat or mechanical equipment; whether the vehicle is licensed or not.
- (2) Subsection (1) shall not apply where the Zone permits the principal use of Automobile, recreational vehicle and trailer repair, servicing and body shop, or repair shop, provided that Derelict Vehicle, trailer, boat or mechanical equipment or their parts are stored in a manner so as not to be visible from a Highway, public place or any other Parcel.
- (3) Not more than one unlicensed vehicle shall be kept on any Parcel of land outside of a Building or Structure unless specifically permitted within a particular Zone. Unlicensed vehicles shall not be located within a Front Yard, Access Strip or Access Route.

- (19) at **PART 4 – GENERAL REGULATIONS** Section 28. **MAJOR ROAD SETBACK** deleting:

### **MAJOR ROAD SETBACK**

All Buildings and Structures shall be sited a minimum of 3 metres from the boundaries of Esquimalt Road and of Admirals Road (north of Lyall Street).

and replacing with the following:

## **28. MARINE SETBACK**

- (1) Notwithstanding any other provision of this bylaw, all Buildings and Structures, and all non-recreational Uses shall be sited a minimum of 30 metres from the High Water Mark, Natural Boundary or Lot Line adjacent to the marine area for Parcels abutting the Sea (whichever results in the greatest setback).
- (2) As an exception to subsection (1) of this Section, the marine setback for Single Family Residential uses, buildings and structures is reduced to 15.0 metres, or the waterfront setback identified in the RS-Zones, where the associated building permit is issued in satisfaction of section 56 of the *Community Charter*.

(20) at **PART 4 – GENERAL REGULATIONS** Section **29. BARE LAND STRATA LOTS**

- (1) deleting "*Condominium Act*" and replacing with "*Strata Property Act*".
- (2) capitalizing "Access Route".

(21) at **PART 4. – GENERAL REGULATIONS** Section **30.3 BOARDING USE**  
deleting:

### **BOARDING USE**

Boarding Use is permitted in the RS-1, RS-2, RS-3 and RS-5 zones provided that:

- (1) The residential building is a Single Family Dwelling that does not contain any secondary suites and is occupied by the registered owner.
- (2) No more than two (2) Roomers or Boarders are permitted in any residence.
- (3) The total area rented to all Roomers or Boarders is not more than 25% of the floor area of the residence.
- (4) There is no evidence of the Boarding Use visible from the exterior of the residence.
- (5) The Boarding Use shall comply with all other applicable bylaws, including but not limited to Noise, Parking, Streets and Traffic, and Maintenance of Property.

and replacing with the following:

## **BOARDING**

Boarding is permitted in the zoning districts where Single Family Residential or Two Family Residential are Permitted Uses, provided that:

- (1) The Building does not contain any Secondary Suite(s);
- (2) Not more than two rooms and not more than 25% of the Floor Area of the dwelling is used for such lodging;
- (3) Boarding only occurs in a Principal Building that contains only one kitchen;
- (4) No component of Boarding may occur in an Accessory Building or Garage;  
and
- (5) Boarding does not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the neighbourhood within which it is located.

- (22) at **PART 4 – GENERAL REGULATIONS** Section **30.4. URBAN HENS**  
deleting:

### **URBAN HENS**

The keeping of no more than four (4) Urban Hens is a permitted use in the RS-1, RS-2, RS-3, RS-4 and RS-5 zones provided that:

- (1) no roosters, cocks, or cockerels are kept on the property;
- (2) the structure containing the hens or chickens, whether portable or stationary, is always located at least 1.5 metres from any property line;
- (3) only one (1) structure containing hens or chickens is permitted on a parcel.

and replacing with the following:

### **URBAN HEN, DOG, CAT, RABBIT, RODENT, BIRD, AND BEE HOUSING**

- (1) In addition to this section, the keeping and care of Urban Hen(s), Dog(s), Cat(s), Rabbit(s), Rodent(s), Bird(s) and Bees is governed by the Animal Management Bylaw, 2015, No. 2841, as amended from time to time.
- (2) The keeping and care of Urban Hen(s), Rabbit(s), Bird(s) and Bees and other livestock, fowl or similar animal that produce food, or may itself become food, whether for personal or commercial production, is considered an urban agricultural use accessory to residential dwellings only.
- (3) Any Building or Structure containing Urban Hen(s), Dog(s), Cat(s), Rabbit(s), Rodent(s), Bird(s) or Bees, whether portable or stationary, shall be located at least 1.5 metres from any Lot Line.



- (4) Additional Regulations for Urban Hens:
  - (a) Only one (1) Structure containing Urban Hen(s) is permitted on a parcel.
  - (b) Notwithstanding the restriction contained elsewhere in this Bylaw, on placing Accessory Buildings and Structures in front of the front face of a Principal Building, an Accessory Building or Structure used to house Urban Hen(s) may be located within the Front Yard, provided that it is fully and suitably screened by vegetation so as not to be visible from a Highway, public place or any other Parcel.
  
- (5) Additional Regulations for Bees:
  - (a) A maximum of three (3) beehives is permitted on a Parcel.
  - (b) Beehives must be placed so that flight paths do not cross publicly frequented areas; and shall have a vertical screen in front of the entrance to the hive measuring at least 1.8 metres high, located within 0.6 metres of the entrance to the hive.

(23) at **PART 4 – GENERAL REGULATIONS** Section **30.6 SECONDARY SUITES** deleting:

### **SECONDARY SUITES**

Secondary Suites, where expressly permitted and in Single Family Residences on parcels least 530.0 square metres in area in Multiple Family Residential zones, are subject to the following regulations and requirements:

- (1) The Secondary Suites must be located within a Single Family Residence and either the suite or the Single Family Residence must be owner-occupied.
- (2) Only one Secondary Suite shall be permitted in any Single Family Residence.
- (3) Any Single Family Residence containing a Secondary Suite must be connected to the municipal sanitary sewer system.
- (4) If the occupants of the Secondary Suite do not have shared access to outdoor open space in the rear yard and side yards of the Parcel, a minimum of 15 square metres of Private Open space shall be provided for the use of the residents of the Secondary Suite.
- (5) Secondary Suite access to the outside shall be on a separate building elevation from the Principal Building access.
- (6) Every owner of a Single Family Residence that contains a Secondary Suite must apply for a permit annually.
- (7) The Township of Esquimalt Building Official shall issue the permit for the suite in the prescribed form if the premises comply with requirements of this Bylaw, the B.C. Building Code and other Township bylaws for such use.

- (8) The owner of every Single Family Residence wishing to use part of the Building for a Secondary Suite, must provide to the Township of Esquimalt Building Official a statutory declaration indicating that either the Single Family residence or the Secondary Suite is or will be owner-occupied.
- (9) Every owner who has obtained a permit under this section shall, within one (1) week of receiving written notice to do so, provide to the Building Official of the Township of Esquimalt, a statutory declaration indicating that the Residential Single Family building or Secondary Suite continues to be owner-occupied, but in no case shall an owner be required to provide such a declaration more than once in any six-month period.
- (10) A Secondary Suite is not permitted within any Comprehensive Development zone.

and replacing with the following:

### **SECONDARY SUITES**

Secondary Suites, where expressly permitted, are subject to the following regulations:

- (1) Only one Secondary Suite shall be permitted in any Single Family Dwelling.
- (2) A Secondary Suite may not be located within a Two-Family or Multiple Family Residential building.
- (3) Secondary Suites are limited to a Floor Area not exceeding 90 square metres, or 40% of the total Floor Area of the Principal Building, whichever is less. The Floor Area of a Secondary Suite shall be measured from the interior face of the exterior walls of the suite.
- (4) A Secondary Suite is not subject to subdivision under the provisions of either the *Land Title Act* or the *Strata Property Act*, including building strata, because the suite is an accessory and secondary use only and cannot satisfy the land use, density and other zoning regulations, nor the parcel size and other subdivision regulations, nor the provisions for singular control by the owner of the Single Family Dwelling, if separated from the Single Family Dwelling's principal Dwelling Unit.
- (5) For a Parcel with a Secondary Suite, only one Dwelling Unit, either the Principal Dwelling Unit or the Secondary Suite may be rented at any time.
- (6) A Secondary Suite is not permitted on a Parcel where a child-care facility, or any other facility licensed under the *Community Care and Assisted Living Act* is operating.
- (7) For a Parcel with a Secondary Suite, Boarding is not permitted.

- (24) at **PART 5 – ZONING DISTRICTS**, sections:  
34. **SINGLE FAMILY RESIDENTIAL [RS 1]**,  
35. **SINGLE FAMILY PANHANDLE RESIDENTIAL [RS 2]**,  
36. **SINGLE FAMILY WATERFRONT RESIDENTIAL [RS 3]**,  
37.1 **SINGLE FAMILY LARGE LOT RESIDENTIAL [RS-5]**,

that the following be deleted from the **Permitted Uses**:

"The keeping of no more than two (2) Roomers or Boarders"

- (25) at **PART 5 – ZONING DISTRICTS**, that the following be added to the **Permitted Uses** for all zoning districts that allow 'Single Family Residential' and/ or 'Two Family Residential' as permitted uses:

"Boarding: subject to the requirements of Section 30.3. "

"Urban Hens: subject to the requirements of Section 30.4 of this Bylaw."

- (26) at **PART 5 – ZONING DISTRICTS**, sections:

47. **NEIGHBOURHOOD COMMERCIAL [C 2]**,  
48. **CORE COMMERCIAL [C 3]**,  
48.2 **CORE COMMERCIAL LIQUOR [C 3A]**,  
52.2 **WEST BAY COMMERCIAL [C-7]**,  
52.3 **WEST BAY COMMERCIAL 2 [C-7A]**,  
62. **MARINE RESIDENTIAL [M-3]**,  
63.1 **MARINE SMALL DOCK [M-5]**,  
64. **COMPREHENSIVE DEVELOPMENT DISTRICT NO. 2 [CD NO. 2]**,  
66. **COMPREHENSIVE DEVELOPMENT DISTRICT NO. 5 [CD NO. 5]**,  
67. **COMPREHENSIVE DEVELOPMENT DISTRICT NO. 6 [CD NO. 6]**,  
67.15 **COMPREHENSIVE DEVELOPMENT DISTRICT NO. 23 [CD NO. 23]**,  
67.23 **COMPREHENSIVE DEVELOPMENT DISTRICT NO. 33 [CD NO. 33]**

that "Home Occupation" be added, in alphabetical order, to (1) **Permitted Uses**.

- (27) at **PART 5 – ZONING DISTRICTS**, section  
40. **TWO FAMILY/SINGLE FAMILY RESIDENTIAL [RD-3]**,

that the following be deleted from the **Permitted Uses**:

- (d) Secondary Suite within a Single Family Residence, subject to the requirements of Section 30.6

- (28) at **PART 5 – ZONING DISTRICTS**, sections  
41. **MULTIPLE FAMILY RESIDENTIAL [RM 1]**,  
42. **MULTIPLE FAMILY RESIDENTIAL [RM 2]**,

- 43. MULTIPLE FAMILY RESIDENTIAL [RM 3],
- 44. MULTIPLE FAMILY RESIDENTIAL [RM 4],
- 44.1 MULTIPLE FAMILY RESIDENTIAL – CONGREGATE CARE [RM-4C],
- and
- 45. MULTIPLE RESIDENTIAL [RM 5],

deleting entirely, the section:

(3) Unit Size

and renumbering the remaining.

- (29) at PART 5 – ZONING DISTRICTS, section 49. SERVICE STATION COMMERCIAL [C-4], deleting the phrase “front Building Line” in subsection (6)(a)(i) [Siting Requirements - Principal Buildings – Front Setback], and replacing it with the phrase “Front Lot Line”.

- (30) at PART 5 – ZONING DISTRICTS, sections:  
58. PUBLIC/INSTITUTIONAL [P-1], and  
59. PARKS AND OPEN SPACE [P-2],

that "Assembly Use" be added, in alphabetical order, to (1) Permitted Uses.

- (31) at PART 5 – ZONING DISTRICTS, deleting sections:  
51. TOURIST COMMERCIAL [C 5B]  
67.6 COMPREHENSIVE DEVELOPMENT DISTRICT NO. 12 [CD NO. 12]

- (32) at the following locations delete "*Municipal Act*" and replace with "*Local Government Act*":

at the Title Page (page i) – preamble,

at PART 1 – INTERPRETATION Section 2. DEFINITIONS, in the definition “Zone”,

at PART 2 – APPLICATION, COMPLIANCE, AND SEVERABILITY Section 4. COMPLIANCE,

at PART 4 – GENERAL REGULATIONS Section 18. NON CONFORMING USES,

at PART 5 – ZONING DISTRICTS Section 35. SINGLE FAMILY PANHANDLE RESIDENTIAL [RS 2], (4) Minimum Lot Width section (a), and

at PART 5 – ZONING DISTRICTS Section 37.1 SINGLE FAMILY LARGE LOT RESIDENTIAL [RS-5], (3) Minimum Lot Width section (b).

READ a first time by the Municipal Council on the ---- day of -----, 2015.

READ a second time by the Municipal Council on the ---- day of -----, 2015.

A Public Hearing was held pursuant to Sections 890 and 892 of the *Local Government Act* on the ---- day of -----, 2015.

READ a third time by the Municipal Council on the ---- day of ----, 2015.

**ADOPTED** by the Municipal Council on the ---- day of ----, 2015.

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BARBARA DESJARDINS  
MAYOR

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ANJA NURVO  
CORPORATE OFFICER