



Making a difference...together

BYLAW NO. 3741

BUILDING REGULATION BYLAW NO. 5, 2010

Consolidated for Public Convenience

(This bylaw is for reference purposes only)

ORIGINALLY ADOPTED OCTOBER 12, 2010

(Consolidated with Amending Bylaws 3780, 4403, 4480, 4535, 4538, 4564 & 4713)

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**CAPITAL REGIONAL DISTRICT
BYLAW NO. 3741**

**A BYLAW TO REPEAL EXISTING BUILDING REGULATIONS AND TO ADOPT
NEW BUILDING REGULATIONS IN AREAS OF THE CAPITAL REGIONAL DISTRICT
NOT WITHIN A CITY, DISTRICT, TOWN OR VILLAGE**

WHEREAS:

- A. Section 298(1) of the Local Government Act and Section 53 of the Community Charter authorizes the Capital Regional District, for the health, safety and protection of persons and property to regulate the construction, alteration, repair, or demolition of buildings and structures by bylaw.
- B. The Province of British Columbia has adopted a building code to govern standards in respect of the construction, alteration, repair and demolition of buildings in municipalities and regional districts in the province.
- C. It is deemed necessary to provide for the administration of the building code.

NOW THEREFORE the Board of the Capital Regional District, in open meeting assembled hereby enacts as follows:

PART 1 SCOPE AND DEFINITIONS

1.1 SCOPE

1.1.1 Electoral Areas

The provisions of this Bylaw shall apply in all parts of Juan de Fuca, Southern Gulf Islands, and Salt Spring Island electoral areas in the Capital Regional District.

1.1.2 Other Legislation

Nothing contained in this Bylaw relieves any person from complying with all other applicable legislation or enactments respecting health, safety and the protection of persons and property.

1.1.3 Application

The provisions of this Bylaw shall apply to the:

- (1) design and construction of new buildings or structures; and
- (2) alteration, reconstruction, demolition, deconstruction and change in use or class of occupancy of existing buildings or structures.

1.2 DEFINITIONS

1.2.1 Non-defined Terms

Definitions of words or phrases used in this Bylaw that are not specifically defined under Section 1.2 and are not defined under the *Building Code* shall have the meanings which are commonly assigned to them in the context in which they are used in this Bylaw, consistent with the specialized use of terms within the various trades and professions to which the terminology applies.

1.2.2 Definitions:

In this Bylaw:

“Accessory Building” means a building or structure, the use or intended use of which is ancillary, subordinate, customarily incidental and exclusively devoted to the principal use.

“Affordable Housing Unit” means a dwelling unit which is:

- (a) part of a development that is owned and operated by a registered non-profit organization or government agency for the purpose of providing affordable housing or below-market housing, or is operated by a registered non-profit organization or government agency for the purpose of providing affordable housing or below-market housing pursuant to a legally binding agreement with the property owner; and
- (b) is the subject of a housing agreement or a covenant in favour of the Capital Regional District or another government agency restricting the use of the affordable housing units to affordable or below-market housing.

“Affordable Housing Development” means a building or buildings that are to be constructed on the same parcel of land under one or more Permits and which collectively contain a minimum of five dwelling units, at least one of which is an affordable housing unit.

“Alteration” means a change or extension to any matter or thing or to any occupancy regulated by the *Building Code*, and **“alter”** or **“altering”** means to make any such change or extension.

“BC Zero Carbon Step Code” means the system of greenhouse gas emission requirements contained in Article 9.37.1.3 and 10.3.1.3 of Division B of the Building Code

“Board” means the Board of the Capital Regional District.

“Building Code” means the *British Columbia Building Code* as adopted from time to time by the Minister pursuant to Part 2 of the *Building Act*.

“Building Official” means a person appointed by the Capital Regional District to carry out the functions of a Building Official under this Bylaw.

“Certificate of Occupancy” includes a Conditional Certificate of Occupancy as the context requires under this Bylaw.

“Chief Building Official” means the Building Official with overall responsibility for administration of this Bylaw, whether by job description or by assignment of the responsible General Manager.

“Conditional Certificate of Occupancy” means a partial certificate of occupancy issued by a Building Official, of a temporary nature, in accordance with sections 2.5.9 and 2.6 of this Bylaw.

“Complex Building” means:

- (a) a building classified as a post-disaster building;
- (b) a building used for major occupancies classified as:
 - (i) assembly occupancies,
 - (ii) care or detention occupancies,
 - (iii) high hazard industrial occupancies; and
- (c) a building exceeding 600 square meters in building area or exceeding three storeys in building height used for major occupancies classified as:
 - (i) residential occupancies,
 - (ii) business and personal services occupancies,
 - (iii) mercantile occupancies,
 - (iv) medium and low hazard industrial occupancies.

“Construct” and **“construction”** includes build, erect, install, repair, alter, add, enlarge, move, locate, reconstruct, demolish, remove, excavate or shore.

“Construction Value” means the estimated cost of constructing the work proposed to be carried out under an application for a Permit, as determined in accordance with section 2.4.3 of this Bylaw.

“Deconstruction” means the taking apart of a building or structure whereby at least 70% of the framing members of the building or structure are removed in salvageable form and are capable of being reused as framing members.

“Excavation” means the removal of soil, rock or fill for the purpose of construction requiring a permit.

"Health and Safety Aspects of the Work" means design and construction regulated by Parts 3, 4, 5, 6, 7, 8, 9, and 10, Division B, of the *Building Code*, and subject to Parts 1 and 2 in relation to Parts 3 through 10, Division B.

"Owner" means the registered owner in fee simple, and includes a person who has been authorized in writing by the owner to act as the owner's agent.

"Permit" means permission or authorization in writing issued by the Building Official to perform work regulated by this Bylaw.

"Registered Professional" means a person who is registered or licensed to practice as an architect under the *Architects Regulation* (B.C. Reg. 33/2023), or a person who is registered or licensed to practice as a professional engineer under the *Engineers and Geoscientists Regulation* (B.C. Reg. 14/2021).

"Simple Building" means a building of three storeys or less in building height, having a building area not exceeding 600 square meters and used for major occupancies classified as:

- (a) residential occupancies,
- (b) business and personal services occupancies,
- (c) mercantile occupancies, or
- (d) medium and low hazard industrial occupancies.

"Structure" means a construction or portion of construction, of any kind, whether fixed to, supported by or sunk into land or water, except landscaping, fences, paving, and retaining structures less than 1.2 meters in height.

"Wetland" means land that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions supports vegetation typically adapted for life in saturated soil conditions, including marshes, swamps and bogs.

1.3 PURPOSE OF BYLAW

1.3.1 Interpretation

This Bylaw shall, notwithstanding any other provision herein, be interpreted in accordance with this section.

1.3.2 General

This Bylaw is enacted for the purpose of regulating construction within all parts of the Juan de Fuca, Southern Gulf Islands and Salt Spring Island electoral areas in the general public interest. The inspections and plan reviews undertaken by a Building Official pursuant to this Bylaw are for the sole purpose of providing a limited spot check for compliance with the Building Code. It is not contemplated nor intended, nor does the purpose of this Bylaw extend:

- (1) to the protection of owners, designers, or constructors from economic loss;
- (2) to the assumption by the Capital Regional District or any Building Official of any responsibility for ensuring the compliance by an owner, their representatives or any employees, constructors or designers retained by them, with the *Building Code*, the requirements of this Bylaw or any other applicable codes, enactments or standards;
- (3) to providing to any person a warranty of design or workmanship with respect to any building or structure for which a Permit or a Certificate of Occupancy is issued under this Bylaw;
- (4) to providing to any person a warranty or assurance that construction undertaken pursuant to a Permit issued by the Capital Regional District is free from latent, or any, defects; or
- (5) the protection of adjacent real property from incidental damage or nuisance.

PART 2 PERMITS AND PERMIT FEES

2.1 GENERAL

- 2.1.1** (1) A Permit is required whenever work regulated under the Building Code and this Bylaw is to be undertaken.
- (2) The Chief Building Official shall create, modify, or adopt for usage, forms (other than those prescribed by enactment) in relation to Permit applications, Permits, and Occupancy Permits, in order to collect or make use of information or documentation necessary for the administration and enforcement of this bylaw, the Building Code, and other applicable enactments. The Building Department shall maintain a list of such forms.
- (3) In creating or modifying Permit forms, the Chief Building Official shall ensure forms contain a limitation of liability substantially similar to the clauses in Sections 2.2.2 to 2.2.4 of this Bylaw, as well as *Freedom of Information and Protection of Privacy Act* personal information collection statements. The Chief Building Official may include fee calculation materials in Permit forms, consistent with fee appendices attached to this Bylaw, for ease of administration of the Permits.

2.1.2 Permits Required

Every person shall apply for and obtain a Permit before commencing:

- (1) site excavation or blasting;
- (2) construction, repairing or altering a building or structure;
- (3) moving a building;
- (4) changing the occupancy of a building;
- (5) the installation of any plumbing;
- (6) construction of a masonry fireplace or the installation of a solid fuel burning appliance or factory/masonry chimney;
- (7) the demolition of a building or structure;
- (8) the deconstruction or removal of a building;
- (9) placement of a manufactured home on a parcel of land for residential use;
- (10) installation of solar panels on a roof;
- (11) replacement of roofing material or external siding material with dissimilar materials.

2.1.3 Permits Not Required

A Permit is not required in the following circumstances:

- (1) for minor repairs or alterations to non-structural components of the building;
- (2) when a valve, faucet, fixture or service water heater is repaired or replaced, a stoppage cleared, or a leak repaired if no change to the piping is required;
- (3) for accessory buildings less than 10 square meters in area that do not create a hazard;
- (4) construction of retaining structures less than 1.2 meters in height;
- (5) construction of other retaining structures more than 1.2 meters in height that are greater than 30° off vertical;
- (6) construction of a fence;
- (7) construction of a deck, the surface of which is less than 600 mm above grade.

2.1.4 Essential Services

No Permit shall be issued for the construction of any residential, commercial, institutional or industrial buildings unless the following essential services are available:

- (1) **Water (Potable):** A community water service, or another source of potable water approved by the medical health officer, health officer or the Building Official, is available to service the building or structure;
- (2) **Sanitary Sewer:** A community sewer system or other method of sewage disposal is available to service the building or structure, provided that, for a sewerage system, the owner has submitted to the Building Official all documents filed with the Vancouver Island Health Authority as prescribed in Section 8(2) of the *Sewerage System Regulation* (BC Reg. 326/04), and for a holding tank, the owner has submitted to the Building Official a holding tank permit issued by a health officer pursuant to the *Sewerage System Regulation* (BC Reg. 326/04);
- (3) **Storm Drainage:** An approved method of storm drainage disposal is available to service the building or structure;
- (4) **Access to Property:** A driveway of sufficient strength, grade and width for access and egress by fire and emergency vehicles within at least 30 meters of each principal building; and
- (5) **Water Supply (Fire):** An adequate supply of water for firefighting in accordance with the National Fire Protection Association (NFPA) 1142 "Standard on Water Supplies for Suburban and Rural Firefighting" or equivalent."

2.2 COMPLIANCE

- 2.2.1** No person shall rely upon any Permit as establishing compliance with this Bylaw or assume or conclude that this Bylaw has been administered or enforced according to its terms.
- 2.2.2** Neither the issuance of a Permit under this Bylaw nor the acceptance or review of plans or specifications or supporting documents, nor any inspections made by a Building Official, shall in any way relieve the owner or their agents or representatives from full and sole responsibility to perform the work in accordance with the *Building Code*, this Bylaw and all other applicable enactments, codes and standards.
- 2.2.3** Without limiting section 2.2.2, it is the full and sole responsibility of the owner, and where the owner is acting through an agent or other representative, the owner's agent or representative, to carry out the work in respect of which the Permit was issued in compliance with the *Building Code*, this Bylaw and all other applicable enactments, codes and standards.
- 2.2.4** Neither the issuance of a Permit or Certificate of Occupancy under this Bylaw, nor the acceptance or review of plans, drawings, specifications, or supporting documents, nor any inspections made by a Building Official constitute in any way a representation, warranty, assurance or statement to an owner, designer or constructor that the *Building Code*, this Bylaw or any other applicable enactments, codes and standards have been complied with, nor does it constitute a representation or warranty to an owner, designer or constructor that the building or structure meets any standard of materials or workmanship.

2.3 APPLICATIONS

2.3.1 An application for a Permit shall be made on the appropriate form, issued from time to time in accordance with this Bylaw.

2.3.2 All plans submitted with Permit applications shall bear the name and address of the designer of the building or structure.

2.3.3 Each building or structure to be constructed on a site requires a separate building permit and shall be assessed a separate building permit fee based on the value of the building or structure as determined in accordance with Appendices A to D of this Bylaw.

2.3.4 Applications for Complex Buildings

(1) An application for a building permit with respect to a complex building shall:

- (a) be made on the appropriate form issued from time to time, signed by the owner, or by a signing officer with sufficient authority to bind the corporation if the owner is a corporation;
- (b) include a copy of a title search made within 30 days of the date of this application, complete with copies of all easements, statutory rights of way and covenants;
- (c) include a site plan prepared by a registered professional or British Columbia land surveyor showing:
 - (i) the bearing and dimensions of the parcel taken from the registered subdivision plan;
 - (ii) the legal description and civic address of the parcel;
 - (iii) the location and dimensions of all statutory rights of way, easements, development permit areas and setback requirements;
 - (iv) the location and dimensions of all existing and proposed buildings or structures on the parcel;
 - (v) setbacks to the natural boundary of any sea, lake, wetland, pond or watercourse;
 - (vi) the existing and finished ground levels to an established datum at or adjacent to the site and the geodetic elevation of the underside of the floor system of a building or structure where the Capital Regional District's or the Islands Trust's land use regulations establish siting requirements related to minimum floor elevation; and
 - (vii) the location, dimension and gradient of parking and driveway access.
- (d) include floor plans showing the dimensions and uses of all areas; the location, size and swing of doors; the location, size and opening of windows;

floor, wall, and ceiling finishes; plumbing fixtures; structural elements; and stair dimensions;

- (e) include a cross-section through the building or structure illustrating foundations, drainage, ceiling heights, the dimensions and height of crawl and roof spaces, and construction systems;
 - (f) include elevations of all sides of the building or structure to confirm that it substantially conforms to the *Building Code* and any other applicable enactments;
 - (g) include cross-sectional details drawn at an appropriate scale and at sufficient locations to illustrate that the building or structure substantially conforms to the *Building Code*;
 - (h) include copies of approvals required under any enactment relating to health or safety, including, without limitation, permits or approvals under the *Sewerage System Regulation* (B.C. Reg 326/2004), and highway use permits issued by the Ministry of Transportation and Transit;
 - (i) (include a letter of assurance in the form of Schedule A, as referred to in Division C of Part 2 of the *Building Code*, signed by the owner, or a signing officer if the owner is a corporation, and the coordinating registered professional;
 - (j) include letters of assurance in the form of Schedule B as referred to in Division C of Part 2 of the *Building Code*, each signed by such registered professionals as the Building Official or Building Code may require to prepare the design for and conduct field reviews of the construction of the building or structure;
 - (k) include drawings and specifications in digital format acceptable to the Chief Building Official at a scale of $\frac{1}{4}'' = 1'$ or 1:50 (or other appropriate scale) of the design prepared by each registered professional and including the information set out in Section 2.3.4(1) (d) to (g) of this Bylaw.
- (2) In addition to the requirements of Section 2.3.4(1), the following may be required by a Building Official to be submitted with a building permit application for the construction of a complex building where the complexity of the proposed building or structure or siting circumstances warrant:
- (a) site servicing drawings, including sufficient detail of off-site services to indicate locations at the property line, prepared and sealed by a registered professional;
 - (b) a section through the site showing grades, buildings, structures, parking areas and driveways; and
 - (c) any other information required by the Building Official or the *Building Code* to establish substantial compliance with this Bylaw, the *Building Code* and other bylaws and enactments relating to the building or structure.

2.3.5 Applications for Simple Buildings

- (1) An application for a building permit with respect to a simple building shall:
 - (a) be made on the appropriate form issued from time to time, signed by the owner or by a signing officer with sufficient authority to bind the corporation if the owner is a corporation;
 - (b) include a copy of a title search made within 30 days of the date of the application, complete with copies of all easements, statutory rights of way and covenants;
 - (c) include a site plan showing:
 - (i) the bearing and dimensions of the parcel taken from the registered subdivision plan;
 - (ii) the legal description and civic address of the parcel;
 - (iii) the location and dimensions of all statutory rights of way, easements, development permit areas and setback requirements;
 - (iv) the location and dimensions of all existing and proposed buildings or structures on the parcel;
 - (v) setbacks to the natural boundary of any sea, lake, wetland, pond or watercourse;
 - (vi) the existing and finished ground levels to an established datum at or adjacent to the site and the geodetic elevation of the underside of the floor system of a building or structure where the Capital Regional District's or the Islands Trust's land use regulations establish siting requirements related to minimum floor elevation; and
 - (vii) the location, dimension and gradient of parking and driveway access.
 - (d) include floor plans showing the dimensions and uses of all areas; the dimensions and height of crawl and roof spaces; the location, size and swing of doors; the location, size and opening of windows; floor, wall, and ceiling finishes; plumbing fixtures; structural elements; and stair dimensions;
 - (e) include a cross-section through the building or structure illustrating foundations, drainage, ceiling heights and construction systems;
 - (f) include elevations of all sides of the building or structure showing finish details, roof slopes, windows, doors, natural or finished grade as applicable and building height;

- (g) include cross-sectional details drawn at an appropriate scale and at sufficient locations to illustrate that the building or structure substantially conforms to the *Building Code*;
- (h) include copies of approvals required under any enactment relating to health or safety, including, without limitation, permits or approvals under the *Sewerage System Regulation* (B.C. Reg 326/2004), and highway use permits issued by the Ministry of Transportation and Transit;
- (i) include drawings and specifications in digital format acceptable to the Chief Building Official at a scale of $\frac{1}{4}'' = 1' 0''$ or 1:50 (or other appropriate scale) of the design including the information set out in Section 2.3.5(1) (d) to (g) of this Bylaw;
- (j) include any other information required by the Building Official or the *Building Code* to establish substantial compliance with this Bylaw the *Building Code* and other bylaws and enactments relating to the building or structure.

2.3.6 Applications for Moved Buildings or Structures

- (1) Without limiting Section 2.1.2(3) of this Bylaw, a Permit is required for the rehabilitation or reconstruction of a building or structure that is to be moved onto the property to which it is to be permanently relocated.
- (2) Before issuing a Permit under Section 2.3.6(1), the Building Official may require certification from a registered professional that the building meets the requirements of this Bylaw, the *Building Code* and any other applicable enactment.

2.3.7 Professional Plan Certification

- (1) The letters of assurance in the form of Schedules A, B and C-A and C-B referred in Division C of Part 2 – Administrative Provisions of the *Building Code* and provided pursuant to this Bylaw are relied upon by the Capital Regional District and its Building Officials as certification that the design and plans to which the letters of assurance relate comply with the *Building Code* and other applicable enactments. Any failure on the part of the Building Official to provide the owner with the written notice will not diminish or invalidate the reliance by the Capital Regional District or its Building Officials on the registered professionals.
- (2) A Permit issued pursuant to Section 2.3.4 or Section 3.4.1 of this Bylaw shall include a notice to the owner that the Permit is issued in reliance upon the certification of the registered professionals that the building plans submitted with the permit application comply with the *Building Code* and other applicable enactments relating to safety.
- (3) When a Permit is issued in accordance with Section 2.3.4 of this Bylaw, the Permit fee shall be reduced by 10% of the fees payable pursuant to this Bylaw, up to a maximum reduction of \$1000 (one thousand dollars).
- (4) When a Permit is issued for a Simple Building and a Building Official has required certification by a registered professional under section 3.4.1 of this Bylaw that the

building plans submitted with the permit application comply with the *Building Code* and other applicable enactments relating to safety, the Permit fee shall be reduced by 5% of the fees payable pursuant to this Bylaw, up to a maximum reduction of \$500 (five hundred dollars).

2.3.8 Energy Conservation

- (1) In relation to the conservation of energy, construction must meet the prescriptive requirements of Articles 9.36.2 to 9.36.4 of Division B of the Building Code.

2.3.9 Greenhouse Gas Emissions

- (1) In relation to the reduction of greenhouse gas emissions the Regional District incorporates by reference the BC Zero Carbon Step Code in accordance with sections 2.3.9(2) and (3) of this Bylaw.
- (2) Buildings and structures to which Part 3 or Part 9 of the Building Code applies, and that are within the scope of application of the BC Zero Carbon Step Code, must be designed and constructed to meet the requirements specified in EL-3 of the BC Zero Carbon Step Code.
- (3) Section 2.3.9(2) applies to buildings and structures for which applications for building permits are received on or after January 1, 2024.

2.3.10 Removal of Section 57 (*Community Charter*) Notice

- (1) An owner who wishes to apply to have a notice pursuant to Section 57 of the *Community Charter* removed from the title to their property on the basis that the condition giving rise to the notice has been rectified must first:
 - (a) apply for and obtain a Permit under this Bylaw for the work required to rectify that condition;
 - (b) complete the work required to rectify that condition in accordance with the terms and conditions of the Permit, and any requirements imposed by the Building Official under this Bylaw;
 - (c) if required under this Bylaw, apply for and obtain a Certificate of Occupancy for the building or structure that was the subject of the Section 57 notice; and
 - (d) pay the application fee prescribed under section 2.4.11 of this Bylaw.

2.4 FEES FOR APPLICATIONS, PERMITS AND OTHER SERVICES

- 2.4.1** A Permit fee, equivalent to 1.4% of the construction value of the proposed work, as determined in accordance with section 2.4.3 of this Bylaw, shall be paid in full prior to the issuance of a Permit for any of the construction activities referred to in section 2.1.2 of this Bylaw.

- 2.4.2** An application for a Permit pursuant to section 2.1.2 of this Bylaw must be accompanied by the owner's declaration of the construction value of the proposed work.
- 2.4.3** For the purpose of section 2.4.2, the construction value of the proposed work shall be the greater of the following:
- (1) the construction value of the proposed work, as declared by the owner under section 2.4.2;
 - (2) the construction value of the proposed work, as determined by the Building Official using a construction costing manual or service that is nationally-recognized by the construction and real estate industries as authoritative, including but not limited to the Marshall & Swift Valuation Service or Residential Cost Handbook.
- 2.4.4** The Permit fee for an Affordable Housing Development shall be reduced by an amount equal to fifty percent (50%) of the construction value of each Affordable Housing Unit contained within the Affordable Housing Development.
- 2.4.5** A non-refundable application fee of \$300.00 (three hundred dollars) shall accompany an application made for a Permit.
- 2.4.6 Cancellations and Refunds**
- (1) An application shall be cancelled if the Permit has not been issued within six months of the date that the Permit application was received.
 - (2) Provided no excavation or construction has commenced, at the written request of the Owner made within six months of the issuance of a Permit, the Building Official may cancel the Permit, and the Owner may then receive a refund of 50% of the Permit fee paid pursuant to Section 2.4.1 of this Bylaw.
- 2.4.7** Where, due to non-compliance with this Bylaw, more than two inspections are necessary when one inspection is normally required, for each inspection after the second inspection, a re-inspection charge of \$100 (one hundred dollars) shall be paid by the Permit holder prior to any additional inspections being performed.
- 2.4.8** The fee for a special inspection or consultation with the Building Official for work which is not authorized under a Permit shall be at the charge-out rate of \$100 (one hundred dollars) per hour, and prorated in the case of a partial hour to the nearest quarter hour.
- 2.4.9** The fee for a letter report from a Building Official concerning the status of an existing building or structure shall be \$100 (one hundred dollars).
- 2.4.10** The fee for an application to remove a notice that has been placed on title to land in accordance with Section 57 of the *Community Charter* shall be \$500 (five hundred dollars).
- 2.4.11** The fee for the review, including execution, of a covenant required as a condition of the issuance of a Permit in accordance with section 219 of the *Local Government Act* or section 56 of the *Community Charter* shall be \$500 (five hundred dollars).

2.5 CONDITIONS OF A PERMIT

2.5.1 A Building Official shall issue the Permit for which the application is made when:

- (1) a completed application in compliance with Section 2.1.2 and with Section 2.3.4 or Section 2.3.5 of this Bylaw, including all required supporting documentation, has been submitted and the review of the application has been completed;
- (2) the owner has paid all applicable fees set out in Section 2.4 of this Bylaw;
- (3) the owner has paid all charges and met all regulations and requirements imposed by any other bylaw or enactment;
- (4) the proposed construction does not contravene any covenant under Section 219 of the *Land Title Act*;
- (5) no enactment authorizes the Permit to be withheld; and
- (6) the owner is not disentitled to a Permit by operation of Section 2.5.5 [*Violations and Notices on Title*].

2.5.2 Every Permit is issued upon the condition that the Permit shall expire and the rights of the owner under the Permit shall terminate if:

- (1) work authorized by the Permit is not commenced within twelve months from the date of issuance of the Permit;
- (2) work is discontinued for a period of twelve months or no inspection as listed in Section 3.5.4 has been requested during that period;
- (3) work has not been completed within forty-eight months from the date of the issuance of the Permit; or
- (4) there is a sale or transfer of the property in respect of which the Permit is issued, unless the owner has first notified the Building Official in writing and the Building Official has authorized the transfer or assignment of the Permit to the new owner, provided the scope of the work is the same as under the original Permit.

2.5.3 Reapplication

- (1) Except as provided in 2.5.9 and 2.5.10, where a permit expires under section 2.5.2 the owner must apply for a new permit in order to complete the work .
- (2) An application under section 2.5.3(1) must be accompanied by any of the information referred to in sections 2.3.4 or 2.3.5 that the Building Official considers is necessary to verify that the health and safety aspects of the work that has yet to be substantially completed will conform with the requirements of the then-current Building Code, this Bylaw and any other applicable enactment.
- (3) The fee for a Permit issued under section 2.5.3(1):

- (a) will be based upon the value of the work that remains to be completed, as determined by the Building Official in accordance with section 2.4.4 of this Bylaw;
- (b) will in no event be greater than the original Permit fee provided the scope of the work is the same as under the original Permit.

2.5.4 Revocation of a Permit

The Building Official may revoke a Permit if one or more of the following violations occurs:

- (1) there is a contravention of a condition under which the Permit was issued;
- (2) there is a contravention of a provision of the *Building Code*, this Bylaw or other applicable bylaws or enactments;
- (3) the Permit was issued in error; or
- (4) the Permit was issued on the basis of false or incorrect information.

The revocation shall be in writing and transmitted to the Permit holder by registered mail, and deemed served at the expiration of three days after the date of mailing.

2.5.5 Denial of Permits

- (1) Any person who has a notice placed on their property's title under section 57 of the *Community Charter*, or who has been notified in writing that work done by him or her or on their behalf is a violation referred to in Section 2.5.4 (collectively an "Infraction Notice"), shall have no Permit issued in respect of the same property, until the person has complied, corrected the violation, or the issue identified in any notice on title, or satisfied the Building Official of their ability to do so.
- (2) As an exception to Section 2.5.5(1), if the building permit application is for a building or structure other than the building or structure for which an Infraction Notice was issued, a Building Official may issue the building permit if:
 - (a) the Building Official is satisfied that the construction and occupancy of the new building or structure does not adversely affect health or life safety aspects of any existing buildings or structures, and any existing buildings or structures do not adversely affect health or life safety aspects of the new structure; or
 - (b) the owner undertakes to alleviate any health or life issues created by the construction or occupancy of the new building or structure. The Building Official may make alleviating the issue a condition of the permit, and may require the owner to secure its undertaking by providing a section 219 Land Title Act covenant. Without limiting the requirements that the Building Official can require in the section 219 covenant, the covenant may prohibit

occupancy of the new building or structure until the health and life safety issues have been alleviated to the satisfaction of the Building Official.

- (3) As an exception to Section 2.5.5(1), if the building permit application is for the same building or structure for which an Infraction Notice has been issued, the Building Official may issue a permit if:
 - (a) the owner satisfies the Building Official that the issue is capable of being rectified; and the owner undertakes to rectify the issue. The Building Official may make rectifying the issue a condition of the permit, and may secure the owner's undertaking by requiring the owner provide a section 219 Land Title Act covenant. Without limiting the requirements that the Building Official can require in the section 219 covenant, the covenant may prohibit occupancy of the building or structure until the existing health and life safety issues have been alleviated to the satisfaction of the Building Official; or
 - (b) it is practically unfeasible to rectify the subject matter of the Infraction Notice, and the Building Official is satisfied that issuing a building permit for the subject matter of the building permit application would not adversely affect any existing life safety or health issues with the building or structure. The Building Official may note on an occupancy permit for the work that the occupancy permit relates only to the work authorized by the building permit, and that the issuance of the permit does not relate to any previous construction or work. The Building Official may also require the owner to provide a section 219 Land Title Act covenant requiring the owner to only construct the work in accordance with the submitted plans, and releasing and indemnifying the CRD and the Building Official from and against any liability resulting from construction and occupancy of the building, including any past construction.
- (4) Despite having discretion in Section 2.5.5(2):
 - (a) there is no obligation on a Building Official to provide an advance ruling or decision on the exercise of their discretion to an owner or potential owner in advance of receipt of a completed action plan; and
 - (b) there is no obligation on a Building Official to exercise discretion in favour of an owner.

2.5.6 Partial Permit

A Building Official may issue a building permit for a portion of a building or structure before the design, plans and specifications for the entire building or structure have been accepted, provided sufficient information has been provided to the Capital Regional District to demonstrate to the Building Official that the portion authorized to be constructed substantially complies with this Bylaw and other applicable bylaws and the Permit fee applicable to that portion of the building or structure has been paid. The issuance of the Permit, notwithstanding the requirements of this Bylaw, applies to the remainder of the building or structure as if the Permit for the portion of the building or structure had not been issued. This section does not apply to single family dwellings and accessory buildings.

2.5.7 No person shall rely on the review or acceptance of the design, drawings, or specifications nor any inspection made by a Building Official as establishing compliance with the *Building Code*, this Bylaw, any other enactment or any standard of construction.

2.5.8 Permit Renewal

- (1) Where the rights of an owner under a Permit terminate under section 2.5.2, the owner may apply to renew the Permit provided the renewal application is made no later than 30 days after the expiry of the Permit.
- (2) Where all of the deficiencies listed on a Conditional Certificate of Occupancy have not been addressed to the satisfaction of the Building Official within twelve months of the issuance of the Conditional Certificate of Occupancy, the owner may apply to renew the Conditional Certificate of Occupancy, provided the renewal application is made no later than 30 days after the expiry of the Conditional Certificate of Occupancy.
- (3) The fee for an application under sections 2.5.8(1) or (2) shall be \$300.00.
- (4) Upon receipt of an application under sections 2.5.8(1) or (2), a Building Official may renew the Permit or Conditional Certificate of Occupancy, as applicable, for a period not to exceed twelve months.
- (5) A Permit or Conditional Certificate of Occupancy may only be renewed once under this section 2.5.8.

2.5.9 Extension of a Permit

- (1) In addition to a renewal under section 2.5.8, a Building Official may extend the period of time set out under section 2.5.2 where construction has not commenced, or has been discontinued, due to adverse weather, strikes, or material or labour shortages. The maximum period of an extension is twelve months.

2.6 CERTIFICATE OF OCCUPANCY

2.6.1 An owner must obtain a Certificate of Occupancy, in the form authorized by the Chief Building Inspector. Certificates of Occupancy are not required for accessory buildings.

2.6.2 A Building Official shall not issue a Certificate of Occupancy unless:

- (1) all letters of assurance have been submitted (when required) in accordance with Section 2.3.4 and Section 3.4.2 of this Bylaw, and
- (2) all aspects of the work requiring inspection and an acceptance pursuant to Section 3.5.4 of this Bylaw have been inspected and accepted.

Notwithstanding Sections 2.6.2(1) and 2.6.2(2), where owing to strikes, lock-outs or other emergencies, one or more of the inspections of buildings or structures required by this Bylaw have not been carried out, the Building Official may issue a Certificate of Occupancy stating the building or structure is substantially complete and suitable for occupancy if satisfied, after a final inspection, that the building is fit for occupancy, but

the certificate shall list those inspections which were not carried out and shall state that the Certificate does not imply approval of such stages of construction.

2.6.3 Conditional Certificate of Occupancy

- (1) A Building Official may issue a Conditional Certificate of Occupancy, in the form authorized by the Chief Building Inspector, for part of a building or structure when that part of the building or structure is self-contained, provided with essential services and meets requirements set out in Section 2.6.2 of this Bylaw.
- (2) A Conditional Certificate of Occupancy may be issued for a single family dwelling and is valid for a period of 12 months from date of issue.
- (3) If at a date 12 calendar months from the date a Conditional Certificate of Occupancy is issued, all of the deficiencies listed on the Certificate have not been addressed to the satisfaction of the Building Official Section 2.5.8 Renewal shall apply.
- (4) A Conditional Certificate of Occupancy may contain such conditions, including restrictions, on occupancy of the building or structure, or portion thereof, as the Building Official deems necessary and desirable, and may list deficiencies required to be addressed to the satisfaction of the Building Official prior to the issuance of a Certificate of Occupancy.

2.6.4 Revocation of Certificate of Occupancy

A Building Official may revoke a Certificate of Occupancy or Conditional Certificate of Occupancy where:

- (1) a condition on a Conditional Certificate of Occupancy is breached;
- (2) the Certificate of Occupancy was issued in error; or
- (3) the Certificate of Occupancy was issued on the basis of false or incorrect information.

The revocation shall be in writing and transmitted to the Owner by registered mail, and deemed served at the expiration of three days after the date of mailing.

PART 3 PROHIBITIONS AND OBLIGATIONS

3.1 GENERAL

3.1.1 Work Without Permits

No person shall commence or continue any construction, alteration, reconstruction, demolition, removal or relocation of any building or structure or other work related to construction, for which a Permit is required under this Bylaw unless a Building Official has issued a valid and subsisting Permit for the work.

3.1.2 Demolish or Deconstruct

- (1) An application for a Permit to demolish or deconstruct a building or structure must be accompanied by the written authorization of the owner.
- (2) No person shall demolish or deconstruct a building or structure unless a Building Official has issued a valid and subsisting demolition or deconstruction Permit for the work.

3.1.3 Occupancy

No person shall occupy or use any building or structure unless a valid and subsisting Certificate of Occupancy has been issued by a Building Official for the building or structure. No person shall occupy or use any building contrary to the terms of any Permit issued or contrary to any notice given by a Building Official.

3.1.4 Tampering with Notices

No person shall, unless authorized in writing by a Building Official, reverse, alter, deface, cover, remove or in any way tamper with any notice, Permit or certificate posted upon or affixed to a building or structure pursuant to this Bylaw.

3.1.5 Approved Plans

No person shall do any work that is substantially at variance with the approved design, plans or specifications of a building, structure or other works for which a Permit has been issued, unless that variance has been accepted in writing by a Building Official.

3.1.6 Obstruction to Entry

No person shall obstruct the entry of a Building Official or other authorized official of the Capital Regional District on a property in the administration of this Bylaw.

3.1.7 Cessation of Work

No person shall continue to do any work upon a building or structure or any portion of it after the Building Official has ordered cessation or suspension of work on it.

3.1.8 Work Contrary to Requirements

No person shall do any work or carry out any construction contrary to a provision or requirement of this Bylaw, the *Building Code* or any other applicable enactment.

3.2 BUILDING OFFICIALS

3.2.1 Each Building Official may:

- (1) administer this Bylaw, but owes no public duty to do so; and

- (2) keep records of Permit applications, Permits, notices and orders issued, inspections and tests made, and may retain copies of all documents related to the administration of this Bylaw.

3.2.2 Authority

The Building Official:

- (1) is hereby authorized to enter, at all reasonable times, and in accordance with section 16 of the *Community Charter*, upon any property subject to the regulations of this Bylaw and the *Building Code*, in order to ascertain whether the regulations of or directions under them are being observed;
- (2) is directed, where any dwelling, apartment or guest room is occupied, to obtain the consent of the occupant or provide written notice 24 hours in advance of entry pursuant to Section 3.2.2(1);
- (3) may order the correction of any work which is being or has been improperly done under any Permit;
- (4) may order the cessation of work that is proceeding in contravention of this Bylaw, the *Building Code* or any other applicable bylaw by advising the Permit holder by letter or by a written notice on a card posted adjacent to the work;
- (5) may direct that tests of materials, devices, construction materials, structural assemblies, or foundation conditions be undertaken, or sufficient evidence be submitted, at the expense of the owner, where such evidence is necessary to determine whether the materials, devices, construction or foundation meet the requirements of this Bylaw, the *Building Code*, or any other applicable enactment. The records of such tests shall be kept available for inspection during the construction of the building as required by the Building Official.

3.3 RESPONSIBILITY OF THE OWNER

3.3.1 Every owner shall ensure that all construction complies with the *Building Code*, this Bylaw and other applicable enactments.

3.3.2 Every owner to whom a Permit is issued shall, during construction:

- (1) post and maintain the Permit in a dry and conspicuous place on the property in respect of which the Permit was issued;
- (2) keep a full size hard copy of the accepted designs, plans and specifications on the property for the Building Official's use; and
- (3) post the civic address on the property in a location visible from any adjoining streets.

3.3.3 Every owner shall, when notified of deficiencies by the Building Official, perform such alterations, corrections or replacements as may be necessary to ensure the work

complies with this Bylaw, the *Building Code*, or any other applicable enactment or regulation, and advise the Building Official when the work is ready for re-inspection.

3.4 PROFESSIONAL DESIGN AND FIELD REVIEW

3.4.1 When a Building Official considers that the site conditions, size or complexity of a development or an aspect of a development warrant, they may require a registered professional to provide design and plan certification and field review supported by letters of assurance in the form of Schedule B referred to in of Part 2 - Administrative Provisions of the *Building Code*.

3.4.2 Prior to the issuance of a Certificate of Occupancy for a complex building, or simple building in circumstances where letters of assurance have been required in accordance with sections 2.3.4 or 3.4.1 of this Bylaw, the owner shall provide the Building Official with letters of assurance in the form of Schedule C-A and C-B as is appropriate, referred to in of Part 2 - Administrative Provisions of the *Building Code*.

3.4.3 When a registered professional provides letters of assurance in accordance with sections 2.3.4 and 3.4.1 of this Bylaw, they shall also provide proof of professional liability insurance to the Building Official.

3.4.4 Professional Design (Potable Water Systems)

- (1) In this section, "On Site Water Collection" means a system for the collection of rainwater to be used as a source of potable water.
- (2) Where an owner intends to provide potable water for a residential building that includes On Site Water Collection, the owner must provide to the Building Official certification by a registered professional that the plans for the On Site Water Collection system comply with the Building Code and other applicable enactments respecting the safety of a potable water supply, and will provide the dwelling with potable water.
- (3) A Building Official may require an applicant for a Permit to provide the certification referred to in section 3.4.4(2).
- (4) By issuing a Permit where the owner has provided the certification of a registered professional under section 3.4.4(2):
 - (a) the Capital Regional District does not assume any responsibility to review or inspect the installation of the On Site Water Collection system or the quality or quantity of the water from the On Site Water Collection and will rely upon the certification provided by the registered professional; and
 - (b) the portion of the Building Permit fee associated with the design of the On Site Water Collection system shall be reduced by 10%.

3.5 INSPECTIONS

3.5.1 When a registered professional provides letters of assurance in accordance with sections 2.3.4 and 3.4.1 of this Bylaw, the Capital Regional District will rely solely on

field reviews undertaken by the registered professional and the letters of assurance submitted pursuant to Section 3.4.2 of this Bylaw as certification that the construction substantially conforms to the design, plans and specifications and that the construction complies with the *Building Code*, this Bylaw and other applicable enactments.

3.5.2 Notwithstanding Section 3.5.1 of this Bylaw, a Building Official may attend the site from time to time during the course of construction to ascertain that the field reviews are taking place and to monitor the field reviews undertaken by the registered professionals.

3.5.3 A Building Official may attend periodically at the site of the construction of simple buildings or structures to ascertain whether the health and safety aspects of the work are carried out in substantial conformance with the portions of the *Building Code*, this Bylaw and any other applicable enactment.

3.5.4 The owner, or their representative, shall give at least 24 hours notice to the Capital Regional District when requesting an inspection of the following aspects of the work and, in the case of a simple building, shall obtain an inspection and receive a Building Official's acceptance prior to concealing any aspect of the work:

- (1) the foundation and footing forms, before concrete is poured; location to be verified by legal survey;
- (2) installation of perimeter drain tiles, roof water leader system, under-slab plumbing, radon gas rough-in and damp-proofing, prior to backfilling;
- (3) the preparation of ground, including ground cover and insulation when required, prior to the placing of a concrete slab (as applicable);
- (4) rough-in of all chimneys and fireplaces and solid fuel and oil burning appliances;
- (5) framing inspection, after the roof, all framing including nailing of sheathing, fire blocking and bracing is in place, and all pipes, vents, chimneys, electrical wiring, roof space and crawlspace vents are completed;
- (6) water and sewer connections (as applicable);
- (7) rough-in plumbing;
- (8) ventilation;
- (9) building envelope and rain screen;
- (10) lath;
- (11) stucco (1st, 2nd, final) (as applicable);
- (12) insulation and vapour barrier;
- (13) chimney (as applicable);
- (14) solid fuel burning appliance, fireplace (as applicable);

(15) health and safety aspects of the work when the building or structure is substantially complete and ready for a Conditional Certificate of Occupancy

(16) final inspection/Certificate of Occupancy.

3.5.5 A Building Official shall attempt to accommodate the requested inspection date and time for any inspection requested under section 3.5.4. If the Building Official is unable to attend at the requested date and time due to travel distance or time constraints, the inspection shall occur as soon as reasonably practicable thereafter.

3.5.6 The requirements of Section 3.5.4 of this Bylaw do not apply to any aspect of the work that is the subject of a registered professional's letter of assurance provided in accordance with sections 2.3.4, 3.4.1 or 3.4.2 of this Bylaw.

3.5.7 An owner shall arrange, at the owner's sole cost, for transportation of a Building Official to the property on which a building or structure is being constructed, where the location of the property is remote or not accessible by motor vehicle. Vessels used for the marine transportation of a Building Official shall comply with Transport Canada's Small Commercial Vessel Safety Guide."

PART 4 ADMINISTRATIVE PROVISIONS

4.1 PENALTIES AND ENFORCEMENT

4.1.1 Stop Work Notice

A Building Official may order the cessation of any work that is proceeding in contravention of the *Building Code* or this Bylaw by posting a Stop Work Notice.

- (1) The owner of a property on which a Stop Work Notice has been posted, and every other person, shall cease all construction work immediately and shall not do any work until all applicable provisions of this Bylaw have been substantially complied with and the Stop Work Notice has been rescinded in writing by a Building Official.
- (2) Every person who commences work requiring a Permit without first obtaining such a Permit shall, if a Stop Work Notice is issued, pay an additional charge equal to 100% of the required Permit fee prior to obtaining the required building permit.

4.1.2 Do Not Occupy

Where a person occupies a building or structure or part of a building or structure in contravention of Section 3.1.3 of this Bylaw a Building Official may post a Do Not Occupy Notice on the affected part of the building or structure.

4.1.3 Penalties and Offences

- (1) Every person who contravenes any provision of this Bylaw commits an offence punishable on summary conviction and shall be liable to:
 - (a) a fine of not less than \$1,000 (one thousand dollars) and not more than \$50,000 (ten thousand dollars); or
 - (b) imprisonment for not more than six months.
- (2) Each day that an offence under this Bylaw continues constitutes a separate offence that is subject to the penalty prescribed under section 4.1.3(1).
- (3) In addition to the prosecution of an offence under the *Offence Act*, a person who contravenes a provision of this Bylaw may be subject to:
 - (a) the issuance of a Municipal Ticket Information under the *Capital Regional District Ticket Information Authorization Bylaw, 1990*;
 - (b) the issuance of a Bylaw Notice under the *Bylaw Notice Enforcement Bylaw No. 1, 2025*.

4.1.4 Information Requests

- (1) Pursuant to section 71 of the *Freedom of Information and Protection of Privacy Act* ("the Act"), the following categories of records in the custody or control of the Capital Regional District pursuant to the authority of this Bylaw have been designated by the head of the Capital Regional District as records that are available to the public without a request for access under the Act:
 - (a) Permits;
 - (b) Building Plans;
 - (c) Inspection Card
 - (d) Land Survey;
 - (e) Certificate of Occupancy;
 - (f) Record of Building Square Footage;
 - (g) Septic Information Records;
 - (h) Sewerage Information Records;
 - (i) Site Plan;
 - (j) Well Report.
- (2) The Capital Regional District may sever from a record made available under section 4.1.4(1) any information that the Capital Regional District would be entitled to refuse to disclose to an applicant under Part 2 of the *Freedom of Information and Protection of Privacy Act*, including but not limited to any personal information the disclosure of which would be an unreasonable invasion of an individual's personal privacy.

- (3) Pursuant to section 57(4) of the *Community Charter*, information concerning the filing of a notice on title pursuant to section 57 of the *Community Charter* may be inspected during regular office hours at the offices of the Capital Regional District, 625 Fisgard Street, Victoria, BC.
- (4) A person requesting a copy of a record under section 4.1.4(1) or section 4.1.4(3), whether in paper or digital form, must pay a fee as follows:
 - (a) \$300.00 for each copy as a minimum charge;
 - (b) where the number of pages requested exceeds two hundred (200) in total, an additional fee of one hundred dollars (\$100.00) per hour or part thereof for searching and retrieving records, prior to copying;
 - (c) for large scale paper building plans, an additional fee equal to the cost incurred by the Capital Regional District in having the plans sent by courier to and from an external service provider, for copying at the expense of the person making the request.

PART 5 GENERAL

5.1 SEVERABILITY

If any section of this Bylaw is for any reason held to be invalid, by the decision of any court, such decision shall not affect the validity of the remaining portions of this Bylaw.

5.2 REPEAL OF BYLAWS

Capital Regional District Bylaw 2990, "Building Regulation Bylaw No. 4, 2002, and amendment bylaws 3099, 3172, 3265 and 3394, are hereby repealed.

5.3 CITATION

This Bylaw may be cited for all purposes as "Building Regulation Bylaw No. 5, 2010".

READ A FIRST TIME THIS	13 th	day of	October	2010
READ A SECOND TIME THIS	13 th	day of	October	2010
READ A THIRD TIME THIS	9 th	day of	March	2011
ADOPTED THIS	9 th	day of	March	2011

CHAIR

CORPORATE OFFICER