

THE CORPORATION OF THE DISTRICT OF OAK BAY

BYLAW NO. 4653

Land Use Procedures and Fees Bylaw

A Bylaw to establish application procedures for: amendments to the Official Community Plan, the Zoning Bylaw, a Land Use Contract, or a covenant in favour of the Municipality; permits or agreements under Parts 26 and 27 of the *Local Government Act*; applications for siting and design approval under the *Uplands Regulations Bylaw*; applications under the *Agricultural Land Commission Act*; and to establish procedures for notice of and fees for applications under the Bylaw pursuant to the *Community Charter*, the *Local Government Act* and the *Agricultural Land Commission Act*.

The Municipal Council of The Corporation of the District of Oak Bay, in open meeting assembled, enacts as follows:

1 DEFINITIONS

In this Bylaw, unless the context otherwise requires:

Council	means the Municipal Council of The Corporation of the District of Oak Bay.
Director of Building and Planning	means the person appointed to that position by the Council or such other person designated by Council.
Institutional	includes “Long-Term Care Institution” uses as defined in Oak Bay Zoning Bylaw, 1986.
Municipal Clerk	means the person appointed by Council under section 148 of the <i>Community Charter</i> , or such other person as designated by Council.
Municipality	means The Corporation of the District of Oak Bay.
Value	means the fair market value of the development proposed to be undertaken, including materials whether donated or purchased, labour whether contracted, volunteered or provided by the developer, design, consulting services, construction management services, construction insurance and contractor’s profit and overhead, all as determined by the Director of Building and Planning in light of prevailing local rates and conditions.

2 SCOPE

This Bylaw applies, in relation to all parcels within the Municipality, to:

- 2.1 applications to amend the Official Community Plan or the Zoning Bylaw, or for a land use contract or a heritage revitalization agreement;
- 2.2 applications for, or amendments to, a heritage revitalization agreement or heritage alteration permit under Part 27 of the *Local Government Act*;
- 2.3 applications for a development permit or development variance permit or any other permit under Part 26 of the *Local Government Act*;
- 2.4 applications for siting and design approvals or amendments under the *Uplands Regulations Bylaw, 1987*;
- 2.5 applications to amend covenants registered in favour of the Municipality; or
- 2.6 applications under the *Agricultural Land Commission Act*.

3 APPLICATIONS

3.1 An application described in section 2 of this Bylaw shall be made to the Director of Building and Planning and shall:

- a) be signed by the owner of the parcel involved or by a person authorized in writing by the owner to act as his or her agent;
- b) be made on the application form prescribed by the Director of Building and Planning;
- c) include the information required by the Director of Building and Planning; and
- d) include the application fee as set out in Schedule A to this Bylaw.

4 POSTING OF APPLICATION SIGNS

4.1 Where an application is submitted under section 2.1 of this Bylaw, the applicant shall:

- a) erect signs for the proposed development within ten (10) days of the application being submitted;
- b) prepare and post the signs in accordance with Schedule C of this Bylaw, update the signs with public hearing information no less than 10 days prior to the public hearing, and confirm in writing to the Director of Building and Planning that the signs have been erected and updated;
- c) maintain and / or replace signs as necessary; and
- d) remove the signs within one week of the application being approved or refused by the Council or withdrawn by the applicant.

4.2 Failure to post and maintain the signs in accordance with this Bylaw will result in Council postponing the public hearing. Any additional notification costs incurred by the Municipality resulting from a failure to post and maintain the signs shall be paid by the applicant prior to the advertisement of the public hearing.

4.3 Failure to comply with section 4.2 due to the removal, destruction, or alteration of the signs by vandalism or natural occurrence shall not affect the validity of the application or postpone a public hearing as long as reasonable efforts have been taken by the applicant to maintain the signs.

4.4 The requirements to post signs in accordance with this section shall not apply where ten (10) or more parcels owned by ten (10) or more persons are the subject of the application or amendment.

5 NOTICE OF APPLICATION

5.1 Where the *Local Government Act* requires mailing or other delivery of a notice to owners and tenants in occupation with respect to:

- a) an Official Community Plan amendment;
- b) a Zoning Bylaw amendment;
- c) an amendment to a land use contract;
- d) a heritage revitalization agreement or amendment;

notice of a Public Hearing must be mailed or otherwise delivered to the owners and tenants in occupation of a parcel subject to the application, and within 50 metres from any boundary of a parcel subject to the application, at least 10 days prior to the Public Hearing.

5.2 In accordance with section 892(7) of the *Local Government Act*, section 5.1 shall not apply where ten or more parcels owned by ten or more persons are the subject of the application or amendment.

5.3 Where the *Local Government Act* requires mailing or other delivery of a notice to owners and tenants in occupation with respect to a development variance permit, notices must be mailed or otherwise delivered to the owners and tenants in occupation of a parcel subject to the application, and within 50 metres from any boundary of a parcel subject to the application.

6 APPLICATION FEES

6.1 All applicable fees are non-refundable and shall be paid in accordance with Schedule A of this Bylaw.

6.2 Where an application is subject to a Public Hearing Fee and:

- a) that application has been withdrawn by the applicant before Council has given First Reading to a bylaw; or
 - b) Council denies the application without convening a Public Hearing date
- the Public Hearing fee paid by the applicant shall be refunded to the applicant.

7 SECURITY DEPOSITS

7.1 As permitted by section 925 and 973 of the *Local Government Act*, the Municipality may, as a condition of the development permit or heritage alteration permit, require security to be provided in the form of an irrevocable letter of credit, such letter of credit to be unconditional, automatically renewing, redeemable at a local bank and effective for a period determined by the Director of Building and Planning, or by the deposit of securities in a form acceptable to the Municipality.

7.2 Council hereby delegates the power to require security under subsection 925(1) and 973 of the *Local Government Act* to the Director of Building and Planning pursuant to section 925(4) of the *Local Government Act*. The Director of Building and Planning must use the following guidelines in determining the amount of security:

- a) The amount of security is to be calculated in accordance with the formula set out in Schedule B of this Bylaw;
- b) The Director of Building and Planning may waive the requirement for security for a development permit or heritage alteration permit that relates to a project of value less than \$100,000, where the development permit or heritage alteration permit contains no conditions respecting landscaping and where there is no risk of an unsafe condition or an environmental hazard resulting from a contravention of a condition in the permit;
- c) The Director of Building and Planning may require an amount of security higher than that calculated in accordance with the formula set out in Schedule B where, in his or her assessment, having regard to advice from a qualified professional, the location or nature of the project, or both, create a demonstrable and significant risk of damage to the environment;

- d) Upon issuance of an occupancy permit by the Municipality, in respect of the development, or, if there is no requirement for an occupancy permit, upon substantial completion of the development as determined by the Director of Building and Planning, the security taken under this subsection shall be returned to the permit holder, less any expenses incurred by the Municipality under section 925(2.1) of the *Local Government Act*; and
- e) Where the development permit or heritage alteration permit contains conditions respecting landscaping, 10% of the amount of the security shall be held by the Municipality for a further period of one year to secure care and maintenance of the landscaping.

8 APPLICATION LAPSES AND REAPPLICATION

- 8.1 An application pursuant to this Bylaw will be considered lapsed and will be closed if no communication or submission of outstanding materials by the applicant has occurred within a period of six (6) months from the date of the last communication or submission from the applicant.
- 8.2 If an application is refused or a bylaw is defeated, no reapplication will be received by Council for a period of six months from the date of the decision, subject to section 895(3) of the *Local Government Act*.
- 8.3 Notwithstanding section 8.1, prior to the six (6) months but not less than three (3) months after the denial, an applicant may provide a written submission to the Municipality setting out the grounds on which they are reapplying and Council may consider the reapplication subject to section 895(3) of the *Local Government Act*.

9 APPLICATIONS AND PERMITS

- 9.1 The Director of Building and Planning may prescribe application forms for the purposes of this Bylaw, including different application forms for different types of applications.
- 9.2 If Council authorizes the issuance of a permit, the Director of Building and Planning will complete the permit in the appropriate form attached as Schedules D, E and F and, when required, file in the Land Title Office a notice in the form prescribed for that purpose, that the land described in the notice is subject to a permit.

10 SEVERABILITY

If any section, subsection, sentence, paragraph or schedule forming part of this Bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, the section, subsection, sentence, paragraph or schedule may be severed from the Bylaw without affecting the validity of the bylaw or any portion of the Bylaw or remaining schedules.

11 SCHEDULES

All the Schedules attached to this Bylaw form part of this Bylaw.

12 REPEAL

Bylaw No. 4213 the “*Land Use Application Procedure and Fee Assessment Bylaw, 2004*” and its amendments, and Bylaw No. 3569 “*Public Hearing and Land Use Permit Notification Bylaw, 1987,*” are hereby repealed.

13 CITATION

This Bylaw may be cited as the *Land Use Procedures and Fees Bylaw, 2015.*

READ a first, second and third time by the Municipal Council on _____

ADOPTED and FINALLY PASSED by the Municipal Council on _____

Mayor

Municipal Clerk

Sealed with the Seal of
The Corporation of the District of Oak Bay

SCHEDULE A - APPLICATION FEES

Fee Description	Amount
1. Official Community Plan Amendment	\$1500.00
2. Zoning Bylaw Amendment / Phased Development Agreement <i>Plus large project fee, where applicable</i>	\$1500.00
3. Concurrent Official Community Plan Amendment / Zoning Bylaw Amendment	\$2000.00
4. Land Use Contract Amendment <i>Unless subject to a zoning amendment fee, in which case only the zoning amendment fee will apply</i>	\$1500.00
5. Land Use Contract Discharge <i>Unless subject to a zoning amendment fee, development permit fee or development variance permit fee, in which case only the zoning amendment fee, development permit fee or development variance permit fee will apply</i>	No Charge
6. Development Permit <i>Plus Large Project Fee, where applicable</i>	\$1000.00
7. Development Variance Permit	\$1000.00
8. Uplands Siting and Design Approval <i>Unless subject to a development permit fee or development variance permit fee, in which case only the development permit fee or development variance permit fee will apply</i>	\$ 400.00
9. Large Project Fee <i>Applies to all commercial and institutional projects and any residential projects over four (4) dwellings</i>	\$1.00/m ² of gross floor area
10. Heritage Revitalization Agreement or Amendment	\$ 750.00
11. Heritage Alteration Permit <i>Unless subject to a development permit fee or development variance permit fee, in which case only the development permit fee or development variance permit fee will apply</i>	\$ 200.00
12. Covenant Amendment <i>Plus legal fees at cost, including covenant preparation, amendment and registration</i>	\$ 750.00
13. Public Hearing Fee	\$1200.00
14. Applications under the <i>Agricultural Land Reserve Commission Act</i>	* See NOTE 1
<i>* NOTE 1: As prescribed by the Agricultural Land Reserve Use, Subdivision And Procedure Regulation 171/2002</i>	

**SCHEDULE B - DEVELOPMENT PERMIT AND HERITAGE ALTERATION PERMIT
SECURITY**

Calculation of Security Amount

<i>Value of Development</i>	<i>Required Security</i>
1. \$2,000,000 or Less	2.5% of project value
2. Greater than \$2,000,000 but less than or equal to \$10,000,000	\$50,000 plus 1.75% of the amount by which the project value exceeds \$2,000,000
3. Greater than \$10,000,000	\$190,000 plus 0.5% of the amount by which the project value exceeds \$10,000,000

SCHEDULE C - SIGN SPECIFICATIONS

A sign required under section 4.1 must be posted and maintained in accordance with the following.

<h1 style="margin: 0;">DEVELOPMENT PROPOSAL</h1>	<h2 style="margin: 0;">PUBLIC HEARING</h2>
<h2 style="margin: 0;">PROPOSAL</h2>	<p style="margin: 0;">A Public Hearing will be held:</p> <p style="margin: 0;">Date:</p> <p style="margin: 0;">Time:</p> <p style="margin: 0;">Address:</p>
<h2 style="margin: 0;">BRIEF DESCRIPTION</h2>	<p style="margin: 0;">For More Information, Contact</p> <p style="margin: 0;">District of Oak Bay</p> <p style="margin: 0;">Building and Planning Department</p> <p style="margin: 0;">2167 Oak Bay Avenue</p> <p style="margin: 0;">Phone 250.598.3311</p> <p style="margin: 0;">www.oakbay.ca</p>  <p style="margin: 0;">DISTRICT OF OAK BAY</p>
<h2 style="margin: 0;">APPLICANT</h2>	<p style="margin: 0;">Map to include north arrow with map outlined in black and subject property outlined in red</p> <p style="margin: 0;">Address and Legal Description</p>
<h2 style="margin: 0;">COMPANY NAME AND CONTACT</h2> <p style="margin: 0;">ADDRESS</p> <p style="margin: 0;">PHONE</p>	<p style="margin: 0;">Site Plan outlined in black</p> <p style="margin: 0;">Proposed Development</p>

Sign Specifications

Sign Dimensions: Minimum 1.5 metre height x 2.5 metre width

Sign Material: Plywood, Particle Board, Corrugated Plastic, or other durable material firmly affixed on the site.

Sign Format: The sign shall be in the format noted on the sample above.

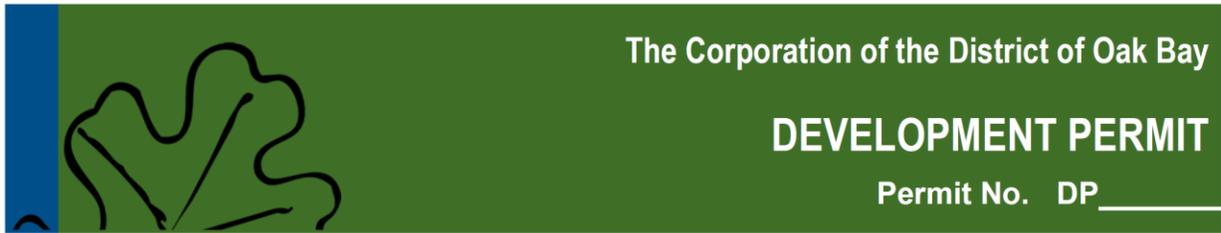
Lettering: White or green lettering, as noted on the sample above, in Arial font and not less than 6 centimetres in height.

Siting: The sign(s) shall be located within 3.0 metres of each property line abutting a street in a location facing and clearly visible from the street.

Where the frontage of a parcel is equal to or greater than 50 metres, additional signs shall be located no less than 20 metres apart.

Where the property abuts two or more streets, a sign shall be posted no further than 3.0 metres from each abutting street, or from the intersection of the two streets at a 45 degree angle.

SCHEDULE D – DEVELOPMENT PERMIT



1. In this Permit
 - a) The “Land” is:

Legal Description
Parcel Identifier
Address
 - b) The “Permit Holder” and registered owner of the Land is:

Name(s)
Address
 - c) The “Plans and Documents” attached hereto and forming a part of this Permit are:

Documents to be Attached
2. The bylaw variance(s) allowed pursuant to this Permit has/have been authorized in the context of the development of the Land as depicted in the Plans and Documents. Except for minor revisions not materially affecting the form or character of the development of the Land as so depicted, which may be approved by the Director of Building and Planning, **all amendments, variations or revisions to the Plans and Documents must be approved by resolution of the Municipal Council.**
3. This Permit is issued subject to compliance with all bylaws applicable to the Land and the use and development thereof, except as specifically varied by this Permit.
4. The Land shall be developed strictly in accordance with the following terms and conditions and provisions of this Permit, and any plans and specifications thereto which form a part thereof. In the context of the Plans and Documents, the following bylaw variances are authorized by this Permit:

Bylaw Amended or N/A
Amendment Specifications
5. This Permit shall run with the Land and shall be binding on the Permit Holder and the Permit Holder’s heirs, administrators, executors, successors and assigns, and on all successors in title to the Land, save and except that none of the terms and conditions hereof shall be personal or binding on the Permit Holder save and except during the Permit Holder’s ownership of any interest in the Land.

6. **This Permit does not constitute a building permit**, and nothing herein relieves the Permit Holder, the Permit Holder's heirs, administrators, executors, successors and assigns, any successor in title to the Land, nor any person contracted to carry out the work depicted in the Plans and Documents, from their obligation to apply for and obtain, before commencing such work, a building permit, or any other permit, where required under the *Building and Plumbing Bylaw* of the District.

7. Nothing in this Permit confers any approval, permission or authority to carry out work on public property, including but not limited to the boulevard and the portion of any driveway lying outside the boundaries of the Land.

AUTHORIZING RESOLUTION PASSED BY COUNCIL the day of , 20 .

MUNICIPAL CLERK

DATE

SCHEDULE E – DEVELOPMENT VARIANCE PERMIT



1. In this Permit
 - a) The “Land” is:

Legal Description
Parcel Identifier
Address
 - b) The “Permit Holder” and registered owner of the Land is:

Name(s)
Address
 - c) The “Plans and Documents” attached hereto and forming a part of this Permit are:

Documents to be Attached
2. The bylaw variance(s) allowed pursuant to this Permit has/have been authorized in the context of the development of the Land as depicted in the Plans and Documents. Except for minor revisions not materially affecting the form or character of the development of the Land as so depicted, which may be approved by the Director of Building and Planning, **all amendments, variations or revisions to the Plans and Documents must be approved by resolution of the Municipal Council.**
3. This Permit is issued subject to compliance with all bylaws applicable to the Land and the use and development thereof, except as specifically varied by this Permit.
4. The Land shall be developed strictly in accordance with the following terms and conditions and provisions of this Permit, and any plans and specifications thereto which form a part thereof. In the context of the Plans and Documents, the following bylaw variances are authorized by this Permit:

Bylaw Amended
Amendment Specifications
5. This Permit shall run with the Land and shall be binding on the Permit Holder and the Permit Holder’s heirs, administrators, executors, successors and assigns, and on all successors in title to the Land, save and except that none of the terms and conditions hereof shall be personal or binding on the Permit Holder save and except during the Permit Holder’s ownership of any interest in the Land.

- 6. **This Permit does not constitute a building permit**, and nothing herein relieves the Permit Holder, the Permit Holder's heirs, administrators, executors, successors and assigns, any successor in title to the Land, nor any person contracted to carry out the work depicted in the Plans and Documents, from their obligation to apply for and obtain, before commencing such work, a building permit, or any other permit, where required under the *Building and Plumbing Bylaw* of the District.

- 7. Nothing in this Permit confers any approval, permission or authority to carry out work on public property, including but not limited to the boulevard and the portion of any driveway lying outside the boundaries of the Land.

AUTHORIZING RESOLUTION PASSED BY COUNCIL the day of , 20 .

MUNICIPAL CLERK

DATE

SCHEDULE F – HERITAGE ALTERATION PERMIT



1. In this Permit
 - a) The “Land” is:

Legal Description
Parcel Identifier
Address
 - b) The “Permit Holder” and registered owner of the Land is:

Name(s)
Address
 - c) The “Plans and Documents” attached hereto and forming a part of this Permit are:

Documents to be Attached
2. The bylaw variance(s) allowed pursuant to this Permit has/have been authorized in the context of the development of the Land as depicted in the Plans and Documents. Except for minor revisions not materially affecting the form or character of the development of the Land as so depicted, which may be approved by the Director of Building and Planning, **all amendments, variations or revisions to the Plans and Documents must be approved by resolution of the Municipal Council.**
3. This Permit is issued subject to compliance with all bylaws applicable to the Land and the use and development thereof, except as specifically varied by this Permit.
4. This Permit is issued for exterior renovations to the existing building as noted on the attached Plans and Documents.
5. The Land shall be developed strictly in accordance with the following terms and conditions and provisions of this Permit, and any plans and specifications thereto which form a part thereof. In the context of the Plans and Documents, the following bylaw variances are authorized by this Permit:

Bylaw Amended or N/A
Amendment Specifications
6. This Permit shall run with the Land and shall be binding on the Permit Holder and the Permit Holder’s heirs, administrators, executors, successors and assigns, and on all successors in title to the Land, save and except that none of the terms and conditions hereof shall be personal or binding on the Permit Holder save and except during the Permit Holder’s ownership of any interest in the Land.

7. **This Permit does not constitute a building permit**, and nothing herein relieves the Permit Holder, the Permit Holder's heirs, administrators, executors, successors and assigns, any successor in title to the Land, nor any person contracted to carry out the work depicted in the Plans and Documents, from their obligation to apply for and obtain, before commencing such work, a building permit, or any other permit, where required under the *Building and Plumbing Bylaw* of the District.
8. If a building permit for the construction permitted by this Heritage Alteration Permit has not been issued and construction substantially commenced within two years after the date of issuance of this Permit, this Heritage Alteration Permit shall lapse.
9. Nothing in this Permit confers any approval, permission or authority to carry out work on public property, including but not limited to the boulevard and the portion of any driveway lying outside the boundaries of the Land.

AUTHORIZING RESOLUTION PASSED BY COUNCIL the day of , 20 .

MUNICIPAL CLERK

DATE