

# NORTH CEDAR IMPROVEMENT DISTRICT

## BYLAW NO. 401

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To Establish Water System and Ornamental Street Lighting Standards  
for the Subdivision and Development of Land Bylaw 401

WHEREAS improvement districts are authorized under sections 746, 747.1 and 747.2 of the *Local Government Act* to establish servicing standards and require property owners subdividing or developing their lands to follow them;

AND WHEREAS under section 746 of the *Local Government Act*, an improvement district may establish penalties for non-compliance with District regulations and bylaws;

AND WHEREAS the Board of Trustees of the North Cedar Improvement District wishes to establish requirements and standards for water distribution systems, fire hydrants and ornamental street lighting on lands to be subdivided or developed, and on roads adjacent to those lands and to establish penalties for non-compliance;

NOW THEREFORE the Board of Trustees of the North Cedar Improvement District, in open meeting assembled, enacts as follows:

### 1. PURPOSE

This bylaw sets-out:

- (a) the application process;
- (b) servicing requirements; and
- (c) design and construction standards

to be followed by land owners applying for water or ornamental street lighting services as part of a proposal to subdivide or develop their land.

### 2. DEFINITIONS

In this bylaw:

“**applicant**” means a land owner, or the authorized agent of that owner, who has submitted an application for water or ornamental street lighting services in relation to the proposed subdivision of land;

“**approving officer**” means the provincial subdivision approving officer under section 77.2 of the *Land Title Act*;

“**build-out**” means the ultimate development of all parcels in a proposed subdivision;

“**district**” means the North Cedar Improvement District and its Board of Trustees;

“**enactment**” means an Act or a regulation or a portion of an Act or regulation;

“**excess or extended services**” means a portion of the water system that will serve property other than the property being subdivided or developed. Excess services are works that exceed the servicing needs of the subject property, but are required by the District to accommodate anticipated growth. Extended services are extensions made to the water system in order to provide services to a property physically located outside the water service area;

“**frontage**” means that length of a parcel boundary which abuts a highway;

“**highway**” includes a street, road, lane, bridge, viaduct and any other way open to the use of the public, but specifically excludes private rights of way on private property;

“**include**” means as an example of, but not limited to;

“**parcel**” means any lot, block or other area in which land is held or into which it is subdivided, but does not include a highway;

“**regional district**” means the Regional District of Nanaimo;

“**requested service**” means a request for water or ornamental street lighting services;

“**regulation**” includes a bylaw enacted by the District or Regional District;

“**road**” means the same as highway;

“**standards**” means design and construction standards for the District’s water system and ornamental street lighting system as set-out in Schedules ‘B’ and ‘C’ of this bylaw;

“**subdivision**” means a subdivision as defined in the *Land Title Act* or the *Strata Property Act*;

“**such as**” means the same as include.

“**water service area**” means any property located within the area serviced by the District’s water system and that pays a water parcel tax;

“**water system**” means the system of waterworks owned, operated and maintained by the District;

“**waterworks**” means any structures, including pipes, and all attachments, fitting and facilitates for the production, storage, conveyance, treatment and distribution of water;

“**works**” means ornamental street lighting and/or waterworks, as the case may be and context determines;

### **3. GENERAL PROHIBITION AND PENALTIES**

- (1) Land that is connected to the District’s water system, or proposed for connection, must not be subdivided contrary to the provisions of this bylaw.
- (2) A person who:
  - (a) does or suffers any act or permits any act to be done in contravention of this bylaw; or
  - (b) neglects to do or refrains from doing any act or thing required by this bylawcommits an offense.
- (3) A person who commits an offence under this bylaw is liable on summary conviction to a penalty in accordance with the *Offence Act*.

### **4. INSPECTION AND RIGHT OF ACCESS**

- (1) An officer, employee, agent or representative of the District may enter at all reasonable times upon land subject to this bylaw to ascertain whether the provisions of the bylaw are being obeyed, provided that:
  - (a) consent to inspect the land is obtained from the owner or occupier; or
  - (b) where such consent has been refused, written notice of the intent to inspect is given to the owner or occupier no less than 24 hours prior to the time of inspection.

- (2) No person shall obstruct or prevent a person referred to in subsection (1) from carrying out any of the provisions of this bylaw.

## **5. OTHER ENACTEMENTS**

Nothing contained in this bylaw relieves any person of the responsibility of seeking out and complying with other enactments applicable to their undertaking.

## **6. APPROVALS**

### **(1) Subdivision of Land**

- (a) Under section 81 of the *Land Title Act*, the subdivision approving officer must notify the District when a subdivision plan has been received;
- (b) Under section 87 of the *Land Title Act*, the subdivision approving officer may refuse to approve a subdivision plan if the services do not meet the standards set by the District in any bylaw regulating or requiring the provision of works or services in relation to the subdivision of land;
- (c) In accordance with the provisions of this bylaw and the *Local Government Act*, the District will review an applicant's request for service and advise the subdivision approving officer on whether the proposed subdivision should be approved or denied;
- (d) In making a determination under subsection 1 (c), the District will consider and advise the approving officer on:
  - i. the District's capacity to provide the requested service;
  - ii. whether the application complies with the servicing requirements and standards established by the District, in accordance with this bylaw; and
  - iii. whether the applicant has satisfied, or has agreed to satisfy, all such requirements.

### **(2) Issuance of Building Permits**

Under section 747.1 of the *Local Government Act*, the District may enter into an agreement with the Regional District of Nanaimo whereby the Regional District may refuse to issue a building permit if services on the site being developed, or on that portion of the road immediately adjacent, have not been provided to the standard required by District.

## **7. MEANING OF SUBDIVISION APPROVAL AND PERIOD OF VALIDITY**

- (1) Subject to changes in an enactment which may affect the subdivision of land, the District's approval of a subdivision under this bylaw shall be valid for a period of 12 months.
- (2) An approval of subdivision by the District under this bylaw must not be interpreted as limiting the function or authority of the subdivision approving officer under section 87 of the *Land Title Act*.

## **8. APPLICATION FOR WATER SERVICES**

- (1) Land owners proposing to subdivide their land who wish to connect the lots created to the District's water system must first apply for water services by submitting:
  - (a) a completed application in the form prescribed in Schedule A and signed by the registered owner of the land, or by an agent authorized to act on the owner's behalf;
  - (b) all plans and other information specified in Schedule A; and
  - (c) a non-refundable service application fee as specified in Schedule D.

- (2) An application for water services under subsection 1 may be preceded by a preliminary proposal submitted at the applicant's expense in accordance with District policy, including the cost of examination by the District's engineer and/or the District's legal representative:
  - (a) Where work is done "at cost", the cost shall include the amount expended by the District for gross wages, and salaries, employee benefits, materials, equipment rentals at rates paid by the District or set by the District for its own equipment, or any other expenditures incurred in doing the work, plus administration charges;
  - (b) The District shall provide cost estimates that will serve as the amount of down payments required from the applicant before any work is to begin, the District is cost neutral;
  - (c) Where the "at cost" value differs from the estimates, any surplus shall be refunded.
- (3) In accordance with Schedule B (*standards for water systems*), every water service application under subsection 1 must include:
  - (a) a calculation of the peak hourly water demand and pressure requirements at build-out; and
  - (b) sufficient information, plans and drawings for the District to determine whether the proposed works comply with District standards and any other requirements under this bylaw.
- (4) Applications for service connections shall be submitted under the *Water Distribution and Use Regulation Bylaw No. 400*.

## **9. APPLICATION FOR ORNAMENTAL STREET LIGHTINGS SERVICES**

- (1) Land owners proposing to subdivide their land who wish to install ornamental street lighting within the proposed subdivision must meet the minimum service requirements established by District policy;
- (2) Land owners meeting the requirements in subsection (1), must apply to the District by submitting:
  - (a) a completed application in the form prescribed and signed by the registered owner of the land, or by an agent authorized to act on the owner's behalf;
  - (b) all plans and other information that the District may reasonably require to determine whether the proposed works comply with District standards and any other requirements under this bylaw; and
  - (c) a non-refundable application fee as specified in schedule "D".

## **10. GENERAL APPLICATION PROVISIONS**

- (1) Subject to section 13 (*requirement to provide extended or excess services*), all work required by the District in connection with a service request, including all costs ancillary to the design and installation of works such as permits, the registration of interests on title, professional fees and any other related costs, shall be carried out at the sole expense of the applicant and to the satisfaction of the District.
- (2) The trustees may refuse to approve a proposed subdivision where:
  - (a) the services do not comply with the provisions of this bylaw or any other applicable bylaw; or
  - (b) there is insufficient capacity in the water system to provide the water service requested, including insufficient source supply, storage, conveyance, distribution or treatment capacity.
- (3) For the purposes of subsection 2 (b), the demand placed on the water system by the proposed subdivision will be calculated with reference to the peak hourly water demand and pressure requirement at build-out as provided under section 8 (3) (a) (*application for water services*).
- (4) Despite subsection 2, an application for water service may be approved where the applicant provides the District with an acceptable proposal for increasing the water system's capacity so that it is capable of providing the service requested. Such proposals shall be at the expense of the applicant, including any costs for the examination of the proposal by the District engineer.

- (5) As a precondition to subdivision approval under section 7 (*subdivision approval meaning and period*), an applicant may be required to enter into an agreement with the District that will ensure:
  - (a) the installation and connection of a water distribution system, at no cost to the District, that is of a capacity satisfactory to the District engineer and in accordance with District standards;
  - (b) the installation of street lights, at no cost to the District, in accordance with District standards, as applicable;
  - (c) that ownership of the water distribution system or ornamental street lighting system is transferred to the District; and
  - (d) that any and all costs for improvements to the District's water system that are necessary to meet the servicing requirements of the proposed subdivision, are to be borne by the applicant.

## **11. SERVICING REQUIREMENTS AND STANDARDS WITHIN SUBDIVISIONS**

### **(1) Water Services**

- (a) Subject to subsection 747.1 (3) of the Local Government Act, an applicant proposing to subdivide land must provide, locate and construct within the subdivision:
  - i. a water distribution system; and
  - ii. a fire hydrant systemin accordance with District standards.
- (b) The new water distribution and hydrant systems provided under subsection (1) (a) must be connected to the District's water system in accordance with schedule "B", District standards.
- (c) All costs associated with providing, locating and constructing the works under subsection (1) (a), including the cost of connecting to the District's water system, shall be borne solely by the applicant.
- (d) The costs referred to in subsection (1) (c) include the cost of all permits, inspections, agreements, right-of-ways, engineering costs and any other costs related to the proposed subdivision.

### **(2) Street Lighting Services**

Provision for street lights is to be included in the subdivision, and incorporated into the electrical layout. If ornamental street lighting is proposed for a subdivision, approval will be subject to the creation of a benefiting area for the collection of operating and maintenance costs. Ornamental lighting standards and specifications are to be in accordance with IES.

- (a) An applicant proposing to subdivide land must provide utility pole mounted street lights and ornamental street lights within the subdivision, where feasible, as follows:
  - i. on every second utility pole;
  - ii. at street corners; and
  - iii. within 6 m of fire hydrants.
- (b) Application for utility pole mounted street lights will be made by the District, with all costs to be borne by the applicant.

## **12. SERVICING REQUIREMENTS AND STANDARDS ON ADJACENT HIGHWAYS**

- (1) Subject to subsection 747.1 (6) of the *Local Government Act*, the District may require an applicant to provide works and services in accordance with the standards, on that portion of the road immediately adjacent to the site being subdivided or developed, as a condition of subdivision approval or the issuance of a building permit, if the District has an agreement under section 6 (*approvals*) with the Regional District.

- (2) All costs associated with providing the works and services under subsection (1) shall be borne by the applicant and include the cost of all permits, inspections, agreements, right-of-ways, engineering costs and other costs related to the proposed subdivision or development.

### **13. REQUIREMENT AND STANDARDS FOR EXCESS OR EXTENDED WATER SERVICES**

- (1) Under section 747.2 of the *Local Government Act*, the District may require an applicant to provide excess or extended services in accordance with the standards.
- (2) If a requirement is made under subsection (1), the District will determine the portion of such service costs to be borne by the applicant in accordance with the *Local Government Act* and any policy regarding latecomer charges.

### **14. ABILITY TO EXTEND WORKS AND SERVICES**

- (1) All works required to be installed under subsection 11 (*servicing requirements and standards within subdivisions*) or 13 (*requirement to provide extended water services*) must be installed along the full frontage of the land being subdivided or developed unless the lands beyond are incapable of further subdivision or development, as determined by the District.
- (2) For the purposes of subsection (1), lands are not incapable of further subdivision or development by reason only that an amendment to an enactment of the Regional District of Nanaimo or the District is necessary to permit further subdivision or development.

### **15. SERVICING REQUIREMENTS AND STANDARDS ON DEVELOPMENT SITES**

Refer to Bylaw #400, Water Distribution and Use Regulation Bylaw.

### **16. STATUORY RIGHT OF WAYS AND TRANSFER & GUARANTEE OF WORKS**

- (1) An applicant who has installed works under this bylaw must:
  - (a) transfer the works to the District; and
  - (b) where any part of the works are located on lands within a highway or on lands owned by any person other than the District, provide a statutory right away agreement in a form acceptable to the District, naming the District as transferee with priority over any financial encumbrances registered against the title.
- (2) An applicant who transfers works to the District must:
  - (a) remedy all defects in the works for one year following the date of transfer; and
  - (b) as security for meeting the obligations under subsection (a), deposit with the District a Irrevocable Letter of Credit or cash deposit in an amount not less than twenty (20) percent of the cost of the works.

### **17. COPIES OF PERMITS**

An applicant required to install works under this bylaw must provide the District with a copy of the construction permit issued in accordance with Schedules B and C of this bylaw.

### **18. CONNECTION, CAPITAL EXPENDITURE AND OTHER CHARGES**

No person may connect any parcel of land to the District's water system without paying all applicable charges in accordance with District bylaws.

### **19. SEVERABILITY**

If any section, subsection, sentence, clause or phrase of this bylaw is, for any reason, held to be invalid by the decision of any court, such decision will not affect the validity of the remaining portions of this bylaw.

## 20. SCHEDULES

The following schedules are attached to and form part of this bylaw:

Schedule A	Application for Water Services
Schedule B	Standards for Water System
Schedule C	Standards for Ornamental Street Lighting
Schedule D	Fees & Charges

## 21. REPEAL

Bylaw No. 349 is repealed.

## 22. CITATION

This bylaw may be cited as the "Bylaw No. 401 - Service Standards for Subdivision and Development of Land"

**INTRODUCED** and given first reading by the Trustees on the 12 day of July, 2012.

**RECONSIDERED** and finally passed by the Trustees on the 12 day of July, 2012.

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Chairperson of the Board of Trustees

I hereby certify under the seal of the North Cedar Improvement District that this a true copy of Bylaw No. 401.

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Administrator to the Board of Trustees

Schedule A

WATER SERVICE APPLICATION  
(Proposed Subdivision)

Property Address (es): \_\_\_\_\_

Legal Description of Property: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Address (Correspondence/calls to be directed to): \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ email: \_\_\_\_\_

The following information must accompany the application:

1. Copy of indefeasible title (s) dated within 30 days of the date of application
2. A letter of authorization if the applicant is not the registered owner of the property
3. The plan of subdivision with the dimensions clearly illustrating lot layout, roads and other features to a scale of not less than 1:2000. Four copies are required.
4. The layout plan, in metric, must be prepared by a consulting engineer, planner or land surveyor and show the following:
  - (a) the full legal description of the parcel (s) to be subdivided
  - (b) the dimensions and area of all lots to be created by subdivision.
  - (c) the arrangement of lots and streets to be created by subdivision including the widths of the proposed streets and alteration of lot lines or subdivision of any existing parcels
  - (d) the location of all existing buildings and structures on the property.
  - (e) existing property lines and highways to be eliminated on subdivision
  - (f) the location of all natural features and watercourses
  - (g) the relationship of the development to the neighbouring parcels and highways
  - (h) intended use of each lot to be created on subdivision
  - (i) topographic information where land is steep, irregular, or otherwise difficult to appraise in terms of the proposed development
  - (j) a plan of the water system to service the subdivision designed in accordance with District standards.
5. An application fee of \$\_\_\_\_\_.
6. Evidence of approval or authorization from other agencies involved in the subdivision process.

**Please note the following:**

Personal information collected on this form is collected for the purpose of processing this application and for administration and enforcement of District bylaws related to subdivision. Personal information or business information submitted on this form is not considered to be supplied in confidence.

The District, or their duly appointed representative, are authorized to enter the property for inspection purposes.

Property owner (s) signature (s): \_\_\_\_\_

OR

Authorized agent's signature: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Authorized Signature

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Schedule B

WATER SYSTEM STANDARDS

Insert water system standards here

Schedule C

ORNAMENTAL STREET LIGHTING STANDARDS

Insert ornamental street lighting standards here

Schedule D

FEES & CHARGES

- a) Subdivision Application Fees
  - Serviced Lots - \$150.00 for each additional lot created  
\$ 75.00 for each unit in an additional multi-unit or mobile home pad created on an existing lot.
  - Un-Serviced Lots - \$50.00 for each additional lot created  
\$25.00 for each unit in an additional multi-unit or mobile home pad rented on an existing lot.
  
- b) Street Lighting Application Fee - \$300.00 per electrical overhead light fixture.  
\$400.00 per ornamental light fixture.