



The Corporation of the City of Courtenay

# Bylaw No. 3193

A bylaw to amend Building Bylaw No. 3114.

The Council of the City of Courtenay, in open meeting assembled, enacts as follows:

## Citation

1. That this Bylaw be cited as “Building Amendment Bylaw No. 3193”.

## Amendments

2. That Building Bylaw No. 3114 be amended as follows:

### (a) AMENDING PART 3: SCOPE AND EXEMPTIONS

- (i) **Application** by:

#### DELETING

- 3.3(g) a portable or temporary tent, rigid frame structure covered with a flexible material, or a shipping container used for storage;

and

#### REPLACING with

- 3.3(g) a portable or temporary tent, rigid frame structure covered with a flexible material, or a shipping container used for storage that remains unaltered from the date of original manufacture;

- (ii) **ADDING** the following subsection

- 3.3(l) masonry chimneys or fireplaces and solid fuel-burning appliances, factory-built chimneys of fireplaces, *alterations* and or repairs to masonry chimneys or fireplaces and solid fuel-burning appliances, factory-built chimneys of fireplaces and equipment:

### (b) AMENDING PART 7: OWNERS RESPONSIBILITIES

- (i) **Permit Requirements** by:

#### DELETING

- 7.1 Subject to Part 10 of this bylaw, every *owner* must apply for and obtain a *permit*, prior to

and

#### REPLACING with

- 7.1 Subject to Part 10 of this bylaw, every *owner* must apply for and obtain a separate *permit* for each *building* or *structure*, prior to:

**(ii) DELETING**

7.1 (f) changing the use or *occupancy* of a *building*,

and

**REPLACING** with

7.1 (f) changing the use or *occupancy* of a *building* or *structure*,

**(c) AMENDING PART 9: REGISTERED PROFESSIONAL'S RESPONSIBILITIES****(i) Requirement for a Registered Professional by:**

**DELETING 9.3 (a) to (c) and (e)**

- (a) prior to the pre-occupancy site review coordinated by the *coordinating registered professional* or other *registered professional* for a *complex building*, or
- (b) prior to a final inspection for a *simple building* in circumstances where letters of assurance have been required in accordance with the requirements of the *building code*, in which case the *owner* must provide the City with letters of assurance in the form of Schedules C-A or C-B, as appropriate, referred to in subsection 2.2.7, Division C, of the *building code*;
- (c) except for single storey garages, carports and garden structures, *foundation* and *excavation* components of new *simple buildings* and *additions* greater than 55 square metres to *simple buildings* in accordance with the *building code*;
- (e) prior to *alterations* to a *building*, or to a structural component of a *building* described in paragraph (b);

and

**REPLACING** with

- (a) for a *complex building*;
- (b) for a *simple building* in circumstances where letters of assurance have been required in accordance with the requirements of the *building code*;
- (c) except for detached single storey garages, carports, sheds and similar garden structures less than 55 square metres in floor area in accordance with the *building code*;
- (e) for *alterations* to a *simple building*, or to a structural component of a *simple building* where letters of assurance have been required in accordance with the *building code*;

(ii) **Professional Plan Certification** by:

**DELETING**

9.8 If a *building permit* is issued for a construction of a *complex building*, the *permit* fee is reduced by 5% of the fees payable under Appendix A to this bylaw, up to a maximum reduction of \$500.00 (five hundred dollars).

and

**REPLACING** with

9.8 If a *building permit* is issued under section 9.3 of this bylaw, the *permit* fee is reduced by 5% of the fees payable under Appendix A to this bylaw, up to a maximum reduction of \$500.00 (five hundred dollars).

(d) **AMENDING PART 10: BUILDING APPLICATION REQUIREMENTS**

(i) **General Application Requirements** by:

**DELETING**

10.2 (a) be made in the form prescribed by the *building official* and signed by the *owner*, or a signing officer if the *owner* is a corporation;

and

**REPLACING** with

10.2 (a) be made in the form prescribed by the *building official* and signed by the *owner*, or a signing officer if the *owner* is a corporation and include the non-refundable application fee prescribed in Appendix A;

(ii) **Application for Simple Buildings** by:

**DELETING**

10.7 The *building official* may waive the requirements under subsection 10.5(b) of this Part in whole or in part, where the *permit* is sought for the:

(a) repair or *alteration* of an *existing building* or *structure*; or

(b) construction of a single story detached storage garage or carport less than 55 square meters in area serving a single-family dwelling.

and

**REPLACING** with

10.7 The *building official* may waive the requirements under subsections 10.5(b) and (c) of this Part in whole or in part, where the *permit* is sought for the repair or *alteration* of an *existing building or structure*.

(iii) **Application Fees** by:

**DELETING**

10.9 An application for a *building permit* shall:

- (a) be accompanied by the processing fee as prescribed in Appendix A;
- (b) be credited against the *permit* fee when the *permit* is issued.
- (c) expire and, if applicable, the processing fee shall be forfeited to the *City*, if:
  - (i) the application expires in accordance with section 10.22; or
  - (ii) the *permit* fee has not been paid within 180 days following the date on which the application was made.

and

**REPLACING** with

10.9 An application for a *building permit* shall:

- (a) be accompanied by the non-refundable application fee as prescribed in Appendix A;
- (b) be credited against the *permit* fee when the *permit* is issued;
- (c) expire and the application fee shall be forfeited to the *City*, if the application expires in accordance with section 10.22.

(iv) **Security Deposit 10.13** by:

**DELETING** after subsection (c)

“and only after the *owner* or *agent* has requested the return of the security”

(v) **Expiration of Application for a Permit** by:

**DELETING**

10.22 A *building permit* application that is not complete or does not comply with the applicable provisions of this bylaw expires 180 days from the date an application is received under this Part.

and

**REPLACING** with

10.22 A *building permit* application shall be cancelled and the *permit* application fee forfeited if:

- (a) the *building permit* has not been issued within 180 days from the date an application is received under this Part, unless the *permit* is not issued only due to delays attributable to the *City*, or
- (b) the *permit* fee has not been paid within 60 days from the date of issuance.

(vi) **Inspections** by:

**DELETING**

10.35(i) rough in of new factory built chimneys and fireplaces and solid fuel burning appliances

and

**RENUMBER** remaining clauses.

(e) **DELETE PART 13: ENERGY CONSERVATION AND GHG EMISSION REDUCTIONS.**

(i) PART 13: ENERGY CONSERVATION AND GHG EMISSION REDUCTIONS

- 13.1 In relation to the conservation of energy and the reduction of greenhouse gas emissions, the City incorporates by reference the *Energy Step Code* in accordance with sections 13.2 through 13.3.
- 13.2 A *building* regulated by Part 3 of the *building code* must be designed and constructed to meet the minimum performance requirements specified in:
  - (a) Step 3 of the *Energy Step Code*; or
  - (b) for *building permit* applications received on or after adoption of Step 3 within the *building code*, Step 4 of the *Energy Step Code*.
- 13.3 A *building* regulated by Part 9 of the *building code* must be designed and constructed to meet the minimum performance requirements specified in;
  - (a) Step 4 of the *Energy Step Code*; or
  - (b) for *building permit* applications received on or after adoption of Step 4 within the *building code*, Step 5 of the *Energy Step Code*.
- 13.4 When an *Energy Advisor* or an *architect*, as required, provides energy reports or field reviews in accordance with this bylaw, the City will rely solely on field reviews undertaken by the *Energy Advisor* or *architect* and the reports submitted pursuant to this bylaw as assurance that the construction or applicable aspect thereof substantially conforms to the design, and that the construction or applicable aspect thereof substantially complies with the *building code*, this bylaw, and other applicable enactments respecting energy efficiency.
- 13.5 Requirements for *Energy Advisors*:
  - (a) With respect to a *building permit* for a *building* or *structure* that falls within the scope of Part 9 of the *building code*, the *owner* must provide, to the satisfaction of the *building official*, all the materials and documentation required by the *Energy Step Code*, prepared and signed by an *Energy Advisor*,

- and such other reports and materials as required by the *building official*.
- (b) The *Energy Advisor*, providing the required materials and documentation set out in the *Energy Step Code*, must provide evidence to the building inspector that he or she is an *Energy Advisor* registered and in good standing with Natural Resources Canada in accordance with the EnerGuide Rating System Administrative Procedures (ERS) and adheres to the technical standards and procedures of the ERS.
  - (c) For certainty, and notwithstanding Sections 13.5(a) above, where a *registered professional* is required under this bylaw, in respect of a *building permit* for a *building* or *structure* that falls within the scope of Part 3 or Part 9 of the *building code*, the professional design and field review shall include the materials and documentation required by the applicable step of the *Energy Step Code*, and such other reports and materials as required by the *building official*.

and

**REPLACING** the above noted part with

**PART 13: ENERGY CONSERVATION AND GHG EMISSION REDUCTIONS**

- 13.1 In relation to the conservation of energy and the reduction of greenhouse gas emissions, the City incorporates by reference the *Energy Step Code* in accordance with sections 13.2 through 13.3 and the *Zero Carbon Step Code* in accordance with section 13.4.
- 13.2 A *building* regulated by Part 3 of the *building code* must be designed and constructed to meet the minimum performance requirements specified in:
  - (a) Step 3 of the *Energy Step Code*; or
  - (b) for *building permit* applications received on or after adoption of Step 3 within the *building code*, Step 4 of the *Energy Step Code*.
- 13.3 A *building* regulated by Part 9 of the *building code* must be designed and constructed to meet the minimum performance requirements specified in:
  - (a) Step 4 of the *Energy Step Code*; or
  - (b) for *building permit* applications received on or after adoption of Step 4 within the *building code*, Step 5 of the *Energy Step Code*.
- 13.4 A *building* regulated by Part 3 or Part 9 of the *building code* must be designed and constructed to meet the minimum performance requirements specified in:
  - (a) EL-3 of the *Zero Carbon Step Code* for *building permit* applications received on or after 1<sup>st</sup> January 2026; or
  - (b) EL-4 of the *Zero Carbon Step Code* for *building permit* applications received on or after 1<sup>st</sup> January 2028.

- 13.5 When an *Energy Advisor* or an *architect*, as required, provides energy reports or field reviews in accordance with this bylaw, the City will rely solely on field reviews undertaken by the *Energy Advisor* or *architect* and the reports submitted pursuant to this bylaw as assurance that the construction or applicable aspect thereof substantially conforms to the design, and that the construction or applicable aspect thereof substantially complies with the *building code*, this bylaw, and other applicable enactments respecting energy efficiency.
- 13.6 Requirements for *Energy Advisors*:
- (a) With respect to a building permit for a *building* or *structure* that falls within the scope of Part 9 of the *building code*, the *owner* must provide, to the satisfaction of the *building official*, all the materials and documentation required by the *Energy Step Code*, and the *Zero Carbon Step Code*, prepared and signed by an *Energy Advisor*, and such other reports and materials as required by the *building official*.
- (b) The *Energy Advisor*, providing the required materials and documentation set out in the *Energy Step Code*, must provide evidence to the building inspector that he or she is an *Energy Advisor* registered and in good standing with Natural Resources Canada in accordance with the EnerGuide Rating System Administrative Procedures (ERS) and adheres to the technical standards and procedures of the ERS.
- (c) For certainty, and notwithstanding Sections 13.6(a) above, where a *registered professional* is required under this bylaw, in respect of a *building permit* for a *building* or *structure* that falls within the scope of Part 3 or Part 9 of the *building code*, the professional design and field review shall include the materials and documentation required by the applicable step of the *Energy Step Code*, and the *Zero Carbon Step Code*, and such other reports and materials as required by the *building official*.
- 13.7 No person shall design or construct a new *building* nor add to or renovate to an *existing building* where the heating system or service water heating system relies in whole or part on the use of a *solid fuel burning appliance*.
- 13.8 Despite section 13.7, a *solid fuel burning appliance* may be installed in a *building* that existed prior to May 31, 2020, in replacement for an existing solid fuel burning appliance provided that the replacement appliance complies with section 13.9.
- 13.9 Where a replacement *solid fuel burning application* may be installed pursuant to section 13.8, the *solid fuel burning appliance* must display a permanent label indicating that at the time of installation it has been tested to and meets the standards established by the Environmental Protection Agency for clean burning or CSA B415.10, as either standard is amended or replaced from time to time.
- 13.10 No person shall remove or alter the permanent label required pursuant to section 13.9 that is required to be displayed on a *solid fuel burning appliance*

(c) **DELETING PART 15: OFFENCES**

(i) PART 15: OFFENCES

**Violations**

15.1 Without limiting Part 4 of this bylaw, every person who:

- (a) violates a provision of this bylaw,
- (b) *permits*, suffers or allows any act to be done in violation of any provision of this bylaw; and
- (c) neglects to do anything required to be done under any provision of this bylaw,

commits an offence and on summary conviction by a court of competent jurisdiction, the person is subject to a fine of not more than \$50,000.00, or a term of imprisonment not exceeding three months, or both, in addition to the costs of prosecution. Each day during which a violation, contravention or breach of this bylaw continues is deemed to be a separate offence.

15.2 Every person who fails to comply with any order or notice issued by a *building official*, or who allows a violation of this bylaw to continue, contravenes this bylaw.

15.3 Every person who commences work requiring a *building permit* without first obtaining such a *permit* must, if a *stop work order* is issued and remains outstanding for 30 days, pay an additional charge as outlined in Appendix A of this bylaw.

**Deemed Offence**

15.4 An *owner* is deemed to have knowledge of and be liable under this bylaw in respect of any construction on the parcel the *owner* owns and any change in the use, *occupancy* or both of a *building* or *structure* or part of a *building* or *structure* on that parcel.

15.5 No person is deemed liable under section 15.4 who establishes, on a balance of probabilities, that the *construction* or change of use or *occupancy* occurred before he or she became the *owner* of the parcel.

15.6 Nothing in section 15.5 affects

- (a) the City's right to require and the *owner's* obligation to obtain a *permit*;
- and
- (b) the obligation of the *owner* to comply with this bylaw.

## Ticketing

- 15.7 The offences in Municipal Ticket Information Bylaw No. 2435 Appendix 2 are designated for enforcement under s. 264 of the *Community Charter*.
- 15.8 The following persons are designated as bylaw enforcement officers under section 264(1) (b) of the *Community Charter* for enforcing the offences in Municipal Ticket Information Bylaw No. 2435 Appendix 2 *building officials*, fire inspectors and persons designated by Council as bylaw enforcement officers.
- 15.9 The words or expressions set forth in Column 1 of Municipal Ticket Information Bylaw No. 2435 Appendix 2 are authorized pursuant to s. 264(1)(c) of the *Community Charter* to designate the offence committed under the bylaw section number appearing in Column 2 opposite the respective words or expressions.
- 15.10 The amounts appearing in Column 3 of Municipal Ticket Information Bylaw No. 2435 Appendix 2 are the fines established pursuant to s. 265(1)(a) of the *Community Charter* for the corresponding offence designated in Column 1.

and

**REPLACING** the above noted Part with

## PART 15: OFFENCES

**Violations**

- 15.1 Without limiting Part 4 of this bylaw, any person who:
- (a) contravenes or permits a contravention of any provision of this bylaw,
  - (b) suffers or permits any act or thing to be done in contravention of this bylaw,
  - (c) refuses, omits or neglects to fulfill, observe, carry out or perform any duty or obligation imposed under this bylaw,
  - (d) fails to comply with any order or notice issued to them by a *building official*, or who allows a contravention of this bylaw to continue after such an order or notice has been issued to them by a *building official*,
- commits an offence, and each day that a contravention continues amounts to a separate offence.
- 15.2 A person found guilty of an offence under this bylaw is liable:
- (a) if proceedings are brought under the *Offence Act*, to pay a fine up to the maximum fine amount authorized by the *Community Charter* and not less than \$3,000, in addition to any other penalties, compensation and costs authorized by the *Offence Act*;
  - (b) if a ticket is issued under Division 3 of Part 8 of the *Community Charter*, to pay the fine specified in the *Municipal Enforcement Bylaw*, up to the maximum

fine amount authorized by *Community Charter Bylaw Enforcement Ticket Regulation*, as amended or replaced from time to time; or

- (c) if a bylaw notice is issued under a bylaw enacted by the City under the authority in the *Local Government Bylaw Notice Enforcement Act*, as amended or replaced from time to time, to pay the fine specified in that bylaw, up to the maximum fine amount authorized by the *Local Government Bylaw Notice Enforcement Act*.

- 15.3 Fines and penalties imposed under this section are in addition to and not in substitution for any cost recovery, remedial action or other consequence of default or contravention provided for under this bylaw, and do not limit the right of the *City* to bring civil proceedings or pursue any other remedy available at law.
- 15.4 Every person who commences work requiring a building permit without first obtaining such a permit shall, in addition to such other penalties as may be prescribed, pay a surcharge equal to 50% of the permit fee prescribed Appendix A of this bylaw, or \$10,000.00, whichever is the greater, prior to obtaining a permit if a stop work order is issued.

#### **Deemed Offence**

- 15.5 An *owner* is deemed to have knowledge of and be liable under this bylaw in respect of any construction on the parcel the *owner* owns and any change in the use, *occupancy* or both of a *building* or *structure* or part of a *building* or *structure* on that parcel.
- 15.6 No person is deemed liable under section 15.5 who establishes, on a balance of probabilities, that the *construction* or change of use or *occupancy* occurred before he or she became the *owner* of the parcel.
- 15.7 Nothing in section 15.6 affects
- (a) the *City's* right to require and the *owner's* obligation to obtain a *permit*;
- and
- (b) the obligation of the *owner* to comply with this bylaw.

#### **(d) AMENDING Part 16: INTERPRETATION – Definitions by**

##### **(i) DELETING**

- 16.1 (bb) *value of construction* means the amount that is calculated as the greater of:
- (A) the declared *value of the work*; or

- (B) the value calculated using a method from “Marshall Swift Valuation Service”, an appraiser or another valuation method approved by the *building official*;

**REPLACING** with

16.1(bb) *value of construction* means the amount that is calculated as the greater of:

- (A) the declared value of the *construction* that is proposed in the application for a *building permit*; or
- (B) the estimated value of the *construction* that is proposed in the application for a *building permit*, which estimate is determined using an independent third-party valuation service to determine the average costs of similar *construction*, such as using a method from “Marshall Swift Valuation Service”, an appraiser or another independent valuation method approved by the *building official*;

(ii) **DELETING**

16.2 (a) set out in section 1.4.1.2 of the *building code* as of the date of the adoption of this bylaw: *accessible assembly occupancy, building, building area, building height, business and personal services occupancy, care occupancy, constructor, coordinating registered professional, designer, detention occupancy, excavation, field review, firewall, first storey, grade, high hazard industrial occupancy, industrial occupancy, low hazard industrial occupancy, major occupancy, medium hazard industrial occupancy, mercantile occupancy, occupancy, post disaster occupancy, private sewage disposal system, registered professional, residential occupancy, treatment occupancy or unsafe condition*;

and

**REPLACING** with

16.2(a) set out in section 1.4.1.2 of the *building code* as of the date of the adoption of this bylaw: *accessible, building, building area, building height, business and personal services occupancy, care occupancy, constructor, coordinating registered professional, designer, detention occupancy, excavation, field review, firewall, first storey, grade, high hazard industrial occupancy, industrial occupancy, low hazard industrial occupancy, major occupancy, medium hazard industrial occupancy, mercantile occupancy, occupancy, post-disaster buildings, private sewage disposal system, registered professional, residential occupancy, treatment occupancy or unsafe condition*;

(e) **AMENDING APPENDIX A – FEES AND CHARGES**

(i) **Application Fees** by

**INSERTING** “Non-Refundable” in front of “Application Fees”

(ii) **Permit Fees** by

Striking out “estimated” from “estimated *value of construction*”

(iii) **Extension Fees** by

**DELETING**

For the purposes of this table the “estimated value of construction” is the value of construction to complete the building or structure beyond the accepted inspection stage at the time the permit expired.

and

**REPLACING** with

For the purposes of this table the “estimated value of construction” is the *value of construction* to complete the building or structure beyond the accepted inspection stage at the time the permit expired.

(iii) **Other Fees** - Security Deposits for Multi-residential/ commercial/industrial/institutional

**DELETING**

\$300 per metre of frontage or a minimum fee of \$3000 whichever is the highest

and

**REPLACING** with

\$3000 minimum, or \$300 per metre of frontage to a maximum of \$15000 whichever is the highest

Severability

- 3. If any portion of this Bylaw is declared invalid by a court of competent jurisdiction, then the invalid portion must be severed and the remainder of the Bylaw is deemed valid.

Read a first time this [day] day of [month], [year]

Read a second time this [day] day of [month], [year]

Read a third time this [day] day of [month], [year]

Adopted this [day] day of [month], [year]

\_\_\_\_\_  
Mayor Bob Wells

\_\_\_\_\_  
Corporate Officer Adriana Proton