

CITY OF MERRITT

BYLAW NO. 2381

A BYLAW TO REGULATE THE SUBDIVISION AND DEVELOPMENT OF LAND AND THE PROVISION OF WORKS AND SERVICES THEREFOR

The Municipal Council for the City of Merritt in open meeting assembled, enacts as follows:

1.0 ADMINISTRATION

1.1 Citation

1.1.1 This Bylaw may be cited for all purposes as the “City of Merritt Subdivision and Development Servicing Bylaw No. 2381, 2024”.

1.2 Application

1.2.1 This Bylaw shall apply to all applications for the Subdivision and Development of land and for the provision of Works and Services within the area incorporated as the City of Merritt.

1.2.2 All Works and Services required by this Bylaw shall be design and constructed in accordance with the provisions of this Bylaw.

1.3 Delegation of Authority

1.3.1 The Approving Officer is hereby delegated the powers to administer and enforce the provisions of this Bylaw with respect to the Subdivision of land, including to execute and amend all forms necessary for the Subdivision of land in accordance with this Bylaw and to exempt a parcel from the minimum frontage requirements under the Local Government Act.

1.3.2 The Building Official is hereby delegated the powers to administer and enforce the provisions of this Bylaw with respect to the Development of land, including to execute and amend all forms necessary for the Development of land in accordance with this Bylaw.

1.3.3 The Servicing Officer is hereby delegated the powers to administer and enforce the provisions of this Bylaw with respect to the design and construction of Works and Services, including to execute and amend all forms necessary for the provision of Works and Services in accordance with this Bylaw.

1.4 Interpretation

1.4.1 In this Bylaw, defined terms are denoted with capitalization. Headings are included for convenience only and should not be relied upon for interpretation.

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- 1.4.2 Words, phrases, and terms not defined in this Bylaw shall be interpreted as in the Local Government Act, Land Title Act, Community Charter, or the Interpretation Act, or if not therein defined shall be given their usual and customary meaning for the purpose of interpreting this Bylaw.
- 1.4.3 Words used in the present tense include the other tenses and derivative forms; words used in the singular include the plural and vice versa; the word “person” includes a corporation, firm, partnerships, trusts, and other similar entities as well as an individual.
- 1.4.4 Where a regulation involves two or more conditions, provisions, or events, connected by the conjunction "and", all the connected items are required; "or" means that any one will suffice, but does not prohibit fulfillment of multiple conditions, provisions, or events.
- 1.4.5 Any enactment or bylaw referenced herein includes the enactment or bylaw as amended, revised, consolidated, or replaced from time to time.
- 1.4.6 If any part, section, paragraph, or phrase of this Bylaw is for any reason held to be invalid by the decision of a Court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Bylaw.
- 1.4.7 Any unit of measure in this Bylaw shall be interpreted as a metric unit using SI conventions unless otherwise noted. Imperial or converted units of measure shown in brackets after another unit of measure are for convenience only and do not form part of this Bylaw.

1.5 Definitions

In this Bylaw, unless the context otherwise requires:

“Application Submission and Data Standards” means the City’s Application Submission and Data Standards policy. See Section 1.6.

“Approving Officer” means a person appointed by City as an approving officer of the City under the Land Title Act, and includes their lawful designates.

“Building Bylaw” means the City of Merritt Building Bylaw No. 1865, 2003, as amended or replaced.

“Building Official” has the same meaning as “qualified building official” in the Building Act and means the person appointed by the City to fulfill the duties assigned by the Building Bylaw, and includes their lawful designates.

“Building Permit” has the same meaning as in the Building Bylaw.

“Bylaw” when used in isolation means the City of Merritt Subdivision and Development Servicing Bylaw No. 2381, 2024, as amended or replaced.

“Certificate of Acceptance” means a notice issued in the City’s standard form in accordance with Section 5.11.3 accepting the Works and Services to be vested in, be owned by, and be the

responsibility of the City for ongoing operation, maintenance, repair, and eventual replacement.

“City” means the Corporation of the City of Merritt.

“Construction Authorization” means a notice issued in the City’s standard form in accordance with Section 5.6 authorizing an Owner to proceed with construction of Works and Services within City road right-of-way.

“Design Authorization” means a notice issued in the City’s standard form in accordance with Section 5.5, authorizing a design for construction, insofar as it is in strict conformance with the provisions of this Bylaw or with any variances explicitly authorized by the Servicing Officer. Design Authorization is an administrative assurance that a design is in general conformance with the provisions of this Bylaw and is not an affirmation that the design complies with the provisions of this Bylaw, nor is it a technical endorsement of a design.

“Develop” or “Development” means any alteration or construction upon a parcel for which the Building Bylaw requires a Building Permit to be issued.

“Excess” or “Extended” means those Works and Services in respect of:

- a portion of a Highway system that will provide access to land other than the land being Subdivided or Developed, or
- a portion of a water, sewage, or drainage system that will serve land other than the land being Subdivided or Developed.

“Highway” has the same meaning as in the *Land Title Act*, but does not include a statutory right-of-way or easement on private property.

“Infrastructure Construction Standards” means the City’s Infrastructure Construction Standards policy. See Section 1.6.

“Infrastructure Design Standards” means the City’s Infrastructure Design Standards policy. See Section 1.6.

“Maintenance Period” means the later of:

- a period of one (1) year from the date on which the requirements of Section 5.9 are completed to the satisfaction of the Servicing Officer, or
- the period ending on date the requirements of Section 5.11 are completed to the satisfaction of the Servicing Officer.

“Maintenance Security” means a financial security in a form acceptable to the City, provided under the terms of a Servicing Agreement, in the amount that is the greater of \$15,000 and 5% of the actual construction cost of the Works and Services plus 200% of the cost of completing any outstanding work, including the repair of any deficiencies, as estimated by the Owner’s Engineer and accepted by the Servicing Officer.

“Official Community Plan” or “OCP” means the City of Merritt Official Community Plan Bylaw No. 2336, 2022, as amended or replaced.

“Owner” has the same meaning as defined in the Assessment Act.

“Owner’s Engineer” means a suitably qualified professional engineer, registered in good standing with Engineers and Geoscientists BC, who is retained by an Owner to design, inspect, test, and certify all Works and Services required as a condition of the Owner’s Subdivision or Development approval.

“Peer Review” has the same meaning as defined in the “Professional Practice Guidelines – Peer Review” document published by Engineers and Geoscientists BC.

“Performance Security” means a financial security in a form acceptable to the City, provided under the terms of a Servicing Agreement, in the amount that is the greater of \$25,000 and 140% of the cost of the Works and Services as estimated by the Owner’s Engineer and accepted by the Servicing Officer (125% if the Servicing Officer has granted Design Authorization).

“Preliminary Layout Review Letter” means a letter issued by the Approving Officer in accordance with Section 3.13.1.2.

“Road Dedication” means a Subdivision to provide a portion of land for Highway use to the City.

“Servicing Area” means an area of the City to which a specific standard for the provision of Works and Services has been designated.

“Servicing Agreement” means an agreement between an Owner and the City, in the City’s standard form, for the purposes outlined in the Local Government Act, Section 509(2) and pursuant to the Land Title Act, Section 219.

“Servicing Officer” means a person appointed by the City to fulfill the duties assigned by this Bylaw, and includes their lawful designates.

“Subdivision” has the same definition as in the Land Title Act.

“Subdivision Approval” means the approval of a Subdivision plan in accordance with the Land Title Act.

“Substantial Performance” means the stage of completion when the Works and Services are ready for use for their intended purpose and any outstanding or deficient Works and Services are capable of completion or correction at a cost of not more than:

- 3% of the first \$500,000 of the Performance Security amount,
- 2% of the next \$500,000 of the Performance Security amount, and
- 1% of the balance of the Performance Security amount.

“Total Performance” means the stage of completion when the Works and Services, including all deficiencies and incomplete work, have been Substantially Performed as required under

Sections 5.9 and the Maintenance Period for all works as outlined in Section 5.10 has concluded.

“Works and Services” means such infrastructure as highways, boulevards, sidewalks, transit bays or shelters, boulevard amenities, transportation systems or amenities, street lighting, underground wiring, water supply or distribution systems, fire hydrant systems, sewage collection or disposal systems, drainage collection or disposal systems, or any other such infrastructure necessary in the opinion of the Servicing Officer to support the Subdivision or Development of land.

“Zoning Bylaw” means the City of Merritt Zoning Bylaw No. 2284, 2020, as amended or replaced.

1.6 Administrative Policies

1.6.1 This Bylaw references the following administrative policy documents, which are supplemental to and do not form part of this Bylaw. These policies may be amended at the discretion of the City’s Chief Administrative Officer in accordance with best practices and in the interest of the City.

- a. City of Merritt Infrastructure Design Standards policy,
- b. City of Merritt Infrastructure Construction Standards policy, and
- c. City of Merritt Application Submission and Data Standards policy.

2.0 SERVICING STANDARDS

2.1.1 For the purpose of defining different levels of servicing standards for specific areas of the City, Servicing Areas have been designated as outlined in Table 2.1 – Servicing Areas.

Table 2.1 – Servicing Areas	
<i>Service Area</i>	<i>Description</i>
1. <i>City Centre</i>	The area defined in the OCP as the “City Centre Urban Village”.
2. <i>Urban Village</i>	The areas defined in the OCP as an “Urban Village”, excluding the City Centre.
3. <i>Suburban</i>	All areas not defined in the OCP as an “Urban Village” with zoning other than those identified in the “Rural” Service Area.
4. <i>Rural</i>	All areas not defined in the OCP as an “Urban Village” with AR1, R5, or M2 zoning.

2.1.2 The Approving Officer or Building Official shall require, as a condition of Subdivision or Development approval, that a proposed Subdivision or Development within a designated Servicing Area be serviced to the minimum standard for that designation as outlined in Table 2.2 – Servicing Area Standards.

2.1.3 Works and Services necessary to service a proposed Subdivision or Development in accordance with the requirements of this section must be designed to the Infrastructure Design Standards policy, and constructed to the Infrastructure Construction Standards policy.

Table Error! No text of specified style in document..1 – Servicing Area Standards								
Service Area	Highways & Transportation¹			Water²	Sanitary Sewer³	Storm Drainage⁴	Street Lighting⁵	3rd Party Utilities⁶
	<i>Arterial</i>	<i>Collector</i>	<i>Local</i>					
1. <i>City Centre</i>	R-1A (25 m)	R-1C (20 m) ⁷	R-1L (20 m)	CWS	CSS	EDS	FCL	UGS
2. <i>Urban Village</i>	R-2A (24 m)	R-2C (20 m) ⁷	R-2L (18 m)	CWS	CSS	EDS	FCL	UGS
3. <i>Suburban</i>	R-3A (22 m)	R-3C (20 m) ⁷	R-3L (18 m)	CWS	CSS	EDS	FCL	UGS/OH S
4. <i>Rural</i>	R-4A (25 m)	R-4C (20 m)	R-4L (20 m)	PWS	PSD	ODS	IOL	OHS
<i>Notes:</i>	¹ see Section Error! Reference source not found.			² See Error! Reference source not found.	³ See Error! Reference source not found.	⁴ See Error! Reference source not found.	⁵ See Error! Reference source not found.	⁶ See Error! Reference source not found.
	⁷ add 2 m if Bike Lanes indicated							

2.1.4 Highways and Transportation Systems

- a. Any lot created by Subdivision or any lot subject to Development that would result in three or more residential units upon a lot or any addition of commercial, industrial, or institutional area must be serviced and accessible by a Highway constructed to the designated typical cross-section standard as described in the Infrastructure Design Standards and Infrastructure Construction Standards policies, with a minimum road right-of-way width as indicated.
- b. Any lot created by Subdivision and any lot subject to Development may be required to provide, in conjunction with Highways, sustainable design features or transportation infrastructure that supports walking, bicycling, public transit, or other alternative forms of transportation and up to 5 m additional dedication to accommodate, where warranted in the opinion of the Servicing Officer to adequately service the proposed Subdivision or Development or where indicated in a Council-endorsed transportation plan.
- c. Notwithstanding Section 2.1.4a, at the discretion of the Servicing Officer, with consideration to Section 5.1, the designated standard may be applied to any Development.

2.1.5 Water Supply and Distribution Systems

- a. Community Water System (CWS): Any lot created by Subdivision and any lot subject to Development that would result in one or more residential units or any additional area of non-residential uses upon a lot must be serviced by the City’s water distribution network under this designation. A new CWS must be designed in accordance with the provisions of this Bylaw as an extension of the City’s water supply and distribution network.
- b. Private Water System (PWS): Under this designation, any proposed Subdivision or Development must connect to the City’s CWS if the proposed Subdivision or Development abuts the City’s CWS or where not abutting, if the CWS could reasonably be extended in the opinion of the Servicing Officer. Any lot created by Subdivision and any lot subject to Development that is not serviced or able to be serviced by the City’s CWS, in the opinion of the Servicing Officer, must be serviced by a proven private water supply under this

designation. A PWS must be designed by a suitably qualified professional engineer and be acceptable to the Servicing Officer and the Interior Health Authority.

- c. Notwithstanding Section 2.1.5a, at the discretion of the Servicing Officer, with consideration to Section 5.1, the designated standard may be applied to any Development.

2.1.6 Sanitary Sewer Collection and Disposal Systems

- a. Community Sewer System (CSS): Any lot created by Subdivision and any lot subject to Development that would result in one or more residential units or any additional area of non-residential uses upon a lot must be serviced by the City's sanitary sewer network under this designation. A new CSS must be designed in accordance with the provisions of this Bylaw as an extension of the City's sanitary sewer collection and disposal network.
- b. Private Sewage Disposal (PSD) system: Under this designation, any proposed lot, or Development upon a lot, under 2 Ha in area must connect to the City's CSS. Any proposed lot, or Development upon a lot, over 2 Ha in area that is not serviced by the City's CSS, or reasonably able to be serviced in the opinion of the Servicing Officer, must be provided with a private sewage disposal system under this designation. A PSD system must be designed by a suitably qualified professional engineer or authorized person as per the Public Health Act Sewerage System Regulation and be acceptable to the Servicing Officer and the Interior Health Authority. Private sewage disposal systems are not permitted within 200 m of a CWS source well or within any area designated by the City as a groundwater protection zone.
- c. Notwithstanding Section 2.1.6a, at the discretion of the Servicing Officer, with consideration to Section 5.1, the designated standard may be applied to any Development.

2.1.7 Storm Drainage Conveyance and Disposal Systems

- a. Enclosed Drainage Systems (EDS): Any lot created by Subdivision and any lot subject to Development that would result in one or more residential units or any additional area of non-residential uses upon a lot must be serviced under this designation by an enclosed drainage system to convey minor storm events and an open or enclosed drainage system to convey major storm events.
- b. Open Drainage Systems (ODS): Any lot created by Subdivision and any lot subject to Development that would result in one or more residential units or any additional area of non-residential uses upon a lot must be serviced under this designation by an open or enclosed drainage system to convey minor and major storm events.
- c. Notwithstanding Section 2.1.7a or b, at the discretion of the Servicing Officer, with consideration to Section 5.1, the designated standard may be applied to any Development.

2.1.8 Street Lighting

- a. Full Corridor Lighting (FCL): Any Subdivision or Development required to provide Highways must provide such Highways, or improve such existing Highways, with a dedicated street lighting system under this designation, except that a lease-light street lighting system on

utility poles may be permitted in the case where overhead wiring systems (OHS) are designated.

b. Intersection-Only Lighting (IOL):

.i Any Subdivision required to provide Highways must provide such Highways, or improve such existing Highways, with a dedicated street lighting system within the stopping sight distance of any intersections, as assessed in accordance with the provisions of this Bylaw, within and proximal to the Subdivision under this designation, except that a lease-light street lighting system on utility poles may be permitted in the case where overhead wiring systems (OHS) are designated.

.ii Any Development required to provide Highways must provide such Highways, or improve such existing Highways, with a dedicated street lighting system under this designation if the Highway fronting the Development is located within the stopping sight distance of an intersection, as assessed in accordance with the provisions of this Bylaw, except that a lease-light street lighting system on existing utility poles may be permitted in the case where overhead electrical systems (OHS) are designated.

2.1.9 Third Party Utilities: Electrical, Telecommunications, and Natural Gas

- a. Underground System (UGS): the provision of natural gas service, electrical and telecommunication wiring, vaults, and routing infrastructure, including all pipes, ducting, service wiring, and junction boxes, shall be provided underground under this designation.
- b. Overhead System (OHS): the provision of electrical and telecommunication wiring may be provided overhead where acceptable to the utility under this designation; this excludes all service lines and any wiring within a Wildfire Hazard DP area (as identified in the OCP), which shall be provided underground. Natural gas services must be installed underground.
- c. Within the "Suburban" Servicing Area the following designations apply: in the case of Subdivision and Development resulting in three or more residential units upon a lot or any addition of area for non-residential uses, UGS; in the case of Development resulting in less than three residential units upon a lot or no additional area for non-residential uses, OHS.
- d. Notwithstanding Section 2.1.9c, at the discretion of the Servicing Officer, with consideration to matching adjacent conditions, the UGS standard may be applied to any Development within the "Suburban" Servicing Area.

2.1.10 Where this Bylaw requires the provision of a community water system, a community sewer system, or an enclosed drainage system, the Servicing Officer may require such system be connected to City's respective system.

3.0 SUBDIVISION REQUIREMENTS

3.1 Preliminary Layout Review

3.1.1 An Owner who wishes to Subdivide land shall provide to the City, prior to making an application for Subdivision Approval, such information as the Approving Officer may require to

verify if the proposed Subdivision would be against the public interest or otherwise unsuitable for Subdivision.

3.1.2 Following receipt of such information as may be required, the Approving Officer will provide the Owner with a Preliminary Layout Review (PLR) Letter advising the Owner of the Approving Officer's preliminary determination and, if not against the public interest or otherwise unsuitable for Subdivision, what the Owner must include in the application for Subdivision Approval.

3.1.3 The provision of preliminary information by the Owner does not constitute an application for Subdivision Approval under this Bylaw or the Land Title Act, nor does the issuance of a PLR Letter constitute or imply approval of a Subdivision.

3.2 Requirements for Works and Services

3.2.1 Works and Services, when required as a condition of Subdivision approval, must be provided to the servicing standards outlined in Section 2.0 and in accordance with the procedures outlined in Section 5.0:

- a. to adequately service and access all proposed lots,
- b. on that portion of a Highway immediately adjacent to the site being Subdivided, up to the centreline of the Highway, and
- c. where otherwise necessary, in the opinion of the Servicing Officer, to adequately service the Subdivision, mitigate directly attributable impacts, and maintain existing Works and Services.

3.3 Requirements for Road Dedication

3.3.1 Road Dedication to establish a new Highway through lands being Subdivided may be to adequately access proposed lots, to provide access to lands beyond that being Subdivided, or as indicated in the Transportation Map of the OCP. Such Highways may be required to be provided without compensation to a maximum width of 20 m, except that:

- a. the maximum width is 25 m where such Highway includes sustainable design features or transportation infrastructure supporting walking, bicycling, public transit, or other alternative forms of transportation; and
- b. the width must not exceed the width indicated in Section 2.0 for that Highway; and

3.3.2 Road Dedication to widen an existing Highway fronting the land being Subdivided may be required to be provided without compensation to a width that is the lesser of 10 m and the difference between the current width and 20 m, except that:

- a. where the Highway include sustainable design features or transportation infrastructure supporting walking, bicycling, public transit, or other alternative forms of transportation, up to an additional 5 m of width may be required to be dedicated; and

- b. the dedication must not result in a width from the ultimate design centreline of the Highway exceeding half the width indicated in Section 2.0 for that Highway unless a natural, hazardous, or fixed condition opposite the land being Subdivided would, in the opinion of the Approving Officer, make achieving the indicated Highway width impractical or infeasible.

3.3.3 Where, in the opinion of the Approving Officer, a paved roadway width of 8 m (13 m if the roadway is providing alternative forms of transportation) within or fronting a proposed Subdivision cannot be adequately supported, protected, or drained, then additional width to permit the Highway to be supported, protected, or drained may be required to be provided without compensation.

3.4 Requirements for Park Dedication

3.4.1 Dedication of land for public open space or access to a natural body of water shall be carried out in accordance with all applicable Provincial legislation.

3.5 Application for Subdivision Approval

3.5.1 An Owner who applies for Subdivision Approval must provide to the Approving Officer a complete application in accordance with the Application Submission and Data Standards policy, and must include:

- a. all reports, plans, studies, covenants, and other legal or technical documents as may be required,
- b. a Preliminary Layout Review Letter for the proposed Subdivision, issued by the Approving Officer not more than 12 months prior to the date of the application for Subdivision Approval, unless an extension is granted by the Approving Officer.
- c. confirmation that all applicable fees and charges related to the application have been paid, and
- d. confirmation that all taxes, impositions, charges (including any latecomer charges), and fees applicable to the land have been paid.

3.5.2 When Works and Services are required, the Approving Officer must not approve the Subdivision until Owner has:

- a. entered into a Servicing Agreement and provided Performance Security for completion of the Works and Services to the satisfaction of the Servicing Officer or received a Certificate of Acceptance from the Servicing Officer for the required Works and Services, and
- b. granted or acquired statutory rights-of-ways, in the City's standard form, in favour of the City in such locations and with such dimensions as necessary to accommodate Works and Services required to serve the Subdivision.

3.5.3 The Approving Officer shall not be obliged to grant Subdivision Approval until they are satisfied that:

- a. a complete application, in the City's standard form, has been made,

- b. all requirements and conditions of the Preliminary Layout Review Letter have been met,
- c. the land is suitably zoned for the proposed Subdivision,
- d. the proposed Subdivision is in the public interest, and that
- e. the land is not otherwise unsuitable for Subdivision under the provisions of the *Land Title Act*, the *Local Government Act*, all other applicable legislation and regulations, and all City bylaws.

4.0 DEVELOPMENT REQUIREMENTS

4.1 Application for Building Permit

- 4.1.1 The Building Official may require, upon recommendation of the Servicing Officer, that the Owner provide Works and Services in accordance with Section 4.2 or Road Dedications in accordance with Section 4.3 as a condition of Building Permit issuance.
- 4.1.2 If Works and Services or Road Dedications are required as a condition of the issuance of a Building Permit, the Building Official shall not issue such Building Permit until the requirements of Section 4.2 or 4.3, respectively, have been met.

4.2 Requirements for Works and Services

- 4.2.1 Works and Services, when required as a condition of Development approval, must be provided to the servicing standards outlined in Section 2.0 and in accordance with the procedures outlined in Section 5.0:
 - a. on the site being Developed,
 - b. on that portion of a Highway immediately adjacent to the site being Developed, up to the centreline of the Highway, and
 - c. where otherwise necessary, in the opinion of the Servicing Officer, to adequately service the Development, mitigate directly attributable impacts, and maintain existing Works and Services.
- 4.2.2 When Works and Services are required, the Building Official must not issue the Building Permit until Owner has:
 - a. entered into a Servicing Agreement and provided Performance Security for completion of the Works and Services to the satisfaction of the Servicing Officer, or
 - b. received a Certificate of Acceptance from the Servicing Officer for the required Works and Services.

4.3 Requirements for Road Dedications

- 4.3.1 Road Dedication to establish a new Highway through lands being Developed may be required to adequately access proposed Development or as indicated in OCP Map H. Such Highways may be required to be provided without compensation to a maximum width of 20 m, except that:

- a. the maximum width is 25 m where such Highway includes sustainable design features or transportation infrastructure supporting walking, bicycling, public transit, or other alternative forms of transportation; and
- b. the width must not exceed the width indicated in Section 2.0 for that Highway; and

4.3.2 Road Dedication to widen an existing Highway fronting the land being Developed may be required to be provided without compensation to a width that is the lesser of 10 m and the difference between the current width and 20 m, except that:

- a. where the Highway include sustainable design features or transportation infrastructure supporting walking, bicycling, public transit, or other alternative forms of transportation, up to an additional 5 m of width may be required to be dedicated; and
- b. the dedication must not result in a width from the ultimate design centreline of the Highway exceeding half the width indicated in Section 2.0 for that Highway unless a natural, hazardous, or fixed condition opposite the land being Developed would, in the opinion of the Servicing Officer, make achieving the indicated Highway width impractical or infeasible.

4.3.3 Where, in the opinion of the Servicing Officer, a paved roadway width of 8 m (13 m if the roadway is providing alternative forms of transportation) within or fronting a proposed Development cannot be adequately supported, protected, or drained, then additional width to permit the Highway to be supported, protected, or drained may be required to be provided without compensation.

4.3.4 When Road Dedication is required as a condition of the issuance of a Building Permit, the Building Official must not issue the Building Permit until Owner has fully executed all documents for the road dedication subdivision and has deposited and registered the road dedication subdivision plan with the Land Titles Office.

5.0 PROVISION OF WORKS AND SERVICES

5.1 Directly Attributable Works and Services

5.1.1 Works and Services directly attributable to a Subdivision or Development shall be required only to the extent they are necessary for servicing, or mitigating the impacts of servicing, a proposed Subdivision or Development in accordance with the provisions of this Bylaw.

5.1.2 In determining which Works and Services are directly attributable, the Servicing Officer shall consider:

- a. the impact that servicing a proposed Subdivision or Development will have on the City's ability to maintain its existing system levels of service for future developments in accordance with the Official Community Plan and any other infrastructure master plans, and
- b. the ability of the City's infrastructure systems to provide service to a Subdivision or Development in accordance with the needs of the Subdivision or Development and the servicing standards outlined in Section 2.0.

- 5.1.3 Directly attributable Works and Services shall generally be required when a Subdivision or Development will result in an increased demand on an infrastructure system or when a system is not able to adequately service the proposed Subdivision or Development due to insufficient capacity, age, poor condition, limited accessibility, operational challenges, or safety concerns.

5.2 Excess or Extended Works and Services

- 5.2.1 The Servicing Officer may require an Owner to provide Excess or Extended Works and Services as a condition of Subdivision or Development approval.

- 5.2.2 If an Owner is required to provide Excess or Extended Works and Services, the Owner must provide the City with such information, documents, and agreements as are typically required for directly attributable Works and Services, and, if requested by the Servicing Officer, must also provide:

- a. a written technical report to inform the determination of the Excess or Extended portion of the Works and Services,
- b. the estimate of the cost for the Excess or Extended portion, prepared by the Owner's Engineer and verified by the Servicing Officer, and
- c. a draft latecomer agreement in the City's standard form.

- 5.2.3 The cost of providing the Excess or Extended portion of the required Works and Services must be paid for by the City unless the City considers such costs to be excessive, in which case the costs shall be borne by the Owner.

- 5.2.4 If the Owner pays all or a portion of the costs of providing Excess or Extended Works and Services, prior to issuing a Certificate of Acceptance for the Excess or Extended Works and Services, the Servicing Officer shall:

- a. prepare a latecomer agreement for execution by the Owner, which will set out
 - i. the Owner's actual cost of providing the Excess or Extended Works and Services,
 - ii. which parts of the Excess or Extended Works and Services benefit which lands,
 - iii. the latecomer term and the charge that will apply to each of the Benefiting Lands, and,
 - iv. the interest rate of the latecomer agreement as determined by Council resolution; and,
- b. notify the owners of all Benefiting Lands of the latecomer charge and interest thereon that would be payable prior to connecting to or using the Excess or Extended Works and Services.

- 5.2.5 No person shall use or connect to any Works and Services subject to a latecomer charge until they have paid the latecomer charge and interest, compounded annually, thereon.

- 5.2.6 The City shall collect and remit to the Owner, or his permitted assign, any latecomer charges collected by the City in accordance with the terms of the latecomer agreement.

5.3 City May Perform Works

5.3.1 The City may elect to design or construct all or a portion of the Works and Services that are required to be provided by an Owner if the Works and Services involve modifications or connections to an existing City system or if the Works and Services overlap with a planned City project and are not immediately required to service the development.

5.3.2 Where the City elects to design or construct all or a portion of the Works and Services,

- a. the City will advise the Owner of the specific Works and Services that it has elected to design or construct,
- b. the Owner must pay the City, in cash, 125% of the cost of designing or constructing such Works and Services, as estimated by the Owner's Engineer and accepted by the Servicing Officer, and,
- c. such Works and Services will be designed or constructed as and when needed by the City.

5.3.3 Where the City elects to design or construct all or a portion of the Works and Services, the City will in no way be acting as the Owner's agent, employee, partner, consultant, contractor, or sub-contractor.

5.4 Owner To Perform Works

5.4.1 Where Works and Services are required to be provided by an Owner, the Owner, at their expense, shall retain a professional engineer to design, inspect, test, and certify all Works and Services. The Owner's Engineer must be employed by an incorporated firm registered in good standing with Engineers and Geoscientists BC.

- a. The firm employing the Owner's Engineer must obtain and maintain at all times, until the Certificate of Acceptance is issued, commercial general liability insurance, professional liability insurance, and errors and omissions insurance with a minimum of \$2,000,000 coverage per occurrence with insurance companies and terms satisfactory to the City.
- b. The Owner must provide the City with the certificate of insurance of the firm of the Owner's Engineer acceptable to the City promptly upon request.

5.4.2 Where Works and Services are required to be provided by an Owner, the Owner, at their expense, shall retain a suitably qualified and experienced contractor to construct the Works and Services.

- a. The Owner or general contractor must obtain and maintain at all times, until the Certificate of Acceptance is issued, insurance coverage in accordance with MMCD General Condition 24.0 with insurance companies and terms satisfactory to the City.
- b. The Owner must provide the City with the certificate of insurance of the general contractor acceptable to the City promptly upon request.

5.4.3 Works and Services must be provided as required in Section 2.0 and designed and constructed in accordance with the standards and specifications outlined in the Infrastructure Design Standards and Infrastructure Construction Standards policy. Where a variance to technical

standards are proposed, the Servicing Officer may authorize such variance only upon the written recommendation the Owner's Engineer.

- 5.4.4 The Servicing Officer may require that any submission required for the provision of Works and Services undergo, at the cost of an Owner, a Peer Review to provide an independent, objective assessment of the submission to inform the Servicing Officer's determination of compliance with this Bylaw and good engineering judgement.
- 5.4.5 Any person who wishes to construct Works and Services within a public road right-of-way or on City-owned lands must first execute a Servicing Agreement and provide Performance Security for the Works and Services prior to Construction Authorization.

5.5 Application for Design Authorization

- 5.5.1 An Owner who wishes to construct Works and Services must first obtain the Servicing Officer's authorization of the Owner's Engineer's design drawings for construction. An application for Design Authorization for construction must be made in accordance with the provisions of the Application Submission and Data Standards policy.
- 5.5.2 The Servicing Officer is not obliged to grant Design Authorization for construction until they are satisfied that:
 - a. the design submission is complete and in strict conformance with the requirements of this Bylaw and all other City bylaws or, if not in strict conformance, that all proposed variances have been identified by the Owner's Engineer for review and are acceptable, and
 - b. any supporting technical documents, reports, studies, or analysis necessary to determine if the proposed design is in strict conformance with this Bylaw, or that proposed variances are acceptable, have been provided.

5.6 Application for Construction Authorization

- 5.6.1 No person shall construct Works and Services without first obtaining the Servicing Officer's authorization for construction. An application for Construction Authorization must be made in accordance with the provisions of Application Submission and Data Standards policy.
- 5.6.2 The Servicing Officer is not obliged to grant Construction Authorization until the Owner provides, to the satisfaction of the Servicing Officer, all documents, forms, or securities as may be required, which may include, but not be limited to:
 - a. confirmation of Design Authorization of the Works and Services for construction, issued not more than one (1) year from the date of application for Construction Authorization;
 - b. a "Commitment by Owner and Coordinating Registered Professional" form, in the City's standard form;
 - c. an "Assurance of Professional Design and Commitment for Field Review" form, in the City's standard form;
 - d. an executed Servicing Agreement and Performance Security;

- e. a certificate of insurance from both the Owner's Engineer and the general contractor;
- f. confirmation of the general contractor's WorkSafe BC clearance;
- g. a construction schedule, a public notification plan, and a traffic management plan; or,
- h. confirmation of approval of any other permits required by other jurisdictions in relation to the provision of the Works and Services.

5.6.3 The Servicing Officer may include, as a condition of Construction Authorization, any terms, provisions, or restrictions necessary to support or protect the City's interests in relation to the construction of the work.

5.6.4 The Servicing Officer may withdraw or suspend Construction Authorization whenever it is found that construction activities are not being performed in accordance with this or any City bylaw or if any terms, conditions, or requirements of Construction Authorization are no longer being met.

- a. In withdrawing or suspending Construction Authorization, the Servicing Officer shall notify the Owner and identify the details of the bylaw contravention or requirement of Construction Authorization that is no longer being met to the satisfaction of the Servicing Officer.
- b. The Owner shall, upon notice that Construction Authorization has been withdrawn or suspended, cease construction activities and immediately work to secure, remediate, and stabilize the site in compliance with all applicable safety regulations.
- c. The Owner shall not resume construction activities until the Servicing Officer has granted Construction Authorization upon their satisfaction that all requirements have been met.

5.7 Construction Requirements

5.7.1 The Owner is responsible to ensure Works and Services are constructed in accordance with:

- a. the standards and specifications contained in the Infrastructure Design Standards and Infrastructure Construction Standards policy,
- b. the design drawings for which Design Authorization has been granted,
- c. any conditions which may be a requirement of Construction Authorization, and
- d. all other bylaws, legislation, regulations, and statutes.

5.7.2 The Owner must provide and maintain through the course of construction:

- a. access to the lands being Subdivided or Developed suitable for use by fire and emergency vehicles or equipment, and
- b. a water supply system sufficient for fire suppression and containment.

5.7.3 The Owner must protect nearby or adjacent utilities, structures, and property from damage by construction activities and must immediately repair and make good any damage as a result of construction.

- a. If the Owner does not promptly rectify any damage, the City may elect to, but is not obligated to, rectify the damage at the expense of the Owner and the Owner shall reimburse the City for its reasonable costs immediately upon receipt an invoice from the City, either directly or through the Owner's Performance Security.

5.7.4 The Owner must ensure the Works and Services remain free and clear of any and all liens, charges, or encumbrances.

5.8 Application to Connect Works and Services

5.8.1 No person shall connect Works and Services to any existing City infrastructure system without first obtaining the Servicing Officer's authorization for connection. An application to connect Works and Services must be made in accordance with the provisions of the Application Submission and Data Standards policy.

5.8.2 The Servicing Officer will not be obliged to permit an Owner to connect Works and Services to the City's systems until:

- a. the Owner's Engineer has certified that the Works and Services to be connected are ready to be used for their intended purpose and provided all supporting documentation;
- b. the Owner has arranged for the Owner's Engineer and the Servicing Officer to be present for the witnessing of the connection;
- c. the Approving Officer has issued the Subdivision Approval or the Building Official has issued Building Permit, or the Owner has entered into a Servicing Agreement in accordance with Section 3.5.2 or 4.2.2;
- d. the Owner has registered in the Land Title Office all documents required by the City to be registered as a condition of Subdivision Approval, Building Permit issuance, or Construction Authorization; or,
- e. the Owner has paid any applicable fees or charges related to the connection, including but not limited to latecomer charges;

5.8.3 Upon connection, Works and Services within public road right-of-way will vest in and become the property of the City and the City will be responsible for operation and routine maintenance.

5.8.4 The permitting of a connection, the vesting of the Works and Services to the City, or the City's use, operation, or maintenance of the Works and Services shall not be deemed an acceptance of the Works and Services until the Servicing Officer issues a Certificate of Acceptance and shall not relieve the Owner of any requirements under other sections of this Bylaw.

5.9 Substantial Performance Requirements

5.9.1 When, in the determination of the Owner's Engineer, Substantial Performance of the Works and Services has been achieved, the Owner's Engineer must provide, to the satisfaction of the Servicing Officer:

- a. a certificate indicating that Substantial Performance of the Works and Services has been achieved and, if applicable, a schedule of deficiencies and cost estimate,
- b. an "Assurance of Professional Field Review and Compliance" form, in the City's standard form, and
- c. record drawings, supporting documents and data, field reviews, and testing records, as outlined in Application Submission and Data Standards policy.

5.9.2 When the Servicing Officer has received all required documents and records from the Owner's Engineer and is satisfied, upon inspection, that the Works and Services have been Substantially Performed, the Owner must provide to the City:

- a. a statutory declaration that all accounts which have been incurred in performance of the Works and Services have been paid in full,
- b. confirmation that all agreements and covenants in relation to the Works and Services have been duly executed and registered with the Land Title Office, and
- c. an executed Servicing Agreement and Maintenance Security.

5.9.3 Upon receipt of all documents, records, agreements, and securities required under Section 5.9.1 and 5.9.2 to the satisfaction of the Servicing Officer, the balance of the Performance Security shall be returned to the Owner.

5.10 Maintenance Period Requirements

5.10.1 During the Maintenance Period:

- a. the City will be responsible for the operation and routine maintenance of the Works and Services;
- b. the Owner must promptly complete, modify, or reconstruct any incomplete, defective, or deficient Works and Services identified on the certificate of Substantial Performance;
- c. the Owner shall be responsible to monitor the Works and Services and promptly rectify, at their cost, any deficiencies in the design, materials, workmanship, or performance of the Works and Services; and
- d. should the Owner fail to promptly rectify any deficiency, the City may elect to, but is not obligated to, rectify the deficiency at the expense of the Owner and the Owner shall reimburse the City for its reasonable costs immediately upon receipt an invoice from the City, either directly or through the Owner's Maintenance Security.

5.10.2 The Maintenance Period for any Works and Services repaired or reinstated shall commence on the date the Owner's Engineer certifies the Works and Services have been repaired or reinstated and are ready for their intended use. The City is not obligated to return any deficiency holdbacks until all deficiencies have been rectified, upon inspection, to the satisfaction of the Servicing Officer.

- 5.10.3 Should all or a portion of the Works and Services cease to function for their intended purpose, in the opinion of the Servicing Officer, during the Maintenance Period as a result of a failure of the Owner to meet their obligations under this Bylaw:
- a. the Owner will be responsible for securing the site and for the operation and routine maintenance of the Works and Services and
 - b. the Owner must promptly repair or reinstate the Works and Services to the satisfaction of the Owner's Engineer and as accepted by the Servicing Officer.

5.11 Total Performance Requirements

- 5.11.1 When, in the determination of the Owner's Engineer, Total Performance of the Works and Services has been achieved and the Maintenance Period has expired, the Owner's Engineer must provide, to the satisfaction of the Servicing Officer:
- a. a certificate indicating that Total Performance of the Works and Services has been achieved and
 - b. record drawings, supporting documents and data, field reviews, and testing records, as outlined in the Application Submission and Data Standards policy, if Works and Services were modified during the Maintenance Period.
- 5.11.2 Upon inspection at the expiration of the Maintenance Period, if the Servicing Officer is satisfied that the Works and Services have been Totally Performed, the Owner must provide to the City:
- a. a statutory declaration that all accounts which have been incurred in performance of the Works and Services have been paid in full and
 - b. confirmation from a BC Land Surveyor that all survey pins and monuments within the construction area have not been disturbed or destroyed as a result of construction activities.
- 5.11.3 Upon receipt of all documents, records, and agreements required under Section 5.11.1 and 5.11.2 to the satisfaction of the Servicing Officer, at the expiration of the Maintenance Period:
- a. the Servicing Officer shall issue a Certificate of Acceptance of the Works and Services and
 - b. the balance of the Maintenance Security shall be returned to the Owner.
- 5.11.4 Upon the Servicing Officer's issuance of the Certificate of Acceptance for Works and Services within a municipal road right-of-way or utility statutory right-of-way, the Works and Services shall vest in and become the property of the City.

6.0 IMPLEMENTATION

6.1 Limitations

- 6.1.1 No Duty of Care

Bylaw 2381

- a. This bylaw does not create a duty of care on the City, Council members, the Approving Officer, the Building Official, the Servicing Officer, or employees or agents of the City with respect to its administration, implementation, or enforcement, including but not limited to the issuance of permits, approvals, reviews, investigations, authorizations, or acceptance certificates.
- b. The Owner and their agents shall not be entitled to rely upon the results of any investigations, inspections, field visits, or other due diligence conducted by the City, its employees or agents, in connection with the Subdivision or Development of lands.

6.1.2 No Cause of Action

- a. Neither a failure to administer or enforce, nor incomplete or inadequate administration or enforcement of the Local Government Act, Land Title Act, Building Bylaw, or the provisions of this Bylaw, nor any error, omission, or other neglect in relation to any matter of administration or implementation of this Bylaw will give rise to a cause of action in favour of any person, including the Owner.

6.1.3 No Warranty or Representation

- a. A review, or failure to review, by the Servicing Officer of Works and Services specification requirements, design and construction drawings, or supporting documents will not, in any way, constitute a representation, warranty, or statement that the design or construction of the Works and Services complies with the standards contained within this Bylaw. No person, including the Owner, shall rely on such review, or failure to review, as establishing compliance with this Bylaw.
- b. An inspection by the Servicing Officer in relation to the Substantial Performance or Total Performance of the Works and Services, will not, in any way, constitute a representation, warranty, or statement that the construction of the Works and Services have reached Substantial Performance or Total Performance.
- c. Site visits made by the Approving Officer, Servicing Officer, Council members, or any other officer, employee, or agent of the City, or the failure to make such site visits, will not, in any way, constitute a representation, warranty, or statement that the Works and Services have been designed and constructed in accordance with this Bylaw.

6.1.4 Owner's Responsibility for Works and Services

- a. It is the full and sole responsibility of the Owner to design and construct any Works and Services required by this Bylaw in accordance with the provisions of this Bylaw, and to ensure that the Works and Services are inspected, tested, and certified by the Owner's Engineer in accordance with the provisions of this Bylaw.
- b. No issuances, approvals, reviews, verifications, or inspections which are performed or failed to be performed by the City, including by the Approving Officer, Servicing Officer, Council members, or any other officer, employee or agent of the City, will relieve the Owner from

the responsibility to design and construct required Works and Services in accordance with the provisions of this Bylaw and other bylaws of the City.

- c. Neither the Servicing Officer's granting of Design Authorization or Construction Authorization with respect to the Works and Services required of an Owner, the expiration of any or all Maintenance Periods, nor the issuance of a Certificate of Acceptance will relieve the Owner, the Owner's Engineer, or the firm of the Owner's Engineer from any responsibility or liability for the faulty, defective, or deficient design or construction of the Works and Services, or for any breach of this Bylaw, whether such responsibility or liability arises before or after the Servicing Officer's issuance of Design Authorization, Construction Authorization, or the Certificate of Acceptance.

6.2 Enforcement

- 6.2.1 No person shall Subdivide or Develop land or construct Works and Services for the Subdivision or Development of land contrary to the provisions of this Bylaw.
- 6.2.2 Every person who constructs Works or Services for the Subdivision or Development of land contrary to the provisions of this Bylaw must remedy the contravention in a timely manner and to the satisfaction of the Servicing Officer.
- 6.2.3 Every person who contravenes or violates any of the provisions of this Bylaw, or who suffers or permits anything to be done in violation of this Bylaw, commits an offence and, upon summary conviction, is liable to a fine of not more than \$10,000.00.
- 6.2.4 Each day's continuance of an offence under this Bylaw constitutes a separate offence.
- 6.2.5 The penalties imposed for a contravention of this Bylaw are not a substitute for any other remedy to a contravention of this Bylaw.
- 6.2.6 Officers, employees, and agents of the City are authorized to enter at all reasonable times upon any lands, property, or premises to inspect and determine compliance with the provision of this Bylaw.
- 6.2.7 No person shall prevent or obstruct, or attempt to prevent or obstruct, the entry of any officer, employee, or agent of the City where such entry is authorized by this Bylaw.

6.3 Effective Date

- 6.3.1 This Bylaw shall come into force and take effect upon adoption.
- 6.3.2 Notwithstanding Section 6.3.1, if a complete application for Subdivision Approval has been made under Section 3.5 prior to the date of adoption of this Bylaw, this Bylaw shall have no effect with respect to that Subdivision for a period of 12 months from the date of adoption.

6.4 Repeal

- 6.4.1 City of Merritt Subdivision and Development Servicing Bylaw No. 1187, and all amendments thereto, is repealed.

Read a FIRST TIME this

28th day of January, 2025

Read a SECOND TIME this

28th day of January, 2025

Read a THIRD TIME this

28th day of January, 2025

ADOPTED this

11th day of February, 2025



Michael Goetz
MAYOR



Linda Brick
CORPORATE OFFICER