

***Proposed Amendments To  
Bylaw No. 4483 [Development Application Procedures Bylaw]***

**PART 7**

**PERFORMANCE SECURITY**

**Form and Amount of Security**

1. Where security is required as a condition of a land use permit:
  - a) the amount of security will be based on a cost estimate prepared by a qualified professional, at the owners' expense, and will include all costs to complete the required works, restoration, or enhancement;
  - b) the security will be in the form of a bank draft, or an irrevocable letter of credit, paid or held by the owner, which is effective for the term set out in the land use permit, clean and unconditional, automatically renewing and redeemable at a Canadian bank or credit union with a branch located on Vancouver Island;
  - c) the amount of security will be at least:
    - i. 125% of the cost estimate prepared by the qualified professional and not less than \$5,000, whichever is greater; and
  - d) the security will be paid prior to permit issuance.

**Release of Security**

2. A request for the release of 50% of the security may be submitted by the applicant upon completion of the required works, restoration or enhancement if accompanied by written confirmation from a qualified professional that the required works are in substantial conformity with the approved land use permit.
3. Following a two-year maintenance period from the date of completion of the works, restoration or enhancement, a request for release of any remaining security may be submitted by the applicant. The request for release must be accompanied by confirmation from a qualified professional that the works are in substantial conformity with the approved land use permit.

**Security For Temporary Use Permits**

4. Where Additional security is required to guarantee the performance of the terms of a Temporary Use Permit
  - e) the amount of security will be based on a cost estimate prepared by a qualified professional, at the owners' expense, and will include all costs to complete the required works, restoration, or enhancement;
  - f) the security will be in the form of a bank draft, or an irrevocable letter of credit, paid or held by the owner, which is effective for the term set out in the land use permit, clean and unconditional, automatically renewing and redeemable at a Canadian bank or credit

- union with a branch located on Vancouver Island;
  - g) the amount of security will be at least **125%** of the cost estimate prepared by the qualified professional and not less than \$10,000, whichever is greater; and
  - h) the security will be provided prior to Temporary Use Permit issuance.
5. In addition to the security, a letter of undertaking shall be provided to the CVRD (**Appendix A**) with a commitment to:
- a. demolish or remove any building or other structure associated with the Temporary Use Permit; and,
  - b. to restore land a condition specified in the permit by a date specified in the Temporary Use Permit.
6. In the case of any additional security is required to guarantee the performance of the terms of a Temporary Use Permit, the performance security shall be returned following the expiration of the Temporary Use Permit after the applicant has demonstrated that the temporary use has ceased and all terms of the temporary use permit have been resolved.
7. Additional security associated with a Temporary Use Permit may be withheld in the event that a person to whom a permit is issued pursuant to fails to comply with any of the requirements of the permit. The CVRD may enter on the land and fulfill the requirements at the expense of the owner.
- a) Where an event of default occurs, \$5,000.00 of the security shall be immediately forfeited to the CVRD.
  - b) Where an event of default is not rectified within 30 days, the remaining \$5,000.00 in security shall be immediately forfeited to the CVRD.

## Incomplete Works

8. If required works, restoration or enhancement are not completed in accordance with the land use permit, the CVRD may provide written notice to the owner that the works, restoration or enhancement must be completed by a specified deadline.
9. If required works, restoration or enhancement are not completed by the owner in accordance with the land use permit before the deadline specified in written notice to the owner, the CVRD may:
- a) draw upon the security;
  - b) enter the property to complete the required works, restoration or enhancement;
  - c) refund any unused portion of the security to the owner.

## Appendix A

**TO THE COWICHAN VALLEY REGIONAL DISTRICT**

I, \_\_\_\_\_ (Name of Owner)

Being the owner of \_\_\_\_\_

(Legal Description, PID)

Known as \_\_\_\_\_

(Civic Address)

Hereby undertake as a condition of issuance of my temporary use permit to:

- a. demolish or remove all buildings and structures being constructed pursuant to the temporary use permit issued to me; and
- b. restore the land described in the temporary use permit to a condition specified in that permit;

All of which shall be done not later than the termination date set out in the temporary use permit.

A landscape restoration security submitted by me to the CVRD in the amount of \$\_\_\_\_\_ pursuant to the temporary use permit shall be forfeited and applied to the cost of restoration of my land as herein set out:

- a. I understand that should I not fulfill the undertaking described herein, the Regional District or its employees, agents or contractors may enter upon the land described in the temporary use permit and perform such work as is necessary to eliminate the temporary use and bring the use and occupancy of the land in compliance with both the Zoning Bylaw as well as the conditions specified in the temporary use permit; and,
- b. I further understand that should the Regional District perform such work, it may include the demolition, removal, or restoration at my expense, and that any securities submitted to the CVRD pursuant to this Permit shall be forfeited to the CVRD in payment of the cost of such demolition, removal, or restoration, with any excess to be returned.

In addition, a performance security has been submitted by me to the CVRD in the amount of **\$10,000.00** pursuant to the temporary use permit in order to secure the performance of all requirements of the permit, the Zoning Bylaw and any applicable enactments:

- a. I understand that should I not fulfill the conditions of the permit, the Regional District or its employees, agents or contractors may draw from the performance security to cover the costs of enforcement.
- b. I further understand that if a temporary use continues following expiry of a permit, all remaining security shall be immediately forfeited to the CVRD.

This undertaking is attached hereto and forms part of the temporary use permit.

\_\_\_\_\_  
(Owner)

\_\_\_\_\_  
General Manager, Land Use Services