

**Land Title Act**

**Form 35**

(section 220(1))

**DECLARATION OF BUILDING SCHEME**

NATURE OF INTEREST CHARGE: **Building Scheme**

HEREWITH FEE OF: \$

Address of person entitled to apply to register this building scheme:

**COWICHAN BAY ESTATES LTD.**, Incorporation No. 717850, 321 St. Julian Street, Duncan, BC, V9L 3S5

Full name, address, and telephone number of person presenting application:

**SCOTT A. RITTER**, of ORCHARD & COMPANY, Barristers & Solicitors, 321 St. Julian Street, Duncan, BC, V9L 3S5

\_\_\_\_\_  
SIGNATURE OF APPLICANT OR  
SOLICITOR OR AUTHORIZED AGENT

I, **GEORGE SCHMIDT**, businessman of Duncan, BC, declare that:

1. I am the Director of Cowichan Bay Estates Ltd., the registered owner in fee simple/lessee of the following (the "Lots"):  
  
**SEE SCHEDULE**
2. Cowichan Bay Estates Ltd. hereby creates a building scheme relating to the Lots.
3. A sale of any of the Lots is subject to the restrictions enumerated in the schedule attached or annexed hereto.
4. The restrictions shall be for the benefit of all the Lots.

EXECUTION(S):

Officer Signature(s)

Execution Date		
Y	M	D
05		

Transferor(s) Signature(s)

Cowichan Bay Estates Ltd. by its  
duly authorized signatory(ies)

\_\_\_\_\_  
Signature(s)

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

\* if space is insufficient, enter "SEE SCHEDULE" and attached schedule in Form E.

\*\* If space is insufficient, continue executions on additional page(s) in Form D.

**LAND TITLE ACT  
FORM D  
EXECUTIONS CONTINUED**

Officer Signature(s)

Execution Date

Transferees/Borrowers/  
Party(ies) Signature(s)

As to the Signature(s)  
of Bjornson Holdings  
Limited:

Y	M	D
05		

Bjornson Holdings Limited by its  
duly authorized signatory(ies)

**OFFICER CERTIFICATION:**

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**SCHEDULE**

Enter the required information in the same order as the information must appear on the Freehold Transfer form, Mortgage Form or General Document Form.

**2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND**

(PID)

(Legal Description)

(To be filled in upon registration of  
Subdivision Plan)

\_\_\_\_\_

Lot 1, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 2, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 3, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 4, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 5, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 6, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 7, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 8, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 9, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 10, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 11, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 12, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

LAND TITLE ACT  
FORM E

SCHEDULE

Enter the required information in the same order as the information must appear on the Freehold Transfer form, Mortgage Form or General Document Form.

(PID)  
(To be filled in upon registration of  
Subdivision Plan)

(Legal Description)

\_\_\_\_\_

Lot 13, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 14, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 15, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 16, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 17, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 18, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 19, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 20, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 21, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 22, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 23, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 24, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 25, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 26, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

LAND TITLE ACT  
FORM E

SCHEDULE

Enter the required information in the same order as the information must appear on the Freehold Transfer form, Mortgage Form or General Document Form.

(PID)  
(To be filled in upon registration of  
Subdivision Plan)

(Legal Description)

\_\_\_\_\_

Lot 27, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 28, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 29, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 30, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 31, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 32, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 33, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 34, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 35, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 36, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 37, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 38, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 39, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 40, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

LAND TITLE ACT  
FORM E

SCHEDULE

Enter the required information in the same order as the information must appear on the Freehold Transfer form, Mortgage Form or General Document Form.

(PID)  
(To be filled in upon registration of  
Subdivision Plan)

(Legal Description)

\_\_\_\_\_

Lot 41, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 42, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 43, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 44, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 45, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 46, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 47, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 48, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 49, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 50, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 51, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 52, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 53, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 54, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

LAND TITLE ACT  
FORM E

SCHEDULE

Enter the required information in the same order as the information must appear on the Freehold Transfer form, Mortgage Form or General Document Form.

(PID)  
(To be filled in upon registration of  
Subdivision Plan)

(Legal Description)

\_\_\_\_\_

Lot 55, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 56, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 57, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 58, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 59, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 60, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 61, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 62, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 63, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 64, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 65, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 66, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 67, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

**LAND TITLE ACT  
FORM E**

**SCHEDULE**

Enter the required information in the same order as the information must appear on the Freehold Transfer form, Mortgage Form or General Document Form.

(PID)  
(To be filled in upon registration of  
Subdivision Plan)

(Legal Description)

\_\_\_\_\_

Lot 68, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

\_\_\_\_\_

Lot 69, Section 5, Range 4, Cowichan District,  
Plan \_\_\_\_\_

---

SCHEDULE OF RESTRICTIONS

**1. DEFINITIONS**

1.01 As used in this Statutory Building Scheme, the following words mean:

- (a) "Developer" means Cowichan Bay Estates Ltd.;
- (b) "C.V.R.D." means the Cowichan Valley Regional District;
- (c) "Owner" means a purchaser of a lot within the described subdivision hereby made subject to this Statutory Building Scheme and his successors in title;
- (d) "Owners" means every owner.

1.02 All words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties referred to in each case required and the verb shall be construed as agreeing with the required word and pronoun.

**2. INTENT OF STATUTORY BUILDING SCHEME**

2.01 It is the intent of these restrictions that all improvements, including dwellings, fences, outbuildings and landscaping, are to be controlled as to design, types of materials used and exterior colour schemes. For greater clarity and certainty it is the intent of these restrictions to ensure that all dwellings and improvements are suited to the particular lot on which they are to be located.

**3. APPROVAL BY DEVELOPER**

3.01 There shall be no commencement of site preparation, including filling and excavation, and there shall not be erected, constructed or made on any lot any residence, building, fence or other improvements or additions thereto, or alterations thereof, unless and until:

- (a) the proposal to erect such building or make such improvement, addition or alteration together with proper plans, elevations and specifications thereof (including specification of colour of and exterior finish); and
- (b) a plan showing the location of the proposed residence, building, fence or other improvement on the lot with respect to the existing topography, finished ground elevations, and boundaries of the lot shall have first been submitted in writing to the Developer and signed by the Owner and approved in writing by the Developer, who shall have the right and power to approve or reject same, and to fix a limit as to the time during which such approval shall be valid, and to date for the completion of the work for which approval has been given.

3.02 Without restricting the generality of Clause 3.01, no trees or vegetation shall be removed or substantially altered without the approval of the Developer.

3.03 Any approval granted as aforesaid, any rejection of a request for approval, and any relaxation, waiver or modification of these restrictions, shall be final and binding and shall not be open to question by any owner.

3.04 Owners are encouraged to discuss the improvements or alterations with the Developer prior to having plans drawn up.

#### **4. EXTERIOR DESIGN**

4.01 House designs shall be in keeping with neighbouring homes. Roof pitch shall be a minimum of 5/12 using clay tile, cedar shingle or fibreglass / asphalt shake look shingle. Approved exteriors are stucco, cedar or hardiplank siding with painted wood trim on facade, rock or brick detail is encouraged.

4.02 No driveways shall be constructed which are not paved either with asphalt or concrete or approved finish.

#### **5. C.V.R.D. REQUIREMENTS**

5.01 The restrictions and stipulation herein contained are not and shall not be deemed to be exclusive either of the bylaws of the C.V.R.D. nor of the obligations or liabilities imposed by statute or by common law on owners or occupiers of land, all of which shall be duly observed and complied with.

#### **6. TIME FOR COMPLETION**

6.01 No building shall be erected on any of the lots unless the same shall be fully completed in accordance with its plans and specifications within six (6) months from the date of commencement. For the purposes of these restrictions "completed" shall mean completion of all exterior finishes including siding and like finishing material, and includes placement of windows, doors, and exterior painting; and also shall include the completing of porches and other like annexure.

6.02 All landscaping shall be completed within twelve (12) months from the date of commencement of construction on a lot.

#### **7. BUILDING**

7.01 The building on the Lot must meet C.V.R.D. R-3 Zoning.

7.02 Without limiting the generality of paragraph 7.01, no building shall be used for the purpose of any trade, vocation, commercial enterprise of any profession, trade, vocation, commercial enterprise of any description, nor as a hospital, charitable, religious or educational institution, apartment, boarding or lodging house unless it meets R-3 Zoning.

- 7.03 No shack or cabin shall be erected on any of the lots or be used either temporarily or permanently as a residence.
- 7.04 No tent or other temporary structure of any kind shall be erected on any lot or used for any purpose.
- 7.05 No residence shall be constructed on a Lot having a living area of less than 1,200 square feet on the main floor unless it is a two storey residence which then must have a living area on both floors totalling no less than 1,350 square feet, calculated excluding the areas of any garages, decks, patios and sunrooms that are physically part of the residence structure.
- 7.06 No trailer, mobile home, metal structure, camper or motor vehicle of any kind shall be maintained on any of the lots within the subdivision as a residence, either permanently or temporarily.

## **8. VEHICLES**

- 8.01 Recreational vehicles shall be parked, placed, or situated on any lot behind the front line of the house, or in any area screened from public view.
- 8.02 No mobile home or commercial vehicle or machinery of any kind, and in particular, logging trucks, dump trucks, bulldozers, backhoes or like conveyances, shall be stored or parked anywhere on any of the lots or within the subdivision.

## **9. FENCING**

- 9.01 No fencing, hedging, screening or enclosure of any kind will be installed, constructed, or planted without the approval of the Developer.
- 9.02 No fences shall be constructed in the front yard of the Lot.
- 9.03 No wire fencing shall be installed or constructed on any lot, including without limitation, page wire, barbed wire or chain link fencing.

## **10. APPEARANCE AND MAINTENANCE**

- 10.01 No improvement or lot shall be allowed to become in disrepair or unsightly or untidy.
- 10.02 Each of the lots and improvements thereon, and the boulevards in front of the lots, shall be maintained by the owner at all times in a neat and attractive state and condition.
- 10.03 No waste or materials of any kind whatsoever shall be stored or accumulated in any exposed area of the lots at any time.

10.04 No person shall habitually park or cause to be habitually parked in or about the Lot any commercial vehicles or machinery in the nature of logging trucks, bulldozers or the like, nor an vehicle or machinery of a like kind or character on the lots or boulevards at any time, either permanently or temporarily, is prohibited. This clause shall not be deemed to affect or prohibit the parking for the specified purpose of doing construction or maintenance work upon the said lands for the improvements and benefit thereof, or of commercial vehicles parked temporarily for the purposes of conducting their regular business in or about the said Lot.

10.05 No garbage receptacles, incinerator or compost heap shall be kept on any of the lots unless the same is screened from view at all times.

10.06 No outdoor clothes lines or poles shall be used save and except for an umbrella or collapsible type of clothes line, erected in such a manner as not to be visible from the street upon which the Lot is situate.

## **11. PETS**

11.01 No more than two dogs shall be kept on any of the lots and no animals, birds or livestock, excepting only the usual domestic house pets, shall be kept on any of the lots. Known aggressive animals or breeds of animals must be penned and controlled in accordance with the C.V.R.D. bylaws.

## **12. SIGNS**

12.01 No bill board or sign of any character shall be erected, posted, pasted or displayed upon or about any part of any of the lots or upon or in any building on any of the lots , other than "For Sale" signs no larger than 18" x 36", PROVIDED that nothing in this paragraph shall prevent an Owner from erecting or displaying a sign showing the Owner's name and / or street address; and PROVIDED FURTHER that nothing in this paragraph shall prevent an Owner from erecting or displaying a sign in support of a person seeking elected office during an election campaign.

## **13. EXEMPTION BY DEVELOPER**

13.01 The Developer hereby reserved the right to modify, waive, relax or release any restrictions or stipulations relating to any of the lots remaining unsold including any restrictions or stipulations which may become binding on the Developer by virtue of this Statutory Building Scheme. If any lot is exempted from the restrictions or stipulations which may become binding on the Developer by virtue of this Statutory Building Scheme shall be in writing. If any lot is exempted from the restrictions hereby created, the Owners of such lot or lots shall not be entitled to enforce these restrictions for their own benefit.

13.02 Any modification, waiver, relaxation or release by the Developer of any restrictions or stipulations relating to any of the lots remaining unsold including any restrictions or stipulations which may become binding on the Developer by virtue of this Statutory Building Scheme shall be in writing.

#### **14. ENFORCEMENT**

14.01 In the event of any breach by an Owner or a person in possession of a lot with the Owner's consent, of the restrictions contained herein after a period of thirty (30) days after notice in writing has been delivered to the Owner to rectify such breach, the Developer may cause such work as may be necessary to rectify the breach to be performed. The costs of such work, together with reasonable legal costs shall be a debt owing by the Owner, payable to the Developer on delivery of any invoice of the same.

#### **15. NO LIABILITY TO DEVELOPER**

15.01 If the Developer or any other approving body fails to enforce any provision for these restrictions or if the Developer grants a relaxation, waiver or modification of these restrictions, the Developer, or any other approving body shall not be liable in damage or to any claims or demands whatsoever arising therefrom.

#### **PRIORITY AGREEMENT**

GIVEN THAT BJORNSON HOLDINGS LIMITED (the "Chargeholder") is the holder of a Mortgage registered against the land legally described in this Building Scheme, which Mortgage is registered in the Victoria Land Title Office under instrument number EX34399 (the "Charge").

This Consent and Priority Agreement is evidence that in consideration of payment to it of \$1.00 by the transferee described in item 6 of Part 1 of the Form C to which this Agreement is attached (the "Transferee"), the Chargeholder agrees with the Transferee as follows:

- (1) The Chargeholder consents to the granting and registration of the Covenant and the Chargeholder agrees that the Covenant binds its interest in and to the Land.
- (2) The Chargeholder grants to the Transferee priority for the Covenant over the Chargeholder's right, title and interest in and to the Land and the Chargeholder postpones the Charges, and all of its right, title and interest thereunder, to the Covenant as if the Covenant had been executed, delivered and registered prior to the execution, delivery and registration of the Charges.

**END OF DOCUMENT**