

**The Corporation of the City of Penticton**  
**Bylaw No. 2023-42**

A Bylaw to establish procedures to amend the Official Community Plan Bylaw or the Zoning Bylaw or to issue a permit under the *Local Government Act* and to delegate the authority to issue permit in accordance with section 154 of the *Community Charter*.

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WHEREAS the Council of the City of Penticton has adopted an Official Community Plan and Zoning Bylaw;

AND WHEREAS the Council of the City of Penticton must, by bylaw, establish procedures to amend an Official Community Plan or a Zoning Bylaw or issue a permit;

NOW THEREFORE the Municipal Council of The Corporation of the City of Penticton in open meeting assembled ENACTS as follows:

1. **Title**

This Bylaw may be cited for all purposes as "Development Procedures and Delegation Bylaw No. 2023-42."

2. **Scope**

This Bylaw shall apply to applications:

- a) to amend the Official Community Plan;
- b) to amend the Zoning Bylaw;
- c) for a Land Use Permit;
- d) for approval pursuant to s. 242(3) of the *Strata Property Act* of a strata plan of a previously occupied building with four (4) Dwelling Units or less; and
- e) for issuance or amendment of a licence pursuant to s. 38 of the *Liquor Control and Licensing Act*.

3. **Definitions**

In this Bylaw:

"Applicant" means the owner(s) of the land whose name appears on the registered title certificate, or a person authorized in writing by the owner(s) to make an application on behalf of all owners of the land.

"Application" means an application within the scope of this Bylaw.

"Building Footprint" has the same meaning as in the Zoning Bylaw No. 2023-08, as amended or superseded.

"City" means The Corporation of the City of Penticton.

"Council" means the municipal Council of the City.

"Director of Development Services" means the person assigned to that position by the City or their designate responsible for acting in their place.

"Dwelling Unit" has the same meaning as in the Zoning Bylaw No. 2023-08, as amended or superseded.

"Fees and Charges Bylaw" means the City of Penticton Fees and Charges Bylaw 2014-07 as amended or superseded.

"Fence" has the same meaning as in the Zoning Bylaw No. 2023-08, as amended or superseded.

"File Manager" means a staff member assigned by the Director of Development Services to process an application in accordance with this Bylaw.

"Height" has the same meaning as in the Zoning Bylaw No. 2023-08, as amended or superseded.

"Land Use Permit" means a development permit, a temporary use permit, a development variance permit, a Minor Variance Development Variance Permit, or a permit under Division 10 of Part 14 of the *Local Government Act*.

"Landscape Buffer" has the same meaning as in the Zoning Bylaw No. 2023-08, as amended or superseded.

"Lot Area" has the same meaning as in the Zoning Bylaw No. 2023-08, as amended or superseded.

"Lot Coverage" has the same meaning as in the Zoning Bylaw No. 2023-08, as amended or superseded.

"Lot Width" has the same meaning as in the Zoning Bylaw No. 2023-08, as amended or superseded.

"Minor Variance Development Variance Permit" or "Minor Variance DVP" means a development variance permit that varies the following:

- a) a setback regulation by no more than 25%;
- b) a building footprint, carriage house floor area, lot area, lot coverage, lot width, or height regulation by no more than 10%;
- c) a landscape buffer regulation;
- d) a provision of the Sign Regulation Bylaw No. 2013 -17, as amended or superseded;
- e) a fence or retaining wall height regulation; or
- f) a lot coverage or setback regulation in a phased strata subdivision.

"Official Community Plan" means the City of Penticton Official Community Plan Bylaw No. 2019-08 as amended or superseded.

"Retaining Wall" has the same meaning as in the Zoning Bylaw No. 2023-08, as amended or superseded.

"Setback" has the same meaning as in the Zoning Bylaw No. 2023-08, as amended or superseded.

"Technical Planning Committee" means a committee of staff representatives assembled to discuss technical, infrastructure and other matters related to development applications.

"Zoning Bylaw" means the City of Penticton Zoning Bylaw No.2023-08 as amended or superseded.

#### **4. Submission of Applications**

- 4.1 Applications shall be submitted to the Planning Department.
- 4.2 Applications shall be signed by all owners of land whose names appear on the registered title certificate or by a person authorized in writing by all such owners to make an Application on behalf of all owners of the land.
- 4.3 Every Application shall include the supporting documentation and attachments specified in writing from time to time by the Director of Development Services in respect of the type of Application in question, which specifications the Director of Development Services must make available to Applicants on request and without charge.
- 4.4 Upon receipt of an Application that does not conform to this Bylaw, the File Manager may:
  - a. refuse to accept the Application; or
  - b. process the Application in accordance with this Bylaw if, in the opinion of the File Manager, the content of the Application is sufficient to proceed for further consideration notwithstanding its deficiencies.
- 4.5 When refusing to accept an Application, the File Manager will endeavour to inform the Applicant of the requirements that must be met for the Application to comply with this Bylaw.

#### **5. Fees**

- 5.1 All Applications shall include payment in full of the applicable fees prescribed in the Fees and Charges Bylaw.
- 5.2 Applications that do not comply with Section 5.1 shall be deemed incomplete and will not proceed until the required payment is made.

#### **6. Referrals**

- 6.1 Prior to consideration by Council or the Director of Development Services, Applications shall be referred, for a minimum of ten (10) business days, to City departments and external agencies as required by legislation or as deemed appropriate by the File Manager.
- 6.2 Prior to consideration by Council or the Director of Development Services, after the referrals under Section 6.1 have occurred, the File Manager may forward any application to the Technical Planning Committee for review.

## **7. Reports**

- 7.1 Where Council will consider an application within the scope of this Bylaw, Council shall be provided with the following items for consideration:
- a. a report prepared by the File Manager;
  - b. a copy of the proposed permit, plan or amending bylaw, as applicable; and
  - c. any additional materials deemed necessary by the File Manager for Council's consideration.
- 7.2 Where the Director of Development Services will consider an application pursuant to this Bylaw, they shall be provided with the following items for consideration:
- a. a briefing note prepared by the File Manager;
  - b. a copy of the proposed Development Permit, Minor Variance DVP, or strata plan of a previously occupied building, as applicable, and
  - c. any additional materials deemed necessary for the Director of Development Services' consideration by the File Manager.

## **8. Delegation of Development Permit Issuing Authority**

- 8.1 Council delegates its powers to the Director of Development Services to issue development permits authorizing:
- a. additions to existing buildings where the floor area of the addition is less than 930m<sup>2</sup>;
  - b. amendments to existing development permits dealing with the form and character of development that do not substantially alter the form and character approved in the original permit;
  - c. façade alterations on existing buildings;
  - d. construction of multi-family residential buildings to a maximum of six stories in height and with a maximum floor area of 2,800 m<sup>2</sup>;
  - e. construction of commercial buildings containing one or more residential units to a maximum of six stories in height and with a maximum floor area of 2,800 m<sup>2</sup>;
  - f. commercial construction with a floor area of up to 2,800 m<sup>2</sup>;
  - g. surface parking lots or alterations to existing surface parking lots;
  - h. development within the Environmental Development Permit Area; and
  - i. development within the Riparian Development Permit Area.

## **9. Exceptions and Limitations to Director of Development Services Powers**

- 9.1 Notwithstanding Section 8, the Director of Development Services may not issue a development permit when the Application is submitted concurrently with an application:
- a. to amend the Official Community Plan;
  - b. to amend the Zoning Bylaw;
  - c. for a development variance permit, other than a Minor Variance DVP; and
  - d. for a temporary use permit.

## **10. Requirements for Security**

- 10.1 When a permit is issued by the Director of Development Services under Section 8, the Applicant shall provide security.
- 10.2 Securities required under Section 10.1 must be provided:
- a. when an Application for a Building Permit is made, if the development permit authorizes the construction of a structure requiring a building permit, or
  - b. prior to issuance of the development permit, if the development permit authorizes development that does not require a building permit.
- 10.3 The amount of security required shall be the greater of:
- a. an estimate or quote provided by the Applicant or obtained by the City, prepared by a professional qualified to undertake or supervise the works for which the securities are required; or
  - b. \$5000 per Dwelling Unit
- and the Applicant may be required to add a contingency amount of up to 10% to an amount of security determined under this Bylaw.

## **11. Delegation of Minor Variance DVP Issuing Authority**

- 11.1 Council delegates its powers to the Director of Development Services to issue Minor Variance DVPs.
- 11.2 The Director of Development Services must consider the following guidelines in deciding whether to issue a Minor Variance DVP:
- a. comments received from the public, if any;
  - b. applicable City bylaws, policies and guidelines;
  - c. neighbourhood context;

- d. impact to neighbouring properties or uses; and
  - e. any other considerations the Director of Development Services considers relevant or appropriate in the circumstances.
- 11.3 If the Director of Development Services has determined that the application is for a Minor Variance DVP and has considered the guidelines in this Bylaw they may issue the Minor Variance DVP and include any conditions they consider appropriate.

## **12. Delegation of Liquor Licence Applications**

- 12.1 Council delegates its powers under s. 38 of the *Liquor Control and Licensing Act* to the City's Director of Development Services, or in their absence, to the Planning and Licensing Manager, to be exercised in accordance with Council Policy #2021-03 as amended or superseded.

## **13. Delegation of Strata Conversion Approval/Refusal Authority**

- 13.1 In accordance with Section 242 (10) of the *Strata Property Act*, Council delegates its powers under section 242(3) of the *Strata Property Act* to approve or refuse a strata plan of a previously occupied building with four (4) Dwelling Units or less, to the Director of Development Services.

## **14. Reconsideration of Director of Development Services Decision**

- 14.1 An Applicant is entitled to have Council reconsider a decision of the Director of Development Services or the Planning and Licensing Manager in accordance with the following procedures:
- a. within 30 days of receiving the Director of Development Services' or Planning and Licensing Manager's decision, the Applicant must submit a written request for reconsideration and pay the prescribed fee;
  - b. the File Manager shall prepare a report to Council in accordance with Section 7 of this Bylaw, including the reasons for the original decision;
  - c. at a date and time set by the Corporate Officer, the Applicant shall be provided an opportunity to appear before Council and be heard regarding the decision; and
  - d. following the Applicant's opportunity to be heard, Council may either confirm the original decision or render a different decision.

## **15. Permit Applications Considered by Council**

- 15.1 Upon receipt of an Application for a Land Use Permit, Council may, by resolution, authorize the issuance of the Land Use Permit, authorize the issuance of the Land Use Permit subject to conditions, including conditions respecting security or refuse to authorize the issuance of the Land Use Permit.

## **16. Notification and Consultation Requirements**

- 16.1 Where Council or the Director of Development Services proposes to approve an Application for a development permit or a Minor Variance DVP no notification is required.
- 16.2 Prior to final consideration of an Application for a development variance permit, by Council staff shall deliver notification in accordance with Section 499 of the *Local Government Act* to:
  - a. all owners and tenants of the land that is subject to the proposed permit; and
  - b. all owners and tenants of lands any portion of which is within 100 metres of the land that is subject to the proposed permit.
- 16.3 Prior to final consideration of an Application for a temporary use permit by Council, staff shall deliver notification in accordance with Section 494 of the *Local Government Act* to:
  - a. all owners and tenants of the land that is subject to the proposed permit; and
  - b. all owners and tenants of lands any portion of which is within 100 metres of the land that is subject to the proposed permit.
- 16.4 Prior to final consideration of an Application for a development variance permit or temporary use permit and only after notification has been carried out in accordance with this Bylaw, all persons who believe their interests are affected by the proposed permit shall be afforded reasonable opportunity to present written submissions respecting matters relating to the permit.
- 16.5 Council may receive and consider representations and give final consideration and approval, approval with conditions, or reject a development variance permit or temporary use permit at the same meeting.
- 16.6 Where Council proceeds with a public hearing, notice of the public hearing shall be mailed or otherwise delivered by the Planning Department at least ten days before the date of the hearing to:
  - a. all owners and tenants of the land that is subject to the proposed amendment, and
  - b. to owners and tenants of lands any portion of which is within 100 metres of the land that is subject to the proposed amendment.
- 16.7 Notification distances shall be measured from the legal boundary of the parcel or parcels in respect of which the permit or amendment Application is made.

## **17. Requirements to Post a Sign on the Subject Property**

- 17.1 All applicants applying for an Official Community Plan amendment or a Zoning Bylaw amendment shall post a sign on the subject property that is the subject of the amendment, in accordance with this Bylaw.
- 17.2 Notwithstanding Section 17.1, posting a sign on the subject property is not required for

amendments to the Official Community Plan or Zoning Bylaw initiated by the City affecting ten or more parcels, or for amendments to the Zoning Bylaw if no public hearing will be held.

- 17.3 The sign shall contain the information prescribed by the Director of Development Services and be erected on the subject property at least ten days before the date of the public hearing and maintained in place until the day following the public hearing.
- 17.4 Where a sign under Section 17.1 must be erected, the Applicant shall, at their cost, have the sign erected by the contractor designated by the City to fabricate and erect signs required by this bylaw.
- 17.5 The cost of posting the sign shall be specified in the Fees and Charges Bylaw.

## **18. Requirements to Maintain Signage and Failure to Post a Sign**

- 18.1 The Applicant shall promptly have the sign repaired by the City sign contractor, at the Applicant's cost, if the sign is destroyed or damaged such that it no longer conveys the information prescribed by the Director of Development Services or if the sign is removed.
- 18.2 If an Applicant fails to post or maintain the sign in accordance with this Bylaw, Council may:
  - a. postpone consideration of the Application until the sign is posted in accordance with this Bylaw; or
  - b. reject the Application.
- 18.3 If a sign is deliberately or accidentally removed, damaged or destroyed, the Applicant is deemed to have complied with the requirement to post and maintain notice under this bylaw if:
  - a. the Applicant made a reasonable effort to comply with this Bylaw; and
  - b. the removal, damage or destruction of the sign was not the result of a deliberate or negligent action by the Applicant.

## **19. Reapplication**

- 19.1 An Application within the scope of this Bylaw that has been refused by Council shall not be re-submitted within a six-month period immediately following the date of refusal.

## **20. Offences, Penalties and Enforcement**

- 20.1 Every person who:
  - a. commences construction of, an addition to, or alteration of a building or other structure within a development permit area designated by the City under Section 488(1) of the *Local Government Act*;
  - b. alters land within a development permit area designated by the City under Section 488 (1) (a) or (b) of the *Local Government Act*; or



- c. alters land or a building or other structure on land within a development permit area designated by the City under Section 488 (1) (d), (h), (i) or (j) of the *Local Government Act*;

shall first obtain a development permit, unless an exemption applies.

20.2 Every person who obtains a Land Use Permit or any other approval under this bylaw shall strictly comply with the terms and conditions of the approval and shall develop land strictly in accordance with the Land Use Permit.

20.3 Every person who:

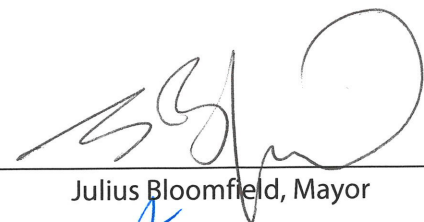
- a. violates a provision of this bylaw;
- b. permits, suffers or allows any act to be done in violation of any provision of this bylaw;
- c. neglects to do anything required to be done under any provision of this bylaw; or
- d. allows a violation of this bylaw to continue;

commits an offence and each day a violation, contravention or breach of this bylaw continues is deemed to be a separate offence.


## 21. **Repeal**

21.1 The City of Penticton Development Procedures and Delegation Bylaw 2010-92 and amendments thereto are repealed upon the adoption of this bylaw.

|                         |           |                |
|-------------------------|-----------|----------------|
| READ A FIRST time this  | 12 day of | December, 2023 |
| READ A SECOND time this | 12 day of | December, 2023 |
| READ A THIRD time this  | 12 day of | December, 2023 |
| ADOPTED this            | 14 day of | December, 2023 |



Julius Bloomfield, Mayor



Angie Collison, Corporate Officer