



The Corporation of the City of Penticton

**Development Procedures and Delegation
Bylaw**

No. 2010-92

Consolidated for convenience only

Amended by Bylaw No. 2015-55 (December 7, 2015)
Amended by Bylaw No. 2020-11 (April 7, 2020)
Amended by Bylaw No. 2021-28 (August 17, 2021)

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THE CORPORATION OF THE CITY OF PENTICTON
BYLAW NO. 2010-92

A BYLAW TO ESTABLISH PROCEDURES TO AMEND THE OFFICIAL COMMUNITY PLAN BYLAW OR THE ZONING BYLAW OR TO ISSUE A PERMIT UNDER PART 26 OF THE *LOCAL GOVERNMENT ACT* AND TO DELEGATE THE AUTHORITY TO ISSUE DEVELOPMENT PERMITS IN ACCORDANCE WITH SECTION 154 OF THE *COMMUNITY CHARTER*.

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, under Section 895 of the *Local Government Act*, by bylaw, establish procedures to amend an Official Community Plan or a Zoning Bylaw or issue a permit;

AND WHEREAS the Council of the City of Penticton may, under Section 154 of the *Community Charter*, delegate its authority to issue a Development Permit under Section 920 or 920(2) of the *Local Government Act*;

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

Title

1. This Bylaw may be cited for all purposes as "The City of Penticton Development Procedures and Delegation Bylaw 2010-92.

Repeal

2. The City of Penticton Development Procedures and Delegation Bylaw 2009-62 and amendment thereto are hereby repealed upon adoption hereof.

Scope

3. This Bylaw shall apply to Applications for amendments to the Official Community Plan and Zoning Bylaw, or the issuance of a Permit under Part 26 of the *Local Government Act*, including Development Permits, Riparian Area Development Permits, Temporary Use Permits, Environmental Protection Area Development Permits and Development Variance Permits.

Definitions

4. In this Bylaw:

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

“Application” means an application to amend the Official Community Plan or Zoning Bylaw or for the issuance of a Permit.

“Building Permit” means a permit authorizing a development issued under the City of Penticton Building Bylaw No. 94-45 (1994) as amended or superseded.

“City” means The Corporation of the City of Penticton.

“*Community Charter*” means the Community Charter SBC Chap. 26 2003 and amendments thereto.

“Council” means the municipal Council of the City.

“Development Officer” means the Director of Development Services, provided that the Director of Development Services may designate the C to exercise the powers of the Director of Development Services under this bylaw, either generally or during the absence of the Director of Development Services.

“Development Permit” means a development permit issued under section 920 of the *Local Government Act*.

“Development Variance Permit” means a development variance permit issued under section 922 of the *Local Government Act*.

“Director of Development Services” means the means the person appointed to that position by the City.

“Fees and Charges Bylaw” means the City of Penticton Fees and Charges Bylaw 2000-25 (2000) as amended or superseded.

“File Manager” means a staff member assigned by the Director of Development Services or a senior planner to process an application in accordance with this Bylaw.

“*Local Government Act*” means the Local Government Acts R.S.B.C. 1996 c.323 and amendments thereto.

“Official Community Plan” means the City of Penticton Official Community Plan Bylaw No. 2002-20 (2002) as amended or superseded.

“Permit” means a Development Permit or Development Variance Permit under Part 26 of the *Local Government Act*, including Riparian Area Development Permits, Temporary Use Permits and Environmental Protection Area Development Permits.

“Security” or “Securities” means a financial deposit as authorized under section 925 of the *Local Government Act*.

“Subdivision and Development Bylaw” means the City of Penticton Subdivision and Development Bylaw No. 2004-81 as amended or superseded.

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

“Temporary Use Permit” means a temporary use permit issued under section 921 of the *Local Government Act*.

“Zoning Bylaw” means the City of Penticton Zoning Bylaw No. 87-65 as amended or superseded.

Submittal of Applications

5. Applications shall be submitted to the Planning Department.
6. 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.
7. All Applications 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.
8. Upon receipt of an Application that does not conform to this Bylaw, the File Manager may:
 - a) refuse to accept the Application and application fee; 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.
9. When refusing to accept an Application under Paragraph 8(a), the File Manager shall inform the Applicant of the requirements that must be met for the Application to comply with this Bylaw.

Fee

10. All Applications shall include payment in full of the applicable application fees prescribed in the Fees and Charges Bylaw.

Referrals

11. Prior to consideration by Council or the Development Officer, all 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.

12. Prior to consideration by Council or the Development Officer, and only after the referrals under Paragraph 11 have occurred, the File Manager may forward any application to the Technical Planning Committee for review.

Reports

13. Where Council is to consider a bylaw amendment or the issuance of a Permit in accordance with 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 or amending bylaw, as applicable; and
- c) any additional materials deemed necessary for Council's consideration by the File Manager.

14. Where a Development Permit under Paragraph 15 is to be considered by the Development Officer, the Development Officer shall be provided with the following items for consideration:

- a) a briefing note prepared by the File Manager, in a format acceptable to the Development Officer,
- b) a copy of the proposed Development Permit, and
- c) any additional materials deemed necessary for the Development Officer's consideration by the File Manager.

Delegation of Development Permit Issuing Authority

15. In accordance with Section 154 of the *Community Charter*, Council delegates its powers under Section 920 and Section 920(2) of the *Local Government Act* to the Development Officer in respect of Development Permits authorizing the following, other than the power to refuse a Development Permit:

- a) additions to existing buildings where the floor area of the addition is less than 930m²;

- 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 m²;
- 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 m²;
- f) commercial construction with a floor area of up to 2,800 m²;
- g) surface parking lots or alterations to existing surface parking lots;
- h) works requiring an Environmental Protection Area Development Permit;
and
- i) works requiring a Riparian Assessment Area Development Permit.

Delegation of Strata Conversion Approval/Refusal Authority to the Development Officer

15.1 In accordance with Section 242 (10) of the *Strata Property Act*, Council delegates its powers under section 242(3) to approve or refuse a strata plan of a previously occupied building with four (4) dwelling units or less to the City's Development Officer. **(Bylaw No. 2015-55)**

Exceptions and Limitations to Development Officer Powers

- 16. Notwithstanding Paragraph 15, the Development Officer may not issue a Development Permit when the Application is submitted concurrently with an Application to amend the Official Community Plan or Zoning Bylaw or an Application for a Development Variance Permit or Temporary Use Permit.
- 17. The File Manager may refer any Application described in Paragraph 15 to Council for consideration of issuance.
- 18. An Applicant for a Permit described in Paragraph 15 is entitled to have Council reconsider a decision of the Development Officer on the application, and for this purpose:
 - a) within 30 days of receiving the Development Officer's decision, in writing, the Applicant shall submit to the City Clerk a written request for reconsideration and the City Clerk shall notify the File Manager of the request;

- b) the File Manager shall prepare a full report to Council in accordance with Paragraph 13 and setting out the Development Officer's reasons for the decision;
- c) at a date and time set by the City Clerk, 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 Development Officer's decision or render a different decision

19. If an Application is forwarded to Council for consideration under Paragraph 17, the File Manager shall prepare a full report to Council in accordance with Paragraph 12.

20. When a Development Permit is approved by the Development Officer under Paragraph 15, a copy of the Permit and the materials prepared by the File Manager under Paragraph 14 shall be provided to members of Council for information.

Requirements for Security

21. When a Permit is issued by the Development Officer under Paragraph 15, the Applicant shall provide Security, subject to the conditions in Paragraphs 22, 23 and 24.

22. Securities required under Paragraph 21 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.

23. The amount of Security required under Paragraph 21 shall be determined by the File Manager using the following guidelines:

- a) The amount of Security may be calculated using:
 - I. such methodologies as the Director of Development Services may prescribe from time to time; or
 - II. 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.

24. The Applicant may be required to add a contingency amount of up to 10% to an amount of Security determined under Paragraphs 23(a).

Permit Applications Considered by Council

25. Upon receipt of an Application for a Development Permit, Temporary Use Permit or Development Variance Permit. Council may, by resolution, authorize the issuance of the Permit, authorize the issuance of the Permit subject to conditions, including conditions respecting Security or refuse to authorize the issuance of the Permit.

26. If Council refuses to approve an Application for a Development Permit, that:

- a) is not an application for a Development Permit under Section 920(2)(a) of the *Local Government Act*, and
- b) has not been submitted in conjunction with an Application for a Development Variance Permit, Rezoning, OCP amendment or Temporary Use Permit,

the resolution shall include reasons for rejection, citing Development Permit guidelines contained in the Official Community Plan or Zoning Bylaw.

Zoning and Official Community Plan Amendments - Approval or Refusal

27. Upon receipt of an Application to amend the Official Community Plan or Zoning Bylaw, Council may reject the Application or proceed with an amendment bylaw in accordance with the procedural requirements of the *Local Government Act* and *Community Charter*.

Notification and Consultation Requirements

28. Where Council or the Development Officer proposes to approve an Application for a Development Permit no notification is required.

29. Prior to final consideration of an Application for a Development Variance Permit, by Council, staff shall deliver notification in accordance with Section 922(4) 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. **(Bylaw No. 2021-28)**

30. Prior to final consideration of an Application for a Temporary Use Permit by Council, staff shall deliver notification in accordance with Section 921(4) 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. **(Bylaw No. 2021-28)**

31. 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 Paragraph 29 or Paragraph 30, 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. **(Bylaw No. 2020-11)**

32. Council may receive and consider representations under Paragraph 31 and give final consideration and approval, approval with conditions or rejection of a Development Variance Permit or Temporary Use Permit at the same meeting.
33. In accordance with Section 892 of the *Local Government Act*, 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. **(Bylaw 2021-28)**
34. In accordance with Section 892(7) of the *Local Government Act*, notice of Public Hearing is not required under Paragraph 33 if the application is for a Zoning Bylaw amendment, Official Community Plan amendment or Temporary Use Permit affecting ten or more parcels owned by ten or more persons.
35. Notification distances under 29(b), 30(b) and 33(b) shall be measured from the legal boundary of the parcel or parcels in respect of which the Permit or amendment Application is made.

Postponing Final Consideration and Hearings

36. Once any Application under this Bylaw has been introduced to Council, Council may, by resolution, postpone:
- a) any Public Hearing or reading of an amendment bylaw that is required under this bylaw, the *Local Government Act* or *Community Charter*, or
 - b) final consideration of any Permit Application,
- and direct staff or the Applicant to provide additional information relevant to the Application.

Requirements to Post Notice

37. In accordance with Section 892(8) of the *Local Government Act*, all applicants applying for an Official Community Plan amendment or a Zoning Bylaw amendment, shall post notice in accordance with Paragraphs 39-44.
38. Notwithstanding Paragraph 37, posting notice is not required for amendments to the Official Community Plan or Zoning Bylaw initiated by the City affecting ten or more parcels.

Form of Notice

39. A sign containing the information prescribed by the Director of Development Services shall be erected on the subject site at least ten days before the date of the Public Hearing and maintained in place until the day following the Public Hearing. If the Public Hearing has been waived in accordance with Section 890(4) of the *Local Government Act*, the sign shall be erected at least ten days prior to the scheduled date of third reading of the amendment bylaw.
40. Where a sign under Paragraph 39 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.
41. The cost of posting notice under paragraph 40 shall be specified in the Fees and Charges Bylaw.

Requirements to Maintain Signage and Failure to Post Notice

42. The Applicant shall promptly have a notice sign repaired by the City sign contractor, at the Applicant's cost, if it is destroyed or damaged such that it no longer conveys the information prescribed by the Director of Development Services.
43. If an Applicant fails to post or maintain notice in accordance with this Bylaw, Council, by resolution, may:
 - a) postpone consideration of the Application until notice is posted in accordance with this Bylaw; or
 - b) reject the Application.
44. Notwithstanding Paragraph 44, 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 Paragraph 43; and
 - b) the removal, damage or destruction of the sign was not the result of a deliberate or negligent action by the Applicant.

Reapplication

45. Subject to Section 895(3) of the *Local Government Act*, an Application for a Permit or bylaw amendment that has been refused by the Council shall not be made within a six-month period immediately following the date of refusal.

READ A FIRST time this 6th day of December, 2010.

READ A SECOND time this 6th day of December, 2010.

READ A THIRD time this 6th day of December, 2010.

ADOPTED this 20th day of December, 2010.

Original Signed by

Dan Ashton, Mayor

Original Signed by

Cathy Ingram, City Clerk