



THE CORPORATION OF THE CITY OF FERNIE
LAND USE APPLICATION PROCEDURES AND FEES BYLAW NO. XXXX

2025

WHEREAS Council has adopted an Official Community Plan Bylaw and a Zoning Bylaw;

AND WHEREAS the Council has designated areas within which development permits are required;

AND WHEREAS the Council shall, under Section 895(1) of the *Municipal Act*, by bylaw establish procedures to amend a plan, bylaw or issue a permit;

AND WHEREAS the Council may, under Section 931 of the *Municipal Act*, impose fees for applications to initiate changes to the provisions of an official community plan, or a zoning bylaw, an application for subdivision, an application for issuance of a local government permit, an application to a board of Variance or fees to cover the costs of administering and inspecting works and services that are additional to application fees;

NOW THEREFORE, the Municipal Council of the Corporation of the City of Fernie in open meeting assembled enacts as follows:

TITLE

- 1) This Bylaw may be cited for all purposes as the ***“Land Use Application Procedures and Fees Bylaw”***.

APPLICATION

- 2) All applications noted in this bylaw shall be made by the owner of the land involved or by a person authorized by the owner.
- 3) **Application Types:** This bylaw shall apply to the following application types and the following application types are applicable as defined under this this bylaw:

- a) **Development Permit Applications:**

- i) Development Permit – Form and Character (Façade Change Only): A permit to change the material or colour to an existing façade that includes no structural change or notable changes to the articulation of the building, or changes similar in nature.
- ii) Development Permit - Form and Character (Minor): A permit to change the form and character of an existing developed site as follows:
 - (1) exterior structural changes to an existing building
 - (2) notable changes to the exterior articulation of an existing building.
 - (3) changes to landscaping
 - (4) changes to parking configurations, snow storage locations, etc.
 - (5) addition of accessory structures such as decks or steps
 - (6) changes similar in nature to the above.
- iii) Development Permit - Form and Character (Major): Any development of new buildings or structures, or additions to existing buildings and structures.
- iv) Development Permit – Form and Character (Minor Amendment to existing permit): A permit to amend an existing Development Permit that entails the types of changes noted in Sections **3)a)i) and 3)a)ii)**, of this bylaw.

If the proposed amendments to a permit do not fall within the changes noted in Sections **3)a)i) and 3)a)ii)**, of this bylaw, then a new Development Permit – Form and Character (Major) application must be made and fees paid in full.

- v) Hazard Lands Development Permit - Floodplain (Minor): A permit to regulate the flood hazard of lands where the proposed work does not require a Section 219 Floodplain Covenant.
- vi) Hazard Lands Development Permit - Floodplain (Major): A permit to regulate the flood hazard of lands where the proposed work requires a Section 219 Floodplain Covenant.
- vii) Hazard Lands Development Permit – Slopes and Avalanche (Minor): A permit to regulate slope or avalanche hazards for a land area of 1400 square metres or less and where no subdivision is proposed.
- viii) Hazard Lands Development Permit – Slopes and Avalanche (Major): A permit to regulate slope or avalanche hazards for a land area of greater than 1400 square metres or where a subdivision is proposed.
- ix) Watercourse Protection Development Permit (Minor): A permit to regulate the protection of a watercourse for a land area of 1400 square metres or less and where no subdivision is proposed.
- x) Watercourse Protection Development Permit (Major): A permit to regulate the protection of a watercourse for a land area of greater than 1400 square metres or where a subdivision is proposed.
- xi) Heritage Alteration Permit: A permit to regulate the form and character of lands that have heritage value as noted in the City’s Official Community Plan. Determination of fees for Heritage Alteration Permits shall coincide with Sections 3)a)i), 3)a)ii), 3)a)iii) and 3)a)iv) of this bylaw.
- xii) Development Permit (Retroactive): Any development permit that is required after work on a project requiring a development permit has begun or has been completed. The fee for a Development Permit (Retroactive) shall be double the applicable fee prescribed in Appendix ‘A’ of this bylaw.

b) Development Variance Permit Applications:

- i) Development Variance Permit (Minor): A Minor Development Variance Permit as defined in the City’s Delegation Bylaw.
- ii) Development Variance Permit (Major): Any Development Variance Permit that is not a minor development variance permit.
- iii) Development Variance Permit (Retroactive): Any development variance permit that is required after work on a project requiring a development variance permit has begun or has been completed. The fee for a Development Variance Permit (Retroactive) shall be double the applicable fee prescribed in Appendix ‘A’ of this bylaw.

c) Bylaw Amendment Applications:

- i) Official Community Plan Amendment (Minor): An application to amend the Official Community Plan where a comprehensive development plan is not required.
- ii) Official Community Plan Amendment (Major): An application to amend the Official Community Plan where a comprehensive development plan is required.
- iii) Zoning Bylaw Amendment (Minor): An application to amend the zoning bylaw where a public hearing is not required.
- iv) Zoning Bylaw Amendment (Major): An application to amend the zoning bylaw where a public hearing is required.
- v) Heritage Revitalization Agreement: An application for a heritage revitalization

agreement bylaw to protect and maintain a property with heritage value in exchange for items including but not limited to land use changes and zoning bylaw variances.

- vi) Temporary Use Permit: An application for a temporary use permit under the City's Official Community Plan.

d) Subdivision Approval Applications:

- i) Subdivision Application (Fee Simple and Bareland Strata): An application to subdivide land into either fee-simple or strata lots.
- ii) Strata Conversion: An application to stratify a previously subdivided fee-simple development or to stratify a building that has not been previously occupied.
- iii) Stratification of a Previously Occupied Building: An application to stratify a building or buildings that have been previously occupied for their intended use, or otherwise.
- iv) Subdivision Amendment: An application to amend any subdivision plan before a Preliminary Layout Approval (PLA) letter has been issued from the Approving Officer to the applicant.
- v) Preliminary Layout Approval Extension: An application to extend a previously issued Preliminary Layout Approval (PLA). A PLA may only be extended for a period of twelve (12) months from the date of issuance of that PLA. If a PLA expires, it will not be extended, and a new subdivision application must be submitted. If a PLA extension includes an amendment to the proposed subdivision, the PLA will not be extended, and a new subdivision application must be submitted.
- vi) Form P Review: An application for the approving officer to review a Form P (Phased Strata Plan Declaration), when that Form P has already been registered with the Land Title and Survey Authority.
- vii) Phased Strata Approval: An application for a phased strata subdivision.

e) Other Applications:

- i) Board of Variance Application: An application to the board of variance under the Local Government Act.
- ii) Floodplain Exemption Request: An application to request an exemption from the City's Floodplain Management Bylaw.
- iii) Pre-Application Conference: An application to schedule a pre-application conference with the City.
- iv) Complex Application: Any of the Application Types noted in this bylaw that, in the opinion of the City, will require special attention and more hours dedicated to it than a typical application (See Section 8 of this bylaw).

FEES

- 4) At the time of application, the applicant shall pay to the City of Fernie the application fee corresponding to the application type in the amount as set out in Appendix "A" which is attached to and forms a part of this Bylaw.
- 5) If any work is started or completed without a permit, the fee for that permit retroactive to the work being started or completed will be double the applicable fee prescribed in Appendix 'A' of this bylaw.
 - a) If any work is started or completed without a permit, and the permit retroactive to that work being started or completed is refused, the City reserves the right to order removal of the non-permitted work.

- 6) Where two or more development permit and/or development variance permit applications are received together, the fee shall be reduced by half of the lesser fee of one of the permit applications.
- 7) Where two or more bylaw amendment applications are received together, the fee shall be reduced by half of the lesser fee of one of the bylaw amendment applications.
- 8) **Complex Application:** If an application is deemed by the City to be a Complex Application, meaning the application requires special attention and more hours dedicated to it than a typical application, or for a pre-application conference, the City may, in addition to any application-specific fee set out in Schedule 'A' of this bylaw, charge the applicant for any fees associated with services rendered by the City or its representatives to process the application. This may include the City having a consultant, working for the City, complete work associated with the processing to the application.
- 9) Fees and Charges associated with this bylaw are refundable only upon written request from the applicant to the City. The validity and value of the refund shall be issued at the discretion of the City, where the City determines the amount of Staff time dedicated to the application against the total permit fee or charge collected. No refund shall be unreasonably denied.

PROCESSES – DELEGATED ITEMS

- 10) **Development Permit Applications:** Upon receipt of any application for a Development Permit:
 - a) The City shall refer the application to internal departments and external agencies as applicable.
 - b) **Issuance or Refusal:** In accordance with the City's Delegation Bylaw, for Development Permits, staff may:
 - i) Authorize the issuance of the permit;
 - ii) Authorize the issuance of the permit as amended by the applicant to the suitability of staff; or
 - iii) refuse to authorize the issuance of the permit.
 - (1) Upon refusal of a Development Permit by staff, the applicant may appeal to Council.
- 11) **Minor Development Variance Permit Applications:** Upon receipt of an application for a minor development variance permit:
 - a) The City shall refer the application to internal departments and external agencies as applicable.
 - b) **Issuance or Refusal:** In accordance with the City's Delegation Bylaw, for Development Permits, staff may:
 - i) Authorize the issuance of the permit;
 - ii) Authorize the issuance of the permit as amended by the applicant to the suitability of staff; or
 - iii) refuse to authorize the issuance of the permit.
 - (1) Upon refusal of a Minor Development Variance Permit by Staff, the applicant may appeal to Council with a new Major Development Variance Permit application. The fee for the new Major Development Variance Permit application shall be the fee for a Major Development Variance Permit application minus the fee for a Minor Development Variance Permit Application.
- 12) **Subdivision Applications:** Upon receipt of an application for a subdivision application, the application shall be referred to the City's Approving Officer.
- 13) **Board of Variance Applications:** Upon receipt of an application for a board of variance

decision:

- a) The City shall refer the application to internal departments and external agencies as applicable.
 - b) Upon receipt of referrals, City Staff shall write a report to the Board of Variance.
 - c) Staff shall schedule a board of Variance meeting and notify the public according to Provincial regulations.
 - d) **Issuance or Refusal:** The Board of Variance may, upon receipt of the report and discussing in a Board of Variance meeting:
 - i) Authorize the issuance of the permit;
 - ii) Authorize the issuance of the permit as amended by the applicant to the suitability of staff and the Board; or
 - iii) refuse to authorize the issuance of the permit.
- 14) **Pre-Application Conference:** Upon receipt of an application for a pre-application conference:
- a) The City shall refer the application to internal departments and request that the applicable departments attend the pre-application conference.
 - b) Upon communicating with all applicable internal departments, the City shall schedule the pre-application conference with the applicant and all applicable internal departments.

PROCESSES – COUNCIL ITEMS

- 15) **Bylaw Amendment Applications Requiring a Public Hearing:** Upon receipt of an application to amend the Zoning Bylaw and / or Official Community Plan Bylaw:
- a) The City shall refer the application to internal departments and external agencies as applicable.
 - b) Upon receipt of referrals, City Staff shall write a report to Council on the template staff report form provided by the City's Corporate Services department.
 - c) Council may, upon receipt of the report:
 - i) approve the application and proceed with an amendment bylaw by giving it first and second readings.
 - ii) reject the application; or
 - iii) request that the applicant provide additional information prior to making a decision.
 - d) After approval of the application and first and second readings of the bylaw, City Staff shall notify the public in compliance with provincial regulations.
 - e) City Staff shall write a second report to Council on the template staff report form provided by the City's Corporate Services department.
 - f) Council may, upon receipt of the report:
 - i) give third reading of the bylaw, and eventually adopt the bylaw in compliance with Provincial regulations; or
 - ii) amend the bylaw prior to third reading and adoption of the bylaw.
 - iii) reject the bylaw by refusing to give third reading of the bylaw.
- 16) **Bylaw Amendment Applications where a Public Hearing is not permitted or not required:** Upon receipt of an application to amend the Zoning Bylaw and / or Official Community Plan Bylaw:
- a) The City shall refer the application to internal departments and external agencies as applicable.

- b) Upon receipt of referrals, City Staff shall write a report to Council on the template staff report form provided by the City's Corporate Services department.
 - c) Council may, upon receipt of the report:
 - i) approve the application and proceed with an amendment bylaw by giving it first and second and third readings and eventually adopt the bylaw.
 - ii) reject the application; or
 - iii) request that the applicant provide additional information prior to making a decision.
- 17) **Major Development Variance Permit Applications:** Upon receipt of an application for a major development variance permit, the application shall be assigned to the applicable City department.
- a) The City shall refer the application to internal departments and external agencies as applicable.
 - b) City Staff shall notify the public in compliance with provincial regulations.
 - c) Upon receipt of referrals, City Staff shall write a report to Council on the template staff report form provided by the City's Corporate Services department.
 - d) **Issuance or Refusal:** Council may, upon receipt of the report::
 - i) Authorize the issuance of the permit;
 - ii) Authorize the issuance of the permit as amended by the applicant to the suitability of staff; or
 - iii) refuse to authorize the issuance of the permit.
- 18) **Floodplain Exemption Request:** Upon receipt of an application for an exemption to the Floodplain Management Bylaw, the application shall be assigned to the applicable City department.
- a) The City shall refer the application to internal departments and external agencies as applicable.
 - b) Upon receipt of referrals, City Staff shall write a report to Council on the template staff report form provided by the City's Corporate Services department.
 - c) **Issuance or Refusal:** Council may, upon receipt of the report::
 - i) Resolve to give the exemption;
 - ii) Resolve to give the exemption with conditions; or
 - iii) Resolve to reject the exemption.

REFUSAL – AMENDMENTS AND PERMITS

- 19) Where an application, amendment bylaw or a permit has been refused by City Staff or Council, the City shall notify the applicant in writing within fifteen (15) days immediately following the date of refusal and shall give reasons for the refusal.

RE – APPLICATION AND APPEAL

- 20) Appeal to Council for a permit that has been refused by Staff can be made by a letter to the Director of Corporate Administration Services at the City of Fernie within ten (10) days of notification of rejection of the permit to the applicant.
- 21) Re-application for a bylaw amendment or permit that has been refused by Council shall not be considered within a six (6) month period immediately following the date of refusal unless the proposed development has been changed or additional information not available when the applicant was first considered by Council is provided.

PERMIT EXPIRATION

- 22) When a building permit is required to carry out any of the works associated with a Development Permit or Development Variance Permit, the Development Permit or Development Variance Permit will expire if:
- a) A building permit associated with that Development Permit or Development Variance Permit has not been issued within two (2) years of the date of issuance of the Development Permit or Development Variance Permit,
 - b) A building permit that has been issued and is associated with that Development Permit or Development Variance Permit, expires; or
 - c) A date of commencement of works on any phase of a phasing plan associated with a Development Permit or Development Variance Permit has bypassed by a period of two (2) years.
- 23) When a building permit is not required to complete the works associated with a Development Permit or Development Variance Permit, the Development Permit or Development Variance Permit will expire if:
- a) The total works associated with the Development Permit or Development Variance Permit have not been completed within two (2) years of the date of issuance of the Development Permit or Development Variance Permit.
- 24) A Preliminary Layout Approval (PLA) will expire if the application to deposit plan has not been submitted to the approving officer within one year from the date that the PLA was issued.
- 25) If a Development Permit or Development Variance Permit expires, then a new Development Permit or Development Variance Permit must be applied for under this bylaw and no refund for that expired Development Permit or Development Variance Permit will be issued.

RESCIND

26) Bylaw No. XXXX and any amendments thereto are hereby rescinded.

27) Bylaw No. XXXX (Language to ensure that the existing development fees bylaw is rescinded or amended accordingly).

Introduced and read a first time this ____ of _____, ____.

Read a second time this ____ of _____, ____.

Read a third time this ____ of _____, ____.

Finally passed and adopted this ____ of _____, ____.

Originally signed by _____
MAYOR

Originally signed by _____
CLERK

**I hereby certify the foregoing to be the original
Bylaw No. XXXX.**