

CITY OF KELOWNA

BYLAW NO. 8546

A bylaw to establish an Advisory Planning Commission

WHEREAS the *Local Government Act* provides that Council may, by bylaw, establish an Advisory Planning Commission;

NOW THEREFORE, the Municipal Council of the City of Kelowna hereby enacts as follows:

1.0 TITLE

1.1 This bylaw may be cited for all purposes as the “Advisory Planning Commission Bylaw No. 8546.”

1.2 In this bylaw:

‘**Commission**’ means the Advisory Planning Commission established by this bylaw,

‘**Council**’ means the Municipal Council of the City of Kelowna,

‘**Director of Planning and Development Services**’ means the person appointed by **Council** as such,

‘**Official Community Plan**’ means Kelowna Official Community Plan (1994-2013) Bylaw No. 7600’ as amended or replaced from time to time’,

‘**Zoning Bylaw**’ means City of Kelowna Zoning Bylaw No. 8000 as amended or replaced from time to time.

2.0 ESTABLISHMENT

2.1 There is hereby established an Advisory Planning Commission which shall be known as the “City of Kelowna Advisory Planning Commission.”

3.0 ROLE OF COMMISSION

3.1 The role of the **Commission** is to advise **Council** on matters respecting land use, community planning, or proposed bylaws and permits under Divisions 2, 3, 7, 9, and 11 of Part 26 of the *Local Government Act*, and for this purpose, **Council** may refer matters to the **Commission** by resolution or bylaw.

3.2 The **Commission** may advise **Council**, when requested, on any matter respecting land use, project design, landscaping, or community planning and may also investigate and survey the physical, environmental, social, and economic conditions in relation to matters considered by it.

3.3 The **Commission** may advise **Council**, when requested, on any matter related to the implementation of any aspect of the **Official Community Plan** and **Zoning Bylaw**.

- 3.4 The Planning and Development Services Department shall refer the following matters to the **Commission** for review:
- (a) Development Permit applications, excluding
 - (i) Commercial and Industrial Development Permit applications for new development on existing developed sites if they are consistent with the form and character of existing development and are not deemed to have an impact on nearby residential uses, as determined by the **Director of Planning and Development Services**, and
 - (ii) Natural Environment or Hazardous Condition Development Permit applications;
 - (b) Temporary Commercial and Industrial Development Permits applications;
 - (c) Development Variance Permit applications, excluding those which are deemed to be minor in nature by the **Director of Planning and Development Services**, and where confirmation from affected neighbours supporting the variance has been received;
 - (d) **Zoning Bylaw** amendment applications, excluding rezoning applications to add an "s" designation for a secondary suite, a "b" designation for boarding and lodging houses or an "h" designation for hillside development;
 - (e) Land Use Contract amendments involving changes to use or density;
 - (f) **Official Community Plan** amendments;
 - (g) Heritage Revitalization Agreement applications; and
 - (h) Major Heritage Alteration Permit applications that include a variance to the **Zoning Bylaw**.

4.0 MEMBERSHIP OF COMMISSION

- 4.1 The **Commission** shall be composed of nine (9) members, appointed by **Council** resolution, and shall represent a variety of community interests.
- 4.2 At least six (6) members of the **Commission** shall be residents of the City of Kelowna.
- 4.3 Members shall be appointed by Council for a three-year term, to run concurrent with the Council term.
- 4.4 **Council** may revoke the appointment of any member of the **Commission** at any time by a vote of two-thirds of **Council**.
- 4.5 In the event a member fails to attend three consecutive regular meetings of the **Commission**, the member's seat shall be deemed to be vacant unless they have been excused by resolution of the **Commission**.
- 4.6 Whenever a vacancy arises on the **Commission**, **Council** may appoint a person to fill the vacancy for the balance of the term.
- 4.7 The **Director of Planning and Development Services**, or his designate, may attend **Commission** meetings in a resource capacity.

5.0 CHAIRPERSON OF COMMISSION

- 5.1 The **Commission** members shall elect a Chairperson at the first meeting of each calendar year, and in the absence of the Chairperson at any particular meeting may appoint an Acting Chairperson.
- 5.2 The Chairperson of the **Commission** shall be responsible for the execution of documents on behalf of the **Commission**, including the signing of minutes.

6.0 MEETINGS OF COMMISSION

- 6.1 Meetings of the **Commission** shall take place on a bi-weekly basis, as required to accomplish the business of the **Commission**.
- 6.2 A majority of the members of the **Commission** shall constitute a quorum. If a quorum is not present within thirty minutes after the time fixed for a meeting, the Chairperson shall record the names of the members present and the **Commission** shall stand adjourned until the next regular meeting.
- 6.2 Unless otherwise authorised pursuant to Section 242.2 of the *Local Government Act*, or by Council Bylaw No. 7906, meetings of the **Commission** must be open to the public. A **Commission** meeting or part of a **Commission** meeting may be closed to the public if the subject matter being considered relates to one or more of the matters referred to in section 242.2 of the *Local Government Act*.
- 6.3 Before a meeting or part of a meeting is closed to the public, the **Commission** must state, by resolution, the fact that the meeting is to be closed, and the basis under Section 242.2 of the *Local Government Act* on which the meeting or that portion of the meeting is to be closed.
- 6.4 A special meeting of the **Commission** may be called by the Chairperson or three members of the **Commission** who submit their request in writing to the Secretary.
- 6.5 When the **Commission** is considering an amendment to a plan or bylaw, or the issuance of a permit, the applicant for the amendment or permit is entitled to attend the meeting and to be heard.
- 6.6 After the applicant has addressed the **Commission**, the **Commission** may hear from any person who deems they are affected by the proposal or who have an interest in the proposal. The **Commission** will not receive any representations from the applicant or the public after they have rendered their decision on a particular matter.
- 6.7 In accordance with section 231(1) of the *Local Government Act*, sections 4.5.4 through 4.5.8, inclusive of Council Bylaw No. 7906, as amended from time to time, apply to meetings of the **Commission**.
- 6.8 All persons wishing to speak at a meeting of the **Commission** must have the permission of the Chairperson, and all persons in attendance shall maintain order and quiet and not applaud or otherwise interrupt any speech or action of the assembly. Public addressing the **Commission** will be given a limitation of ten minutes to make their presentation.

- 6.9 Voting:
- (a) All members of the **Commission**, including the Chairperson, must vote on every question unless they have declared a conflict and left the meeting
 - (b) Any member who does not indicate how they vote, or has left the meeting without declaring a conflict, is counted as having voted for the question
 - (c) If the votes are equal for and against, the question is defeated:

7.0 ORDER OF BUSINESS

- 7.1 The following shall be the regular order of business at a meeting of the **Commission**:
- (a) Call to Order
 - (b) Opening remarks by Planning and Development Services staff on the conduct of the meeting.
 - (c) Staff presentation, applicant presentation, public comments and committee discussion of various applications
 - (d) Advisory Planning Commission Recommendations
 - (e) New Business
 - (f) Termination

8.0 STAFF SUPPORT FOR THE COMMISSION

- 8.1 Planning and Development Services staff shall initiate and carry out any necessary investigations or analysis in regards to applications to be considered by the **Commission**, prepare an administrative report on the proposal, and submit the report, maps, and all relevant materials to the **Commission**.
- 8.2 Planning and Development Services staff shall prepare an agenda of all business to be brought before the **Commission** for each meeting and shall provide each member of the **Commission** with a copy the agenda package in advance of the meeting date.
- 8.3 **Council** will provide funds for the routine operation of the **Commission** and the budget allocation will be within the Planning and Development Services Department budget.

9.0 NOTICE OF MEETING

- 9.1 Planning and Development Service staff shall publish a notice of a meeting of the **Commission** in a newspaper a minimum of ten calendar days prior to the meeting.
- 9.2 If an item is withdrawn by an applicant from a particular meeting, and if the Chairperson is able to announce the new meeting date at which the matter is considered at the meeting from which the item was withdrawn, the matter does not require re-advertising in a newspaper.
- 9.3 Development Application Signs shall be posted by the Applicant on the subject property a minimum of ten days prior to the meeting in accordance with Development Application Procedures Bylaw No. 8140.
- 9.4 Notice of a meeting of the **Commission** shall be forwarded to the City Clerk in accordance with Council Bylaw No. 7906.

10.0 MINUTES

- 10.1 The City shall supply a Secretary for the **Commission** who shall be responsible for the preparation of the minutes of the meetings of the **Commission**.
- 10.2 Minutes of the **Commission** shall be signed by the Chairperson or Acting-Chairperson presiding at the meeting.
- 10.3 Minutes and all of the documents considered by the **Commission** shall be available for public inspection at City Hall during normal business hours. This does not apply to the minutes of that portion of a meeting which has been closed to the public pursuant to section 242.2 of the *Local Government Act*.
- 10.4 The original copy of the minutes, including minutes of a closed portion of a meeting of the **Commission**, shall be forwarded to the City Clerk for safekeeping.
- 10.5 Applicants of matters considered by the **Commission** shall be notified in writing of the decision of the **Commission** within ten working days of the **Commission** meeting. The notification shall include the recommendation adopted by resolution of the **Commission**.
- 10.6 The **Commission** shall forward their recommendation to the Planning and Development Services Department who shall include the **Commission's** recommendation in their report to **Council** on the application.

11.0 CONFLICT OF INTEREST

- 11.1 If a **Commission** member attending a meeting of the **Commission** considers that he or she is not entitled to participate in the discussion of a matter or to vote on a question in respect of a matter because the **Commission** member has a direct or indirect pecuniary interest in the matter or for any other reason, the member must declare this and state the general nature of why the member considers this to be the case.
- 11.2 After making the declaration in accordance with section 9.1, the **Commission** member
 - (a) must not take part in the discussion of the matter and is not entitled to vote on any question in respect of the matter,
 - (9) must immediately leave the meeting or that part of the meeting during which the matter is under consideration, and
 - (9) must not attempt in any way, whether before, during or after the meeting, to influence the voting on any question in respect of the matter.
- 11.3 When the **Commission** member's declaration is made under section 11.1
 - (a) the person recording the minutes of the meeting must record the member's declaration, the reasons given for it, and the times of the member's departure from the meeting room, and if applicable, the member's return, and
 - (b) the person presiding at the meeting must ensure that the member is not present at the meeting at the time of any vote on the matter.

12.0 CONDUCT OF MEMBERS

- 12.1 Members should be careful when speaking in public or to the media and should always regard themselves as being regarded by the public as members of the **Commission**.
- 12.2 **Commission** members are given opportunity to influence zoning and land use decisions through the process statutorily provided for by the *Local Government Act*. Accordingly it is inappropriate for members to speak to the issues at subsequent **Council** public hearings in their capacity as members of the public.

13.0 MISCELLANEOUS

- 13.1 A decision of **Council** by resolution or bylaw on any matter respecting land use, community planning or proposed bylaws and permits under divisions 1, 2, 4, 5 and 7 of Part 26 of the *Local Government Act* that has been referred to the **Commission** by the **Council** shall not be rendered invalid by reason of non-compliance by the **Commission** with the provisions of this bylaw.
- 13.2 Any enactment referred to herein is a reference to an enactment of the Province of British Columbia and the regulations thereto, as amended, revised, consolidated, or replaced from time to time, and any bylaw referred to herein is a reference to an enactment of **Council**, as amended, revised, consolidated, or replaced from time to time.
- 13.3 "Advisory Planning Commission Bylaw No. 7022" and amendments thereto are hereby repealed.

Read a first, second and time by the Municipal Council this 18th day of November, 2002.

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk