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## CITY OF KELOWNA

# MEMORANDUM

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**Date:** January 8, 2001  
**File No.:** MOA 0550-06

**To:** City Manager

**From:** Planning and Development Services Department

**Subject:** Council Policy No. 236 and Proposed Council Policy No. 290 -  
Development Application Sunset Policy and Lapsed Development Permit Policy

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### 1.0 RECOMMENDATION

THAT Municipal Council amend Council Policy No. 236 and adopted new Council Policy No. 290 as amended and detailed in Schedule A and Schedule B attached to the report from the Planning and Development Services Department dated January 8, 2001.

### 2.0 SUMMARY

#### 2.1 Background

Council Policy No. 236 relates to the City of Kelowna policy with regard to the expiration of Development Permits and amending bylaws – commonly referred to as a Sunset Policy. Amendments to the policy are proposed to ensure consistency with the City of Kelowna Procedures Bylaw No. 8140. Council Policy No. 236 has been updated to provide current date formatting since Council first considered this policy on November 6, 2000.

New Council Policy No. 290 is in response to concerns raised by Council regarding new development proposals for lands that had been subject to a previously approved Development Permit. The proposed policy has been amended since Council's consideration on November 6, 2000 to address the following issues, as raised by Council:

- Property owners shall be advised at least 7 days prior to new applications considered by Council;
- Require the applicant to provide a City staff contact name and number when canvassing the property owners within 100 m of the subject property;
- Elaboration of what changes will trigger public notification for a new development permit.

### 3.0 PLANNING COMMENTS

The Planning and Development Services Department recommend that Council approve the changes to Council Policy No. 236 and adopt new Council Policy No. 290.

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Andrew Bruce  
Current Planning Manager

Approved for inclusion

R.L. (Ron) Mattiussi, A.C.P., M.C.I.P.  
Director of Planning & Development Services



# CITY OF KELOWNA

## COUNCIL POLICY MANUAL

POLICY: 236  
 PAGE: 1 of 2  
 APPROVAL DATE: 1999/08/23  
 RESOLUTION #: R728/99/08/23  
 REPLACING #: S1809/1991/12/09  
 DATE OF LAST REVIEW: January 2001

SUBJECT: SUNSET POLICY FOR DEVELOPMENT AND DEVELOPMENT  
VARIANCE PERMIT APPLICATIONS, REZONING AND OCP AMENDMENT BYLAWS

A. The following policy will establish the timelines for issuance of Development and Development Variance Permits after Council approval:

1. Unless otherwise specified by Council resolution, all conditions of issuance of development and development variance permits must be met within six months (180 days) after the date of a resolution conditionally approving a development permit. After that time period, the resolution will be void and the file closed.
2. This policy will be implemented by attaching a condition to each resolution being presented for Council's consideration of a Development or Development Variance Permit as follows:

THAT Municipal Council authorize the issuance of Development (Variance) Permit No. \_\_\_\_\_ (legal description); located on \_\_\_\_\_, Kelowna, B.C., subject to the following terms and conditions (as required):

- (a) The dimensions and siting ...;
- (b) The exterior design and finish of the building ...;

AND THAT the applicant be required to complete the above-noted conditions prior to (date \_\_\_\_\_ 180 days after Council approval of the development permit application) in order for the permit to be issued.

3. The following information will be expressly stated on the form of permits issued by the City of Kelowna:

APPROVALS, DATE OF ISSUANCE, TERM AND EXPIRY OF PERMIT:

- .1 Approvals:  
 Approved by the Ministry of Transportation and Highways this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.  
 Authorizing Resolution passed by the Municipal Council the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.
- .2 Date of Issuance:  
 The Date of Issuance of this Permit shall for all purposes be deemed to the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.
- .3 Term and Expiry of Permit:  
 This Permit shall be for a term of ONE YEAR **from date of issuance**, during which the owner must:
  - obtain a building permit; and
  - substantially start construction of the development for which this Permit has been issued failing which this Permit shall expire. Substantial start of construction shall include excavation, building and foundation work including footings but shall exclude preliminary site preparation work including, but not limited to, clearing, grading, pre-loading and fencing.





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- B. The following sunset policy will apply to Rezoning applications and Official Community Plan amendments:
1. Zoning or Official Community Plan amendment bylaws which have not received final reading within one year of the date of **third reading** shall be forwarded to Council with a recommendation for final consideration. Where issues relevant to the rezoning application remain unresolved, the staff recommendation will be for defeat of the bylaw at fourth reading.
  2. The applicant will be notified in writing 30 days prior to the recommendation being forwarded for Council's consideration and will be provided an opportunity through staff to advise Council whether or not the application should receive an extension of up to one year.

REASON FOR POLICY: It is in the public interest to establish timelines for issuance of Development and Development Variance Permits after Council approval and to establish a policy to limit the time in which Zoning and Official Community Plan bylaws are allowed to remain in the process without final approval.

LEGISLATIVE AUTHORITY: Council Resolution and Development Application Procedures Bylaw 8140

PROCEDURE FOR IMPLEMENTATION: Policy administered by staff of the Planning & Development Services Department.





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POLICY: 290  
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 APPROVAL DATE:  
 RESOLUTION #:  
 REPLACING #:  
 DATE OF LAST REVIEW: January 2001

### SUBJECT: LAPSED DEVELOPMENT PERMITS

Where a development permit was issued in conjunction with the processing of a rezoning, land use contract amendment, heritage revitalization agreement, development variance permit, or other application involving a public process, and that development permit lapses:

1. If an application is subsequently made for a new development permit in regard to the same property:
  - (a) which would have the effect of altering any condition(s) set by the lapsed development permit, or of setting any new conditions which would have the effect of altering any of the following characteristics of the proposed development;
    - An increase or decrease in the total number of units or floor area by more than 10% of the previously approved total;
    - A change in the exterior design of the proposed building (i.e. height, general massing, architectural style, predominant colour scheme) that results in a change of the general form and character of the building;
    - A change in the location of parking, driveways, open space, accessory buildings or common amenities that would have an increased impact on adjacent or abutting residential land use;

Or

- (b) for a land use allowed under the existing zoning or land use contract that is different from the development proposal that was approved by the lapsed permit;

#### **it shall be the responsibility of the applicant to:**

- Canvas all property owners within a 100 metre radius of the boundary of the parcel for which the new development permit application is made at least 7 days prior to Council's consideration of the new application;
- provide property owners with a contact name and telephone number of the Development Officer at City Hall who can provide additional detail or receive comments from the property owners;
- clearly explain to those property owners how the condition(s) set by the previously granted but since lapsed development permit would be altered, and/or what new conditions would be set, should a new development permit be issued pursuant to the new application;
- collect written comments from each property owner being canvassed as to their support, opposition, or other opinions about the matter; and
- provide all such comments to the City prior to deadline date for submissions established by the City.







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**SUBJECT: LAPSED DEVELOPMENT PERMITS**

2. Where a property owner who has been canvassed by an applicant refuses to provide written comments, the applicant must provide proof to the City that the property owner was given the opportunity to comment by way of a copy of a written notice and proof of delivery to the listed address of the property owner.

**REASON FOR POLICY:** To ensure the public has input into development proposals that change after an approved Development Permit lapses.

**LEGISLATIVE AUTHORITY:** Council Resolution and Development Application Procedures Bylaw No. 8140

**PROCEDURE FOR IMPLEMENTATION:** As outlined in the policy.

