

Memo



Date: June 10, 2011
To: City Manager
From: Land Use Management Department
Subject: AMENDED Development Application Procedures Bylaw

Recommendation:

THAT Council, receives, for information, the Report from the Land Use Management Department dated June 10, 2011 with respect to amending the new Development Application Procedures Bylaw at third reading;

AND THAT Bylaw No. 10540, being the Development Application Procedures Bylaw, be amended at third reading to include the changes outlined in Schedule 'A' attached to the Report of the Land Use Management Department dated June 10, 2011.

Purpose:

On May 30, 2011, Council gave three readings to the new Development Application Procedures Bylaw. Subsequently, Staff received formal correspondence from the Urban Development Institute (UDI) which recommended several minor changes to the proposed bylaw (see attached letter). During review of these proposed changes, Staff also noted that three additional minor amendments may be warranted. The proposed amendments are attached and are discussed in detail below.

Background/Discussion:

UDI Amendments

Performance Security

Staff had proposed to increase the performance security from 125% of the estimated value of construction to 140% in order to be consistent with other City bylaw requirements. UDI feels that this would add unnecessary cost to the development process. The amended bylaw reverts back to the 125%.

Permit Lapse

UDI noted that the previous provisions surrounding permit lapses did not consider formal Phased Development Agreements, which would contain their own independently negotiated terms. In response, staff has added an exemption to the subject section for approved Phased Development Agreements.

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Certified Irrigation Designers

The previous draft had required that Irrigation Plans be prepared by a Certified Irrigation Designer in order to ensure a high standard of work. UDI again suggested that the additional cost of this would be a hindrance to development. Staff note that this requirement is a reflection of the standards set in the Kelowna 2030 - Official Community Plan. However, in order to be completely consistent with the OCP, Staff recommend that the wording of the requirement be changed from having Irrigation Plans prepared to having them certified by a Certified Irrigation Designer.

Staff Amendments

Permit Renewals and Extensions

Staff noted that provisions proposed to limit the number and duration of permit extensions and renewals exceeded the legislated limits found in the *Local Government Act*. The offending section is proposed to be removed.

Substantial Completion

In order to return the initial 90% of a security deposit, it was proposed in the previous draft that a letter would be required from a Qualified Professional (Landscape Architect, Certified Irrigation Designer, or Qualified Environmental Professional, as appropriate) which certified that the landscape works were substantially completed in accordance with the approved Development Permit.

Staff is proposing to include a provision allowing the Director of Development Services to determine substantial completion of works in recognition that some flexibility may be required to make the determination in differing circumstances. It is anticipated that this provision will be relied upon rarely.

Internal Circulation:

City Clerk
Director of Policy & Planning
Director of Development Services
Parks & Public Spaces Manager

Submitted by:


J. Moore, Land Use Planner

Reviewed by:



T. Cashin, Manager, Environmental Land Use Management

Approved for inclusion:



S. Gambacort, Director of Land Use Management

Attachments:

Schedule 'A' - List of Amendments

Schedule 'A' – List of Proposed Amendments

Category	Section	Existing	Proposed
Permit Renewals, Extensions and Lapse	2.11.1(a)	Applications to renew or to extend a Development Permit, Development Variance Permit or Temporary Use Permit under this bylaw must make application prior to the lapse of their permit.	Applications to renew or to extend a Development Permit, Development Variance Permit or Temporary Use Permit under this bylaw must be made make application prior to the lapse of their permit.
	2.11.1(c)	A Development Permit or Development Variance Permit may only be renewed or extended three (3) times, with each individual renewal or extension not exceeding two (2) years in duration measured from the date of issuance of the Permit by Council or by the Director of Land Use Management.	Delete.
	2.11.2(b)(vi)	Upon receiving final occupancy for a phase of an approved phased development, subsequent phases must meet the criteria of Section 2.11.1(b) within twelve (12) months or the permit will be deemed to have lapsed and will have no force or effect.	Except for Phased Development Agreements approved pursuant to Schedule '8' of this Bylaw, Upon receiving final occupancy for a phase of an approved phased development, subsequent phases must meet the criteria of Section 2.11.1(b) within twelve (12) months or the permit will be deemed to have lapsed and will have no force or effect.
Performance Security	2.11.2(c)	A Development Permit is considered to have lapsed in accordance with Section 926 of the <i>Local Government Act</i> .	A Development Permit is considered to have lapsed in accordance with Section 926 of the <i>Local Government Act, or as specified by the Permit</i> .
	2.8.3(a)	In the case of a condition in a permit respecting landscaping works, the amount will be 140% of the cost of the works, including inspections, monitoring and maintenance, paid in full prior to permit issuance;	In the case of a condition in a permit respecting landscaping works, the amount will be 125% of the cost of the works, including inspections, monitoring and maintenance, paid in full prior to permit issuance;
	2.8.3(e)(i)	The landscape works (including irrigation) will be considered substantially complete upon receipt of letters or Landscape Schedules of Assurance (L3)	The landscape works (including irrigation) will be considered substantially complete upon receipt of letters or Landscape Schedules of Assurance (L3)

		from a Landscape Architect and a Certified Irrigation Designer which certify that the landscape and irrigation works have been completed in accordance with the approved Development Permit.	from a Landscape Architect and a Certified Irrigation Designer which certify that the landscape and irrigation works have been completed in accordance with the approved Development Permit, <i>or as determined by the Director of Land Use Management.</i>
	2.8.3(f)(i)	The landscape works will be considered substantially complete upon receipt of a letter from a Qualified Professional certifying that the landscape works have been completed in accordance with the approved Development Permit.	The landscape works will be considered substantially complete upon receipt of a letter from a Qualified Professional certifying that the landscape works have been completed in accordance with the approved Development Permit, <i>or as determined by the Director of Land Use Management.</i>
Application Requirements	Schedule '1' (m)	An Irrigation Plan, prepared by a Certified Irrigation Designer; and	An Irrigation Plan, prepared by <i>certified</i> by a Certified Irrigation Designer; and