

THE CORPORATION OF THE DISTRICT OF SUMMERLAND

BYLAW NUMBER 98-003

CONSOLIDATED FOR CONVENIENCE TO INCLUDE
BYLAWS 2000-067, 2000-36, 2000-466 and 2020-008

**A BYLAW TO ESTABLISH PROCEDURES TO AMEND AN OFFICIAL
COMMUNITY PLAN OR A ZONING BYLAW OR TO ISSUE A PERMIT UNDER
PART 26 OF THE MUNICIPAL ACT**

WHEREAS the Council of the Corporation of the District of Summerland has adopted an Official Community Plan and a Zoning Bylaw;

AND WHEREAS the Council of the Corporation of the District of Summerland has designated areas within which Development Permits are required;

AND WHEREAS the Council of the Corporation of the District of Summerland shall, under *Section Act 460* of the *Local Government Act*, by bylaw establish procedures to amend a plan, bylaw or issue a permit;

NOW THEREFORE the Council of The Corporation of the District of Summerland in open meeting assembled hereby enacts as follows:

Title

1. This Bylaw may be cited for all purposes as the "Summerland Land Use Procedures Bylaw Number 98-003".

Scope

2. This Bylaw shall apply to the following:
 - (a) Amendments to:
 - (i) an Official Community Plan;
 - (ii) a Zoning Bylaw.
 - (b) Issuance of:
 - (i) Development Variance Permits;
 - (ii) Development Permits.

Application

3. (a) Applications for an amendment or a permit shall be made by the owner of the subject land or by a person authorized by the owner.

- (b) Applications for amendments or permits shall be made to the Development Services Department on the approved forms.

Fee

4. At the time of the application for an amendment or a permit, the applicant shall pay to the municipality an application fee as established in the District of Summerland Fees and Charges Bylaw.

Process – General

5. Every application shall be processed by Development Services Department staff and a report containing all relevant information and a staff recommendation shall be presented to Council for its consideration.

Bylaw 2020-008- Adopted April 14, 2020 – added the following section:
Process – COVID – 19 Pandemic Provincial State of Emergency

5.1 During the COVID-19 Pandemic Provincial State of Emergency:

- a) All development applications pursuant to Part 14 of the *Local Government Act* will continue to be processed by the Development Services Department. Applications will be processed in accordance with established practices with the exception that all communications to applicants will be conducted via email, mail and telephone.

Council will consider the following applications:

- i. Development Permits not delegated to the Director of Development Services pursuant to the Official Community Plan;
 - ii. Development Variance Permits; and
 - iii. Official Community Plan or Zoning Bylaw Amendments and Temporary Use Permits.
- b) Upon receipt of a report from Development Services respecting an application to amend the Official Community Plan or Zoning Bylaw, Council may:
- i. Proceed with the bylaw pursuant to the amendment application;
 - ii. Forward the amending bylaw or bylaws to a Public Hearing or waive the requirement for a Public Hearing as provided for by the *Local Government Act*;
 - iii. Reject or refuse the application; or
 - iv. Defer or otherwise deal with the application.
- c) Public Hearings are suspended until either:

- i. An alternative means of conducting Public Hearings is provided pursuant to a Provincial Government Order or legislative amendment; or
- ii. the Provincial State of Emergency has been rescinded.

Public Hearings will be scheduled by the Corporate Services Department as soon as practical following either or these outcomes.

- d) Applications involving bylaw amendments that Council chooses to advance further will be held at first reading.
- e) Except for Permits which may be issued by the Director of Development Services pursuant to the District of Summerland Official Community Plan, Council may, upon receipt of a report from Development Services respecting an application for Development Permit:
 - i. Issue, amend, or refuse the permit (if OCP guidelines are not respected);
 - ii. Impose requirements and set conditions or standards;
 - iii. Impose conditions for the sequence and timing of construction;
 - iv. Require security; or
 - v. Defer or otherwise deal with the Permit Application.
- f) Comments on applications where notification is given to surrounding property owners and tenants must be submitted in written form, delivered to the Corporate Officer for Council's consideration prior to 4 pm on the date of the scheduled meeting; and
- g) Applications for Temporary Commercial or Industrial Use Permits will be processed according to the same procedure as for Official Community Plan and Zoning Bylaw amendments described in subsection (b) and in accordance with the *Local Government Act* [as if the resolution were a bylaw].
- h) The time limits for bylaws as described in section 8.2 are suspended.

Process - Development Permit/Development Variance Permits

- 6. Prior to presentation to Council every application for a Development Variance Permit shall cause a notice to be mailed or otherwise delivered pursuant to Section 499 of the *Local Government Act* to owners and tenants in occupation of all parcels:
 - (a) within the area that is the subject of the permit;
 - (b) within a distance of 30 metres from the land that is the subject of the permit.
- 7. Council shall either reject, approve or approve as amended an application for a Development Permit and/or a Development Variance Permit.

Process - Official Community Plan and Zoning Amendments

- 8. Council shall either deny the application for an amendment to the Official Community Plan or the Zoning Bylaw, or resolve that the application has merit and approve the application to

be presented in Bylaw Form and to a Public Hearing.

Bylaw 2000-466, adopted November 28th, 2011 amended the following section 8(a) to read as follows:

- (a) If an application is withdrawn or denied prior to first reading, the applicant is refunded one-half of the application fee.
- (b) If an application is approved to proceed to Public Hearing:
 - (i) the applicant is required to post the subject property with signing as approved and provided on deposit by the District and placed in a visible location on the subject property in close proximity to a public highway, for a minimum of two weeks prior to the Public Hearing;
 - (ii) the notice of the Public Hearing shall be mailed or otherwise delivered to owners and tenants in occupation of all parcels:
 - within the area that is the subject of the bylaw;
 - within a distance of 30 metres from the land that is the subject of the bylaw.
 - (iii) the notice of the Public Hearing shall be as regulated by Section 466 of the *Local Government Act*.

Bylaw 2000-067, adopted March 12, 2001 added the following section:

8.1 Prior to initial Council consideration of an application to amend the Official Community Plan or Zoning Bylaw, the application shall be considered by the Advisory Planning Commission and their recommendation shall be included in the report of the Development Services Department to Council.

- (i) Prior to the meeting of the Advisory Planning Commission at which consideration of an Official Community Plan or Zoning Amendment application is to take place, notice of the meeting shall be posted on the Municipal Hall notice board and published on the District of Summerland web site, a minimum of five days before the meeting.
- (ii) During the Advisory Planning Commission's consideration of an application, the Commission shall hear from the applicant and any member of the public in attendance wishing to provide comments in relation to the application under consideration.

Bylaw 2000-466, adopted November 28th, 2011 added the following section:

8.2 Any *Official Community Plan* or *Zoning Amendment Bylaw* that has remained at 3rd reading for a period exceeding one year shall be placed on the next available council agenda for council to:

- a) confirm the bylaw with a stated extension, or
- b) defeat the bylaw, or

- c) adopt the bylaw, or
- d) otherwise deal with at Council's discretion.

Bylaw 2000-363, adopted May 11, 2009, added the following section:

Process – Temporary Commercial Use Permits and Temporary Industrial Use Permits

- 9.1 An application for a Temporary Commercial or Temporary Industrial Use Permit must be made on an approved form, be signed by the agent, if applicable, and the owner of the lot or lots affected and shall be accompanied by the appropriate application fee as outlined in Fees and Charges Bylaw 98-001.
- 9.2 The applicant for a temporary use permit must post a sign on the property in close proximity to a public highway, a minimum of one week before review of the application by the Advisory Planning Commission. The sign will be provided by the District and the content shall include the dates for consideration of the application by the Advisory Planning Commission and Municipal Council.
- 9.3 Prior to Council consideration of a resolution to approve a temporary use permit the Corporate Officer must mail or otherwise deliver notice of a proposed Council consideration of a temporary commercial use permit or temporary industrial use permit to the owners and tenants in occupation of all lots, any part of which is:
 - (a) The subject of the proposed permit, or
 - (b) Located within 30 meters from the land that is the subject of the permit.
- 9.4 Prior to Council consideration of a resolution to approve a temporary use permit the Corporate Officer must publish notice in a newspaper in accordance with section 494 of the *Local Government Act*.
- 9.5 Temporary Use Permit applications will be considered by Council and will be authorized, authorized as amended, declined, or otherwise dealt with by resolution.
- 9.6 As a condition of issuance of a Temporary Use Permit, Council may require the owner of land to give the District security to guarantee the performance of the terms of the permit. The security deposit required by Council shall be in the form of either an irrevocable letter of credit, cash, or certified cheque in a form satisfactory to the District in the amount required by Council as a condition of permit issuance.'

Decision of Council - Amendments or Permits

- 10. Where an application, amendment bylaw or a permit has been refused or approved by Council, the Corporate Officer shall notify the applicant in writing within fifteen (15) days immediately following the date the amendment or permit was either refused or approved, and if refused, the reasons for refusal.

Re-Application

- 11. Subject to Section 460 of the *Local Government Act*, re-application for an 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.

Effective Date

12. This bylaw shall take effect on the 1st day of March 1998.

Repeal

13. Bylaw Number 90-014 be and is hereby repealed on the adoption hereof.

READ A FIRST, SECOND AND THIRD TIME this 26th day of January, 1998.

RECONSIDERED, FINALLY READ AND ADOPTED, this 9th day of February, 1998.

'Donald C. Cameron'
MAYOR

'G. Redlich'
CLERK