

SUMMARY:

The Development Application Procedures bylaw sets out the procedures for applying for amendments to the Official Community Plan, Zoning Bylaw, Land Use Contracts, Development Permits, Development Variance Permits and Temporary Commercial or Industrial Use permits. The information required for the various applications and the requirements for notification of adjacent owners, advertisements and the posting of development notice signs on the subject property are outlined in the bylaw.

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CITY OF KELOWNA
BYLAW NO. 8140
REVISED: June 3, 2004

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| CONSOLIDATED FOR CONVENIENCE TO INCLUDE: BYLAW NOS. 8331, 8441, 8578, 8634, 8647, 8927 and 9241 |
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Development Application Procedures Bylaw

A bylaw to define procedures for applying to amend the **Official Community Plan**, the **Zoning Bylaw**, or a Land Use Contract or to issue a Permit under Part 26 of the *Local Government Act*.

The Municipal **Council** of the **City** of Kelowna, in open meeting assembled, enacts as follows:

Section 1 – Introduction

1.1 Title

1.1.1 This bylaw may be cited as the 'Development Application Procedures Bylaw No. 8140.'

1.2 Interpretation

1.2.2 Any enactment referred to herein is a reference to an enactment of British Columbia and 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 the **Council** of the **City** of Kelowna, as amended, revised, consolidated or replaced from time to time.

1.2.3 The headings given to the sections and Paragraphs in this bylaw are for convenience of reference only. They do not form part of this bylaw and will not be used in the interpretation of this bylaw.

1.2.4 If any section, paragraph or phrase of this bylaw is for any reason held to be invalid by a decision of a Court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this bylaw.

1.2.5 The schedules attached to this bylaw form part of this bylaw.

1.3 Definitions

1.3.1 In this bylaw, unless the context otherwise requires:

BL8634 replaced the following definition:

'Building Inspector' means the person appointed by **City Council** to administer and enforce the provisions of the City of Kelowna Building Bylaw, 1993, No. 7245; the City of Kelowna Plumbing Regulation Bylaw No. 5968-87; and the City of Kelowna Gas Bylaw No. 6206-88.

'Bylaw Enforcement Officer' means the officers or employees appointed by **Council** as such.

'**City**' means the **City** of Kelowna;

'**Council**' means the Municipal **Council** of the **City** of Kelowna;

'**Development Permit**' means a permit authorized by section 920 of the *Local Government Act*;

'**Development Variance Permit**' means a permit authorized by section 922 of the *Local Government Act*;

'**Director of Planning & Development Services**' means the person appointed as such by the Municipal **Council** of the **City** of Kelowna and includes his or her lawful designate;

'**Inspection Services Manager**' means the person appointed as such by the Municipal **Council** of the **City** of Kelowna and includes his or her lawful designate;

'**Lot**' means a parcel of land, including crown land, which is legally defined either by registered plan or description;

'**Official Community Plan**' means Kelowna **Official Community Plan** (1994-2013) Bylaw No. 7600;

'**Owner**' means the registered **owner** of an estate in fee simple, or his agent authorized in writing, and includes:

- (a) the tenant for life under a registered life estate;
- (b) the registered holder of the last registered agreement for sale; and
- (c) the holder or occupier of land held in the manner mentioned in sections 356 and 357 of the *Local Government Act*;

'**Public Hearing**' means a **public hearing** of **Council** pursuant to section 890 of the *Local Government Act*;

'**Site**' means an area of land consisting of a **lot** or two or more abutting **lots**;

'**Surveyor's Certificate**' means a **site** plan certified by a registered British Columbia Land Surveyor showing the locations of improvements on a **lot** relative to the **lot** lines;

'**Treasurer**' means the person appointed as such by the Municipal **Council** of the **City** of Kelowna;

'**Zoning Bylaw**' means **City** of Kelowna **Zoning Bylaw** No. 8000.

Section 2 – Amendment of Official Community Plan or Zoning Bylaw

2.1 Bylaw Amendment Application

2.1.1 An application for an amendment of the **Official Community Plan** or the **Zoning Bylaw** must be made on an approved form, signed by the agent, if applicable and the **owners** of the **lot** or **lots** affected and shall be accompanied by the appropriate application fee as outlined in Development Application Fees Bylaw No. 8034.

2.1.2 Notwithstanding sub-section 2.1.1, **Council** may initiate and consider an amendment of the **Official Community Plan** or **Zoning Bylaw** without the **owner(s)** written consent.

2.1.3 The application shall include the following:

- (a) the completed application form;
- (b) documentation of current ownership;
- (c) a written statement to describe and justify the proposal;
- (d) a map showing the proposed change in the context of adjacent land;

BL8634 replaced sub-section 2.1.3(e):

- (e) any additional information the **Director of Planning & Development Services** may require, in order to prepare, evaluate, and make a recommendation concerning the proposed rezoning or **Official Community Plan** amendment in accordance with sub-section 2.1.4.

2.1.4 The **Director of Planning & Development Services** may request the applicant provide development approval information pursuant to section 920.1 of the *Local Government Act*, including but not limited to an analysis by a qualified professional of the potential impact on land use, traffic, environmental, utilities, and other **City** services and facilities if the amendment proposes an increase in density or other intensification of use. This impact report may be required to contain the following information:

- (a) the relationship and compliance with the **Official Community Plan** and any other relevant municipal plan or policy in preparation for or adopted by **Council**;
- (b) traffic and public transit impact in terms of daily and peak hour trip generation and assignments;
- (c) requirements for drainage, water, sewage and other utilities;
- (d) potential effects on stability, retention and rehabilitation of existing land uses in the area;
- (e) a detailed soils or geotechnical evaluation of the **site** to confirm slope stability, appropriate top-of-bank setbacks and **site** suitability for on-site septic sewage disposal;

- (f) assessment of impact on community services and facilities such as parks, recreation, fire, and health;
- (g) the staging, implementation schedule, and duration of construction for any proposed development;
- (h) compatibility with surrounding areas in terms of land use, function, and scale of development;
- (i) relationship to municipal land, right-of-way or easement requirements; and
- (j) the relationship to any documented concerns and opinions of area residents and land **owners** regarding the application.

BL8578 added a new paragraph (k):

- (k) where a development proposal indicates a building that meets any of the following criteria, all building plans must be completed by a registered professional (architect or engineer):
 - (i) the building footprint exceeds 600 m²;
 - (ii) the building exceeds three storeys in height;
 - (iii) the building is used for Assembly Occupancies (i.e. theatres, churches, community halls, restaurants, schools, arenas, etc.);
 - (iv) the building is used for Care and Detention Occupancies (i.e. prisons, hospitals, nursing homes, etc.);
 - (v) the building is used for High Hazard Occupancies (i.e. spray painting operation, waste paper processing plants, chemical plants, bulk plants for flammable liquids, etc.); or
 - (vi) the building requires firewalls as provided for in the *BC Building Code* with a common egress system for the occupants.

2.1.5 The **Director of Planning & Development Services** may waive any of the requirements detailed in section 2.1.3 or 2.1.4 if the information is not relevant to the application.

2.2 Review By Director of Planning & Development Services

2.2.1 On receipt of a complete application, the application will be reviewed by the **Director of Planning & Development Services** who will report on the application to the **City Manager** with reference to the planning policies of **Council** and such other matters as may be considered by the **Director of Planning & Development Services** as essential or desirable to **Council's** consideration.

2.3 Review by Advisory Planning Commission

2.3.1 The **Director of Planning & Development Services** shall include the recommendations of the Advisory Planning Commission in a report to the **City Manager** for those applications which have been considered by the Commission pursuant to Advisory Planning Commission Bylaw No. 7022.

2.4 Council Consideration

2.4.1 **Council** may, upon receiving the report of the **Director of Planning & Development Services**:

- BL8578 replaced paragraph (b):**
- (a) authorize drafting of bylaw pursuant to the application;
 - (b) forward the amending bylaw or bylaws to a **public hearing** or waive the requirement for a **public hearing** as provided for by Council Policy;
 - (c) reject or refuse the application; or
 - (d) defer or otherwise deal with the application.

BL8578 added a new Subsection 2.4.2:
BL8927 deleted subsection 2.4.2 in its entirety.

2.5 Responsibilities of the City Clerk

2.5.1 When **Council** refers a bylaw to a **public hearing**, the **City Clerk** will:

- (a) prepare the bylaw and forward it to **Council** for first reading consideration;
- (b) after first reading, refer those bylaws subject to section 54(2) of the *Highway Act* to the Minister of Transportation & Highways for approval;
- (c) place the bylaw on the agenda of the next appropriate **public hearing** agenda; and
- (d) give notice of the **public hearing** as required by the *Local Government Act* and this bylaw.

BL8578 added a new Subsection 2.5.2:

2.5.2 When **Council** waives the **Public Hearing** requirement, the **City Clerk** shall:

- (a) prepare the bylaw and forward it to **Council** for first reading consideration;
- (b) after first reading, refer those bylaws subject to section 54(2) of the *Highway Act* to the Minister of Transportation & Highways for approval;
- (c) give notice of the proposed bylaw as required by the *Local Government Act* and this bylaw.

2.6 Notice to Nearby Owners and Tenants

BL8578 replaced Subsection 2.6.1:

2.6.1 Where an amendment bylaw alters the permitted use or density of an area, and the *Local Government Act* requires that notice must be mailed or otherwise delivered to the **owners** and tenants in occupation of land, the notice must be given to the **owners** and tenants in occupation of all **lots**:

- (a) any part of which is subject of the bylaw alteration, or
- (b) is located within 100 m from the land that is subject of the bylaw alteration.

2.6.2 The notification outlined in sub-section 2.6.1 is not required if 10 or more parcels owned by 10 or more persons are the subject of the bylaw alteration.

2.7 Development Notice Sign

BL8578 replaced paragraphs 2.7.1 and 2.7.2:

2.7.1 The applicant for an **Official Community Plan** or **Zoning Bylaw** amendment shall post development notice sign(s) on the subject property in accordance with Schedule "A" of this bylaw a minimum of 10 days prior to the Advisory Planning Commission meeting date if applicable, and a minimum of ten days prior to the **Public Hearing** date or date for submission of public input if **Public Hearing** has been waived.

BL8634 deleted paragraph 2.7.2 in its entirety

BL8647 added paragraph 2.7.2 as follows:

2.7.2 The posting of development notice signs outlined in sub-section 2.7.1 is not required if 10 or more parcels owned by 10 or more persons are the subject of the bylaw alteration.

2.8 After Public Hearing

2.8.1 After the **public hearing** on a bylaw has been terminated, **Council** will consider the amending bylaw, and may:

- (a) give second or third reading, or both, to the bylaw, or
- (b) give second, and third readings and adopt the bylaw, or
- (c) decline to give any reading to the bylaw, or
- (d) otherwise deal with the bylaw.

2.9 Final Adoption

2.9.1 **Council** may consider final adoption of an amendment bylaw:

- (a) after three readings have been given;
- (b) where a **development permit** is required by the **Official Community Plan**, upon receipt of a report from the **Director of Planning & Development Services** stating that a **development permit** has been prepared and is ready for **Council** consideration; and
- (c) where approval by the Ministry of Transportation & Highways or another authority or body is required by statute or regulation, following receipt of written approval from the authority.

2.9.2 Despite sub-section 2.9.1, **Council** may consider final adoption of an amendment bylaw after three readings are given and where the bylaw is otherwise dealt with by **Council**.

2.10 Bylaw Lapses

2.10.1 Every amendment bylaw which has not been finally adopted by **Council** within 12 months after the date it was given third reading, lapses and will be of no force and effect, and an applicant who wishes to proceed with its application must initiate a new application.

2.10.2 Upon written request by the applicant, **Council** may extend the 12 month period in sub-section 2.10.1 for one or more periods of 6 months.

BL8578 replaced sub-section 2.10.3:

2.10.3 The **Director of Planning & Development Services** will forward a recommendation to **Council** to defeat those bylaws which have lapsed pursuant to sub-sections 2.10.1 and 2.10.2 of this bylaw.

Section 3 – Land Use Contract Amendments

3.1 Application

3.1.1 An application to modify, vary, or discharge a Land Use Contract must be made on an approved form, signed by the agent, if applicable and the **owners** of the **lot** or **lots** affected and shall be accompanied by the appropriate application fee as outlined in Development Application Fees Bylaw 8034.

3.1.2 The application shall include all of the information outlined in sub-section 2.1.3 of this bylaw as well as details of the proposed Land Use Contract amendment.

3.1.3 The **Director of Planning & Development Services** may waive any of the requirements detailed in sub-section 3.1.2 if the proposal is of such a nature that **Council** is able to render a decision on the application without the required information.

3.2 Review by Director of Planning & Development Services

3.2.1 The application will be reviewed by the **Director of Planning & Development Services** who will report on the application to the **City Manager** with reference to the planning policies of **Council** and such other matters as may be considered by the **Director of Planning & Development Services** as essential or desirable to **Council's** Consideration.

3.3 Council Consideration

3.3.1 **Council** may, upon receiving the report of the **Director of Planning & Development Services**:

- (a) authorize the issuance of a **development permit** to modify or vary the Land Use Contract pursuant to section 930(2)(b) of the *Local Government Act* provided the amendment does not affect the permitted use or density of use of any parcel against which the contract is registered;

- (b) authorize the issuance of a **development variance permit** to modify or vary the Land Use Contract pursuant to section 930(2)(b) of the *Local Government Act* provided public notice has been carried out pursuant to sections 4.6 and 4.7 of this bylaw and the amendment does not affect the permitted use or density of use of any parcel against which the contract is registered;
- (c) authorize the drafting of a bylaw to modify or vary the Land Use Contract pursuant to section 930(2)(a) of the *Local Government Act* provided the amendment does not affect the permitted use or density of use of any parcel against which the contract is registered;
- (d) forward a bylaw to modify or vary a Land Use Contract respecting any matter in the contract relating to density or use of an area covered by the contract, or to discharge the Land Use Contract to a **public hearing** pursuant to section 930(5) of the *Local Government Act*;
- (e) otherwise deal with the proposed Land Use Contract amendment in the manner specified in the land use contract.

3.4 Responsibilities of the City Clerk

3.4.1 When **Council** refers a bylaw respecting a Land Use Contract to a **public hearing**, the **City Clerk** will:

- (a) prepare the bylaw and forward it to **Council** for first reading consideration;
- (b) after first reading refer those bylaws which are subject to section 930(4) of the *Local Government Act* to the Minister of Transportation & Highways for approval;
- (c) place the bylaw on the agenda of the next appropriate **public hearing** agenda; and
- (d) give notice of the **public hearing** as required by the *Local Government Act* and this bylaw.

3.4.2 When the **Director of Planning & Development Services** recommends that a Land Use Contract be modified or varied with a **Development Variance Permit**, the **City Clerk** shall carry out the public notification of **Council's** intention to consider a resolution to approve the permit pursuant to section 4.6 of this bylaw prior to the report being considered by **Council**.

3.5 Notice to Nearby Owners and Tenants

3.5.1 Where a Land Use Contract amendment or discharge bylaw has been referred to a **public hearing**, notice of the **public hearing** shall be mailed or otherwise delivered to the **owners** and tenants in occupation of all **lots**, any part of which is subject of the bylaw and any part of which is located within 100 m from the land that is subject of the bylaw.

3.6 Development Notice Sign

3.6.1 Where a Land Use Contract is to be amended or discharged via a bylaw considered at a **public hearing** the applicant shall post Development Notice Sign(s) on the subject property as outlined in section 2.7 of this bylaw.

3.7 After Public Hearing

3.7.1 After the **public hearing** on a bylaw has been terminated, **Council** will consider the amending bylaw, and may:

- (a) give second or third reading, or both, to the bylaw, or
- (b) decline to give any reading to the bylaw, or
- (c) otherwise deal with the bylaw.

Section 4 – Development Permits and Development Variance Permits

BL8441 replaced the title of sub-section 4.1:

4.1 Issuance of Permits

4.1.1 **Council** may, by resolution, issue:

- (a) **development variance permits** that vary a bylaw under Division 7, 8, or 11 of Part 26 of the *Local Government Act* or a bylaw under section 694(1)(j) of the *Local Government Act*;
- (b) **development permits** that vary or supplement this or other bylaws as authorized by section 920 of the *Local Government Act*.

4.1.2 The uses or density of land use permitted under the zone designation of the **Zoning Bylaw** may not be varied by **Council** by **development variance permit**.

BL8441 added sub-section 4.1.3:

BL8578 replaced sub-section 4.1.3:

4.1.3 The **Director of Planning & Development Services** is hereby authorized to exercise the powers and perform the duties of **Council** in respect of the issuance of **development permits** listed in this section. These powers and duties shall include, but not be limited to, establishing the requirements and conditions of the permit, the approval of the permit, and the determination of whether such requirements and conditions have been met.

This authority shall be limited to **development permits** which meet the following criteria:

- (a) General Commercial and Industrial Development Permit Areas as defined in the **Official Community Plan** where:
 - The application does not require the approval of the Ministry of Transportation & Highways; and
 - The proposed development is not directly adjacent to or abutting residential development.

- (b) Urban Town Centre Development Permit Areas as defined in the **Official Community Plan** where:
- The proposed development is generally consistent with approved development guidelines for the applicable Urban Town Centre Area or, where no specific guidelines exist, is generally consistent with the guidelines identified in Chapter 13 of the Official Community Plan;
 - The proposed development is not for multiple dwelling residential use; and
 - The proposed development is not directly adjacent to or abutting residential development.
- (c) Natural Environmental/Hazardous Condition Development Permit Areas as defined in the **Official Community Plan** where:
- The applicant has provided a habitat mitigation plan prepared by a qualified environmental consultant that is acceptable to the Ministry of Environment, Lands and Parks and the City of Kelowna Environment Manager; and
 - The proposal does not require any variances to the regulations of the City of Kelowna Zoning Bylaw No. 8000.
- (d) Renewal and extension of **development permits** that have been authorized for issuance or have been issued provided:
- (i) The term of authorization for issuance of the **Development Permit** does not exceed 12 months from the original date of authorization for issuance of the **Development Permit** by either Council or the **Director of Planning & Development Services**, or
 - (ii) The term of issuance of the **Development Permit** does not exceed 2 years from the original date of issuance of the **Development Permit**.

In all cases where extension of the authorization for issuance or the issuance of a **Development Permit** is to be considered, there must not be any changes to the proposed development when compared to the original authorization.

BL9241 added sub-section 4.1.3 (e):

- (e) Intensive Residential Development Permit Areas as defined in the Official Community Plan where:
- (i) The proposed development is generally consistent with approved development guidelines identified in Chapter 8 of the Official Community Plan for Intensive Development Permit Areas.

Where the authority to issue a **Development Permit** has been delegated to the **Director of Planning & Development Services** as outlined in this section, the **Director of Planning & Development Services** may authorize and approve the permit, authorize and approve the permit as amended, reject, refuse or otherwise deal with the application for a **Development Permit**.

4.2 Development Permit Required

BL8634 replaced sub-section 4.2.1:

4.2.1 Unless otherwise exempted from the requirement to obtain a **Development Permit** by the **Official Community Plan**, an **owner** of land designated as a **development permit** area in the **Official Community Plan** must obtain and hold a valid **development permit** prior to:

- (a) subdividing land,
- (b) constructing, adding to, or altering a building or structure,
- (c) altering land within an area designated for protection of the natural environment or protection of development from hazardous conditions, or
- (d) altering land within an area designated for revitalization of an area in which a commercial use is permitted, or altering a building or structure on that land.

4.3 Application

4.3.1 An application for a **development variance permit** or **development permit** shall be made on an approved form, signed by the applicant and the registered **owner** of the land affected or his or her duly authorized agent and shall be accompanied by the appropriate application fee as outlined in Development Application Fees Bylaw 8034.

4.3.2 The application must be accompanied by the following:

- (a) the completed application form;
- (b) documentation of current ownership;
- (c) a written statement to describe and justify the proposal;
- (d) a map showing the proposed change in the context of adjacent land;
- (e) any additional information the **Director of Planning & Development Services** may require, in order to prepare, evaluate, and make a recommendation concerning the proposed permit in accordance with sub-section 2.1.4.
- (f) development approval information pursuant to section 920.1 of the *Local Government Act* which may include information on the anticipated impact of the proposed activity or development on the community, including but not limited to:
 - (i) transportation patterns including traffic flow,
 - (ii) local infrastructure,
 - (iii) public facilities including schools and parks,
 - (iv) community services, and
 - (v) the natural environment of the area affected; and

- (g) any other information the **Director of Planning & Development Services** requires in order to explain the proposal or to confirm that the proposal will comply with all **City** bylaws, policies and regulations.

4.4 Review by Director of Planning & Development Services

- 4.4.1 The application will be reviewed by the **Director of Planning & Development Services** who will report on the application to the **City** Manager with reference to the planning policies of **Council** and such other matters as may be considered by the **Director of Planning & Development Services** as essential or desirable to **Council's** Consideration.

4.5 Review by Advisory Planning Commission

- 4.5.1 The **Director of Planning & Development Services** shall include the recommendations of the Advisory Planning Commission in his report to the **City** Manager for those applications which have been considered by the Commission pursuant to Advisory Planning Commission Bylaw No. 7022.

4.6 Notice of Development Variance Permit

- 4.6.1 The **City** Clerk must mail or otherwise deliver notice of a proposed **Council** consideration of a **development variance 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 m from the land that is the subject of the proposed permit.

4.7 Development Notice Sign

- 4.7.1 The applicant for a **Development Permit** or **Development Variance Permit** shall post development notice sign(s) on the subject property in accordance with Schedule "A" of this bylaw a minimum of 10 days prior to the Advisory Planning Commission meeting date and a minimum of 10 days prior to the **Council** meeting date at which time the application will be considered.

BL8634 deleted sub-section 4.7.2 in its entirety

BL8441 added paragraph 4.7.3:

- 4.7.3 Where the authority to issue a **Development Permit** has been delegated to the **Director of Planning & Development Services** as outlined in Section 4.1.3 of this Bylaw, a development notice sign is not required to be posted.

4.8 Consideration By Council

BL8441 replaced paragraph 4.8.1:

- 4.8.1 Except for **Development Permits** which may be issued by the **Director of Planning & Development Services** pursuant to Section 4.1.3 of this bylaw, **Development Permits** and **Development Variance Permits** will be considered by **Council** and will be authorized, authorized as amended, rejected, refused, or otherwise dealt with by resolution.

4.8.2 Where the **development permit** or **development variance permit** requires the approval of the Ministry of Transportation & Highways, **Council** will consider approval of the permit after receiving Ministry Approval.

4.9 Security Before Permit Issuance

BL8441 replaced paragraph 4.9.1:

4.9.1 Where landscaping is a condition of a **Development Permit** or **Development Variance Permit** issued by **Council**, or of a **Development Permit** issued by the **Director of Planning & Development Services**, the applicant shall provide a security deposit, in the form of either an Irrevocable Letter of Credit, cash, or certified cheque in a form satisfactory to the **City Treasurer** in the amount of 125% of the estimated cost of the landscaping.

4.9.2 The letter of credit for landscaping may be reduced proportionately as the areas of the **site** are completed and accepted by the **Director of Planning & Development Services**.

4.9.3 **Council** may require the applicant to post security in a form satisfactory to the **City** as a condition of a **development permit** or **development variance permit** pursuant to section 925(2)(b) or (c) of the *Local Government Act* with respect to an unsafe condition or the protection of the natural environment.

4.9.4 If landscape construction and planting is not completed by the date of expiry of the letter of credit, or an unsafe condition or damage to the natural environment has resulted as a consequence of the violation of the permit, **the City** may cash the security deposit for the purposes of entering upon the subject property and completing the landscape construction and planting, or undertake works to correct the unsafe condition or correct the damage to the natural environment.

4.9.5 Upon completion of the landscape construction and planting, the **City** may withhold ten percent of the security deposit for one growing season unless the applicant has provided the **City** with warranties covering soft and hard landscaping for the same period.

Section 5 – Landscaping Information

5.1 Landscape Plan

BL8634 replaced sub-section 5.1.1:

5.1.1 Where a landscape plan is required, every plan shall provide sufficient information to identify the **site** and any improvements thereon including:

- (a) drawings which show the dimensions and location of footprints for all existing and proposed landscaping relative to the existing and final **site** grades, vehicle areas, property lines, easements, adjacent land uses, building entrances and walkways, exterior lighting, street furniture, hydrants, garbage collection areas, utility poles, and underground utilities;
- (b) drawings which describe the existing and proposed plant materials (including areas of natural vegetation to be retained) identifying common and scientific plant names, quantity, calliper, rootball size, and height at planting and maturity;

- (c) drawings which describe the irrigation systems relative to boulevards, buffer strip and public rights-of-way, direction of drainage, and catch basins and sub-drains marked with proposed rim and invert elevations;
 - (d) landscape drawings are to include a north arrow and legend that includes the date, metric scale, revision box, and plant materials list; and/or
 - (e) any information required by the **Director of Planning & Development Services**.
- 5.1.2 Any changes to an approved landscape plan must be authorized by the **Director of Planning & Development Services**.
- 5.1.3 No building permit shall be issued prior to the approval of a required landscape plan.
- 5.1.4 No occupancy permit other than a temporary occupancy permit shall be issued prior to completing the landscape requirements in accordance with the approved landscape plan unless security or warranties pursuant to Section 4.9 are in place.

Section 6 – Landscaping as a Condition of Building Permit

6.1 Bonding

- 6.1.1 Where landscaping is required in accordance with the **Zoning Bylaw** and where the **owner** is not required to obtain a **Development Permit** in accordance with the **Official Community Plan** and does not require a **Development Variance Permit**, the **owner** shall provide the Building Inspector a security deposit for landscaping at the time of application for a Building Permit under **City** of Kelowna Building Bylaw 1993, No. 7245.
- 6.1.2 The security deposit required under sub-section 6.1.1 shall be in the form of either an irrevocable letter of credit, cash, or certified cheque in a form satisfactory to the **City Treasurer** in the amount of 125% of the estimated cost of the landscaping. The estimate of costs of landscaping shall include an itemized cost estimate of the landscape construction, hard and soft landscape materials, protective curbing, irrigation systems, and labour.
- 6.1.3 If landscape construction and planting is not completed by the date of expiry of the letter of credit, the **City** may cash the security deposit for the purposes of entering upon the subject property and completing the landscape construction and planting.
- 6.1.4 Upon completion of the landscape construction and planting, the **City** may withhold ten percent of the security deposit for one growing season unless the applicant has provided the **City** with warranties covering soft and hard landscaping for the same period.
- 6.1.5 Upon completion of all landscaping requirements to the satisfaction of the **City** shown on the approved landscaping plans, and the submission of statutory declarations showing that all materials and labour costs have been paid, the **City** shall return the security deposit, subject to Section 6.1.4.

Section 7 – Temporary Use Permits

7.1 Application

7.1.1 An application for a Temporary Commercial or Temporary Industrial Use must be made on an approved form, signed by the agent, if applicable and the **owners** of the **lot** or **lots** affected and shall be accompanied by the appropriate application fee as outlined in Development Application Fees Bylaw No. 8034.

7.1.2 The application shall include the following:

All of the information outlined in sub-sections 2.1.3 and 2.1.4 of this bylaw.

7.1.3 The **Director of Planning & Development Services** may waive any of the requirements detailed in sub-sections 2.1.3 or 2.1.4 if the information is not relevant to the application.

7.2 Review by Director of Planning & Development Services

7.2.1 The temporary use permit application will be reviewed by the **Director of Planning & Development Services** who will report on the application to the **City Manager** with reference to the planning policies of **Council** and such other matters as may be considered by the **Director of Planning & Development Services** as essential or desirable to **Council's** consideration.

7.3 Review by Advisory Planning Commission

7.3.1 The **Director of Planning & Development Services** shall include the recommendations of the Advisory Planning Commission in his report to the **City Manager** for those applications which have been considered by the Commission pursuant to Advisory Planning Commission Bylaw No. 7022.

7.4 Notice of Temporary Commercial or Temporary Industrial Permit Use

7.4.1 Prior to **Council** consideration of a resolution to approve a temporary use permit, the **City Clerk** must mail or otherwise deliver notice of a proposed **Council** consideration of a temporary commercial use 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 100 m from the land that is the subject of the proposed permit.

7.5 Development Notice Sign

7.5.1 The applicant for a Temporary Use Permit shall post development notice sign(s) on the subject property in accordance with Schedule "A" of this bylaw a minimum of 10 days prior to the Advisory Planning Commission meeting date, and a minimum of ten days prior to the **Council** consideration of the approval of the permit.

7.6 Consideration by Council

- 7.6.1 Temporary Use Permits applications will be considered by **Council** and will be authorized, authorized as amended, declined, or otherwise dealt with by resolution.
- 7.6.2 As a condition of issuance of a Temporary Use Permit, **Council** may require the **owner** of land to give the **City** 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 **City Treasurer** in the amount required by **Council** as a condition of permit issuance.

Section 8 – Enforcement

8.1 Inspection

- 8.1.1 The **Director of Planning & Development Services, Building Inspectors** and **Bylaw Enforcement Officers** and any other authorized representative of the **City** under their direction is hereby authorized to enter at all reasonable times upon any premise to ascertain whether the regulations and provisions of this bylaw are being or have been complied with.

8.2 Offence

- 8.2.1 Every person who violates a provision of this bylaw commits an offence and is liable on summary conviction to a penalty not exceeding Ten Thousand Dollars (\$10,000.00) and the costs of prosecution.
- 8.2.2 Each day a violation of the provisions of this bylaw exists or is permitted to exist shall constitute a separate offence.
- 8.2.3 No person or **owner** shall alter a building or land in a **development permit** area as designated in the **Official Community Plan** unless the **owner** holds a valid **development permit** pursuant to section 4.2.1 of this bylaw.
- 8.2.4 No person shall interfere with or obstruct the entry of a **Bylaw Enforcement Officer** or any authorized **City** representative onto any land or into any building to which entry is made or attempted pursuant to the provisions of this bylaw.
- BL8331 added paragraph 8.2.5:**
- 8.2.5 No person shall alter a building or land contrary to a permit or a condition of a permit issued pursuant to this bylaw.

Section 9 – General

9.1 Re-consideration

- 9.1.1 Where an applicant or **owner** is subject to a decision made by the **Director of Planning & Development Services** regarding development approval information pursuant to sub-sections 2.1.4, 4.3.2(f) or 7.1.2 of this bylaw is dissatisfied with the decision, the applicant or **owner** may apply to **Council** for re-consideration of the matter within 30 days of the decision being communicated to them.

BL8441 added a new paragraph 9.1.2 and renumbered the subsequent paragraphs:

- 9.1.2 Where an applicant or **owner** subject to a decision made by the **Director of Planning & Development Services** pursuant to Section 4.1.3 of this bylaw, is dissatisfied with the decision, the owner may apply to **Council** for re-consideration of the matter within 30 days of the decision being communicated to them.
- 9.1.3 An application for re-consideration must be delivered in writing to the **City** Clerk and must set out the grounds upon which the applicant considers the requirement or decision of the **Director of Planning & Development Services** is inappropriate and what, if any requirement or decision the applicant considers **Council** ought to substitute.
- 9.1.4 The **City** Clerk must place each application for re-consideration on the agenda of a regular meeting of **Council** to be held not earlier than two weeks from the date the application for re-consideration was delivered, and must notify the applicant and any other party who the **City** Clerk reasonably considers may be affected by the re-consideration, of the date of the meeting at which the re-consideration will occur.
- 9.1.5 At the meeting, **Council** may hear from the applicant and any other person interested in the matter under re-consideration who wishes to be heard, and may either confirm the requirement or decision of the **Director of Planning & Development Services** or substitute its own requirement or decision.

9.2 Re-application

- 9.2.1 Subject to section 895(3) of the *Local Government Act*, re-application for an amendment of the **Official Community Plan** or **Zoning Bylaw** or a Permit under Part 26 of the *Local Government Act* that has been refused by **Council** shall not be considered within a six month period immediately following the date of refusal.

9.3 Repeal

- 9.3.1 Development Application Procedures Bylaw No. 6222-88 together with all amendments is hereby repealed.

9.4 Effective Date

- 9.4.1 This bylaw comes into force and takes effect on the date of adoption.

Read a first, second and third time by the Municipal Council this 19th day of October, 1998.

Adopted by the Municipal Council of the City of Kelowna this 26th day of October, 1998.

"Walter Gray"

Mayor

"Gillian D. Matthews"

Acting City Clerk

I HEREBY CERTIFY THIS TO BE A TRUE
CONSOLIDATED COPY OF BYLAW NO. 8140
WHICH INCLUDES AMENDING BYLAWS NO.
8331, 8441, 8578, 8634, 8647, 8927 & 9241

**BL8578 & 8647 replaced Schedule "A":
SCHEDULE "A"**

DEVELOPMENT NOTICE SIGN REQUIREMENTS

Where Development Notice Sign(s) are required pursuant to this bylaw, they shall comply with the following:

1. Location

All development notice signs shall be placed on property that is subject to an application pursuant to this bylaw so that they are clearly visible from the street, approximately 3.0 m inside the property line.

2. Number

One sign is required for each 100 m of street frontage provided that no more than three signs are required for any one **site**.

3. Sign Content

The signs shall include the following information, as applicable to the application:

- (a) present and proposed zone of property,
- (b) the **City's** Rezoning, **Development Permit**, **Development Variance Permit** or Temporary Use Permit file number,
- (c) any requested variances of **City** bylaws,
- (d) the dates of the Advisory Planning Commission meeting, **Public Hearing**, **Council** meeting at which the application is proposed to be considered, or the final date for receipt of public input if the **Public Hearing** has been waived; and
- (e) any additional information the **Director of Planning & Development Services** may require.

4. Sign Installation

Development notice signs shall be located so as not to interfere with pedestrian or vehicular traffic or obstruct visibility from streets, lanes or driveways and must be installed in a safe, sturdy manner capable of withstanding wind and weather.

5. **Sign Purchase**

Development notice signs shall be purchased from the **City's** Planning & Development Services Department for the required fee.

6. **Sign Removal**

Development notice signs shall remain in place until the conclusion of the **Public Hearing**, until **Council** has considered the **Development Permit**, **Development Variance Permit** or Temporary Use Permit, as applicable, until **Council** has adopted the amending bylaw if the **Public Hearing** has been waived, or until the development application has been abandoned. Development notice signs must be removed within seven days of the conclusion of a **Public Hearing**.

7. **Statutory Declaration Required**

The applicant must provide the **City's** Planning & Development Services Department with a statutory declaration in the approved format that all development notice signs required by this bylaw have been installed on the land involved before the application will be considered at an Advisory Planning Commission meeting, a **Public Hearing** or by **Council**.

8. **Postponement of Consideration of Application**

Failure to post the required development notice sign(s) in accordance with this bylaw shall result in the postponement of the Advisory Planning Commission consideration of the application, the **Public Hearing**, **Council** consideration of the application or **Council** consideration of the amending bylaw if the **Public Hearing** has been waived. Any costs incurred by the **City** for public notification as a result of such postponement shall be the responsibility of the applicant.