

## City of Fort St. John

### Development Approval Procedures Bylaw No. 2370, 2017

A bylaw to define procedures under which an owner of land may apply for an official community plan, zoning bylaw amendment, development permit, development variance permit, and temporary use permit under Part 14 of the *Local Government Act*.

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WHEREAS the Council of the City of Fort St. John has adopted an Official Community Plan Bylaw and Zoning Bylaw therefore is required to establish a Development Approval Procedures Bylaw under which an owner of land may apply for an amendment to the plan or bylaw or for a permit or for an appeal to the Board of Variance under Part 14 of the *Local Government Act*,

WHEREAS a local government may, by bylaw, issue a permit under Part 14 of the *Local Government Act*; and

WHEREAS a local government, having provided in an Official Community Plan for the provision of Development Approval Information to assist in exercising its land use control authority, must, by bylaw establish procedures and policies on the process for requiring Development Approval Information and the substance of the information; and

WHEREAS a local government may by bylaw specify a distance from affected land for the purpose of notifying owners and tenants in occupation of proposed bylaw amendments and permit applications; and

NOW THEREFORE Council of the City of Fort St. John, in open meeting assembled hereby enacts as follows:

#### 1. Introductory Provisions

##### 1.1. Title

This bylaw may be cited as "City of Fort St. John Development Approval Procedures Bylaw No. 2370, 2017".

##### 1.2. Definitions

"Applicant" – means any person who makes application for development under the provisions of this bylaw as authorized by the Owner(s) of the parcel(s) of land subject to the application.

"City" – means the City of Fort St. John.

**1. Introductory Provisions (continued)**

**1.2. Definitions (continued)**

“Council” – means the Council of the City of Fort St. John.

“Development Approval Information” – means information on the anticipated impact of a proposed activity or development on the community.

“Director” – means the Director of Development for the City or their designate.

“Owner” – means, in respect of real property, the registered owner, and verified by the City through either a Land Title Office search or BC Assessment Roll search, or their agent authorized in writing.

“Parcel” or “Lot” – means any lot, block or other area of land that is the subject of an application.

“Qualified Professional” – means a professional architect, biologist, engineer, geoscientist, planner or other professional licensed to practice in British Columbia, with experience relevant to the applicable matter, as determined by the Director.

“Substantial Performance” – means the stage of completion when: all work, as certified by the contract administrator, is capable of completion or correction at a cost of not more than:

- a) 3% of the first \$500,000 of the contract price;
- b) 2% of the next \$500,000 of the contract price; and
- c) 1% of the balance of the contract price; and

the work, or a substantial part of it, is ready for use or is being used for the purpose intended.

**1.3. Interpretation**

1.3.1. A reference in this bylaw to any enactment is a reference to an enactment of the Council of the City, or BC and regulations thereto, as amended, revised, consolidated, or replaced from time to time.

1.3.2. A reference in this bylaw to any bylaw, policy or form of the City is a reference to the bylaw, policy or form as amended, revised, consolidated or replaced from time to time.

**1. Introductory Provisions (continued)**

**1.4. Severance**

If any section, subsection, sentence, clause, definition, phrase of this bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this bylaw.

**1.5. Scope**

This bylaw applies to an application:

**1.5.1 For an amendment to:**

- a) the Official Community Plan; and
- b) the Zoning Bylaw

**1.5.2 For the issuance of:**

- a) Subdivision;
- b) Development Permit;
- c) Development Variance Permit; and
- d) Temporary Use Permit

**2. General Provisions**

**2.1. General Requirements for All Applications**

2.1.1. In addition to application requirements found elsewhere in this bylaw, the following are required for all applications made under this bylaw:

- a) An application shall be made to the Director and shall be executed in writing by the Owner(s) of the land that is subject to the application, or by a person authorized by the Owner(s).
- b) Change of Ownership - If there is a change in ownership of a parcel of land that is subject to an application, the City will require an updated title certificate and written authorization from the new Owner prior to proceeding further with the application.
- c) Agent Authorization – Written authorization for an agent to act on behalf of the registered Owner(s) is required. If the Owner changes their agent for an application, the Owner must notify the City of the change in writing.

**2. General Provisions (continued)**

**2.1. General Requirements for All Applications (continued)**

2.1.1. In addition to application requirements found elsewhere in this bylaw, the following are required for all applications made under this bylaw:

- d) Form and Fee of Applications - An application made pursuant to this bylaw shall be submitted in the form prescribed by the Director for that type of application and shall include all information indicated on the form, and the application fee, payable to the City in accordance with the Fees and Charges for Various Municipal Services Bylaw No. 2369, 2017, as amended from time to time.

**2.2. Requirements for Professional Services**

2.2.1. All design submissions must be signed and sealed by the appropriate Qualified Professional licensed to work in the province of BC.

2.2.2. The services of a licensed Landscaped Architect qualified by the BC Society of Landscape Architects (BCSLA) are required to plan and design, prepare drawings, oversee construction and provide post development monitoring. This applies to all applications for new multiple family residential developments and new commercial developments that require landscaping. All landscape design submissions must be signed and sealed by the Landscape Architect. The City will require BCSLA Schedules at time of building permit.

2.2.3. All applications for Development Permit and Development Variance Permit will require a surveyed site plan prepared by a BC Land Surveyor.

**2.3. Pre-application Meetings with Staff**

2.3.1. The City may require the Applicant to arrange a pre-application meeting with Development Services staff to conduct a preliminary review of the proposal.

2.3.2. The pre-application meeting will provide the Applicant with the opportunity to provide staff with a brief overview of the proposal and receive preliminary feedback on bylaw conformance and application process. Staff may provide feedback upon receipt of a complete application in accordance with this bylaw. The City will require a

**2. General Provisions (continued)**

**2.3. Pre-application Meetings with Staff (continued)**

2.3.2. preliminary concept plan at least one (1) week prior to the meeting. Applicants are limited to two (2) pre-application meetings per proposal.

**2.4. Referral Process**

2.4.1. The Director may refer any of the applications described in Section 1.5 of this bylaw to any of the City's Committees or Commissions, or to external agencies.

2.4.2. Pursuant to Section 154(1) (b) of the *Community Charter* and Section 475 of the *Local Government Act*, Council delegates the duties and powers of Council for statutory consultation and referral functions to the Director.

2.4.3. Where applications are sent for review and comment, a maximum of twenty-one (21) calendar days are provided to respond or to request additional time. If a response is not received within this twenty-one (21) calendar day period the City will deem interest of that agency are unaffected. Extension of referral period will be at discretion of the Director.

**3. Development Approval Information**

**3.1. Authorization to Require Development Approval Information**

Where the Official Community Plan specifies circumstances or designates areas where "Development Approval Information" may be required, the Director is authorized to require that the Applicant provide Development Approval Information in a written report that is certified by a Qualified Professional that:

3.1.1. Complies with and fully addresses terms of reference which are provided by the Director in accordance with Sections 3.2, 3.3, and 3.4;

3.1.2. Identifies and defines the context, interaction, scope, magnitude, and significance of the anticipated impacts of the activity or development on the community, including data and methodological accuracy, assumptions, uncertainties, acceptability thresholds, and how the anticipated impacts may cumulatively contribute to existing risk, stressors, and threats;

### 3. Development Approval Information

#### 3.1. Authorization to Require Development Approval Information (continued)

3.1.3. Provides recommendations for conditions or requirements Council or the Director may impose to mitigate or improve the anticipated impacts; and

3.1.4. Provides recommendations and detailed costs for modifications to the environment, or construction of works, required to mitigate or improve the anticipated impacts.

#### 3.2. Type of Information Requested

Pursuant to Section 484 of the *Local Government Act*, the Director may issue terms of reference that require the Applicant to provide, at the Applicant's expense, reports and impact studies including but not limited to the following topic areas:

- Land use types, densities and locations;
- Form and Character
- Real Estate Market Analysis (including but not limited to effects of additional competition and stock, effects on vacancy rates, and impacts to neighbourhood/sector stability);
- Phasing of development;
- Community facilities (including but not limited to schools, emergency protective and health services, parks, recreation)
- Environmentally sensitive, historical, cultural and archeological features;
- Hazardous areas or Geotechnical conditions (including but not limited to soil composition, profile, classification, agricultural suitability and capability, geologic process and terrain stability);
- Utilities capacity and routing;
- Transportation network or Transportation demand management strategies (including but not limited to transportation impacts, transit service and requirements, parking demand, traffic safety, pedestrian, cyclist and vehicular traffic operation, trip generation, site access and egress, access network connectivity and accessibility);
- Winter City Guidelines;
- Visual Impacts
- Climate Action (Environmental Impact Design/Low Energy Design, greenhouse gas reduction, energy conservation, water conservation);
- Other studies as deemed necessary by the Director

**3. Development Approval Information (continued)**

**3.3. Preparation of Terms of Reference for Development Approval Information**

The Applicant will be required to work with staff to review and confirm the Terms of Reference for the report containing the Development Approval Information.

**3.4. Selection of Personnel**

The Applicant will be required to provide reports and impact studies prepared by Qualified Professionals at the Applicant's expense. The City may require an independent review of the study results in certain circumstances including but not limited to staff capacity and to ensure the timely review of the study results. The Applicant will be notified if an independent review of the study results is required. Costs for independent review studies will be borne by the Applicant.

**3.5. Incomplete or Deficient Reports**

If it is deemed by the Director that a report containing Development Approval Information is incomplete or deficient, the Applicant will be notified in writing of the nature of deficiencies and the timeframe to resubmit the corrected report.

**3.6. Presentation of Reports or Impact Studies**

The City may request, at the Applicant's expense, that the Qualified Professional(s) conduct a presentation of their report to Council, the Community or staff.

**3.7. Publication of Information**

The City may distribute and publicize a report containing Development Approval Information requested under this bylaw.

**4. Council Consideration**

**4.1.** An Applicant may apply to Council for a reconsideration of any delegated decision under this bylaw, within thirty (30) calendar days of the date of such decision.

## 5. Delegation of Authority

5.1. Pursuant to Section 154(1)(b) of the *Community Charter*, Council delegates the duties and powers of Council to the Director as follows:

5.1.1. Development Permits: To issue and amend Development Permits for all Development Permit Areas established by the Official Community Plan, subject to restrictions identified in Section 3.4.2 of this bylaw. This includes the powers of Council to establish the conditions of the permit, and to determine whether such requirements and conditions have been met.

5.1.2. As a restriction on Section 2.4.1, the Director may not issue or amend a Development Permit that varies any provision of any bylaw.

## 6. Public Notification and Public Open House

### 6.1. Public Notification

#### 6.1.1. Notification of Public Hearing

- a) In accordance with the *Local Government Act*, the City will mail or otherwise deliver individual notices to all Owners and tenants in occupation of the parcel for which an application is being made, and all Owners and tenants in occupation of all other parcels any part of which is within 100 metres of the subject parcel's boundaries to which the application pertains, advising of:
- i) A scheduled Public Hearing for an Official Community Plan amendment, or Zoning Bylaw amendment;
  - ii) A scheduled Council meeting for considering a Development Variance Permit; or
  - iii) A scheduled Council meeting for considering a Temporary Use Permit.

#### 6.1.2. Posting a Development Notice Sign

- a) Where an application is submitted for an Official Community Plan and/or Zoning Bylaw amendment, Development Area Permit or Development Variance Permit:
- i) The City will provide the Applicant with a wording for a notice sign to be posted on the subject lands; and
  - ii) The Applicant will, at their expense, erect the sign on the street frontage of the lands, within seven (7) calendar days of the application being accepted by the City will



**6. Public Notification and Public Open House (continued)**

**6.1. Public Notification (continued)**

**6.1.2. Posting a Development Notice Sign (continued)**

- a) ii) remain in place continuously until the applicable amendment or permit is either approved or denied after final consideration by Council or designate. The signs will be removed within seven (7) calendar days after final consideration.
- iii) The Applicant will, at their own expense, take down any signs that are required to be posted.
- b) Failure to post a required Development Notice Sign may result in the postponement of a decision for the application by Council or the Director.

**6.2. Public Open House**

6.2.1. A Public Open House may be required to be held prior to Council consideration of an Official Community Plan amendment application in order to provide additional opportunity for the public to access information and inquire about the proposal.

6.2.2. If a Public Open House is required, it is the Applicant's responsibility to arrange and conduct the meeting to the satisfaction of the City, and according to the following standards: location, time, duration, submission of report by Applicant summarizing meeting.

**7. Permit Security**

7.1. Security pursuant to the City's Subdivision and Development Servicing Bylaw and Building Bylaw may also be required in addition to the provisions of this bylaw.

7.2. Security may be required as a condition of permit issuance for the following:

7.2.1. Landscaping (both 'hard' and 'soft') including re-vegetation works to restore degraded natural environments ("Landscape Security"). Hard landscaping includes such items as paved pathways, walls, railings, fences, retaining structures and landscape furnishings such as lighting and benches. The 'soft' landscape includes water features, earth contouring and vegetation such as trees, plants and grass and irrigation systems.

**7. Permit Security (continued)**

**7.2. Security may be required as a condition of permit issuance for the following: (continued)**

7.2.2. An unsafe condition or damage to the natural environment that may result as a consequence or a contravention of a condition in a permit ("Remediation Security").

7.2.3. To guarantee the performance of the terms of a Temporary Use Permit ("Performance Security").

**7.3. Form of Security**

Security will be provided in the form of an automatically renewing irrevocable letter of credit, bank draft, or in a form satisfactory to the Director.

**7.4. Amount of Security**

7.4.1. The amount of security will be calculated using the following:

- a) For Landscape Security, the amount of security will be 100% of an estimate or quote of the cost of works, including but not limited to: inspections, supervision, monitoring, maintenance, irrigation, labour, hard infrastructure and planting materials. The estimate or quote must be submitted by a Landscape Architect and/or other Qualified Professional approved by the Director. The estimate or quote will be provided by the Applicant at the Applicant's expense.
- b) For Remediation Security, the amount of security will be 100% of an estimate or quote of the cost of works, including but not limited to: inspections, supervision, monitoring, maintenance, irrigation, labour and planting materials. The estimate or quote must be submitted by a Qualified Environmental Professional and/or other Qualified Professional approved by the Director. The estimate or quote will be provided by the Applicant at the Applicant's expense.
- c) For Performance Security, the amount of security will be 100% of an estimate or quote of the cost of works to guarantee the performance of the terms of the permit. Such works may include but are not limited to: inspections, monitoring, maintenance, irrigation, labour, planting materials and works required to restore the land or remove any temporary structures. The

**7. Permit Security (continued)**

**7.4. Amount of Security (continued)**

7.4.1. The amount of security will be calculated using the following:

- (c) estimate or quote must be submitted by a Qualified Professional approved by the Director. The estimate or quote will be provided by the Applicant at the Applicant's expense.
- d) In extraordinary circumstances, alternate methodologies to calculate the amount of security may be approved by the Director.

**7.5. Return of Security**

- 7.5.1. If a permit is cancelled by the Applicant and no work has occurred related to the security deposit, the security deposit will be returned to the Applicant at the approval of the Director.
- 7.5.2. For Landscape and/or Remediation Securities, upon Substantial Performance, as approved by the City, the City will return 80% of the original security deposit. The City will withhold the remaining 20% as a maintenance bond for up to two years to ensure that the work has been fully implemented and demonstrated to function (ecologically or as designed). A final inspection by City staff may occur before the remaining 20% of security is released. If the works are deficient at the end of the relevant period, the City may complete the works and retain the security, or permit the Applicant to complete the works and return the security to the permit holder.
- 7.5.3. Unless otherwise stated in this bylaw, the City will return the security (or portion thereof) upon written request by the Applicant which includes a satisfactory report by the appropriately Qualified Professional depending on the nature of the permit conditions, or other Qualified Professional approved by the Director, or their designate, certifying that:
  - a) The works have been completed in substantial compliance with the approved plan(s); and/or
  - b) The unsafe condition or damage to the natural environment has been corrected.
- 7.5.4. Upon receipt of a professional report requesting release of security, the City may conduct a site inspection to verify that the works are installed in accordance with the approved plans.

**8. Abandonment, Permit Renewals, Extensions, Lapses, Re-applications**

**8.1. Abandonment**

8.1.1. Where additional information has been required after an application has been accepted, the application will be held for up to ninety (90) calendar days. If the required information has not been submitted by this deadline, the Applicant will be notified that the Application is deemed to have been abandoned and the application fee will not be refunded.

8.1.2. In the case of applications that have been delegated to the Director, if final approval of the application is not granted within (1) year after a written request from the Director to submit any outstanding items, the application will be deemed to be abandoned and will be closed. No fee shall be returned in this circumstance.

**8.2. Renewal**

8.2.1. Council will consider one (1) application for the renewal of a Temporary Use Permit, provided:

- a) No change of the approved permit is proposed, and
- b) The term of the permit has not lapsed or, if lapsed, shall have lapsed by no more than one (1) month.

8.2.2. Any further renewal may require a new application for the permit.

**8.3. Extension**

Upon written request for an extension made prior to the expiry of an applicable period of time specified in Section 8.1.1, the Council or the Director, as the case may be, may extend the period, but not more than two such extensions may be granted and the Director shall not, without the approval of the Council, extend the period for issuance of a permit to more than one hundred eighty (180) days following the date the permit application was approved. Extension for subdivision is subject to the City's Subdivision and Development Servicing Bylaw.

**8.4. Lapse**

If an application has lapsed, a new application including fees will be required. The new application will be considered in accordance with bylaws and guidelines in effect at the time of the new application.

**8. Abandonment, Permit Renewals, Extensions, Lapses, Re-applications (continued)**

**8.5. Re-application**

Subject to Section 460 of the *Local Government Act*, where an application made to this bylaw has been declined by Council, re-application for the same amendment or permit will not be accepted for a one (1) year period immediately following the date of refusal. This limit may be varied in relation to a specific re-application by an affirmative vote of at least two-thirds (2/3) of the local government members eligible to vote on the re-application.

**9. Appeal**

9.1. The Applicant has a right to have Council reconsider a decision without charge or reconsideration delegated to staff by bylaw. The Applicant must provide written notice requesting Council's reconsideration within sixty (60) calendar days of Council or Director's decision. The City will notify the Applicant when the reconsideration will occur. Reconsideration will be in the form of a Council meeting.

**10. Legal Fees**

10.1. The Applicant will either reimburse any external legal costs incurred by the City in respect of the application and related legal documents, upon demand by the City, or at the City's discretion, provide security to the City for the estimated legal costs the City may incur in processing the application.

**11. Repeal**

11.1. City of Fort St. John Development Approval Procedures Bylaw No. 2018, 2009 is hereby repealed in its entirety.


Read a first time this 11<sup>th</sup> day of December, 2017

Read a second time this 11<sup>th</sup> day of December, 2017

Read a third time this 11<sup>th</sup> day of December, 2017

Adopted this 8<sup>th</sup> day of January, 2018

  
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Lori Ackerman  
Mayor

  
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Janet Prestley  
Director of Legislative and  
Administrative Services