

## TOWN OF LADYSMITH

### BYLAW NO. 2179

#### A Bylaw to establish application procedures for land use applications.

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Whereas, Section 460 of the *Local Government Act* by bylaw, defines procedures under which an owner of land may apply for an amendment to an official community plan or zoning bylaw, or a permit under part 14 of the *Local Government Act*;

Now therefore, the Municipal Council of the Town of Ladysmith in an open meeting assembled enacts as follows:

#### Definitions

1. In this bylaw:

“Application” means an application under section 2.

“Application fee” means a fee for an application as prescribed in the Fees and Charges Bylaw

“Committee Referral” means the referral of an application to a committee of Council, including an Advisory Planning Commission under section 461 of the *Local Government Act*;

“Delegate” means one or more persons authorized under “Ladysmith Officers and Delegation of Authority Bylaw 2016, No. 1905” to issue a permit under subsection 2(c), (d) or (e) of this bylaw.

“Staff report” means a report, whether in draft or final form, to:

- a) Council, or
- b) a delegate of Council who may approve an application,

and includes a report that has not been considered by Council or a delegate.

“development approval information” means development approval information under section 484 of the *Local Government Act*.

“Director” means the Director of Development Services for the Town of Ladysmith or their designate;

“extenuating circumstance” means the death, serious illness or medical issue of an applicant or member of the applicant's immediate family, or other similar circumstance beyond the control of the applicant.

"File Manager" means a staff member assigned by the Director or a senior planner to process an application in accordance with this Bylaw.

"inactive application" means:

- a) an application for which the application fee or notification bond has not been paid;
- b) an application for which development approval information has been requested and not received within 12 months of the date of the request or the deadline set by the Director, whichever is later;
- c) an application for which the deadline to hold a Neighborhood Information Meeting under section 17 has lapsed; or
- d) any other application where an applicant has failed to meet a requirement of this bylaw for a 12-month period.

"Interdepartmental referral" means the referral of an application to any Town department, other than the planning department.

"Intergovernmental referral" means the referral of an application to any local, provincial, first nations, or federal government or agencies thereof.

"legal instrument" means an agreement to which the Town is a party and includes a contract, covenant, statutory right of way, housing agreement, heritage revitalization agreement and phased development agreement, but does not include legal surveys.

"Neighbourhood Information Meeting" means a meeting hosted by the applicant that is open to the public, in a format prescribed by the Director from time to time, where the application is presented for information, and feedback about the application is received and documented.

"Notification bond" means a bond to cover notification cost in the amount prescribed in the Fees and Charges Bylaw.

"Notification costs": means all advertising, mailing and delivery costs required to carry out any notification required under a bylaw of the Town or the *Local Government Act*."

"Subject property" means all parcels of land subject to an application.

### Scope

2. This bylaw applies to an application for:
  - a) an amendment to the Official Community Plan
  - b) an amendment to the Zoning Bylaw;
  - c) a Development Permit;

- d) a Development Variance Permit; or
  - e) a Temporary Use Permit.
3. Notwithstanding section 2, this bylaw does not apply to applications initiated by the Town.

#### Applications

4. All Applications under section 2 shall be submitted to the Planning Department.
5. Applications shall be signed by all owners of land whose names appear on the registered title certificate or by a person authorized in writing by all such owners, to make an Application on behalf of all owners of the land.
6. All Applications shall include the supporting documentation and attachments specified in writing from time to time by the Director, which specifications the Director must make available to Applicants on request and without charge.
7. Upon receipt of an Application that does not conform to this Bylaw, the File Manager or Director may:
- a) refuse to accept the Application and application fee; or
  - b) process the Application in accordance with this Bylaw if, in the opinion of the File Manager, or Director the content of the Application is sufficient to proceed for further consideration notwithstanding its deficiencies.
8. When refusing to accept an Application under Section 7(a), the Applicant shall be informed of the requirements that must be met for the Application to comply with this Bylaw.

#### Application and notification fees

9. All applications shall include the application fee and notification bond.
10. If the final notification costs exceed the notification bond, the additional costs shall be paid by the applicant prior to further consideration of the application.
11. If the final notification costs are less than the notification bond, the remaining amount shall be refunded to the applicant, without interest, when the permit is issued, or the bylaw is approved.
12. Application fees may only be refunded as follows:
- a) For an application where a committee referral, interdepartmental referral or Intergovernmental referral has occurred 50% of the application fee shall be refunded.

- b) For an application where a staff report has been prepared but has not been considered by Council or a delegate, 25% of the application fee shall be refunded.
- c) For any application that has been considered or presented to Council or a delegate no refund shall be granted.
- d) For applications where neither (a), (b), or (c) applies:
  - i. 75% of the application fee shall be refunded if the application is withdrawn within six months of the date the application was submitted; and
  - ii. 50% of the application fee shall be refunded if the application is withdrawn more than six months from the date the application was submitted.

### Consideration of Applications

13. Where Council is to consider an application, Council shall be provided with the following items for consideration:
- a) a report prepared by the File Manager or Director,
  - b) a copy of the proposed permit or amending bylaw, as applicable; and
  - c) any additional materials deemed necessary for Council's consideration by the Director.
14. Where a delegate is to consider an application, the delegate shall be provided with the following items for consideration:
- a) A report prepared by the File Manager, in a format acceptable to the Director
  - b) a copy of the proposed permit, and
  - c) any additional materials deemed necessary for the delegate's consideration by the File Manager.
15. The applicant shall be notified:
- a) when public notice is issued for a Council meeting at which the applicant's application will be considered; and
  - b) following a decision on the application by Council or a delegate.

### Posting Notification Signs

16. Where an application is received for an amendment to the Official Community Plan or Zoning Bylaw, or a temporary use permit, the applicant shall post notification signs on the subject property and shall:
- a) Prepare and post the signs in accordance with the sign specifications prescribed by the Director;
  - b) Erect one sign on each street frontage of the subject property unless otherwise directed by the Director;
  - c) Provide proof satisfactory to the Director that the signs have been erected;
  - d) Post the signs at least 10 days prior to:
    - i. the public hearing, if a public hearing is required, or
    - ii. first reading of the bylaw, if no public hearing is required;

- e) Maintain or replace the signs as necessary until Council gives final consideration of the application; and
- f) Remove the signs within one week of final consideration of Council.

#### Neighbourhood Information Meetings

17. Where an application is received to amend the Official Community Plan, the applicant shall hold a neighbourhood information meeting within 60 days of submitting an application and prior to consideration by Council.
18. Neighbourhood information meetings shall be advertised by the applicant, at their cost, as follows:
  - a) Notice shall be placed in two consecutive issues of the Ladysmith Chronicle, or a local newspaper approved by the Director, with the second notice being not more than 10 and not less than 3 days before the neighbourhood information meeting; and
  - b) notice shall be mailed or delivered to the addresses, as provided by the Town, of the owners and tenants of all parcels located within 60 metres of the subject property.
19. Following the neighbourhood information meeting, the applicant will provide a report describing the input received, in a form acceptable to the Director.

#### Application Referrals

20. The Director or File Manager may require interdepartmental or intergovernmental referrals.
21. Intergovernmental and interdepartmental referrals shall be a minimum of ten business days unless a longer minimum referral period is required under an enactment, requested by the referee, or deemed necessary by the Director due to the complexity of the application, information needed to evaluate the application, organizational capacity or other factors deemed relevant by the Director.
22. Applications shall be referred to Committees of Council, as and when required in the committee terms of reference approved by Council.

#### Notice Requirements

23. Notice, for applications shall be carried out in accordance with the requirements of the *Local Government Act*.
24. Where notice must be mailed or otherwise delivered under the *Local Government Act*, notice shall be provided to the owners and tenants of all parcels located within 60 meters of the property that is the subject of the application.

### Calculation of Notification Distances

25. Notification distances under sections 18(b), and 24 shall be measured from the outermost legal boundaries of the subject property.

### Public Hearing Process

26. Public Hearings and notice of public hearings shall follow the procedures outlined in the Council Procedure Bylaw.

### Legal Instruments as Conditions of Approval

27. Where a legal instrument is required as a condition of approval of an application, the instrument shall either be:
- a) prepared by the Town's solicitor at the cost of the applicant; or
  - b) prepared by a solicitor or notary licensed to practice in British Columbia, at the cost of the applicant and reviewed by the Town's solicitor at the cost of the applicant.
28. The Director may require a bond to cover legal costs under section 27 and the amount of the bond may be based on a quote from the Town's solicitor, or an averaging of the typical costs to prepare a similar instrument.

### Revisions to Applications

29. The Director may require an applicant to submit a new application and application fee if, in the opinion of the Director:
- a) the amendments are not directly attributable to staff, council or public feedback; and
  - b) the tasks and workload to process the amended application are equivalent to that of a new application.

### Security

30. A Delegate or Council may require security under section 502 of the *Local Government Act*.
31. Security under section 30 must be provided:
- a) when an application for a building permit is made, if the permit authorizes the construction of a structure requiring a building permit, or
  - b) prior to issuance of the permit, if the permit authorizes development that does not require a Building Permit.
32. The amount of security required under section 30 shall be determined using:
- a) price lists, software programs and manuals approved by the Director to estimate the cost of the works for which the security is required; or
  - b) an estimate or quote provided by the Applicant or obtained by the Town, prepared by a professional qualified to undertake or supervise the works for which the security is required.
33. The Applicant may be required to add a contingency amount of up to 10% to an amount of Security determined under section 32.

Form of permits

34. Pursuant to subsection 501(4) of the *Local Government Act*, permits shall be in the form prescribed by the Director.

Inactive Applications

- 35. The Director may close an inactive application.
- 36. Applicants shall be notified at least 30 days in advance of closing an inactive application.
- 37. A decision to close an inactive application shall be made in writing, include the reason(s) for closing the application and advise the applicant of the right to reconsideration under section 38.
- 38. Where an inactive application has been closed by the Director, the applicant may, within 60 days of the date of the Director’s decision, apply to Council in writing for reconsideration.
- 39. Council or the Director may reopen an inactive application that has been closed under extenuating circumstances.

Reapplication

40. Subject to section 460(3) of the *Local Government Act* reapplication for an application that has been denied by Council or a delegate shall not be considered within 12 months of the date of the decision to deny the application.

Repeal

41. This bylaw repeals “Town of Ladysmith Development Approval Procedures Bylaw 2008, No. 1667”.

Citation

42. This bylaw may be cited for all purposes as the “Development Procedures Bylaw 2024, No. 2179”.

**READ A FIRST TIME** on the 27<sup>th</sup> day of June, 2024  
**READ A SECOND TIME** on the 27<sup>th</sup> day of June, 2024  
**READ A THIRD TIME** on the 27<sup>th</sup> day of June, 2024  
**ADOPTED** on the 16<sup>th</sup> day of July, 2024



  
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Mayor (A. Stone)

  
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Corporate Officer (S. Bouma)

