

REGIONAL DISTRICT OF EAST KOOTENAY

BYLAW NO. 2122

A Bylaw to establish development approval information requirements.

WHEREAS an Official Community Plan has specified areas and circumstances for which development approval information may be required.

AND WHEREAS additional information may be required for the Regional District of East Kootenay to assess the impact of an activity or development.

NOW THEREFORE the Board of the Regional District of East Kootenay in open meeting assembled hereby enacts as follows:

PART 1 TITLE

This Bylaw may be cited as “Regional District of East Kootenay – Development Approval Information Bylaw No. 2122, 2008”.

PART 2 REQUIREMENTS

- (1) The requirements of this Bylaw apply to the following applications where a Development Approval Information Area has been designated in an Official Community Plan:
 - (a) Applications for amendments to a zoning bylaw;
 - (b) Applications for a development permit; or
 - (c) Applications for a temporary commercial or industrial use permit.
- (2) The requirements of this Bylaw do not apply to any application for an activity or development that is a reviewable project under the *Environmental Assessment Act*.
- (3) Development Approval Information may be required in order to determine the extent the proposed activity or development will have an impact on any of the following:
 - (a) The potential for flood hazard due to the siting or construction of buildings or structures or the alteration of lands within an identified floodplain; an alluvial fan; a watercourse or water body; or may be impacted by a site specific hydrologic hazard, such as debris torrent or channel avulsion.
 - (b) The potential for geotechnical hazard due to the alteration of lands or construction or siting of buildings or structures on land subject to geotechnical hazard, including slope, surface erosion, gullying, landslides or landslip.
 - (c) The natural environment, including fish and fish habitat, wildlife and wildlife habitat, wildlife movement corridors, riparian areas, endangered or vulnerable ecosystems, identified environmentally significant areas, ecological and biological diversity, with emphasis on endangered and vulnerable plant and animal species.
 - (d) The agricultural capacity of the affected area and in the vicinity of the activity or development, including the agricultural capability and suitability of the affected area for future soil bound and non-soil bound agriculture.
 - (e) Archeological, heritage and cultural resources.
 - (f) Interface Fire Hazard.

PART 3 PROCEDURE

- (1) The Manager of Planning & Development Services or his designate is the official for the purposes of this Bylaw.
- (2) Upon receipt of an application, as identified within Part 2(1) of this Bylaw, the official or his designate will review the proposed activity or development in consideration of the Official Community Plan goals, objectives and policies and determine if the submission of Development Approval Information is required prior to proceeding with the processing of the application.

If Development Approval Information is required, the applicant will be notified in writing of the information required and the time within which the information is to be provided to the Regional District. Further processing of the application may be withheld pending acceptance of the required Development Approval Information.

- (3) A Terms of Reference must be prepared by the applicant in accordance with Part 4 of this Bylaw to identify the scope of information to be provided and methodology for the preparation of the Development Approval Information.
- (4) The Development Approval Information must be prepared in accordance with Part 5 of this Bylaw.
- (5) All requests for reconsideration must be in accordance with Part 7 of this Bylaw.

PART 4 TERMS OF REFERENCE

- (1) An applicant as described in Part 3 (2) of this Bylaw must provide written Terms of Reference at the sole expense of the applicant that includes the following:
 - (a) Identification of the specific impact assessment information to be provided as per the notice of requirement prepared by the official.
 - (b) Identification of information requirements that arise from applicable policies or guidelines contained within an Official Community Plan.
 - (c) Any additional matter which the applicant considers information ought to be provided to permit a full understanding of the impact of the proposed activity or development and that is relevant to the required impact assessment information.
 - (d) The identity of the individual(s) proposed to undertake the preparation of the Development Approval Information. If professional expertise is proposed to be retained by the applicant, the qualified professional(s) should be clearly identified within the Terms of Reference by name, responsibility, qualifications and experience handling similar projects.
- (2) The official must within ten (10) business days of receipt of the Terms of Reference indicate in writing to the applicant that:
 - (a) The Terms of Reference submitted by the applicant are acceptable;
 - (b) The Terms of Reference submitted by the applicant are acceptable, provided that additional matters specified by the official and within the scope of Part 2 (3) of this Bylaw are included;
 - (c) The Terms of Reference submitted by the applicant are unacceptable and must be revised by the applicant; or
 - (d) An additional ten (10) business days is required by the official to complete the review.
- (3) The official may, for the purposes of Part 4 (2)(b), when accepting Terms of Reference, advise the applicant of other proposed projects or projects under development in the area that may be affected by the applicant's proposed activity or development.

- (4) If the official does not provide advice by the end of the tenth business day, or the twentieth business day in the case of an extension under Part 4 (2)(d), the official is deemed to have accepted the proposed Terms of Reference as presented.

PART 5 PREPARATION OF DEVELOPMENT APPROVAL INFORMATION

- (1) Upon receipt of notice accepting the Terms of Reference or where they have otherwise been deemed to be accepted, the applicant must, at the applicant's expense, prepare the Development Approval Information in accordance with the accepted Terms of Reference and provide it to the official.
- (2) For every matter identified within the Terms of Reference, the applicant must provide the following Development Approval Information:
 - (a) Identify relevant baseline information and document the nature of the resource or other matter on which the proposed activity or development may have an impact;
 - (b) Identify and describe the potential and likely impacts of the activity or development, including any cumulative effects when combined with other projects proposed or under development;
 - (c) Evaluate the impacts in terms of their significance and the extent to which they might get mitigated;
 - (d) Make recommendations as to conditions of approval that may be appropriate to ensure that undesirable impacts are mitigated or avoided;

in accordance with generally accepted impact assessment methodology.

- (3) If the applicant has been advised of projects under development in the area, said development must be recognized within the development approval information submission, in order to verify that the potential for cumulative impacts has been duly considered.
- (4) If the official is not satisfied that the impact information provided by the applicant is sufficient to comply with the Terms of Reference, either in scope, level of detail, accuracy or in any other respect, the official may require the applicant to provide, at the applicant's expense, further information reasonably required to comply with the Terms of Reference, however a requirement for further information may be imposed only once.

PART 6 INDEPENDENT REVIEW

- (1) If the official determines that any portion of the impact information provided by the applicant requires an independent review prior to further processing or consideration of the application the official may require the applicant to provide such a review of the information.
- (2) The official may specify terms of reference for the review, including the methodology used in its preparation and may specify that the independent review be conducted by a qualified professional who is fully accredited and in good standing with their respective professional organization.
- (3) The applicant must arrange for the independent review to be conducted and submitted in writing to the Regional District, at the applicant's expense and within the time specified by the official.

PART 7 REQUEST FOR RECONSIDERATION

- (1) An applicant may request reconsideration by the Board of a decision of the official under this Bylaw within forty-five (45) days of the date of decision. The applicant may request reconsideration for the following:
 - (a) The requirement to provide Development Approval Information;
 - (b) The inclusion of specific impact information in the Development Approval Information;
 - (c) The amount of time allotted to provide the requested impact information; or
 - (d) The requirement to provide an independent review of the Development Approval Information.
- (2) A request for reconsideration must be delivered in writing to the official and must set out the grounds on which the applicant considers the requirement is inappropriate and what, if any, requirement the applicant considers the official ought to substitute.
- (3) Subject to the Regional District Procedure Bylaw the official shall place the request for reconsideration on the agenda of the next regular meeting of the Board. The Board may confirm the decision or requirement(s); defeat the decision or requirement(s); or substitute its own requirement(s).

PART 8 PROPRIETARY RIGHTS IN INFORMATION

The information that is provided to the Regional District pursuant to this Bylaw is required by the Regional District in the exercise of its powers under the *Local Government Act*. Every report or other document provided to the Regional District pursuant to this Bylaw must accordingly contain an express grant of permission to the Regional District to use and reproduce the information contained in the report or other document for non-commercial purposes.

PART 9 SEVERABILITY

If any portion of this Bylaw is for any reason held to be invalid by a decision of a court of competent jurisdiction, then the invalid portion shall be severed and the remainder of the bylaw will remain in effect.

PART 10 ADOPTION**EFFECTIVE DATE OF BYLAW**

This Bylaw is in force for the date of adoption.

READ A FIRST TIME the 6th day of March 2009.

READ A SECOND TIME the 6th day of March 2009.

READ A THIRD TIME the 6th day of March 2009.

ADOPTED the 7th day of August 2009.

“Norman Walter”
CHAIR

“L.V. Crane”
MANAGER OF ADMINISTRATION