

REGIONAL DISTRICT OF EAST KOOTENAY

BYLAW NO. 3165

A bylaw to regulate development application and approval procedures, establish fees and provide for notice of public hearing and notice of permit.

WHEREAS the Regional District is required to adopt procedures to amend a plan or bylaw or to issue a permit;

AND WHEREAS for specific applications the Regional District may impose application fees;

AND WHEREAS for specific applications the Regional District must give notice to all parcels within a specified distance of the area subject to application;

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

1.01 Title

This Bylaw may be cited for all purposes as “Regional District of East Kootenay – Development Applications Bylaw No. 3165, 2022.”

2.01 Definitions

In this bylaw:

Board means the Board of Directors of the Regional District of East Kootenay.

Development Application means an application for any of the following:

- (1) Map or text amendment to an Official Community Plan, Land Use Bylaw or a Zoning Bylaw including the creation of a new zone or land use designation;
- (2) Temporary Use Permit
- (3) Development Variance Permit
- (4) Development Permit
- (5) Housing Agreement and Bylaw
- (6) Site Specific Exemption to a Floodplain Bylaw
- (7) Strata Conversion
- (8) Agricultural Land Reserve (ALR) application per the *Agricultural Land Commission Act*
- (9) Campground Permit

RDEK means the Regional District of East Kootenay.

2.02 Applications

- (1) All development applications must:
 - (a) be made and signed by the owner(s) of land involved or by a person authorized in writing by the owner(s);
 - (b) be made to the General Manager of Development & Protective Services on a form provided by the RDEK; and
 - (c) be accompanied by all the required information identified on the application form.
- (2) Every application will be processed by the General Manager of Development & Protective Services or their designate and will be considered as delegated, forwarded to the Board, or the Provincial Approving Officer as appropriate.
- (3) Where an application has been refused by the Board, the General Manager of Development & Protective Services will notify the applicant in writing within fifteen (15) days of the date of the decision.

2.03 Fees

- (1) Every development application must be accompanied by the appropriate fee as set out in the Fee Schedule(s) attached to and forming part of this Bylaw.
- (2) Upon receipt of a subdivision application referral by the Province, the applicant must submit to the RDEK the appropriate fee as set out in the Fee Schedule(s) of this Bylaw. The RDEK will not provide referral comments to the Province until the required fee is paid.
- (3) When a public hearing is required, unless otherwise specified in the Fee Schedule(s) to this Bylaw the fee includes the cost of one public hearing. Where more than one public hearing is held, as required by the RDEK, the applicant shall pay the appropriate additional fee.
- (4) Where a public information meeting is requested by the Board, the applicant shall pay all costs associated with the public information meeting, including any required newspaper advertisement, mailing of notices, facility rental and staff overtime.

2.04 Refund

- (1) In the case of development applications requiring newspaper advertising and prior to the RDEK incurring the expense of newspaper advertising, 50% of the application fee shall be refunded if the application is withdrawn by the applicant, refused or cancelled. Subsequent to the RDEK incurring the expense of newspaper advertising, no portion of the application fee shall be refunded.
- (2) In the case of a subdivision application referral by the Province, prior to the RDEK commencing to process the application, 100% of the application fee shall be refunded if the application is withdrawn by the applicant. Subsequent to the RDEK issuing preliminary subdivision comments, but prior to the RDEK issuing final comments, 50% of the application fee shall be refunded if the application is withdrawn by the applicant. Subsequent to the RDEK issuing final comments, no portion of the application fee shall be refunded.
- (3) In the case of a development application where staff request Development Approval Information, prior to the application having been processed by the RDEK, 100% of the application fee shall be refunded if the application is withdrawn by the applicant. If staff have issued a letter requesting Development Approval Information, 50% of the application fee shall be refunded if the application is withdrawn by the applicant. Subsequent to a staff report having been prepared to accompany the application, no portion of the application fee shall be refunded if the application is withdrawn by the applicant, refused or canceled.
- (4) In the case of all other development applications, prior to the application having been processed by the RDEK, 100% of the application fee shall be refunded if the application is withdrawn by the applicant. Subsequent to a staff report having been prepared to accompany the application, no portion of the application fee shall be refunded if the application is withdrawn by the applicant, refused or cancelled.

2.05 Procedures

(1) General

Development applications shall be processed in compliance with the following steps, except those applications described in Sections 2.05 (2), 2.05 (3) and 2.05 (7), or when the application process has been varied by Board resolution:

- (a) A staff report shall be prepared for every application.

- (b) The application shall be referred to the advisory commissions and referral agencies deemed applicable by the General Manager of Development & Protective Services.
- (c) Comments received in response to referrals shall be integrated with the staff report.
- (d) The staff report shall be presented to the Board.
- (e) After considering the application, the Board, in accordance with provincial legislation, may:
 - (i) advance the application;
 - (ii) advance an amended application;
 - (iii) postpone consideration of the application until a future meeting;
 - (iv) refer the application to staff for more information; or
 - (v) refuse the application.

(2) Development Permit Applications

Applications for a Development Permit shall be processed in compliance with the following steps:

- (a) Applications for Development Permits may be referred to applicable referral agencies for comment.
- (b) If required, Development Approval Information may be requested. Processing of the application will be held pending the Development Approval Information Terms of Reference and report review processes.
- (c) A staff report shall be prepared for every application, including any referral agency comments and recommendations as identified by the Development Approval Information (if applicable).
- (d) Approval of the Development Permit shall be in accordance with the delegation to staff under the RDEK Delegation Bylaw. Any application may be referred to the Board for decision.
- (e) Following consideration of the application, staff or the Board, as applicable, in accordance with provincial legislation, may:
 - (i) advance the application;
 - (ii) advance an amended application;
 - (iii) postpone consideration of the application until a future Board meeting;
 - (iv) refer the application to staff for more information; or
 - (v) refuse the application.

(3) Site Specific Floodplain Exemptions

Applications for a Site Specific Floodplain Exemption shall be processed in compliance with the following steps:

- (a) Applications for Site Specific Floodplain Exemptions may be referred to applicable referral agencies for comment.
- (b) A staff report shall be prepared for every application.
- (c) The staff report shall be presented to the Board, including any referral agency comments.

- (d) After considering the application the Board, in accordance with provincial legislation, may:
 - (i) advance the application;
 - (ii) advance an amended application;
 - (iii) postpone consideration of the application until a future meeting;
 - (iv) refer the application to staff for more information; or
 - (v) refuse the application.

(4) Subdivision Referrals

A subdivision application referral to the RDEK by the Province shall be processed in compliance with the following steps:

- (a) The RDEK shall request the appropriate fee as set out in the Fee Schedule(s) from the applicant.
- (b) Except as provided in Sections 2.05(4)(c), once the application fee has been paid the RDEK shall issue preliminary comments to the Province.
- (c) For subdivisions requiring a bylaw amendment, preliminary comments shall not be issued until after third reading of the amending bylaw.
- (d) Once all RDEK requirements have been met, the RDEK shall issue final comments to the Province.
- (e) Subdivision referral comments are valid for 24 months from the date of issue. Renewal of comments for up to an additional 24 months is subject to the submission of a written request by the applicant and the applicable renewal fees.

(5) Agency Referrals

- (a) At the discretion of the Corporate Officer, agency referrals provided to the RDEK shall be added to a Board or Committee meeting agenda either as correspondence or as New Business.
- (b) In the case of items to be considered as New Business, agency referrals shall be processed in compliance with the following steps:
 - (i) A staff report shall be prepared.
 - (ii) The application shall be referred to the applicable advisory commission(s).
 - (iii) Comments received in response to referrals shall be integrated with the staff report.
 - (iv) The staff report shall be presented to the Board.

(6) Liquor and Cannabis Licenses

Applications for liquor licences and cannabis retail licences will be processed in accordance with the RDEK's Liquor and Cannabis License Policy.

(7) Campground Permits

- (a) Applications for a Campground Permit will be processed in compliance with the following steps:
 - (i) A staff report shall be prepared for every application.
 - (ii) Following consideration of the application, the General Manager of Development & Protective Services may:

- (A) advance the application;
 - (B) advance an amended application;
 - (C) refer the application to staff for more information; or
 - (D) refuse the application.
- (b) Agri-tourism Accommodation in compliance with the Agricultural Land Commission Regulation to a maximum of 10 campsites are exempt from the requirement to obtain a Campground Permit.

2.06 Restrictive Covenants

Where restrictive covenants are necessary or have been negotiated as part of the development application, it shall be the applicant's responsibility to prepare and file the covenant and provide proof of Land Title registration to the satisfaction of the RDEK. The amendment, modification or discharge of restrictive covenants is subject to the applicable fee as set out in the Fee Schedule(s) of this Bylaw.

2.07 Reapplication, Reconsideration, Cancellation and Renewal

- (a) Reapplication in the identical format to that which has been refused by the Board, or its delegate, shall not be considered within a six (6) month period immediately following the date of refusal.
- (b) A request to have the Board reconsider a development application or referral decision must:
 - (i) be based on new information as determined by the General Manager of Development & Protective Services;
 - (ii) be received in writing no more than 30 days after the date of decision; and
 - (iii) be accompanied by the appropriate fee and application form.
- (c) Notwithstanding subsections (a) and (b), subject to payment of the applicable fee, the owner(s) of land that is the subject of a Development Permit application may request that the Board reconsider a delegated decision of the General Manager of Development & Protective Services or their designate.
- (d) Development applications that have not been approved or refused within one year of the date of application, or one year after the most recent Board resolution pertaining to the application, whichever is most recent, shall be deemed to have been abandoned and the application will be cancelled and the file closed, subject to subsections 2.07 (e), (f) and (g). This includes those applications postponed or referred by the Board, held inactive by the applicant, or where the conditions of adoption or approval have not been completed.
- (e) Three months prior to the cancellation of an application, the General Manager of Development & Protective Services or their designate will notify the applicant in writing that cancellation is pending and application renewal is required.
- (f) Prior to cancellation, and upon submission of a written request by the applicant and the applicable renewal fees, development applications may be renewed once for a period of up to one year. Further renewals are subject to Board approval.
- (g) Cancelled applications will be refunded the applicable fees in accordance with section 2.04.

2.08 Notifications

A notice, where required, shall be mailed or otherwise delivered to owners and occupiers of all land within a distance of one hundred (100) metres from the parcel(s) under consideration.

2.09 Proprietary Rights in Information

The information that is provided to the RDEK pursuant to this Bylaw is required by the RDEK in the exercise of its powers under provincial legislation. Every report or other document provided to the RDEK pursuant to this Bylaw is deemed to have been submitted with an express grant of permission to the RDEK to use and reproduce the information contained in the report or other document for non-commercial purposes.

2.10 Severability

If a portion of this Bylaw is found invalid by a court, then it will be severed and the remainder of the bylaw will remain in effect.

2.11 Repeal

Bylaw No. 2300 and all bylaws enacted in amendment thereto are hereby repealed.

READ A FIRST TIME the 10th day of June, 2022.

READ A SECOND TIME the 10th day of June, 2022.

READ A THIRD TIME the 10th day of June, 2022.

ADOPTED the 10th day of June, 2022.

"Rob Gay"

CHAIR

"Tina Hlushak"

CORPORATE OFFICER

FEE SCHEDULE A

APPLICATION FEES

(Effective January 1, 2023)

1.0 DEVELOPMENT APPLICATIONS

(1) Bylaws

(a) Zoning Bylaw Amendment	\$1,750
(b) Official Community Plan Amendment	\$1,750
(c) Zoning Bylaw & Official Community Plan Amendment	\$2,250
(d) New Zoning Designation	\$500
(e) New Official Community Plan Designation	\$350

(2) Temporary Use Permits

(a) Temporary Use Permits issued by Resolution	\$1,200
(b) Temporary Use Permits issued by Bylaw	\$1,750
(c) Temporary Use Permit Renewal	½ Original Fee

(3) Development Variance Permit

Development Variance Permit	\$400
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(4) Development Permit

(a) Delegated Approval	
(i) Wildfire Hazard (Not Requiring Professional Report)	\$125
(ii) Wildfire Hazard (Requiring Professional Report)	\$400
(iii) All Other Development Permits	\$400
(b) Board Approval	
(i) Request for board reconsideration of a delegated decision	\$100
(c) Other Fees	
(i) Amendment to Issued Development Permit	\$200

(5) Housing Agreement & Bylaw

Housing Agreement & Bylaw	\$350
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(6) Site Specific Exemption to a Floodplain Bylaw

(a) Site Specific Exemption	\$300
(b) Site Specific Exemption & Variance to Bylaw	\$500

(7) Strata Conversion

(a) Strata Conversion – Base Application	\$300
(b) Strata Conversion – Per Strata Lot	\$80

(8) Agricultural Land Reserve (ALR)

ALR Exclusion Application – Private Landowner	
(a) Preliminary Application Fee	\$500
(b) Public Hearing Fee	\$1000

(9) Campground Permit

(a) Campground Permit – Base Fee (includes 1 st 10 sites)	\$500
(b) Campground Permit – Per additional 10 sites or portion thereof	\$50

2.0 SUBDIVISION REFERRAL FEES

(1) Fee Simple or Bare Land Strata

(a) Base Fee	\$350
(b) Per parcel created (Fee Simple or Bare Land Strata)	\$50

(2) Boundary Adjustment

Boundary Adjustment - No new parcels created	\$350
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FEE SCHEDULE A

APPLICATION FEES

(Effective January 1, 2023)

- (3) Phased Strata Subdivision**
 - (a) Base Fee \$500
 - (b) Per strata phase (payable at time of preliminary application) \$100
- (4) Revised Subdivision Referral Comments**
 - Issuance of Revised Comments \$150 per change
- (5) Subdivision Referral Comment Renewal**
 - Renewal or Extension (no changes required) \$100

3.0 LIQUOR & CANNABIS REGULATION BRANCH REFERRAL

- (1) Liquor & Cannabis Licence Referrals**
 - (a) No public consultation required \$150
 - (b) Mailing of notices required \$300
 - (c) Mailing of notices & public hearing required \$1500

4.0 OTHER FEES

- (1) Public Hearings**

In addition to the above noted application fees, where an application requires additional public hearing(s) the following fees apply:

 - (a) Hearings requiring additional advertising or notification \$1500 per hearing
 - (b) Hearings not requiring additional advertising or notification \$250 per hearing
- (2) Development Applications Miscellaneous**
 - (a) Request for Reconsideration \$200
 - (b) Development Application Renewal \$100
 - (c) Development Agreement in conjunction with Bylaw process \$200
- (3) Fees Related to Land Titles Documentation**
 - (a) Title Search \$17.50
 - (b) All other LTSA Documentation At Cost
- (4) Property Specific Information Request**
 - Comfort Letter – Non-FOI Property Specific Information \$50
- (5) Legal Documents & Approvals**
 - (a) Staff Administered
 - (i) Legal Document – Review \$50
 - (ii) Legal Document – Amendment \$100
 - (iii) Legal Document – Discharge \$150
 - (b) Board Approval Required
 - (i) Legal Document – Board Resolution Only \$250
 - (ii) Legal Document – Board Resolution & Mailing of Notices \$350
 - (iii) Legal Document – Board Resolution & Public Hearing \$1500

This is Schedule A referred to in Bylaw No. 3165 cited as "Regional District of East Kootenay – Development Applications Bylaw No. 3165, 2022."

"Rob Gay"
Chair

"Tina Hlushak"
Corporate Officer

June 10, 2022
Date

FEE SCHEDULE B

APPLICATION FEES

(Applicable from Date of Adoption of this Bylaw to December 31, 2022)

DEVELOPMENT APPLICATION FEES

1.	Official Community Plan, Land Use Bylaw or Zoning Bylaw Map or Text Amendment	\$1200.00
2.	Official Community Plan, Land Use Bylaw or Zoning Bylaw Map and Text Amendment	\$1400.00
3.	Official Community Plan and Zoning Bylaw Map and / or Text Amendment	\$1600.00
4.	New Land Use Designation - Zoning Bylaw (in addition to applicable bylaw amendment fee)	\$500.00
5.	New Land Use Designation - Official Community Plan (in addition to applicable bylaw amendment fee)	\$250.00
6.	Temporary Use Permit Issued by Resolution	\$1000.00
7.	Temporary Use Permit Issued by Bylaw	\$1200.00
8.	Development Variance Permit	\$300.00
9.	Development Permits	
	(a) Wildfire Hazard Development Permits	
	(i) requiring staff review of professional reports	\$300.00
	(ii) not requiring staff review of professional reports	\$100.00
	(b) All other Development Permits	\$300.00
10.	Housing Agreement and Bylaw	\$225.00
11.	Floodplain Management Bylaw Site Specific Exemption	
	(a) Flood Construction Level and Floodplain Setback	\$300.00
	(b) Floodplain setback exemption including a Development Variance Permit	\$500.00
12.	Strata Conversion	\$300.00 plus \$80.00 per lot/unit created
13.	Non-Farm use as per Schedule A in Electoral Area A ALC Delegation of Authority Agreement	\$300.00
14.	Campground Permit	\$300.00

SUBDIVISION REFERRAL FEES

15.	Subdivision Referrals (by number of parcels created)	
	(a) Two parcels	\$270.00
	(b) Three parcels	\$340.00
	(c) Four parcels	\$470.00
	(d) Five or more parcels	\$470.00 plus \$50.00 / parcel > 4
16.	Amendment of subdivision comments	50% of original referral fee
17.	Renewal of subdivision comments	\$100.00

OTHER FEES

18.	(a) Liquor and Cannabis Licence Referrals	
	(i) No public consultation required	\$150.00
	(ii) Mailing of notices required	\$300.00
	(iii) Mailing of notices and public hearing required	\$1200.00
19.	Land Use Contract Discharge	\$1000.00

FEE SCHEDULE B

APPLICATION FEES

(Applicable from Date of Adoption of this Bylaw to December 31, 2022)

20. Request for the discharge or amendment of a restrictive covenant requiring Board approval	
(a) No public consultation required	\$250.00
(b) Mailing of notices required	\$300.00
(c) Mailing of notices and a public hearing required	\$1200.00
21. Request for reconsideration	\$100.00
22. Development Application Renewal	\$100.00
23. In addition to the above application fees, where an application requires additional public hearings the following fees apply:	
(a) Hearings requiring additional advertising or notification	\$1200.00 per hearing
(b) Hearings not requiring additional advertising or notification	\$250.00 per hearing
24. Title Search Print	\$15.00
25. ALR Exclusion Application – Private Landowner	
(a) Preliminary application fee	\$500.00
(b) Public hearing fee	\$1000.00

This is Schedule B referred to in Bylaw No. 3165 cited as "Regional District of East Kootenay – Development Applications Bylaw No. 3165, 2022."

"Rob Gay"
Chair

"Tina Hlushak"
Corporate Officer

June 10, 2022
Date