



Committee of the Whole Report

For the Meeting of May 2, 2019

To: Committee of the Whole **Date:** April 18, 2019

From: Andrea Hudson, Acting Director of Sustainable Planning and Community Development

Subject: **Proposed Amendments to Land Use Procedures Bylaw No. 16-028**

RECOMMENDATION

That Council give first, second and third readings for the attached Land Use Procedures Bylaw amendments which would clarify and/or revise the following:

1. The Zoning Regulation Bylaw and the Zoning Bylaw 2018 are subject to this bylaw.
2. A 90% refund is available until 15 business days after application submission and a 75% refund is available until 40 business days after application submission.
3. If a motion to approve a development application is defeated by a vote of Council, the application is not approved and is considered closed.
4. Signs are not required for any City-initiated development applications regardless of application type or number of parcels.
5. All encroachment agreements are delegated to staff regardless of whether the proposed development requires approvals by Council or approvals that are delegated to staff.
6. Fees for variances are payable on a one-time basis.
7. No base fee is required for a Heritage Alteration Permit for a single family dwelling or duplex regardless of whether the application requires Council approval or if it is delegated to staff.
8. No resubmission fee is required when an applicant resubmits plans in response to staff comments.
9. Staff may specify the number and location of notice signs taking into account the site configuration and visibility to the public.
10. Addition of row numbers to the table in Schedule D for ease of reference.
11. Addition of Development Permit Area 15F: Intensive Residential – Attached Residential Development to the table in Schedule D.
12. Uses in the zoning would not be impermissibly varied when considering development permits (Schedule D).
13. Staff are delegated authority to issue development permits with variances that propose a new use which requires no more than 5 additional motor vehicle parking stalls, even if the total variance for the building exceeds 5 motor vehicle parking stalls due to a lawful non-conformity.
14. The costs to be included in landscaping security estimates.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations regarding a number of revisions and clarifying amendments to the *Land Use Procedures Bylaw*. These improvements have been identified by staff through day-to-day application processing and intend to encourage a smooth, streamlined and clear approach to the processing of development applications. They include minor adjustments to definitions, refunds, sign posting, agreements, fees, and landscaping security estimates.

PURPOSE

The purpose of this report is to present Council with information, analysis and recommendations regarding a number of revisions and clarifying amendments to the *Land Use Procedures Bylaw*. Some minor changes are also proposed to improve the application process and are aimed to encourage a smooth, streamlined and clear approach to the processing of development applications.

BACKGROUND

Staff bring forward recommended minor changes to improve the *Land Use Procedures Bylaw* for Council's consideration from time to time. The improvements that are the subject of this report have been identified by staff through day-to-day application processing.

PROPOSED AMENDMENTS TO THE *LAND USE PROCEDURES BYLAW*

The following sections provide details on the proposed amendments:

1. Clarify Zoning Definition

Currently, the bylaw references only the *Zoning Regulation Bylaw*, not the *Zoning Bylaw 2018* which was adopted last year. The proposed amendments would clarify that the *Land Use Procedures Bylaw* refers to both of these zoning bylaws.

2. Adjust Timing for Application Refunds

Section 21 includes provisions for when an applicant is entitled to a refund of the base application fee. This is currently a 90% refund if the application is formally withdrawn prior to the review of the application by the Technical Review Group (which is made up of City staff), and a 75% refund if the application is withdrawn or cancelled after the Technical Review Group review, but prior to being placed on an agenda for a Committee of the Whole meeting.

In order to make these timings more transparent, clear, and to have the refund amounts more closely align with the amount of staff time that has been spent on an application, staff recommend for Council's consideration that this section be amended to change the timeframe so that the 90% refund is available until 15 business days after application submission and the 75% refund is available until 40 business days after application submission. It is worth noting that target turnaround timelines have been established to ensure applications are reviewed and receive comments within 20 days of submission.

Some development applications require multiple resubmissions before they move forward to Committee of the Whole. This can take large amounts of staff time and span numbers of months. With the current refund timing, applications such as these are still entitled to a 75% refund even

after extensive staff time is expended on a proposal. The proposed timing would limit this refund to an earlier point in the process, before staff have spent a large amount of time on the application. The proposed change would also set a clear and transparent deadline, determined by the submission date, instead of being linked to the Technical Review Group review and the Committee of the Whole meeting agenda.

3. Clarify that Defeated Motions Decline Applications

When Council does not pass a motion to approve a specific application, the application is deemed to be closed. This proposed amendment would provide more explicit wording to clarify this in the bylaw.

4. Signage for City-Initiated Applications

Currently, City-initiated zoning bylaw amendments that involve 10 or more parcels do not require signage to be posted on site in advance of the Committee of the Whole meeting. It is recommended for Council's consideration that this should be revised so that no City-initiated development applications, regardless of application type or number of parcels, require this signage. This is recommended because City-initiated applications often apply to land that is not owned by the City and it can therefore be challenging for the City to post signs on private property when the owner is not the applicant, such as when they are not in support of the application. Posting the signs on adjacent City property is often not an option due to insufficient space, particularly in the downtown area.

The other methods of notification would still be used for public awareness of the application. For a rezoning, this includes a notice mailed to owners and occupants within 100m of the subject site in advance of the Community Meeting and another notice mailed to owners and occupants within 100m of the subject site in advance of the Public Hearing. Notices would also still be published in a newspaper and posted to the City's website.

5. Delegation of Encroachment Agreements

The Bylaw currently delegates approval of some encroachment agreements in certain cases to staff to help streamline the process where there is little or no impact on the public; such as the construction of a building which may require anchor rods to be placed underneath a sidewalk. Currently, encroachment agreements for anchor rods are delegated to staff only when the development application requires approval by Council. It is recommended for Council's consideration that the Bylaw be changed to also delegate encroachment agreements for anchor rods to staff when the development application is delegated to staff (such as for a delegated development permit). This change would make the development application process more efficient and would not have a detrimental impact on the public.

6. Clarify Variance Application Fees

The current wording explaining the fee for variances may cause confusion and may lead applicants to think that they are required to pay for variances twice when they have a submitted concurrent applications (e.g. for concurrent rezoning and development permit with variances). The recommended amendment would clarify that that each variance requires only one fee.

7. Clarify Heritage Alteration Permit Fees for Single Family Dwellings and Duplexes

In the current bylaw it may not be clear that there is no fee for heritage alteration permits for single family dwellings and duplexes that are delegated to staff. The proposed wording clarifies that no base fee is required whether these applications require Council approval or if they are delegated to staff.

8. Clarify When Resubmission Fee is Required

Currently, no resubmission fee is required when an applicant resubmits plans in response to staff comments. It is recommended for Council's consideration to revise the wording in the Bylaw to ensure this is clear and that the resubmission fee is not required if the applicant resubmits multiple times responding to the same staff comments.

9. Procedures for Posting Signs

Schedules B and C include requirements for sign posting. Staff recommend for Council's consideration that the wording be clarified so that multiple signs are not required when they are not needed. The current requirement is that every frontage of every property must have a sign. In some instances, where there are small lots or irregular shapes, a situation can result where 10 or more signs are required on a relatively small site. The bylaw would still ensure that the signs are posted in prominent locations, clearly visible from the street. In some cases, this would also reduce the number of signs required which would in turn reduce the cost to the applicant for printing and installation of the signs.

10. Add Row Numbers to the Delegated Approval Table

It is proposed that a column for row numbers be added to the table in Schedule D related to Delegated Approvals for ease of use when referring to the table.

11. Add Development Permit Area 15F: Intensive Residential – Attached Residential Development to the Delegated Approval Table

It is proposed that the Development Permit Area 15F: Intensive Residential – Attached Residential Development be added to two specific rows in the Delegated Approval Table in Schedule D. This would delegate the following permit types to staff for approval:

- Development Permits for an accessory building or buildings.
- Development Permits or Heritage Alteration Permits for landscaping changes where there is an approved Development Permit or Heritage Alteration Permit where no occupancy permit has been issued.

This change would be in keeping with the current approach for delegating other types of intensive residential development permits (e.g. small lot, panhandle, duplex) and would speed up and simplify the process for these types of applications.

12. Clarify that Delegated Approvals would not Impermissibly Vary the Use

Provincial legislation determines what aspects of a zoning bylaw can be varied with a development permit or development variance permit. Use and density cannot be varied. Therefore, it is recommended for Council's consideration that additional wording be added to ensure that it is clear

that it is not intended that a delegated development permit with variances for parking impermissibly vary the use.

13. Delegated Development Permits with Variances for Parking

The intention of the current approach of delegating development permits with variances for parking to staff is to simplify and shorten the process to be able to respond to small changes that often occur in commercial proposals when a variance for fewer than 6 stalls is required. Under the *Local Government Act*, however, a change of use for one specific business (in a building containing multiple commercial or residential units) may trigger the need for a variance for the entire building when, in fact, the rest of the building is lawful and is proposing no change to their uses. This can lead to a situation where a change in one business requiring a parking variance of fewer than 6 stalls would technically require a larger variance to address the lawful non-conformity of the entire building. This, in turn, means that these applications must be approved by Council even though the proposed actual additional requirement is for fewer than 6 stalls.

Staff recommend for Council's consideration that the bylaw be amended to delegate approval of these cases to staff because they have the same impact as a proposed variance for fewer than 6 stalls. Specifically, the change would delegate development permits with variances that propose a new use which requires fewer than 6 additional motor vehicle parking stalls, even if the total variance exceeds this number because of an existing legal non-conformity. Under the current bylaw, a development permit with a variance to reduce the number of parking stalls for commercial, industrial, or institutional uses by fewer than 6 stalls is already delegated to staff.

14. Landscaping Estimates

The applicant provides a landscaping estimate so that a landscape security deposit can be calculated (if required). Staff have reviewed the list of landscaping costs to be included within the landscaping estimate and determined that the wording should be adjusted to help guide applicants.

OPTIONS & IMPACTS

Accessibility Impact Statement

The recommendation does not impact accessibility considerations.

2019 – 2022 Strategic Plan

The ongoing maintenance of the *Land Use Procedures Bylaw* supports Objective 1: Good Governance and Civic Engagement, in particular the Ongoing Action to Streamline and make more consistent planning and permitting processes because it adds clarity to the existing bylaw.

Impacts to Financial Plan

The proposed amendments to the *Land Use Procedures Bylaw* will not impact the *Financial Plan*.

Official Community Plan Consistency Statement

Continued residential and employment growth is central to achieving the vision and objectives of the *Official Community Plan* (OCP). This initiative aims to reduce barriers to investment and development in Victoria by making development application processes more effective and efficient.

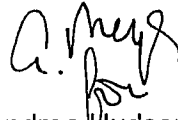
CONCLUSIONS

The proposed amendments to the *Land Use Procedures Bylaw* would provide clarity where the existing wording may cause confusion and does not fully, or accurately, address the intent of the Bylaw. Several other minor changes are also proposed to improve the development application process. Staff recommend that Council consider approving the proposed amendments to the Bylaw.

Respectfully submitted,




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Andrea Hudson, Acting Director
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Department

Report accepted and recommended by the City Manager:


Date: April 26, 2019

List of Attachments

- Attachment A: Proposed Land Use Procedures Bylaw Amendment (No. 19-037).