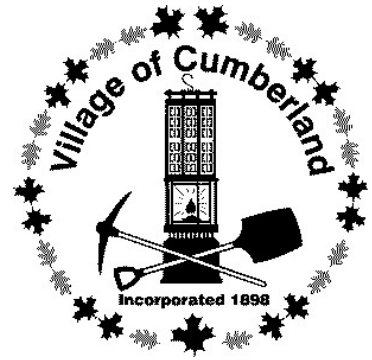


COUNCIL REPORT



REPORT DATE: 3/13/2023

MEETING DATE: 3/27/2023

File No. 3010

TO: Mayor and Councillors

FROM: Courtney Simpson, Manager of Development Services

SUBJECT: Development Approvals Process Modernization – Bylaw Amendments

RECOMMENDATION

- i. THAT Council give first and second reading to Development Application Procedures Bylaw No. 1187, 2023; and
- ii. THAT Council give first and second reading to Fees Amendment Bylaw No. 1188, 2023.

PURPOSE

To present the Council with the draft Development Application Procedures Bylaw No. 1187, 2023 and the draft Fees Amendment Bylaw No. 1188, 2023 as a next step in the implementation of the Development Approvals Process Modernization Project. The new electric vehicle charging station rate is also added to the Fees Bylaw pursuant to Council resolution at the January 23, 2023 meeting. Copies of the proposed bylaws are included with this cover report (Attachments 1 and 2).

PREVIOUS COUNCIL DIRECTION

Date	Resolution
January 23, 2023 COTW	<p>THAT the Committee approve the interim adoption of Electric Vehicle Charging station rates equivalent to the rates set by the British Columbia Utilities Commission for BC Hydro's Electric Vehicle Charging Stations.</p> <p>THAT the Committee direct staff to initiate the bylaw amendment process to amend the existing Village Fees Bylaw to add Electric Vehicle Charging Stations rates, and to set rates based on a revenue neutral basis.</p> <p>THAT the Committee direct staff to draft a Village Electric Vehicle Charging Station Policy and report back to Council.</p>
May 30, 2022	THAT the Committee receive the Development Approvals Process Modernization Summary Report for information.
November 8, 2021	THAT Council receive the Amendments to Local Government Legislation Proposed in Bill 26 report for information.

May 22, 2021	THAT Council direct staff to submit an application to the Union of BC Municipalities Local Government Development Approvals Program, for funding to review and update the Village of Cumberland's development approvals processes including information technology to support it, and that the Village of Cumberland provide overall grant management.
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BACKGROUND

In 2019, the Ministry of Municipal Affairs and Housing completed the third stage of the Province-wide Development Approvals Process Review (BC DAPR). The development approvals process refers to all operational steps and decision making in relation to a local government's consideration of approving development, from the pre-development application phase all the way through to issuance of building permits. The BC DAPR was initiated to better understand the challenges facing development application and approvals across British Columbia as part of a broader effort to identify barriers to creating additional affordable housing units.

The Union of British Columbia Municipalities (UBCM) Local Government Development Approvals Process Review (DAPR) Program and associated grant, announced in April 2021, was created as a result of the BC DAPR. The Village submitted an application to the UBCM Local Government DAPR and was notified of its successful application in August of 2021. The funding that the Village received from the UBCM Local Government DAPR was to conduct a review of its development approvals processes. The review is intended to help streamline and modernize the development approvals process and lead to positive outcomes related to the provision of affordable housing and other community priorities as outlined within the Official Community Plan and other bylaws.

Project Background

On May 30, 2022, the Committee of the Whole received the Development Approvals Process Modernization Summary Report which identified a list of recommended actions, including short, medium, and long-term action items to improve the Village's development application process. One of the short-term, grant funded, recommendations in the report is to review and draft a revised Development Application Procedure Bylaw to reflect changes in legislation and improve process clarity.

At the Committee of the Whole meeting on November 28th, 2022, a Development Application Procedures Bylaw Workshop was conducted by the Village's consultants, Urban Systems Ltd., to seek input into potential amendments to the subject bylaws. The attached bylaws were drafted to reflect the feedback provided by Council, and include the following:

- i. incorporate recent amendments to the *Local Government Act* into the proposed Development Application Procedures Bylaw,
- ii. draft revised procedures to streamline and strengthen the application intake and complete application assessment process, and
- iii. draft an amendment to the Fees Bylaw to incorporate development application fees and add development application fees that are not included in the current bylaw.

ANALYSIS

Development Application Procedures Bylaw

The draft proposes to repeal both the Village's Development Approval Information Bylaw No. 809, 2005 and the Development Application Procedures Bylaw No. 1073, 2018, and replace with a combined bylaw. The revised bylaw eliminates redundancies by removing references to procedures and timelines that are no longer followed by the Village and clarifies development procedures and required development approval information requirements into one bylaw which adds clarity to application procedures and requirements.

A summary of the proposed bylaw amendments are outline below:

1. Align with Recommended Best Practices

The revisions aim to make the application review process transparent and efficient by establishing clear steps and requirements for both staff and applicants. Further, the proposed bylaw reflects best practices in application processing and aligns with recommendations in the Provincial DAPR Report and changes to provincial regulations outlined in the *Local Government Act*.

2. Delegated Minor Development Variance Permits (DVPs)

The amendment of the *Local Government Act* to allow for delegated minor DVPs can support local governments in streamlining application reviews by reducing processing times as well as the number of minor land use applications that the Council must consider.

Under Section 498 of the *Local Government Act*, a local government may issue a DVP by Council resolution to vary requirements of specified bylaws. Section 498.1 has been added allowing a local government to adopt a bylaw to delegate to an officer or employee the authority to issue a DVP, if the proposed variance:

- is a minor variance, and
- varies the provisions of a bylaw under any of the following:
 - the Zoning Bylaw respecting siting, size and dimensions of buildings, structures and permitted uses;
 - off-street parking and loading space requirements;
 - the regulation of signs;
 - screening and landscaping requirements to mask or separate uses or to preserve, protect, restore and enhance natural environment;
 - and a provision of the *Local Government Act* prescribed by regulation of the Lieutenant Governor in Council.

As per the *Local Government Act*, a bylaw delegating the power to issue a DVP must include:

- a) criteria for determining whether a proposed variance is minor; and
- b) guidelines the delegate must consider in deciding whether to issue a DVP.

The criteria and guidelines proposed for the delegation of minor DVPs in the draft Development Approval Procedures Bylaw utilize a two-step approach. The approach will ensure that the Council's interests in the variance process are represented while providing staff with a suitable level of professional judgement to determine whether a variance is "minor" based on a suite of land use planning considerations.

Further, the proposed draft bylaw supports transparency and procedural fairness by ensuring that the Council continues to see DVP applications that may receive significant community interest. While the *Local Government Act* does not require a delegated DVP to be advertised to neighbouring property owners, the draft bylaw proposes that property owners surrounding a property that is the subject of a DVP application receive notification and the opportunity to submit comments. The bylaw outlines the process for Council to reconsider the decision of staff to deny a DVP. Also, if the proposed variance meets the criteria of minor, but in the opinion of the Manager, it would be in the public interest to instead have the application considered by Council, the Manager will bring the application to Council for a decision.

3. Removal of the Default Requirement to Hold Public Hearings for Rezoning Applications

The *Local Government Act* has been amended to remove the default requirement to hold public hearings for rezoning applications that are consistent with the OCP. The intent of the legislative revision is to reduce processing timelines and resources to coordinate and organize the public hearings that may not provide value to a Zoning Bylaw amendment application process if the application is already in alignment with the OCP.

Notice of the zoning amendment is required prior to first reading of the bylaw if no public hearing is to occur which provides the public with an opportunity to identify concerns earlier in the process for Council's consideration. At the time that Council considers first reading of the bylaw, Council would consider public submissions and decide to require a public hearing.

As it is a recommended best practice to engage the community earlier in the rezoning process rather than after bylaws have been drafted, and based on Council feedback at the November 28th, 2022 Council Procedures Bylaw workshop, the draft Development Procedures Bylaw includes provisions over and above the legislative requirements for development application notification signs, public information meetings and notification mail outs that are generally in alignment with current practices.

4. Delegated Development Permits and Heritage Alteration Permits

The BC DAPR Report recommends increasing delegated development permit approval authority empowering staff to deal with routine approvals as a means to improve service delivery. Development permits are a non-discretionary approving authority, meaning that both the local government and the applicant are bound to adhere to the established development permit Guidelines in the OCP. The time to engage the community is during the development of the guidelines in the OCP and not during the DP application approval process. Municipalities that have denied development permit applications based on considerations other than the guidelines have been ordered by the Courts to reverse their decisions.

Delegation powers can be expanded or retracted by a bylaw amendment. When considering increasing the scope of development permits or heritage alteration permits it is important to establish the comfort level of Council and staff. Delegating powers to staff can also be phased in over time to ensure that both Council and staff have a policy and regulatory framework in place to guide decision making. As the OCP is about to be reviewed, Council provided feedback at the Development Application Procedures Bylaw Workshop to take an incremental approach to delegated development permit authority until the guidelines have been further reviewed. Based on this direction, the recommended scope of delegated development permit authority is summarized as follows:

- residential developments that do not exceed four units;
- industrial and commercial developments outside of the Heritage Conservation Area;
- accessory buildings;
- Wildfire Urban Interface Development Permits;
- Farmland Protection Development Permits;
- Minor amendments to approved permits; and
- Renewal of unchanged, lapsed permits.

It is recommended that the scope of delegated authority for heritage alteration permits include:

- signs, fences, and accessory buildings;
- new or replacement windows and doors that do not affect the character defining elements of the building;
- single or duplex additions to a maximum of 100m² at the rear of the building without any variances; and
- minor amendments to an existing approved permit.

Fees Bylaw

Currently, the fees for development applications are included in the Schedules of the Development Application Procedures Bylaw No. 1073, 2018. It is proposed that the development application fee schedule be added to the current Fees Bylaw No. 1110, 2019 to consolidate all fees for ease of use by the development community and staff. Consolidating fees into one bylaw aligns with best practices and ensures that all fees are reviewed regularly and inflationary cost adjustments to Village fees are streamlined. This approach may be phased in across other Village fees and charges as bylaws are amended.

The intent of this review was not to do a comprehensive review of development application fees and rather identify opportunities to add clarity to fees and interpretation. The proposed updates to the development application fees include introducing fees for application types that were not identified previously in the Village's bylaws. The updates ensure that the fees reflect the proposed changes in the draft Development Application Procedures Bylaw. The fees for existing application types have not been revised except for where opportunities to simplify fees or establish clarity for fees that were not previously incorporated into the bylaw. The proposed additional processing fees that are not included in the existing bylaw and associated application types are listed in Table 1 below.

The proposed bylaw simplifies fees associated with engineering peer reviews by establishing a flat retainer required at time of application, instead of basing it on a formula related to number of lots or units. Retainers are proposed based on the average cost of the external review for processing that type of application. Any remaining fees not used by the external review will be refunded to the applicant. If the cost of the external review is more than the retainer collected at the time of application, an additional retainer of the same amount will be collected. Any remaining fees not used by the external review will be refunded.

Table 1. List of application types and proposed associated fees introduced in Fees Amendment Bylaw No. 1188, 2023

Application Type	Fees Total
Liquor and Cannabis Regulation Branch Referrals	\$1,000 ¹
Telecommunication Antenna System	\$1,500
Restrictive Covenant or Statutory Right of Way - Amendment to or Discharge	\$1,000
Comprehensive Development Plan	Step A: Terms of Reference: \$2500 Step B: Submission of Comprehensive Development Plan: \$5000 plus \$100 per hectare to a maximum of \$30,000
Development Related Report Requiring a Council Resolution	\$500

¹ Fee raised from \$500

PUBLIC ENGAGEMENT AND CONSULTATION

Following first and second reading of the bylaws, the Village will seek stakeholder input by referring the bylaws to Cumberland's development community as well as posting the bylaws on the Village's website. Any feedback received from stakeholders will be recorded and shared with Council prior to consideration of third reading and adoption of the subject bylaws.

ALTERNATIVES

1. That Council provide alternate direction.

STRATEGIC OBJECTIVE

- ☐ Healthy Community
- ☐ Quality Infrastructure Planning and Development
- ☒ Comprehensive Community Planning
- ☐ Economic Development

FINANCIAL IMPLICATIONS

Consolidating fees into one bylaw aligns with best practices and ensures that all fees are reviewed regularly and simplifies inflationary cost adjustments to fees across all service areas. This project is fully funded by the Provincial government through a grant program administered by UBCM.

OPERATIONAL IMPLICATIONS

The goal of the project is to identify opportunities to increase the efficiency and effectiveness of the Village's development approvals processes.

CLIMATE CHANGE IMPLICATIONS

Amendment of these administrative bylaws, including delegation of some types of minor applications to staff, are not expected to have any implications for climate change preparedness, or reduction of greenhouse gas emissions.

ATTACHMENTS

1. Draft Development Application Procedures Bylaw No. 1187, 2023
2. Draft Fees Bylaw Amendment No. 1188, 2023

CONCURRENCE

Rachel Parker, Corporate Officer **RP**

Annie Bérard, Chief Financial Officer **AB**

Kaelin Chambers, Economic Development Officer **KC**

Respectfully submitted,

C. Simpson

Courtney Simpson
Manager of Development Services

M. Mason

Michelle Mason
Chief Administrative Officer