



**RESORT MUNICIPALITY OF WHISTLER**

4325 Blackcomb Way      **TEL** 604 932 5535  
Whistler, BC Canada V8E 0X5      **TF** 1 866 932 5535  
whistler.ca      **FAX** 604 935 8109

## **STAFF REPORT TO COUNCIL**

**PRESENTED:** September 20, 2022      **REPORT:** 22-127  
**FROM:** Planning - Development      **FILE:** 7007.09  
**SUBJECT:** LAND USE PROCEDURES AND FEES BYLAW NO. 2205, 2022 – FIRST,  
SECOND AND THIRD READINGS REPORT

**That** the recommendation of the General Manager of Resort Experience be endorsed.

### **RECOMMENDATION**

**That** Council consider giving first, second and third readings to “Land Use Procedures and Fees Bylaw No. 2205, 2022”; and further

**That** Council direct staff to complete a comprehensive review of all fees for planning applications and development related services for Council consideration in the fourth quarter of 2022.

### **PURPOSE OF REPORT**

This report presents “Land Use Procedures and Fees Bylaw No. 2205, 2022” (proposed bylaw) for Council consideration of first, second and third readings. The proposed bylaw is an update of “Land Use Procedures and Fees Bylaw No. 2019, 2012” as consolidated, (current bylaw) which will be repealed and replaced by the proposed bylaw.

The proposed bylaw has been prepared to update references to development permit area designations within “Official Community Plan Bylaw No. 2199, 2018” (OCP), and development approval information requirements for consideration of applications for OCP amendments, zoning amendments, development permits (DP), temporary use permits (TUP) and development variance permits (DVP).

The bylaw also incorporates significant process improvements and efficiencies for streamlined development application approval processes through the expanded use of Council delegation authorities, enabling designated staff to make a wider range of approval decisions. These are based on a comprehensive review completed by staff of existing processes, historic and typical development applications, and existing and expanded delegation authorities.

This includes use of powers that have recently been enabled by the Provincial Government through Bill 26, the *Municipal Affairs Statutes Amendment Act (No. 2), 2021*, directed at process improvements and efficiencies in the delivery of housing. Significantly these additional powers permit the delegation of minor DVPs and the ability to delegate decisions to waive public hearings for rezoning applications that are consistent with the OCP.

The process improvements are expected to result in substantial staff time savings reducing demands on staff resources, and providing for improved development approval timelines and reduced costs for

applicants. These savings also support prioritization of staff resources to focus on higher priority applications and file types such as employee housing.

The proposed bylaw will not significantly alter the existing fee structure for development applications at this time. It is however, the intention of staff to bring forth a comprehensive review and recommended update of all fees for development related services and applications for Council consideration in the fourth quarter of 2022. The three main objectives of updating the fee structure are to:

- adequately recover costs incurred by the Resort Municipality of Whistler (RMOW) for processing development applications,
- provide a transparent and equitable fee schedule that provides greater certainty to applicants regarding application costs, and
- streamline the processing and administration of development related services and applications.

Information Report

Administrative Report (Decision or Direction)

## DISCUSSION

### Background

The RMOW Planning Department administers development approval processes for land use and development in Whistler.

Per the provincial *Local Government Act*, a local government that has adopted an official community plan bylaw or a zoning bylaw:

- must, by bylaw, define procedures for land use applications, under which an owner of land may apply for an amendment to the plan or bylaw or for a permit;  
must, by bylaw, establish procedures and policies on the process for requiring development approval information and the substance of the information that may be required in instances when the adopted official community plan specifies circumstances or designates areas for which development approval information may be required;
- may, by bylaw, impose fees for an application to initiate changes to an official community plan or zoning bylaw, for the issuance of a permit, for an amendment to a land use contract, for a service of the municipality, for the use of municipal property and for the exercise of regulation powers; and
- may, by bylaw, specify a distance from affected land for the purpose of notifying owners and tenants in occupation of proposed bylaw amendments and permits.

Further, the *Community Charter* enables a local government by bylaw, to delegate its powers, duties and functions to an officer or employee of the municipality.

The RMOW's current bylaw is the bylaw the RMOW Planning Department utilises to define application procedures, development approval information requirements, fees, and the scope of applications wherein approval decisions are delegated to staff, for the following application types:

- (a) a development permit;
- (b) a development variance permit;

- (c) a letter of concurrence or non-concurrence to Industry Canada for an *Antenna System*;
- (d) a modification or discharge of a section 219 covenant;
- (e) a temporary use permit;
- (f) an amendment to a land use contract;
- (g) an amendment to the Official Community Plan;
- (h) an amendment to the Zoning Bylaw;
- (i) an exemption from a bylaw establishing a flood construction level or floodplain setback;
- (j) an outdoor patio licence; and
- (k) an approval of an outdoor patio on a statutory right of way.

On June 23, 2020 “Official Community Plan Bylaw No. 2199, 2018” was adopted by Council and replaced the 1993 Official Community Plan. Pursuant to the *Local Government Act*, the updated OCP designated development permit areas and specified circumstances in which the RMOW may require applicants to provide development approval information. The proposed fees and procedures bylaw has been updated to match the OCP terminology for development permit designations, and to update procedures, policies and categories of development approval information that may be required to assess impacts of proposed development applications.

In November 2021, Bill 26, the *Municipal Affairs Statutes Amendment Act (No. 2), 2021*, was passed by the Provincial legislature in an effort to increase housing supply to BC communities by streamlining local government development approval processes. Two significant amendments were made to update the *Local Government Act*.

- enable local governments to delegate the authority to decide not to hold a public hearing for zoning bylaw amendments that are consistent with the OCP; and
- enable local governments to delegate decisions on minor DVPs to staff.

## ANALYSIS

### **Process and Methodology**

The process of creating the proposed bylaw was initiated with establishing three objectives as follows:

1. To ensure the proposed bylaw harmonizes with the updated OCP with respect to development permit designations terminology and development approval information. Development approval information means information to be submitted by an applicant on the anticipated impact of a proposed development on the community respecting a zoning amendment, a development permit and a temporary use permit, and must be established by bylaw pursuant to the requirements of the *Local Government Act* and applicable development approval information designations of the OCP.
2. To streamline development approval processes by taking advantage of recent provincial legislative amendments enabling local governments more powers to delegate more approval decisions to staff and broadening existing delegations.

3. To provide a highly transparent, considered and fair proposed bylaw that meets statutory requirements.

To achieve these three main objectives, the process of drafting the proposed bylaw was conducted in four stages.

✓ **Stage 1: Legislation Review and Opportunities Analysis**

In stage one, staff conducted a review of the procedures and fees bylaws of neighboring and similar municipalities. The main purpose of the review was to identify and include (where applicable) the best practices of each into the proposed bylaw. In addition, staff conducted a review of the requirements in relevant legislation namely, the *Community Charter* and *Local Government Act* to identify new opportunities to meet the abovementioned obligations. Specifically, staff reviewed and identified opportunities to streamline the development approval process via the expansion of delegated authority from Council to staff.

✓ **Stage 2: Historical Projects Opportunities Analysis.**

In stage two, staff reviewed the details of the past three years of DPs and DVPs that had proceeded to Council for consideration, for the purpose of identifying further opportunities to delegate Council's decision-making to staff for DPs and DVPs considered to be minor.

✓ **Stage 3: Internal Stakeholder Engagement**

In stage three, internal stakeholder engagement was conducted with administrative, professional and managerial staff. The main purpose of the engagement was to identify issues, inefficiencies and opportunities to increase transparency, service quality and efficiency.

✓ **Stage 4: Drafting Bylaw**

The proposed bylaw was drafted and reviewed to provide a finished product which incorporated (where legally possible), new and updated sections that will achieve the abovementioned three objectives.

### **Land Use Procedures and Fees Bylaw No. 2205, 2022**

The proposed bylaw has been prepared to repeal and replace the current bylaw, as consolidated. The following section details notable changes for each component of the proposed bylaw.

#### **Definitions**

The Definitions section of the proposed bylaw incorporates most of the definitions from the current bylaw that are relevant to the proposed bylaw. The notable additions include the added definitions for “*Director of Planning*”, “*Manager of Planning*”, “*General Manager of Infrastructure Services*”, “*Building Official*” and “*Corporate Officer*” The main reason of adding these definitions is for the purpose of facilitating increased delegation of decision making from Council to appropriate RMOW staff. The intention of this is to streamline the process and administration of Development Planning services, the mechanics of which are discussed in greater detail in the Delegations section of this report.

#### **Development Approval Information**

As described in the Background section of this report, the OCP, adopted on June 23, 2020, designated areas and specified circumstances in which the RMOW may require applicants to provide development approval information. The bylaw has been updated to match the OCP terminology for development permit designations, and to update procedures, policies and categories of development approval information that may be required to assess impacts of proposed development applications.

The Development Approval Information section of the proposed bylaw has been drafted pursuant to the requirements of the *Local Government Act* and applicable development approval information designations of the OCP including the range of categories that development approval information must address.

In addition to the adoption of the new OCP, the size, variety and complexity of permit applications and zoning amendments that the RMOW receives has increased significantly over the past ten years. As such, there are several additions and updates to the Development Approval Information section in the proposed bylaw. The following is a list of describing the notable additions and updates:

The proposed bylaw:

- ✓ identifies that development approval information requirements apply to applications for a zoning amendment, a DP, a DVP, a TUP and OCP amendment,
- ✓ sets out a comprehensive range of categories for which the RMOW may require specific development approval information to address, including any particular information requirements that are identified in or arise from any applicable policies, guidelines or conditions in the OCP or Zoning Bylaw,
- ✓ provides specific provisions with respect to development approval information requirements for developments within the Protection of Riparian Development Permit Area (DPA) and Sensitive Ecosystems DPA,
- ✓ updates the declaration provisions for lands located in Aquifer Protection DPA to align with the OCP guidelines, and
- ✓ empowers the General Manager, Director of Planning or Manager of Planning to request Terms of Reference for development approval information and to accept or identify additional matters that need to be included in the Terms of Reference within the scope of the matters listed in the bylaw.

## Delegation

In order to significantly streamline the internal development approval process, the proposed bylaw incorporates two significant changes to the delegation section:

- expanding delegated authority to a broader range of RMOW staff; and
- expanding the type and scope of development applications eligible to be delegated to staff for decision making.

Of note the proposed bylaw:

- ✓ delegates the authority to require development approval information to staff;
- ✓ delegates decisions on DVPs of a minor nature to staff subject to the criteria and guidelines set out in Schedule E of the proposed bylaw,
- ✓ delegates decisions on an application for an exemption from a bylaw establishing a flood construction level or floodplain setback to staff,

- ✓ increases the scope of DP decisions that can be delegated to staff, and
- ✓ delegates the decision not to hold a public hearing for a zoning bylaw amendment that is consistent with the OCP to staff.

The current bylaw delegates authority empowering the General Manager of Resort Experience to make decisions with regard to certain development applications and services. The proposed bylaw will now permit Council to delegate authority empowering not only to the General Manager of Resort Experience, but also the Director of Planning and Manager of Planning to make decisions with regard to a wider range of development related services and applications, thereby providing considerably more flexibility for the Planning Department to efficiently manage staff time resources, whilst improving response time to applicants.

The proposed bylaw will also expand the type and scope of development applications eligible to be delegated to RMOW staff for decision making. In turn, this will streamline internal administration and approval processes providing significant time and cost reduction advantages. This extra capacity will enable staff to prioritise and complete more projects.

Further, these changes will also result in significant time savings for applicants which will translate into reduced project costs and the ability to effectively and efficiently deliver projects.

Appendix A provides a comprehensive list comparing the delegation authority powers between the current bylaw and proposed bylaw. Of note the proposed bylaw:

- ✓ expands the delegated criteria for DPs (Schedule B of the proposed bylaw) to include: subdivision of land; roads, driveways and utilities; new development or renovations to existing development in the Multi-Family Residential DPA affecting fewer than six dwelling units; and development in the Whistler Village DPA affecting no more than two building elevations other than for placement of exterior eavestroughs, downspouts, and other appurtenances
- ✓ identifies the following as minor DVPs that may be delegated to staff:
  - any of the following provisions of the *Zoning Bylaw*:
    - a. siting and design standards for off-street parking or loading spaces;
    - b. regulations for tandem parking;
    - c. regulations for the siting or height of solid waste separation and storage facilities;
    - d. site coverage regulations, provided that maximum site coverage is not increased by more than 25%;
    - e. building setback regulations, provided that a required setback is not reduced by more than 25%;
    - f. exceptions to setback regulations for projections in Section 7 of Part 5 with the exception of foundations or supports for such projections as described in subsection 7(1) of Part 5, and provided that the variance deals only with the extent of a projection and does not provide an exception for a type of projection that is not provided for in the bylaw;
    - g. building height regulations, provided that permitted height is not increased by more than 10%; or
  - a provision of Sign Bylaw No. 558, 1987 that restricts the number, size, type, form, appearance or location of a sign.

The efficiencies derived from expanding the suite of development applications delegated from Council to RMOW staff are as follows:



- a. Cost and staff time savings realized as a result of no longer needing to advance files to Council. The time savings that are realized relate to Council report preparation, review and approval; Council presentation preparation, review and approval; Council package preparation; Council meeting attendance; and applicant coordination. Conservatively, on average, between 20 and 40 hours of staff time is saved for each DP and DVP that is delegated. From January 2020 to present, 26 DVPs were considered by Council. Should the proposed bylaw be adopted, 17 of those 26 DVP's would now meet the "minor" criteria as per Schedule E of the proposed bylaw and would be delegated, ensuring savings of an average of 130 staff hours per year moving forward. Further, from January 2019 to present, 18 DPs were considered by Council. Should the proposed bylaw be adopted, 9 of those 18 DPs would now be delegated, ensuring savings of an average of 52 staff hours per year moving forward.
- b. These changes will also translate in application costs savings and at least one month of time savings to an applicant, enabling them to shorten construction timelines and remove uncertainty. These cost and time savings will also enable RMOW staff more time to focus upon other pressing Council and community priorities.
- c. The enablement of RMOW staff to provide information to applicants regarding application processes, timelines and expected costs with greater level of precision and certainty. This will increase the transparency of the process and public perception of the Planning Department.
- d. Increased flexibility within the Planning Department, which will enable management to more efficiently and effectively utilize staff resources.

### **Application Fees**

The proposed bylaw provides for a \$2400.00 application fee for non-delegated TUPs based on the estimated average amount of staff time to process such a permit for anticipated cannabis TUPs. The proposed bylaw also provides for a Land Title and Survey Authority of BC (LTSA) filing fee for permits.

### **Comprehensive review of all fees**

Staff will bring forward a comprehensive review and update of all fees for development related services and applications for Council consideration in the fourth quarter of 2022.

The primary objectives of the fees update are as follows:

- **True Cost Recovery:** To adequately recover all costs incurred by RMOW for processing, administration, advertising, inspection, including recouping third party legal fees and consulting services for applications and services provided externally to the public by the Planning Department.
- **Transparent Fee Structure:** To provide a highly transparent, considered and equitable fee schedule to compliment the proposed land use and procedures and fees bylaw, providing greater certainty to applicants on application costs.
- **Streamlined and Efficient Approach:** To streamline the processing and administration of all development related services and applications by the reduction of time and cost inefficiencies

directly attributed to the processing, maintenance and administration of timesheets by RMOW professional and administrative staff. This will be achieved by the change from the current timesheet-based (as incurred) fee structure to a much more transparent all-inclusive-based (nominal) fee structure.

## POLICY CONSIDERATIONS

### Relevant Council Authority/Previous Decisions

The proposed bylaw is consistent with the *Local Government Act* and the *Community Charter*. Specifically, section 460 of the *Local Government Act* stipulates that a local government that has adopted an official community plan bylaw or a zoning bylaw must, by bylaw, define procedures under which an owner of land may apply for an amendment to the plan or bylaw or for a permit. Section 154 of the *Community Charter*, that Council may, by bylaw, delegate its powers, duties and functions to an officer or employee of the municipality.

[March 16, 2021: Administrational Report No. 21-026](#), “Land Use Procedures and Fees Amendment Bylaw (Complex Site Rezoning) No. 2308, 2021” Report to create a new fee category for large complex development applications that due to scope, complexity and size impose greater administrative, resource and capacity obligations on the RMOW. This fee amendment was a precedent setting change to the previous fee structure in that the estimated costs of processing, inspection, advertising and administration related to the application type were set out as an all-inclusive nominal based fee. Bylaw 2308 was adopted by Council on April 6, 2021. The proposed fees review and update will develop upon this previous bylaw approach.

### Corporate Plan

The RMOW Corporate Plan is updated annually and articulates strategic direction for the organization. This section identifies how this report links to the plan.

### **Council Focus Areas**

Community Balance

*Effectively **balance resort and community needs** through deliberate planning, partnerships and investment*

Climate Action

*Provide leadership to **accelerate climate action and environmental performance** across the community*

Housing

*Advance strategic and innovative initiatives to enable and **deliver additional employee housing***

Pandemic Recovery

*Leadership and support for **community and tourism recovery and sustainability** – priority focuses are where recovery needs intersect with other Council focus areas*

Not Applicable



## Corporate Goals

- Community character and mountain culture is reflected in municipal initiatives
- Municipal decision-making supports the effective stewardship of natural assets and ecological function
- Corporate policies and operations ensure continuous excellence in infrastructure, facility and program management
- A high level of accountability, transparency and community engagement is maintained
- Corporate financial health is optimized to ensure long-term community success
- A vibrant local economy and safe, resilient resort community is effectively reinforced by organizational activities
- Pandemic recovery

## Community Vision and Official Community Plan

The OCP is the RMOW's most important guiding document that sets the community vision and long-term community direction. This section identifies how this report applies to the OCP.

The recommended resolutions included within this report are consistent with the community vision, goals, objectives and policies included within the OCP.

---

## BUDGET CONSIDERATIONS

Municipal staff led and conducted the majority of the work to implement the recommendations of this report, with some legal support. The work is accounted for in the municipal budget.

The increased delegations contained in the proposed bylaw will result in cost and time savings to applicants. It will also result in cost and time savings to RMOW staff and Council, enabling management to more efficiently and effectively utilize staff resources to focus and deliver on Council priorities.

---

## LIL'WAT NATION & SQUAMISH NATION CONSIDERATIONS

The RMOW is committed to working with the Líl'wat People, known in their language as *L'il'wat7úl* and the Squamish People, known in their language as the *Skwxwú7mesh Úxwumixw* to: create an enduring relationship; establish collaborative processes for Crown land planning; achieve mutual objectives; and enable participation in Whistler's resort economy. This section identifies areas where RMOW activities intersect with these relationships.

The proposed bylaw will apply to the Líl'wat Nation and the Squamish Nation to the extent that they own property in Whistler.

## COMMUNITY ENGAGEMENT

Level of community engagement commitment for this project:

Inform     Consult     Involve     Collaborate     Empower

Community engagement and consultation is not required. However, staff have informed the local home builders industry of the proposed bylaw and will communicate the proposed bylaw on the RMOW website. The proposed bylaw reflects changes enabled by the province and meets legislated requirements.

If adopted, all applicable application forms will be updated accordingly. Further, the municipal website will be updated to ensure all changes related to the development process and otherwise are reflected in the information provided to the public.

---

## REFERENCES

Land Use Procedures and Fees Bylaw No. 2205, 2022 (included in Council Package)

Appendix A – Delegations: Current and Proposed

---

## SUMMARY

This report presents “Land Use Procedures and Fees Bylaw No. 2205, 2022” for Council consideration of first, second and third readings.

The proposed bylaw defines the procedures for land use applications, sets out and imposes fees for such applications, establishes procedures and policies for development approval information, specifies distances for notification and delegates powers, duties and functions of council. The proposed bylaw incorporates and updates the relevant sections of the RMOW’s current bylaw, and repeals and replaces the current bylaw.

The proposed bylaw will streamline the development approval process by expanding more of Council’s decision making to RMOW staff, and harmonizing and aligning with the new OCP via the establishment of clear development approval information requirements for zoning amendments, DPs and TUPs.

Whilst the proposed bylaw will not significantly alter the existing fee structure, staff seek Council’s endorsement to conduct a comprehensive review and subsequent update of development application fees for Council consideration in the fourth quarter of 2022.

---

## **SIGN-OFFS**

### Written by:

Bryan De George,  
Planner

### Reviewed by:

Melissa Laidlaw,  
Manager of Development Planning

Mike Kirkegaard,  
Director of Planning

Jessie Gresley-Jones,  
General Manager of Resort Experience

Virginia Cullen,  
Chief Administrative Officer