

**DEVELOPMENT APPLICATIONS PROCEDURES
BYLAW NO. 714, 2022
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**DEVELOPMENT APPLICATIONS PROCEDURES
BYLAW NO. 714, 2022**

**A BYLAW TO ESTABLISH PROCEDURES AND FEES FOR THE
PROCESSING OF LAND DEVELOPMENT APPLICATIONS**

WHEREAS the Council of the Village of Nakusp shall, by bylaw, define procedures under which an owner of land may apply for amendment to an official community plan, zoning bylaw or for the issuance of a permit pursuant to Section 460 of the *Local Government Act*;

AND WHEREAS Council has designated areas within where a Temporary Use Permit may be issued and within which Development Permits are required;

AND WHEREAS Council may, by bylaw, specify a distance from a property under application for the purposes of notifying owners and occupants of proposed bylaw amendments and permits;

AND WHEREAS Council may, by bylaw, delegate its powers, duties and functions to an officer or employee of the municipality;

NOW THEREFORE the Council of the Village of Nakusp in open meeting assembled enacts as follows:

PART 1 – TITLE

TITLE

1. (1) This Bylaw may be cited as Development Application Procedures Bylaw No. 714, 2022.

PART 2 – DEFINITIONS

DEFINITIONS

2. In this Bylaw, unless context requires otherwise:
 - (1) 'Applicant' means any landowner who makes application under the provision of this Bylaw or anyone who is authorized by the owner of the lands to make application;
 - (2) 'Application' means an application for an official community plan amendment, zoning bylaw amendment, temporary use permit, development variance permit, or development permit.

- (3) 'Application Form' means a form provided by the Village of Nakusp for the purposes of application for an official community plan amendment, zoning bylaw amendment, temporary use permit, development variance permit, or development permit;
- (4) 'CAO' means the Chief Administrative Officer of the Village of Nakusp;
- (5) 'Local Government Act' (LGA) means the *Local Government Act [RSBC 2015] Chapter 1* as amended;
- (6) 'Minor Development Permit' means a permit approved by an officer or employee of the Village of Nakusp as delegated by Council which conforms to the Development Permit Guidelines of the Official Community Plan and does not require any development variances and that meets the following criteria:
 - a) the addition of floor space of less than 20 square meters or 25% of the existing gross floor area, whichever is greater;
 - b) façade improvements for buildings that do not require any structural alterations;
 - c) exterior signage that is affixed to the building, meets sign regulations and does not require a Building Permit or Encroachment Agreement;
 - d) additions or exterior improvements that do not exceed \$25,000 in value; and
 - e) landscaping and screening
- (7) 'Minor Development Variance Permit' means a permit approved by an officer or employee of the Village of Nakusp as delegated by Council which, in the opinion of the CAO or their designate, is deemed minor if it meets the following criteria:
 - a) consistent with neighbourhood character;
 - b) does not increase the appearance of building bulk from the street or surrounding neighbourhood;
 - c) does not reduce light access, privacy, or views of adjacent lots;
 - d) does not require extensive site preparation or disturbance;
 - e) does not include unattractive building elements, such as unscreened foundations or blank, flat walls with little variation;
 - f) does not exceed \$10,000 in value; and
 - g) does not interfere with municipal operations and services.
- (8) 'Regional District' means the Regional District of Central Kootenay;
- (9) 'Regular Office Hours' means Monday to Friday 8AM – 4PM, except for Statuary Holidays or otherwise posted;
- (10) 'Security Deposit' means an unconditional irrevocable letter of credit or deposit of securities in a form satisfactory to the Village of Nakusp;
- (11) 'Village' means the Village of Nakusp;
- (12) 'Village Office' means the Municipal office of the Village of Nakusp located at 91 1st Street NW, PO Box 280 Nakusp, British Columbia V0G1R0.

PART 3 - SCOPE

SCOPE

3. (1) This Bylaw establishes procedures and fees in relation to the following:
 - a) An Amendment to the Official Community Plan and/or Zoning Bylaw.
 - b) A Development Permit.
 - c) A Development Variance Permit.
 - d) A Temporary Use Permit.
- (2) The fees are prescribed in the Fees and Charges Bylaw No. 693, as amended from time to time.

PART 4 - APPLICATION

APPLICATION

4. (1) Applications shall be made by the owner of the land or by the person authorized by the owner.
- (2) Applications shall be submitted to the CAO or their designate, on the applicable form provided by the Village of Nakusp.
- (3) The Village may require a site visit or further information to be provided after the initial application and prior to proceeding to Council.
- (4) Applications shall contain all applicable information and follow the procedures as prescribed in the following Schedules, which are attached to, and form part of this Bylaw:
 - a) Procedures for application to amend the Official Community Plan and/or Zoning Bylaw are outlined as Schedule 1 of this Bylaw.
 - b) Procedures for application for a Development Permit are outlined as Schedule 2 of this Bylaw.
 - c) Procedures for application for a Development Variance Permit are outlined as Schedule 3 of this Bylaw.
 - d) Procedures for application for a Temporary Use Permit are outlined as Schedule 4 of this Bylaw.
 - e) Procedures for the calculation and release of a security deposit as required as part of a Development Permit, Development Variance Permit or Temporary Use Permit are outlined as Schedule 5 of this Bylaw.
- (5) Application fees, in accordance with Schedule 6 of this Bylaw, are payable to the Village of Nakusp at the time of application submission.
- (6) Applications will not be considered complete and will not be processed until all the necessary documentation and application fees have been received.
- (7) Where an application has been refused by Council, the CAO or their designate, shall notify the applicant in writing within fifteen (15) days immediately following the date of refusal.
- (8) Applications that are refused by Council will not be reconsidered within six (6) months of refusal, unless the CAO or their designate, has deemed the application to be substantially different from that originally submitted or pursuant to the provisions of the *Local Government Act*.

LGA 460(3)

- (9) Applications under this Bylaw shall be considered lapsed and new application required where the applicant has not communicated and/or submitted outstanding materials or information within six (6) months of the initial receipt of the application by the Village or where a decision on the application has not been made within eighteen (18) months of the initial receipt of application. Upon written request by an applicant prior to lapse of an application, Council, may extend the deadline for a period of six (6) months from the date of request, by resolution.

PART 5 - DELEGATION

DELEGATION

5. (1) Council delegates its authority to issue and amend minor Development Permits and minor Development Variance Permits to the CAO or their designate.
- (2) Where the CAO or their designate has refused issuance or required amendment of a minor Development Permit or a minor Development Variance the applicant may request that Council reconsider the decision, within thirty (30) days immediately following the date of refusal or amendment; requests must be received in writing to the Village Office.

LGA 490 (5)
LGA 498.1

PART 6 - NOTIFICATION

NOTIFICATION

6. (1) At least fourteen (14) working days prior to consideration of First Reading for an amendment to an Official Community Plan and/or Zoning Bylaw, the CAO or their designate, must:
- a) Mail or otherwise deliver written notification of application to the applicant, applicable agencies and registered owners or occupiers of real property located within 30 meters of the subject property or properties.
 - b) This requirement is not applicable to amendments of the Official Community Plan and/or Zoning Bylaw that involve more than ten (10) properties.
- (2) At least fourteen (14) working days prior to a Public Hearing for an amendment to the Official Community Plan and/or Zoning Bylaw, the CAO or their designate, must: Bylaw:
- a) Mail or otherwise deliver written notification of the Public Hearing to the applicant and registered owners or occupiers of real property located within 30 meters of the subject property or properties.
 - b) This requirement is not applicable to amendments of the Official Community Plan and/or Zoning Bylaw that involve more than ten (10) properties.
 - c) Publish notice in accordance with the requirements of the *Local Government Act*.
- (3) At least fourteen (14) working days prior to consideration of issuance of a Development Variance Permit, the CAO or their designate, must:
- a) Mail or otherwise deliver written notification of application to the applicant, applicable agencies and registered owners or occupiers of real property located within 30 meters of the subject property or properties.
 - b) Minor Development Variance Permits are exempt from written notification outlined above in 6.3 a).
- (4) At least fourteen (14) working days prior to consideration of the issuance of a Temporary Use Permit, the CAO or their designate, must:

LGA 466

LGA 494

- a) Mail or otherwise deliver written notification of application to the applicant, applicable agencies and registered owners or occupiers of real property located within 30 meters of the subject property or properties.
- b) Publish notice in accordance with the requirements of the *Local Government Act*.

(5) For the purposes of notification of the public of proposed Official Community Plan Amendments and/or Zoning Amendments and for Temporary Use Permits, Complete Applications may be listed on the Village website or other form of public notification as notice of proposal.

PART 7 - SCHEDULES

SCHEDULES

7. (1) The following Schedules are attached to, and form part of this Bylaw:
- a) Schedule 1: Procedures for application to amend the Official Community Plan and/or Zoning Bylaw
 - b) Schedule 2: Procedures for application for a Development Permit
 - c) Schedule 3: Procedures for application for a Development Variance Permit
 - d) Schedule 4: Procedures for application for a Temporary Use Permit
 - e) Schedule 5: Procedures for the calculation and release of a Security Deposit
 - f) Schedule 6: Fees and Charges

PART 8 – SEVERABILITY AND REPEAL

SEVERABILITY AND REPEAL

8. (1) If any portion of this Bylaw is declared invalid by a court, the invalid portion shall be severed and the remainder of the Bylaw is deemed valid.
- (2) Village of Nakusp Development Procedures Bylaw No .681, 2018 and all its amendments thereto are hereby repealed.

READ A FIRST TIME THIS 24th DAY OF October, 2022

READ A SECOND TIME THIS 24th DAY OF October, 2022

READ A THIRD TIME THIS 28th DAY OF November, 2022

ADOPTED THIS 12th DAY OF December, 2022

Mayor

Chief Administrative Officer

SCHEDULES

Schedule 1: Procedures for application to amend the Official Community Plan and/or Zoning Bylaw

REQUIRED DOCUMENTATION	NOTES
1. Completed Application Form	Applicant will provide a Completed Application Form as provided by the Village of Nakusp, including agent authorization, if not the property owner. Applicant will pay the prescribed application fee.
2. Project Proposal	Applicant will provide detail as to their development proposal and what changes to the current regulations are being requested. Applicants should include any anticipated benefits or impacts to the village and surrounding property owners.
3. Site Plan	Applicant will provide a detailed site plan for each property under application, including: <ul style="list-style-type: none"> • Location and siting of proposed and existing development (including dimensions and measurements from property lines and road access) • Location and detail of existing right of ways, easements, restrictive covenants • Location, siting and dimensions of any proposed screening, landscaping or other improvements • Location and siting of any existing and/or proposed infrastructure such as water, sewer, hydro and drainage
4. Site Profile	A completed site profile is required for any property where it is reasonably known to have been used, or is currently being used, for commercial and/or industrial activity.
5. Title	A Certificate of Title as issued within the last thirty (30) days of making application.
6. Additional Requirements	Professional reports or other supportive material may be requested. Supportive material may include traffic impact assessments, geotechnical assessments, land contour and topographic condition, infrastructure impact analysis, environmental assessments or other supportive documentation applicable to the proposed development.
PROCESS FOR OFFICIAL COMMUNITY PLAN AND/OR ZONING BYLAW AMENDMENTS	
<ul style="list-style-type: none"> • Applicant makes arrangements to have a pre-application meeting where staff can advise on application requirements and timelines. • Completed Application Form, Application Fee and Required Documentation is submitted and reviewed by staff. This includes notification and review by other applicable Village of Nakusp departments. Staff will notify 	

LGA 557

the applicant of any deficiencies. Incomplete Applications will not be processed until such a time as required documentation is received.

- Complete Applications become public information and may be listed on the Village website or other form of public notice, by the CAO or their designate as notice of proposal.
- Staff will prepare a referral package for notification of the applicant, applicable agencies and registered owners or occupiers of real property located within 30 meters of the subject property or properties. If appropriate, a Public Information Meeting will be requested, at the applicant's expense.
- Following the notification period staff will prepare a report to Council for consideration of First and/or Second Reading and referral to Public Hearing.
- If Council provides First and/or Second Reading and referral to Public Hearing, notification of Public Hearing shall be prepared and delivered accordingly to the requirements of the *Local Government Act*. The requirements of a Public Hearing may be waived in circumstances in which the proposed amendments are in alignment with the Official Community Plan.
- Following the Public Hearing, Council may consider the proposed amendments further and may choose to refuse, table or impose conditions on the amendments. No further public submission is permitted following a Public Hearing. Specific amendments may require Provincial approval prior to Adoption. These include proposals within 800 metres of a controlled access highway or proposals involving commercial or industrial buildings exceeding 4,500 square metres in gross floor area.

Schedule 2: Procedures for application for a Development Permit

REQUIRED DOCUMENTATION	NOTES
1. Completed Application Form	Applicant will provide a Completed Application Form as provided by the Village of Nakusp, including agent authorization, if not the property owner. Applicant will pay the prescribed application fee.
2. Project Proposal	Applicant will provide detail as to their development proposal. Applicants should include any anticipated benefits or impacts to the village and surrounding property owners.
3. Site Plan	Applicant will provide a detailed site plan for each property under application, including: <ul style="list-style-type: none"> • Location and siting of proposed and existing development (including dimensions and measurements from property lines and road access) • Location and detail of existing right of ways, easements, restrictive covenants • Location, siting and dimensions of any proposed screening, landscaping or other improvements • Location and siting of any existing and/or proposed infrastructure such as water, sewer, hydro and drainage • Additional requirements may include: standard building elevation drawings, landscape and streetscape drawings
4. Site Profile	A completed site profile is required for any property where it is reasonably known to have been used or is currently being used for commercial and/or industrial activity.
5. Title	A Certificate of Title as issued within the last thirty (30) days of making application.
6. Additional Requirements	Professional reports or other supportive material may be requested. Supportive material may include traffic impact assessments, geotechnical assessments, land contour and topographic condition, infrastructure impact analysis, environmental assessments or other supportive documentation applicable to the proposed development.
PROCESS FOR DEVELOPMENT PERMITS	
<ul style="list-style-type: none"> • Applicant makes arrangements to have a pre-application meeting where staff can advise on application requirements and timelines. • Completed Application Form, Application Fee and Required Documentation is submitted and reviewed by staff. This includes notification and review by other applicable Village of Nakusp departments. Staff will notify the applicant of any deficiencies. Incomplete Applications will not be processed until such a time as required documentation is received. 	

LGA 557

- Staff will review the completed Application and may impose conditions including a request for security to provide assurance of performance. Staff will determine if the application meets the Minor Development Permit criteria.
- Minor Development Permits shall be reviewed by the CAO or their delegate, and issued or refused accordingly. If refused, the applicant may request reconsideration by Council within thirty (30) days of the refusal. Requests must be made in writing.
- Major Development Permits shall be presented for Council consideration. Council may consider to issue the Development Permit, issue the Development Permit with conditions, or refuse the Development Permit based on the applicable Development Permit Guidelines. Specific Development Permits may require Provincial approval prior to Issuance. These include proposals within 800 metres of a controlled access highway or proposals involving commercial or industrial buildings exceeding 4,500 square metres in gross floor area.
- Any Development Permit that requires variances to the specifications of a Zoning Bylaw or Subdivision and Servicing Bylaw will be required to make separate application for a Development Variance Permit.
- If applicable, assurance of performance security must be received prior to the issuance and registration of the Development Permit.
- Staff file notice of the approved Development Permit in the Land Titles Office.

Schedule 3: Procedures for application for a Development Variance Permit

REQUIRED DOCUMENTATION	NOTES
1. Completed Application Form	Applicant will provide a Completed Application Form as provided by the Village of Nakusp, including agent authorization, if not the property owner. Applicant will pay the prescribed application fee.
2. Project Proposal	Applicant will provide detail as to their development proposal and what variances to the current regulations are being requested. Applicants should include any anticipated benefits or impacts to the village and surrounding property owners.
3. Site Plan	<p>Applicant will provide a detailed site plan for each property under application, including:</p> <ul style="list-style-type: none"> • Location and siting of proposed and existing development (including dimensions and measurements from property lines and road access) • Location and detail of existing right of ways, easements, restrictive covenants • Location and siting of any existing and/or proposed infrastructure such as water, sewer, hydro and drainage
4. Site Profile	A completed site profile is required for any property where it is reasonably known to have been used or is currently being used for commercial and/or industrial activity.
5. Title	A Certificate of Title as issued within the last thirty (30) days of making application.
6. Additional Requirements	Professional reports or other supportive material may be requested. Supportive material may include traffic impact assessments, geotechnical assessments, land contour and topographic condition, infrastructure impact analysis, environmental assessments or other supportive documentation applicable to the proposed development.
PROCESS FOR DEVELOPMENT VARIANCE PERMITS	
<ul style="list-style-type: none"> • Applicant makes arrangements to have a pre-application meeting where staff can advise on application requirements and timelines. • Completed Application Form, Application Fee and Required Documentation is submitted and reviewed by staff. This includes notification and review by other applicable Village of Nakusp departments. Staff will notify the applicant of any deficiencies. Incomplete Applications will not be processed until such a time as required documentation is received. 	

- Staff will review the completed Application and may impose conditions including a request for security to provide assurance of performance. To process the complete application, the CAO or their designate will determine if the application meets the Minor Development Variance Permit criteria.
- Minor Development Variance Permit Applications shall be processed as follows:
 - Staff will evaluate the proposal for compliance with relevant Village bylaws and policies and may request additional information from the Applicant if deemed necessary for staff to determine if the criteria for a minor variance is met.
 - To be considered a minor variance, in the opinion of the CAO or designate, the proposal shall:
 - a) be consistent with neighbourhood character;
 - b) not increase the appearance of building bulk from the street or surrounding neighbourhood;
 - c) not reduce light access, privacy, or views of adjacent lots;
 - d) not require extensive site preparation and disturbance;
 - e) not include unattractive building elements, such as unscreened foundations or blank, flat walls with little variation;
 - f) not exceed \$10,000 in project value; and
 - g) not interfere with municipal operations and services.
 - A relaxation to the required number of parking stalls shall not be considered as a minor variance.
 - The CAO or designate will use the following guidelines in deciding whether to issue or not issue a minor development variance permit:
 - a) the ability to use or develop the property is unreasonably constrained or hindered by having to comply with the bylaw requirement;
 - b) the applicant has demonstrated that there are special conditions of the property that distinguish it from other properties in the area;
 - c) the proposed variance would allow for more efficient and effective use and development of the subject property; and
 - d) the variance provides for compatibility with adjacent land uses.
 - Minor Development Variance Permits shall be reviewed by the CAO or their delegate, and issued or refused accordingly. If refused, the applicant may request reconsideration by Council within thirty (30) days of the refusal. Requests must be made in writing.
- Major Development Variance Permit Applications shall be processed as follows:
 - Staff will prepare a referral package for notification of the applicant, applicable agencies and registered owners or occupiers of real property located within 30 meters of the subject property or properties.
 - Following the notification period, staff will prepare a report to Council. Council may consider

to issue the Development Variance Permit, issue the Development Variance Permit with conditions, or refuse the Development Variance Permit based on the feedback received.

- If applicable, assurance of performance security must be received prior to the issuance and registration of the Development Variance Permit.
- Staff file notice of the approved Development Variance Permit in the Land Titles Office.

Schedule 4: Procedures for application for a Temporary Use Permit

REQUIRED DOCUMENTATION	NOTES
1. Completed Application Form	Applicant will provide a Completed Application Form as provided by the Village of Nakusp, including agent authorization, if not the property owner. Applicant will pay the prescribed application fee.
2. Project Proposal	Applicant will provide detail as to their development proposal and the seasonality or temporary nature of the proposal. Applicants should include any anticipated benefits or impacts to the village and surrounding property owners.
3. Site Plan	<p>Applicant will provide a detailed site plan for each property under application, including:</p> <ul style="list-style-type: none"> • Location and siting of proposed and existing development (including dimensions and measurements from property lines and road access) • Location and detail of existing right of ways, easements, restrictive covenants • Location and siting of any existing and/or proposed infrastructure such as water, sewer, hydro and drainage
4. Site Profile	A completed site profile is required for any property where it is reasonably known to have been used or is currently being used for commercial and/or industrial activity.
5. Title	A Certificate of Title as issued within the last thirty (30) days of making application.
6. Additional Requirements	Professional reports or other supportive material may be requested. Supportive material may include traffic impact assessments, geotechnical assessments, land contour and topographic condition, infrastructure impact analysis, environmental assessments or other supportive documentation applicable to the proposed development.
PROCESS FOR TEMPORARY USE PERMITS	
<ul style="list-style-type: none"> • Applicant makes arrangements to have a pre-application meeting where staff can advise on application requirements and timelines. • Completed Application Form, Application Fee and Required Documentation is submitted and reviewed by staff. This includes notification and review by other applicable Village of Nakusp departments. Staff will notify the applicant of any deficiencies. Incomplete Applications will not be processed until such a time as 	

required documentation is received.

- Staff will review the complete Application and may impose conditions including a request for security to provide assurance of performance.
- Complete Applications become public information and may be listed on the Village website or other form of public notice, by the CAO or their designate as notice of proposal.
- Staff will prepare a referral package for notification of the applicant, applicable agencies and registered owners or occupiers of real property located within 30 meters of the subject property or properties and place notice accordingly to the requirements of the *Local Government Act*.
- Temporary Use Permits shall be presented for Council consideration. Council may consider to issue the Temporary Use Permit, issue the Temporary Use Permit with conditions, or refuse the Temporary Use Permit based on the feedback provided. Specific Temporary Use Permits may require Provincial approval prior to Issuance. These include proposals within 800 metres of a controlled access highway or proposals involving commercial or industrial buildings exceeding 4,500 square metres in gross floor area.
- If applicable, assurance of performance security must be received prior to the issuance and registration of the Temporary Use Permit.
- Staff file notice of the approved Temporary Use Permit in the Land Titles Office.

Schedule 5: Procedures for the calculation and release of a Security Deposit

The *Local Government Act* enables the Village of Nakusp to require security as a condition of the issuance of a Development Permit, Development Variance Permit and Temporary Use Permit for the following purposes:

- To ensure that the performance of conditions associated with the issuance of Development Permit, Development Variance Permit or Temporary Use Permit are completed to the Village's satisfaction.
- To remedy an unsafe condition that has resulted as a consequence of contravention of a condition in a Development Permit, Development Variance Permit or Temporary Use Permit
- To remedy damages to the natural environment that has resulted as a consequence of contravention of a condition in a Development Permit, Development Variance Permit or Temporary Use Permit

PROCESS FOR THE CALCULATION OF SECURITY DEPOSIT

Form of Security

Security shall be provided in a form allowable under the *Local Government Act* as either an automatically renewing irrevocable letter of credit or security deposit satisfactory to the Chief Financial Officer. Interest earned on the security accrues to the holder of the permit and must be paid to the holder immediately on return of the security, or on default, becomes part of the security amount.

Amount of Security

The amount of security must be specified in the permit and will be calculated as follows:

- a. Landscaping security shall be 125% of an itemized estimate or quote of the cost of work submitted by a Landscape Architect, Qualified Environmental Professional, landscaping company or other professional approved by the CAO or their designate.
- b. Remediation security shall be 125% of an itemized estimate or quote of the cost of work submitted by a Landscape Architect, Qualified Environmental Professional, landscaping company or other professional approved by the CAO or their designate.
- c. Security must be received prior to the issuance and registration of the applicable permit.

Return of Security

- d. If a permit is cancelled by the applicant and no work has occurred related to the security deposit, the security deposit will be returned in full.
- e. When works are required to be completed, the applicant may contact staff to request inspection prior to obtaining refund of the security. 80% of the security shall be returned following initial inspection if the landscaping and remediation works have been completed to the satisfaction of the Village of Nakusp. The remaining 20% will be withheld for a period of one (1) years following the completion of works to ensure they are maintained.

- f. The Village of Nakusp may require that the security inspection be carried out by the Landscape Architect, Qualified Environmental Professional, landscaping company or other professional that provided recommendation to ensure that the performance of conditions associated with the issuance of Development Permit, Development Variance Permit or Temporary Use Permit are completed as recommended.

Schedule 6: Fees and Charges

This Schedule is provided for convenience only. All Fees are prescribed in the Village of Nakusp Fees and Charges Bylaw No. 693 and Amendments from time to time.

APPLICATION TYPE	FEES AND CHARGES
Official Community Plan Amendment Zoning Bylaw Amendment Joint Official Community Plan and Zoning Amendment	
Major Development Permit Minor Development Permit	
Development Variance Permit – Major or Minor	
Temporary Use Permit	
Fees and charges are not refundable once the application and fees have been submitted.	