

**REGIONAL DISTRICT OF KITIMAT-STIKINE
DEVELOPMENT PROCEDURES BYLAW NO. 613, 2012**

**A bylaw to establish Development Approval
Notification Procedures for the
Regional District of Kitimat-Stikine**

WHEREAS Section 895 of the *Local Government Act* provides that where a local government has adopted an official community plan or a zoning bylaw, the local government must, by bylaw, define procedures under which an owner of land may apply for an amendment to the plan or bylaw or for the issuance of a permit under Part 26 of the *Local Government Act*;

AND WHEREAS under Section 931 of the *Local Government Act* a local government may adopt a bylaw which imposes fees payable upon Application to amend an official community plan or zoning bylaw or for the issuance of a permit under Part 26 of the *Local Government Act*;

AND WHEREAS a local government must, pursuant to Section 892, 893, 921 and 922 of the *Local Government Act*, give notice of a public hearing, the waiving of a public hearing, an application for a temporary use permit and an application for a development variance permit and may, by bylaw, specify distances for giving notice;

AND WHEREAS the Regional District of Kitimat-Stikine may under Section 176 of the *Local Government Act* delegate certain powers, duties and functions to its officers and employees;

NOW THEREFORE, the Board of the Regional District of Kitimat-Stikine, in open meeting assembled, enacts as follows:

1.0 TITLE

This bylaw may be cited as “Regional District of Kitimat-Stikine Development Procedures Bylaw No. 613, 2012”.

2.0 DATE OF EFFECT

This Bylaw shall come into force and effect on July 1, 2012.

3.0 SCOPE

3.1 This Bylaw shall apply to all lands within the Regional District of Kitimat-Stikine subject to one or more of the following: a Regional District official settlement plan, official community plan, rural land use bylaw and zoning bylaw.

3.2 This Bylaw applies to Applications for:

(a) amendment of one or more of a rural land use bylaw, zoning bylaw, official settlement plan or official community plan;

(b) issuance or amendment of a Development Permit, Development Variance Permit, Temporary Use Permit or Building Declaration Siting Approval Permit.

3.3 Any person wishing to amend an official community plan or zoning bylaw; or obtain or amend a Development Permit, Development Variance Permit, Temporary Use Permit or Building Declaration Siting Approval Permit must make an Application to the Regional District of Kitimat-Stikine in accordance with this Bylaw.

4.0 DEFINITIONS

In this Bylaw the following definitions apply:

“Ancillary Structure” means a building or structure separate from and subordinate to the principal structure on the Parcel.

“Application” means a written request by an Applicant to amend an official community plan, official settlement plan, zoning bylaw or land use contract or for the issuance or amendment of a Development Permit, Development Variance Permit, Temporary Use Permit or Building Declaration Siting Approval Permit according to the provisions of this bylaw.

“Applicant” means the owner of property that is the subject of the Application or an agent of the owner duly authorized in writing by the owner to act as an agent for the owner in relation to the Application.

“Board” means the elected and appointed Directors of the Regional District of Kitimat-Stikine acting as the Regional District of Kitimat-Stikine Board of Directors in assembled meetings thereof.

“Building Declaration Siting Approval Permit” means the permit required under section 6.5 of this Bylaw.

“Bylaw Enforcement Officer” means a person who holds the position of Bylaw Enforcement Officer for the Regional District or such persons designated by the Board to act on his behalf in the execution of this Bylaw,

“Certificate of Title” means a document held at the Land Title Office identifying all parties with ownership rights to the subject land parcel.

“Construction” Includes reconstruction, erection, alteration, enlargement, relocation or addition but does not include repair.

“Contaminated Sites Regulation Questionnaire” means a site profile in accordance with Section 40 of the *Provincial Environmental Management Act*.

“Manager” means a person who holds the position of Manager of Development Services for the Regional District or such persons designated by the Board to act on his behalf in the execution of this Bylaw.

“Parcel” means an area of land which is designated under the *Land Title Act* as a separate and distinct Parcel on a legally recorded plan or description registered in the Land Title Office and includes a strata parcel pursuant to the *Strata Property Act*.

“Permit” means a development permit, development variance permit, a temporary use permit or a Building Declaration Siting Approval Permit.

“Regional District” means the corporation of the Regional District of Kitimat-Stikine, in the Province of British Columbia, and where the context so requires also means the land included in the boundaries of the Regional District of Kitimat-Stikine.

“Site Sketch” means a graphical sketch in the form of and showing the items required by section 6.3.4 of this Bylaw.

“Staff Report” means a document prepared by a Regional District employee containing information and recommendations about an Application for consideration by the Board or an advisory planning commission.

“Surveyor’s Certificate” means a building location survey as prepared by a British Columbia Land Surveyor (BCLS) in accordance with the requirements of section 4 of Schedule A1 of this Bylaw.

“Temporary dwelling” Means a dwelling unit secondary to the principal structure on the lot occupied by the registered owner for a pre-determined length of time as detailed in an Application to the Regional District.

Unless otherwise defined in this bylaw, all words and phrases in this Bylaw shall have the same meaning given to them in the *Local Government Act*.

5.0 PROHIBITIONS

- 5.1 No person shall commence any construction of any building or structure for which a Permit is required under the *Local Government Act* or this Bylaw without first making an Application to the Regional District for the Permit.
- 5.2 No person shall knowingly submit false or misleading information to the Regional District in relation to any Application undertaken pursuant to this Bylaw.
- 5.3 No person shall do or have done any work that is substantially at variance with the approved Permit or the information contained in that person’s Application.
- 5.4 All construction related to a Permit must be completed within 12 months of issuance of the Permit unless otherwise stated in the Permit.

6.0 APPLICATION PROCEDURES

- 6.1 An Application must be made using the application forms attached as Schedules B to G2.
- 6.2 An Application must be signed by the owner of the land that is the subject of the Application or by a person authorized in writing by the owner to act as an agent of the owner in relation to the Application. If the land that is the subject of an Application is owned by joint tenants or tenants in common all joint tenants and tenants in common must sign the Application or a person authorized in writing by all the joint tenants or tenants in common to act as an agent on behalf of those joint tenants or tenants in common in relation to the Application must sign the Application.
- 6.3 The following information shall be submitted, at the Applicant’s expense, as part of an Application. The Manager or the Board may waive the requirements to provide information if the Manager or Board determines the information is not necessary to assist in evaluation or consideration of the Application.

- 6.3.1 A copy of the Certificate of Title dated within 30 days of the date of the Application.
- 6.3.2 A complete Application form.
- 6.3.3 A Contaminated Sites Regulation Questionnaire where required by the *Environmental Management Act*.
- 6.3.4 A site sketch drawn to scale showing the following:
- boundaries and dimensions of the Parcel(s) involved;
 - size and location of all existing and proposed buildings, structures, and uses on the site including measurements from all proposed and existing structures to the nearest lot line;
 - location of all services including hydro, gas, water lines, sewer lines, on-site wells and on site septic systems;
 - location and name of road(s) adjacent to the Parcel;
 - existing and proposed parking and driveways;
 - topographic features, water bodies and waterways including measurements from all proposed and existing structures to the natural boundary, stream centre line or top of bank, whichever is applicable;
 - location and identification of any easements, rights of way, or covenants registered against title to the Parcel;
 - proposed subdivision layout, showing the number and approximate location of lots and/or consolidation of the parcel(s);
 - north arrow and scale;
- 6.4 The Manager or the Board may request additional information as necessary to evaluate the Application.
- 6.5 No person shall construct a principal structure of any size, a structural addition to any existing building or construct or site an accessory building or structure in excess of 10.0 square meters (107.6 square feet) without having first obtained a Building Declaration and Sitting Approval Permit in accordance with the conditions in Schedules A and A1.

7.0 FEES

- 7.1 An Applicant shall pay to the Regional District the applicable fees set out in Schedule 'I,' at the time of submitting the Application.
- 7.2 An Application is incomplete unless the application fee is paid and all of the information required by this Bylaw in relation to the Application has been received by the Regional District of Kitimat-Stikine.
- 7.3 The Application fee for an amendment to an official community plan, official settlement plan, rural land use bylaw, zoning bylaw, or land use contract shall be refunded as follows:
- i. 50% of the fee shall be refunded if the Applicant withdraws the Application before the preparation of a Staff Report has been commenced
 - ii. 25% of the fee shall be refunded if the Application has been considered by the Board but no notice of public hearing has been given.

7.4 No fee shall be refunded once notice of public hearing has been provided.

8.0 PROCESS TO AMEND AN OFFICIAL COMMUNITY PLAN, OFFICIAL SETTLEMENT PLAN, ZONING BYLAW, LAND USE CONTRACT, OR OBTAIN ISSUANCE OR AMEND A PERMIT

8.1 Where notice of a public hearing, the waiving of a public hearing, or the issuance of a permit is required under the Local Government Act, the notice shall be given in accordance with the *Local Government Act*, as follows:

8.1.1 In accordance with Section 921 of the *Local Government Act*, the required distance for notification of a temporary permit is 50 meters from that part of the Parcel that is the subject of the Application.

8.1.2 In accordance with Section 922(6) of the *Local Government Act*, the required distance for notification of a development variance permit is 50 meters from that part of the Parcel that is subject to the Application.

8.1.3 The required distance for notification of a development permit is 50 meters from the Parcel which is the subject of the Application.

8.1.4 In accordance with Section 892(4) of the *Local Government Act*, the required distance for notification from the legal lot lines of the Parcel that is the subject of the Application for:

(a) an official community plan or official settlement plan amendment is 200 meters; and

(b) for a rural land use bylaw, zoning bylaw, or land use contract amendment or discharge bylaw is 50 meters.

9.0 SIGNS

9.1 Where notice of a public hearing is required under the *Local Government Act* the applicant shall post and maintain a sign on the Parcel that is the subject of the application at least ten (10) days before the public hearing.

9.2 A sign required under section 9.1 must be posted and maintained in accordance with the following.

9.2.1 The sign shall be a minimum of 1.2 x 1.2 meters in dimension.

9.2.2 The sign shall be constructed of plywood, corrugated plastic, or other such durable material.

9.2.3 The sign shall have a white background and dark blue or black block capital lettering that is not less than 6 cm in height.

9.2.4 The sign shall contain the following wording.

“This site is the subject of an application to change land use or density. For further information please contact the Regional District of Kitimat-Stikine at (insert phone number).”

- 9.2.5 The sign shall be located within 3 meters of a property line abutting a public road in a location facing and clearly visible from the road.
- 9.2.6 If the placement of the notice in accordance with Section 9.2.5 is not feasible the sign shall be located on the nearest abutting road in a location approved by the Manager.
- 9.2.7 The sign shall be placed so as not to interfere with pedestrian or vehicle traffic flow, or obstruct visibility from a highway, lane, walkway or driveway.
- 9.2.8 The sign shall be installed in a safe, sturdy manner and be capable of withstanding typical wind and other weather conditions.
- 9.2.9 The sign shall be removed within 3 days of the conclusion of the public hearing held in relation to the Parcel on which the sign has been erected.
- 9.2.10 Prior to the public hearing the Applicant shall provide the Manager with a letter signed by the Applicant stating that the sign has been posted in accordance with this bylaw, and a photograph of the posted sign.
- 9.2.11 Failure to post and keep posted the sign in accordance with this bylaw may result in the postponement of the public hearing. Any additional notification costs incurred by the Regional District of Kitimat-Stikine resulting from a failure to post the sign shall be paid by the Applicant prior to the advertisement of the public hearing.
- 9.3 Where a sign required under Section 9.1 is removed, destroyed or altered due to vandalism or the actions of unknown persons the validity of any bylaw that is the subject of the relevant Application and public hearing shall not be impacted.
- 9.4 If no members of the public attend a public hearing the hearing shall be adjourned after 15 minutes and shall be considered to have been held as required.
- 9.5 Where the Board requires a document to be registered on title, it shall be the Applicant's responsibility to prepare and file the document and provide proof of Land Title registration to the satisfaction of the Manager prior to a bylaw amendment proceeding to the Board for final consideration, or issuance of a permit.

10.0 DELEGATION

- 10.1 The Board delegates to the Manager the authority to approve or deny the issuance of:
 - 1. A development permit; and
 - 2. A temporary use permit;or any amendments the Applicant makes to those Applications.
- 10.2 The Board delegates to the Manager and the Bylaw Enforcement Officer the authority to approve or deny the issuance of a Building Declaration and Siting Approval Permit or any amendments the Applicant makes to that Application
- 10.3 An Applicant who is dissatisfied with the decision of the Manager made under section 10.1 is entitled to have the decision reconsidered by the Board in accordance with this section.

- 10.4 An Applicant who wishes to have the decision of the Manager made under section 10.1 reconsidered by the Board must apply for the reconsideration in writing, by delivering to the Regional District within thirty (30) days after the decision by the Manager is communicated in writing to the Applicant the following information:
- a. the date of the decision, the name of the person who made the decision and the nature of the decision;
 - b. the reasons why the Applicant wishes the decision to be reconsidered by the Board;
 - c. a statement as to the decision that the Applicant seeks from the Board and brief reasons in support of this requested decision; and
 - d. a copy of any materials considered by the Applicant to be relevant to the reconsideration by the Board.
- 10.5 The Applicant is entitled to be heard by the Board during the meeting at which the Board reconsiders the Manager's or one Bylaw Enforcement Officer's decision that is subject to the Applicant's request for reconsideration.
- 10.6 Following its reconsideration of the Manager's decision that is the subject of the Applicant's request for reconsideration, the Board may either confirm the Manager's decision or set aside the Manager's or Bylaw Enforcement Officer's decision and substitute its own decision.

11.0 OFFENCES

- 11.1 A person who contravenes, violates or fails to comply with any provision of this Bylaw, or who suffers or permits any act or thing to be done in contravention or violation of this Bylaw, or who fails to do anything required by this Bylaw, commits an offence and shall be liable on conviction, to a fine of not more than \$2,000.00 and not less than \$100.00, the cost of prosecution and any other penalty or order imposed pursuant to the *Local Government Act* (British Columbia) or the *Offence Act* (British Columbia). Each day that an offence against this Bylaw continues or exists shall be deemed to be a separate and distinct offence.

12.0 SEVERABILITY

- 12.1 If any section, subsection, sentence, clause or phrase of this Bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the part that is invalid shall not affect the validity of the remainder of the Bylaw.

13.0 SCHEDULES

- 13.1 All the Schedules attached to this Bylaw form part of this Bylaw.

14.0 BYLAW LAPSE AND RE-APPLICATION

14.1 Where the Board has considered an Application and has not approved that Application, the Board shall not consider the same Application for a period of one year following the Board’s denial of that Application.

14.2 If a bylaw amending an official community plan, zoning bylaw, or land use contract is not adopted within a period of 18 months after the date of first reading of that bylaw the bylaw shall lapse and will be of no force or effect. A new application shall be required to proceed with the amendment that was the subject of the lapsed bylaw.

15.1 TITLE

This bylaw may be cited as the Regional District of Kitimat Stikine Development Approval and Notification Procedures Bylaw No. 613, 2012”.

16.1 SHORT TITLE

This Bylaw may also be cited in its short form as the “Development Procedures Bylaw No. 613, 2012”

READ a first time this 25nd day of May, 2012.

READ a second time this 25nd day of May, 2012.

READ a third time this 22nd day of June, 2012.

ADOPTED this 22nd day of June, 2012.

Chair

Administrator

Certified a true copy of Bylaw No. 613, 2012 as adopted.

Robert Marcellin
Administrator

Schedule A

BUILDING DECLARATION SITING APPROVAL PERMIT

1. Application Requirements

In addition to the requirements in section 6.3 of this Bylaw, the Applicant shall provide to the Regional District a Surveyors Certificate in accordance with the conditions in Schedule A1 if applicable.

2. Extension

The Manager or Bylaw Enforcement Officer may approve a single one year extension of the Building Declaration and Siting Approval Permit provided that the Applicant pay to the Regional District an additional fee of 50% of the original Application fee.

3. Conditions

3.1 Neither the approval of a Building Declaration nor the acceptance of plans, drawings or supporting documents shall in any way relieve the owner or his or her representative from full and sole responsibility to perform the work in strict accordance with the applicable Bylaws, the BC Building Code and any other applicable enactments which may be affected by the project.

3.2 Works undertaken must not vary from the approved Building Declaration and Siting Approval Permit submitted to the Regional District. Any variance will render the approved Permit null and void.

3.3 As part of a Building Declaration and Siting Approval Permit Application, occupation of a temporary dwelling may be permitted if approved following an Application under Schedule C. The temporary structure must be relegated to a non-dwelling unit (removal of cooking, sleeping and eating facilities) immediately following occupation of the principal structure.

Schedule A1

REQUIREMENT FOR A SURVEYOR'S CERTIFICATE

1. This Schedule applies to parcels subject to the following Bylaws:
 - i) Bylaw No. 37 - Greater Terrace Zoning Bylaw
 - ii) Bylaw No. 53 – Kispiox valley Zoning Bylaw
 - iii) Bylaw No. 57 – Lakelse Lake Zoning Bylaw
 - iv) Bylaw No. 73 – Skeena Valley Zoning Bylaw
 - v) Bylaw No. 194 – Thornhill Zoning Bylaw
 - vi) Bylaw No. 320 – Two Mile Zoning Bylaw.
 - vii) Bylaw No. 326 – South Hazelton Zoning Bylaw

2. Subject to section 3 below, an Applicant must submit to the Regional District a Surveyor's Certificate for:
 - 2.1 the siting of all dwellings or principal use structures of any size.
 - 2.2 any addition to a building or structure where the addition is located within 2 meters of the required setback from the property line as set out in the applicable zoning bylaw.
 - 2.3 any ancillary use building or structure in excess of 20 square meters in size.

EXEMPTIONS

3. A Surveyor's Certificate is not required for:
 - 3.1 Farm buildings approved for exemption following application under Schedule D.
 - 3.2 Ancillary structures constructed outside of a 25 meter buffer contained along the perimeter of the Parcel

4. Every property owner to whom a Building Declaration Siting Approval Permit is issued shall, when required as a condition of approval, upon completion of the foundation or final siting of the building, submit a Surveyor's Certificate prepared by a British Columbia Land Surveyor showing:
 - a. the bearing and dimensions of the parcel taken from the registered subdivision plan;
 - b. the legal description and civic address of the Parcel;
 - c. the location and dimensions of all statutory right of way, easements and setback requirements;
 - d. the location and dimensions of any and all buildings or structures on the parcel that are the subject of the Application;
 - e. setback to the natural boundary of any lake, pond or watercourse where the Regional District's land use regulations establish sitting requirements related to flooding;
 - f. the existing and finished ground level to an established datum at or adjacent to the site and the geodetic elevation of the underside of the floor system of a building or structure or the top of any pad supporting a building or structure where the Regional District's land use regulations establish sitting requirements related to minimum flood construction levels.