

DEVELOPMENT PROCEDURES BYLAW

VILLAGE OF PEMBERTON BYLAW NO. 887, 2020

Fourth & Final Readings
November 17, 2020



OFFICE CONSOLIDATION: August 27, 2021

This document is an office consolidation of the Village of Pemberton Development Procedures Bylaw No. 887, 2020 (adopted November 17, 2020) and subsequent amendments adopted by Village Council.

All persons making use of this consolidation are reminded that it has no Council sanction, that amendments have been incorporated only for convenience of reference, and that for all purposes of interpretation and application that original bylaw should be consulted. The Village of Pemberton will, in no event, be liable or responsible for damages of any kind arising out the use of this consolidation.

This is not the official version of the Village of Pemberton Development Procedures Bylaw No. 887, 2020, nor is it admissible in a court of law. For such purposes, official certified copies can be obtained from the Village Office or by contacting us at: admin@pemberton.ca.

List of Amending Bylaws

BYLAW NO.	SECTION	DESCRIPTION	ADOPTED
905, 2021	Schedule A 3.3, 4.3, 4.7, 4.9, 4.12	Deletes Schedule A Replacing reference to Schedule A with reference to Fees and Charges Bylaw No. 905, 2021	July 27, 2021

THE VILLAGE OF PEMBERTON

BYLAW No. 887, 2020

Development Procedures Bylaw

WHEREAS Council has adopted an Official Community Plan Bylaw and Zoning Bylaw;

AND WHEREAS Council must by bylaw define procedures under which an Owner of land may apply for an amendment to the Official Community Plan, or to a bylaw or for the issue of a permit under the Local Government Act S.460;

AND WHEREAS the Village has designated areas within which development permits are required in the Official Community Plan and areas where temporary uses may be allowed in the Zoning Bylaw;

AND WHEREAS Council wishes to define procedures under which an Owner of land may apply to subdivide land;

AND WHEREAS under the Community Charter and Local Government Act, Council may delegate certain powers, duties and functions to an officer or employee of the Village;

AND WHEREAS Council may, by bylaw, specify a distance from affected land for the purpose of notifying Owners and occupants of proposed bylaw amendments and permits;

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

1. TITLE

- 1.1. This bylaw may be cited for all purposes as the Village of Pemberton Development Procedures Bylaw No. 887, 2020.

2. INTERPRETATION

2.1. In this Bylaw:

“Applicant” Means the *Owner(s)* of the property that is the subject of the application or an agent of the *Owner(s)* duly authorized in writing by the *Owner(s)* to act as agent for the *Owner(s)* in relation to the application;

“Approving Officer” means the person appointed by *Council* under the *Land Title Act* and *Local Government Act*;

“Community Charter” Means the *Community Charter*, SBC 2003, c.26, as amended;

- “Corporate Officer”** means the Officer for the Village appointed under the *Community Charter*;
- “Council”** means the *Council* of the Village;
- “Manager”** means the person appointed by the Chief Administrative Officer for the Village as the Manager and includes any person temporarily appointed or designated to act in their place;
- “Official Community Plan”** means the Village of Pemberton Official Community Plan, as amended or replaced from time to time;
- “Owner”** means, in respect of real property, the registered owner(s), and verified by the Village through either a Land Title Office search or BC Assessment Roll search, or an Individual duly authorized to represent a corporation or strata corporation;
- “Sign Bylaw”** means the Village of Pemberton Sign Bylaw, as amended or replaced from time to time;
- “Strata Conversion”** means the conversion of a previously occupied building to a strata pursuant to the *Strata Property Act*;
- “Subdivision”** means the division of land into two (2) or more parcels, whether by plan, apt descriptive words or otherwise, lot boundary adjustments and lot consolidation;
- “Subdivision and Development Control Bylaw”** means the Village of Pemberton Subdivision and Development Control Bylaw, as amended or replaced from time to time;
- “Village”** means the Village of Pemberton;
- “Zoning Bylaw”** means the Village of Pemberton Zoning Bylaw, as amended or replaced from time to time.

- 2.2. Unless otherwise defined herein, words and phrases in this Bylaw have the same meanings as in the *Local Government Act, Community Charter, or Interpretation Act* (British Columbia), as the context requires. A reference to a statute, regulation or bylaw refers to that enactment as amended or replaced from time to time.
- 2.3. A reference contained within this Bylaw to any enactment of British Columbia or the *Village* of Pemberton is a reference to the enactment amended, revised, consolidated or replaced from time to time.

3. APPLICATION AND GENERAL REQUIREMENTS

3.1. This Bylaw applies to:

- a) Amendments to:
 - i) The *Official Community Plan*;
 - ii) The *Zoning Bylaw*;
- b) Issuance of:
 - i) Development Permit, Major
 - ii) Development Permit, Minor
 - iii) Development Variance Permit
 - iv) Temporary Use Permit
- c) Applications for:
 - i) *Subdivisions*, including Bare Land Strata;
 - ii) *Subdivision* Tentative Approval Letter Extensions
 - iii) Form P Phased Strata Declarations and Form P Amendments
 - iv) *Strata Conversions* of previously occupied buildings;
 - v) Discharge of a Covenant

3.2. The *Manager* may prescribe:

- a) the form and content of application forms for bylaw amendments and the issuance of permits;
- b) different forms for different types of applications; and
- c) whether or not an application is complete.

3.3. An *Applicant* must submit an application as follows:

- a) Completed and accompanied by supporting documents as indicated on the form;
- b) Filed with the *Village* of Pemberton Development Services Department;
- c) Signed by either the *Owner(s)* of the subject lands or by a person authorized to sign on behalf of the *Owner(s)*; and
- d) Accompanied by the fees prescribed in the *Fees and Charges Bylaw*. (*Amendment Bylaw No. 905, 2021*)

3.4. All applications that meet the requirements of this Bylaw shall be processed in accordance with the municipal bylaws and regulations as well as the related provisions of the *Local Government Act* and the *Community Charter*.

3.5. Where an application aims to develop a multi-unit building subject to a Housing Agreement for the provision of affordable purchased or rental housing the application processing timelines will be prioritized and expedited as feasible.

3.6. All bylaw amendments and permit applications are required to complete a pre-application meeting with Development Services Staff unless waived by the *Manager*. Costs associated with additional pre-applications meetings and correspondence shall be

recovered from the *Applicant*. (Amendment Bylaw No. 905, 2021)

- 3.7. If the *Manager* determines that an application is incomplete, the *Applicant* will be asked to provide the required information, documents or fees, and if the *Applicant* does not complete the application within the time specified by the *Manager*, the application and fee will be returned.
- 3.8. Any applications that remain inactive for more than one (1) year may be deemed abandoned and be closed. If deemed abandoned, *Council* will rescind readings to any bylaws that concern the closed application. The *Applicant* will be invoiced any outstanding *Village* processing fees.

4. APPLICATION FEES

- 4.1. An application is not complete until all applicable fees are paid and all of the information required in relation to the application has been received by the *Manager*.
- 4.2. All fees submitted with an application shall be non-refundable, except as otherwise provided for in this bylaw.
- 4.3. The non-refundable fees are minimum fees payable. If the *Village* determines that the cost to process the development application is greater than the non-refundable deposit, then these additional costs shall be recovered from the *Applicant* based on actual *Village* Staff and/or contractor costs directly related to the processing of the application. The calculation of these recoverable costs will be based on the actual cost of Staff and contractor time including a 10% administration fee. The fees shall be payable prior to final permit issuance or will be invoiced following bylaw adoption. (Amendment Bylaw No. 905, 2021)
- 4.4. Any remainder fees after the calculation of recoverable costs will be returned to the *Applicant*.
- 4.5. The *Village* recovers processing fees by invoicing ongoing costs. The *Village* reserves the right to withhold the review of an application if the account is in arrears.
- 4.6. *Applicants* are responsible for additional external consulting fees accrued by the *Village* and, depending on the complexity of the application, the *Manager* may require a minimum deposit to be submitted at the time of application based on estimates provided by the *Village*.
- 4.7. If the application requires more than one (1) public hearing, the payment of an additional amount shall be required prior to the scheduling of additional hearings or meetings. (Amendment Bylaw No. 905, 2021)
- 4.8. If *Council* declines to advance an application to public hearing, the public hearing costs shall be returned to the *Applicant*.
- 4.9. The review of certain applications requires evaluation of the new development's water

and sanitary sewer servicing. Pursuant to the *Village's Subdivision and Development Control Bylaw*, the *Village* requires the *Applicant* to provide a deposit fee to cover the *Village's* Contractor's expenses to update and evaluate both the water and sanitary system models as they pertain to any proposed works. The fee as set out in *Fees and Charges Bylaw (Amendment Bylaw No. 905, 2021)* is a deposit, and funds that remain unused in the analysis will be returned to the *Applicant*. Further, more complex developments may cost more than the referenced amount which in turn will be the responsibility of the *Applicant*. The *Manager* will provide a cost estimate to the *Applicant* should more complex analysis be required.

- 4.10. If the application does not proceed to a point where the servicing analysis is not yet completed, these costs shall be returned to the *Applicant*.
- 4.11. Any legal costs associated with the review, preparation and registration of permits and covenants at the Land Titles Office is cost recoverable by the *Village*.
- 4.12. Fees and charges for services that may be or are provided under this Bylaw shall be payable as set out in the *Fees and Charges Bylaw (Amendment Bylaw No. 905, 2021)*

5. INFORMATION SIGNS

- 5.1. Information Signs are required for the following applications:
 - a) *Official Community Plan* Amendment
 - b) *Zoning Bylaw* Amendment
 - c) Major Development Permit
 - d) Development Variance Permit
 - e) Temporary Use Permit
- 5.2. The *Owner* shall be responsible for the printing, posting, removal and any other costs of a project information sign.
- 5.3. The sign shall be posted within fourteen (14) days of acceptance of the application by the *Village*. An application is incomplete and will not be processed until the sign has been posted on the property. The *Applicant* or developer shall notify the Development Services Department in writing once the sign is posted.
- 5.4. No later than fourteen (14) days before *Council* consideration of any application requiring the sign, the *Owner* shall confirm the sign accurately reflects the application being considered by *Council*, and amend the sign as necessary.
- 5.5. The sign must be placed in the most visible location to be clearly legible from the adjoining street or land and be clear of all site obstructions.
- 5.6. The *Manager* will develop and prescribe the *Village* information sign template in conformance with the *Village* of Pemberton Style Guide.
- 5.7. The sign shall be designed consistent with the *Village's* template and contain the

following information:

- a) type of application, application number, civic address, legal description and the *Applicant's* name.
- b) general description of the project approved by the *Manager*.

5.8. Failure to comply with any or all of these requirements may delay the processing of the application involved.

6. CHANGE OF OWNERSHIP

6.1. If there is a change of *Ownership* of a parcel of land that is the subject of a development application, the *Owner* shall provide an updated title certificate and written agent authorization, if required, prior to proceeding further with the application.

7. GENERAL OFFICIAL COMMUNITY PLAN AND ZONING BYLAW AMENDMENTS

7.1. Prior to consideration of any amending bylaws, the *Manager* may refer an application to amend the *Zoning Bylaw* or *Official Community Plan* to *Council* with a report that includes recommendations, prepared in consultation with such Staff as the *Manager* deems necessary and *Council* may:

- a) proceed with enacting an amending bylaw;
- b) reject or refuse the application.

8. PUBLIC INFORMATION MEETING

8.1. *Council* or the *Manager* may require an *Applicant* to hold a Public Information Meeting, at their cost, for a bylaw amendment. The notice of the Public Information Meeting shall be given by:

- a) either mailing or otherwise delivering at least ten (10) days before the Public Information Meeting to the *Owners* or occupiers, as shown on the assessment roll as at the date of the application, within a distance of one hundred (100) meters from the property line of the lands subject to the amendment application; and
- b) additional means as required by the *Manager*.

9. NOTICE OF PUBLIC HEARING

9.1. Notice of *Council's* intention to amend the *Official Community Plan* or the *Zoning Bylaw* shall be pursuant to Section 466 of the *Local Government Act*. Further, any notices that are mailed or otherwise delivered prior to the public hearing pursuant to Section 466 of the *Local Government Act* are to include properties at a distance of no greater than 100 meters from the property line of the lands subject to the amendment application.

10. GENERAL PERMIT APPROVAL

- 10.1. Where authorized by the *Council* or approved by the *Manager* where delegated, a notice of permit will be registered in the Land Title Office, indicating that the land described in the notice is subject to a permit.
- 10.2. Subject to the terms of the permit, where the holder of the permit does not substantially commence construction with respect to the works authorized by the permit within two (2) years of the issue date, the permit is deemed lapsed.
- 10.3. Where land is subject to more than one Development Permit Area designation, only one Development Permit application is required. However, the application must address the requirements and submit the fee of each applicable Development Permit Area as per the *Official Community Plan*.

11. SECURITY DEPOSIT

- 11.1. In the case of all Development Permits or Temporary Use Permits requiring a security as a condition of approval, the *Village* will require a cash deposit or irrevocable letter of credit in the form and amount satisfactory to the *Manager* to ensure satisfactory completion of all conditions contained in the permit.

12. DEVELOPMENT PERMIT DELEGATION

- 12.1. *Council* hereby delegates to the *Manager* the exercise of all of the powers, duties and functions of *Council* in respect to the issuance of Minor Development Permits under Section 490 of the *Local Government Act*.
- 12.2. For the purposes of this Bylaw, a Minor Development Permit shall include only the following:
 - a) Minor amendments to Major Development Permits issued by *Council*;
 - b) Development Permits required for site clearing and grading;
 - c) Development Permits under Development Permit Area No.1 – Environmental Protection where the subject lands are located in a Riparian Area;
 - d) Development Permits under Development Permit Area No. 2 – Land Constraints; and Development Permit Area No. 3 – Enhancement of Agriculture;
 - e) Development within Development Permit Areas No. 4, 5 & 6 for the form and character of development involving:
 - i. exterior repainting of an entire building, or an entire part of a building whereby the colours differ from the approved Development Permit or the existing colour;
 - ii. landscape changes or new landscaping, including both installation of planting materials (but not seasonal planting) and installation of permanent planters, guardrails, rock stacking and other hard landscaping;
 - iii. changes to not more than two (2) exterior building or roofing materials;
 - iv. exterior lighting alterations or installation of additional exterior lighting;
 - v. non-structural exterior building repairs that alter the building appearance;
 - vi. new exterior windows or doors that alter the exterior appearance of the building;
 - vii. placement of exterior communications equipment that are visible from a

public road and project more than three (3) meters from the roof or face of the building;

- viii. additions to buildings or structures, where the total interior floor area is increased by 20 m² or less;
- ix. new buildings or structures for storage or refuse and recycling facilities which conform to the *Village* requirements;
- x. new buildings or structures with a total interior floor area of 20 m² or less;
- xi. Comprehensive Sign Plans and issuance of a Development Permit for the signs where a sign is consistent with the *Village Sign Bylaw*;
- xii. storage container approval and renewal; or
- xiii. any other exterior changes to a property that the *Manager* deems to be minor in terms of the impact on the subject and adjacent properties.

12.3. With respect to an application for a Minor Development Permit, the *Manager* may:

- a) issue the permit, with or without conditions; or
- b) refuse the permit, providing reasons in writing to the *Applicant*.

12.4. Where a Development Permit also includes any variance to the *Zoning Bylaw*, *Sign Bylaw*, or *Subdivision and Development Control Bylaw*, the authority to consider an application for, and to issue or refuse a Development Permit remains with *Council*.

12.5. The *Owner* of any property that is subject to the decision of the *Manager* pursuant to Section 490 of the *Local Government Act* and Section 156 of the *Community Charter*, is entitled to have *Council* reconsider a decision of the *Manager* on the following terms:

- a) within thirty (30) calendar days of the *Manager*' decision the *Applicant* shall submit a letter to *Council* through the *Corporate Officer* requesting that the decision of the *Manager* be reconsidered by *Council*;
- b) the *Manager* shall submit a report to *Council* attaching the *Applicant*'s Minor Development Permit application and setting out the *Manager*'s reasons with respect to their decision on the application;
- c) at a date and time set by *Council*, the *Applicant* shall have the opportunity to appear before *Council* and be heard regarding the *Manager*'s decision; and
- d) following the *Applicant*'s opportunity to be heard, *Council* will reconsider the application and either uphold the *Manager*'s decision to deny the application or approve the application with or without conditions.

12.6. Notwithstanding Section 6.1, the *Manager* may request a decision from *Council* at their discretion.

13. MAJOR DEVELOPMENT PERMITS

13.1. With respect to a Major Development Permit application, *Council* may:

- a) issue the permit, with or without conditions;
- b) refer the application to Staff for further review and report in accordance with the Development Permit Area Guidelines, or

- c) refuse the permit, providing reasons in writing to the *Applicant*.

14. DEVELOPMENT VARIANCE PERMITS

- 14.1. The *Manager* will refer an application for a development variance permit to *Council* with a report that includes recommendations from the *Manager*, prepared in consultation with such Staff as the *Manager* deems necessary.
- 14.2. *Council* shall give notice of its intention to issue a Development Variance Permit pursuant to Section 499 of the *Local Government Act*. Further, any notices that are mailed or otherwise delivered are to include properties at a distance no greater than 100 meters from the property line of the lands subject to the Development Variance Permit application.
- 14.3. With respect to a development variance permit application, *Council* may:
 - a) issue the permit, with or without conditions;
 - b) refer the application to Staff for further review and report; or
 - c) refuse the permit, providing reasons in writing to the *Applicant*.

15. TEMPORARY USE PERMITS

- 15.1. Temporary Use Permit Applications shall be reviewed in accordance with the *Village of Pemberton's Zoning Bylaw*.
- 15.2. *Council* shall give notice of its intention to issue a Temporary Use Permit pursuant to Section 494 of the *Local Government Act*. Further, any notices that are mailed or otherwise delivered are to include properties at a distance no greater than 100 meters from the property line of the lands subject to the Temporary Use Permit application.
- 15.3. With respect to a temporary use permit application, *Council* may:
 - a) issue the permit, with or without conditions;
 - b) refuse the permit, providing reasons in writing to the *Applicant*; or
 - c) refer the application to Staff for further review and report.

16. GENERAL SUBDIVISION AND STRATA APPLICATION PROCEDURES

- 16.1. Applications for *Subdivision*, Bare Land Strata *Subdivision*, and Form P Phased Strata Declarations shall be submitted to the *Manager* and forwarded to the *Approving Officer* for decision.
- 16.2. In response to an application for *Subdivision*, the *Approving Officer* may:
 - a) approve the *Subdivision*, with or without conditions; or
 - b) refuse the application.

17. SUBDIVISIONS, INCLUDING BARE LAND STRATA

- 17.1. The *Approving Officer* may exempt a parcel from the minimum frontage required under the *Local Government Act*.
- 17.2. A Tentative Approval Letter (TAL) issued by the *Approving Officer* outlining the conditions of *Subdivision* will be provided to the Applicant and/or Agent and the conditions of the TAL must be met to the Approving Officer's satisfaction prior to final subdivision.

18. SUBDIVISION TENTATIVE APPROVAL LETTER EXTENSIONS

- 18.1. Application is made by letter to the *Manager* for consideration by the *Approving Officer*.
- 18.2. Fees for an extension to a Tentative Approval Letter are as per **Schedule A**.

19. FORM P PHASED STRATA DECLARATIONS AND FORM P AMENDMENTS

- 19.1. Application is made by letter to the *Manager* for consideration by the *Approving Officer*.
- 19.2. Any security required for common facilities shall be provided by cash deposit or irrevocable letter of credit.

20. STRATA CONVERSION OF A PREVIOUSLY OCCUPIED BUILDING

- 20.1. Unless otherwise delegated in this bylaw, *Council* is the approving authority for *Strata Conversion* of previously occupied buildings;
- 20.2. The *Approving Officer* can perform the duties of the approving authority under of the *Strata Property Act* with respect to a *Strata Conversion* of a previously occupied building that comprises:
 - a) a previously occupied commercial building with five (5) or fewer units; and
 - b) a previously occupied residential building with a maximum of two (2) dwelling units.
- 20.3. Respecting the decision of the *Approving Officer* to approve a Strata Plan for a previously occupied building, with or without conditions, or refuse to approve a strata plan for a previously occupied building, the decision of the *Approving Officer* is final and may not be appealed.
- 20.4. In determining a *Strata Conversion* application, the approving authority may:
 - a) Approve the application, with or without conditions; or
 - b) refuse the application.

21. INACTIVE APPLICATIONS

- 21.1. If information requested by the *Manager* pursuant to an application is not provided within six (6) months, and the *Manager* considers the *Applicant* is not actively attempting to meet the requirements of the application otherwise, the *Manager* may, by registered letter, notify the *Applicant* of an intention to close the application.
- 21.2. If the *Manager* is not satisfied that completion of an application is not being actively pursued after thirty (30) calendar days following delivery of a notice under section 11.1, the *Manager* may consider the application to be abandoned and cause the application to be closed.

22. SUBSEQUENT APPLICATIONS

- 22.1. Subject to the *Local Government Act*, if an application made under this Bylaw is refused by either the *Manager* or by *Council*, as applicable, a same or similar reapplication may not be submitted until at least one (1) year has passed following the date of the refusal.
- 22.2. Where an *Applicant* intends to appeal to *Council* to vary the time limit set in section 7.3 pursuant to section 460(3) of the *Local Government Act*, the *Applicant* shall submit, in writing, a detailed statement as to why the time limit for the reapplication should be varied.
- 22.3. Despite section 7.3, *Council* may, by an affirmative vote of at least 2/3 of its members that are eligible to vote on the reapplication, allow a person to reapply within the one (1) year period.

23. SEVERABILITY

23.1 If any section, subsection, sentence, clause, sub clause or phrase of this Bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Bylaw.

24. SINGULAR

24.1 Whenever the singular is used throughout this Bylaw, it shall also mean the plural.

25. REPEAL

25.1. The Village of Pemberton “Development Procedures Bylaw No. 725, 2013” is repealed.

READ A FIRST TIME this 15th day of September, 2020.

READ A SECOND TIME AS AMENDED this 3rd day of November, 2020.

READ A THIRD TIME this 3rd day of November, 2020.

ADOPTED this 17th day of November, 2020.

Mike Richman
Mayor

Sheena Fraser
Corporate Officer

