

CITY OF KELOWNA

BYLAW NO. 12423

Amendment No. 1 to Development Application and Heritage Procedures Bylaw No. 12310

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts that the City of Kelowna Development Application and Heritage Procedures Bylaw No. 12310 be amended as follows:

1. THAT **Section 1 – Introduction, 1.4 Definitions, 1.4.1 ‘Conceptual Landscape Plan’** be amended by deleting, “Conceptual Landscape Plan means a to-scale drawing identifying all landscape items being proposed within a development. The plan must clearly indicate where trees, shrubs, decorative paving, amenities, etc. are proposed. All Zoning Bylaw requirements related to landscaping are to be identified on the plan including buffers and fencing. Conceptual Landscape Plans are to reflect proposed grading including retaining walls and sloped areas.”

and replace with

“Landscape Plan means a to scale drawing identifying all required items being proposed within a development (outside of the primary structure). This plan should include the elements identified by the City of Kelowna Landscape Plan Terms of Reference, including minimum zoning requirements such as minimum buffer widths, required fence locations, irrigation, etc.”;

2. AND THAT **Section 1 – Introduction, 1.4 Definitions, 1.4.1 ‘Qualified Professional’** be amended by adding “landscape architect, certified arborist” after the word “architect”;
3. AND THAT **Section 2 – General Provisions, 2.9 Performance Security, 2.9.1 Form of Security** be amended by deleting the following, “Security required by permits will be in the form of a certified cheque, or an irrevocable letter of credit, effective for a period to be determined by the **Department Manager, Development Planning.**”;

and replace with

“Security required by permits will be in the form of a certified cheque, surety bond, or an irrevocable letter of credit, effective for a period to be determined by the **Department Manager, Development Planning.**”;

4. AND THAT **Section 2 – General Provisions, 2.9 Performance Security, 2.9.3 Conditions of Security a)** be amended by deleting, “When a security for landscaping is a condition in a permit, the amount of the security will be 125%, or a minimum of \$7000, of the costs of the works, including inspections, monitoring and maintenance of all items included in the landscape plan and is to be paid in full prior to permit issuance”;

and replace with

“When a security for landscaping is a condition of a permit, the amount of the security will be 125%, or a minimum of \$7,000, based on the preliminary construction cost estimate for the Landscape Plan works including materials, labour, inspections by a Qualified Professional, and maintenance (irrigation, weeding), paid in full prior to permit issuance.”;

5. AND THAT **Section 2 – General Provisions, 2.9 Performance Security, 2.9.3 Conditions of Security d)** be deleted: “where security is required as per Sections 2.9.3(b) and (c) of this bylaw, the **City** will return to the applicant 100% of the security deposit upon receipt of a Letter of Assurance from a **Qualified Professional** certifying that the unsafe condition or damage to the natural environment has been corrected.”

and replaced with

“Where security is required as per Sections 2.9.3(b) and (c) of this bylaw, the City may return to the applicant 100% of the security deposit following staff inspection and review of a Letter of Assurance from a Qualified Professional certifying that the unsafe condition or damage to the natural environment has been corrected.”;

6. AND THAT **Section 2 – General Provisions, 2.9 Performance Security, 2.9.3 Conditions of Security e)** (i)(ii)(iii) be deleted:

“Where security is required as a condition of a Permit, except for Natural Environment Development Permits, the following will also apply:

(i) The landscape works (including irrigation) will be considered substantially complete upon receipt of letters or Landscape Schedules of Assurance (C-L) from a Landscape Architect and a Certified Irrigation Designer which certify that the landscape and irrigation works have been completed in accordance with the approved Development Permit, or as determined by the Department Manager, Community Planning.

ii) Upon substantial completion, the City will return to the applicant ninety percent (90%) of the security deposit. The City will withhold the remaining ten percent (10%) for up to two (2) growing seasons.

iii) At least of one (1) year after substantial completion of the landscape works, the City may return the remainder of the security deposit on the condition that a Letter of Assurance has been submitted by a Landscape Architect certifying that the landscaping remains in substantial compliance with the approved Development Permit. ”;

and replace with

“Where security is required as a condition of a Landscape Plan, except for Natural Environment Development Permits, the following will also apply:

i) The works defined in the Landscape Plan will be considered substantially complete upon receipt of a letter from the applicant certifying that the works have been completed in accordance with the approved Development Permit/Construction Drawings, to the satisfaction of the Department Manager, Development Planning. If the Landscape Plan preliminary construction estimate exceeds \$50,000, the applicant will also provide Landscape Schedules of Assurance (as per the BC Society of Landscape Architects Schedule C-L) from the Landscape Architect which certify that the landscape works have been completed in accordance with the approved Development Permit/Construction Drawings, or as determined by the Department Manager, Development Planning.

ii) At least one (1) year after substantial completion, the applicant may request an inspection and the City will consider return of 90% of the security to the applicant if no deficiencies are identified. If deficiencies are identified the City will withhold a portion of the security reflective of the cost to

rectify the deficiencies, until the works are brought into substantial compliance with the approved Development Permit.

iii) At least two (2) years following substantial completion (and at least one (1) year after substantial completion of identified deficiencies), the City may return the remainder of the security deposit following an inspection and confirmation that the landscape is in substantial compliance with the approved Development Permit. The inspection is triggered by the applicant notifying the City and, if deemed applicable by the Department Manager, Development Planning, submission of a Letter of Assurance by the Landscape Architect certifying that the landscaping remains in substantial compliance with the approved Development Permit.”;

7. AND THAT **Section 2 – General Provisions, 2.9 Performance Security, 2.9.3 Conditions of Security f) (i)(ii)(iii)** be deleted:

“Where security is required as a condition of a Natural Environment Development Permit, the following will also apply:

(i) The landscape works will be considered substantially complete upon receipt of a letter from a Qualified Professional certifying that the landscape works have been completed in accordance with the approved Development Permit, or as determined by the Department Manager, Development Planning.

(ii) Upon substantial completion, the City will return 90% of the security deposit to the applicant. The City will withhold the remaining 10% or \$6,000, whichever is more, for up to five growing seasons.

(iii) At least one year after substantial completion of the landscape works, the City may return the remainder of the security deposit on the condition that a Letter of Assurance has been submitted by a Qualified Professional certifying that the landscaping remains in substantial compliance with the approved Development Permit.

And replace with

“Where a security is required as a condition of a Farm, Natural Environment or Hazardous Conditions Development Permit, the following will also apply:

(i) The restoration works will be considered substantially complete upon receipt of a letter from a Qualified Professional certifying that the works have been completed in accordance with the approved Development Permit, or as determined by the Department Manager, Development Planning.

(ii) At least one (1) year after substantial completion, the applicant may submit an inspection report from a Qualified Professional and the City will consider return of up to 90% of the security deposit if no deficiencies are identified. If deficiencies are identified the City will withhold a portion of the security deposit reflective of the cost to rectify the deficiencies, until the site is brought into substantial compliance with the approved **Development Permit**.

(iii) The **City** will withhold the remaining 10% or \$6,000, whichever is more, until the site is brought into substantial compliance with the approved **Development Permit**.”;

8. AND THAT **Schedule ‘1’(I) – Application Requirements** be deleted in their entirety that read:

“I) Landscape Plan

Conceptual Landscape Plan: for applications under Schedules ‘2’ and ‘10’ of this bylaw-to-scale plan including:

Landscape Plan - (1:200 scale recommended) in metric units with north arrow, detailing:

- Outline of existing and proposed building(s) with existing trees or treed areas
- Parking layout and surface treatment

- Soft landscaping (trees, hedges, planting beds, vines, lawn, etc.), including vegetation within public road right-of-way
- A preliminary plant list of trees, shrubs, perennials and ground covers including quantities, botanical and common names, planting sizes, on centre spacing
- Hard landscaping (precise pavers, brick, concrete, etc.) including materials within public road right-of-way
- Landscape structures (fences, trellis, arbours, retaining walls, lighting, etc.)
- Location and size of amenity areas, play areas, and private open space, if applicable
- Where a Landscape Plan is required as a condition of a Natural Environment Development Permit, the Plan will be stamped and sealed by a Qualified Professional.

For Commercial, Industrial, Multi-family & Institutional applications, the following requirements must also be provided:

- A Landscape Plan signed and sealed by a Landscape Architect, and a Water Conservation Report prepared by a Landscape Architect in accordance with Water Regulation Bylaw No. 10480 (as amended or replaced from time to time), including:
 - Landscape Schedules of Assurance (BCSLA);
 - A landscape water budget;
 - A hydrozone plan;
 - An Irrigation Plan, certified by a Certified Irrigation Designer;
 - and
 - A cost estimate, including all landscape and irrigation works. Landscape costs must indicate topsoil, mulches, trees, plant material, structures, fencing, play equipment, Site furniture, etc.
- Location and treatment of garbage enclosure (including materials and dimensions)
- Notation of any proposed boulevard trees
- Notation of special treatments or retaining elements pertaining to grading”

and replace with

“Landscape Plan with drawings to scale, in metric units with north arrow, as per the requirements set by the Department Manager, Development Planning based on the City of Kelowna Landscape Plan Terms of Reference, which may include:

- Notation on all drawings: “Completed works must meet approved development permit drawings. Amendment application must be made for any alterations prior to works being completed.”
- Outline of existing and proposed buildings(s)
- Pre-development inventory completed by a **Qualified Professional** of all trees located on the property including, trees with overhanging branches or root systems, invasive species, fruit trees, cultivated trees, basic description, trunk diameter, and location
- At the discretion of the **Department Manager, Development Planning**, a tree condition assessment may be required describing tree health including estimated life span and impacts of the proposed development on tree viability
- Existing trees and vegetated areas to be retained and to be removed
- Parking layout and surface treatment
- Soft landscaping (trees, hedges, planting beds, vines, lawn, etc.), including vegetation within public road right-of-way
- Plant list of trees, shrubs, perennials and ground covers including quantities, botanical and common names, planting sized on centre spacing
- Hard landscaping (paving stone, brick, concrete, etc.) including materials within public road right-of-way
- Permeable paving, materials and details of proposed system/design
- Landscape structures (fences, trellis, arbours, retaining walls, lighting, etc.)

- Location and size of amenity areas, play areas, and private open space, if applicable
- Green roof or on-slab landscape areas including details of proprietary systems or custom design
- Where a Landscape Plan is required as a condition of a Natural Environmental Development Permit, the plan will be stamped and sealed by a Qualified Professional
- Bicycle parking / storage facility
- Irrigation layout plan
- Location and treatment of garbage enclosure (including materials and dimensions)
- Notation of any proposed boulevard trees and off-site landscaping
- Grading including all existing and proposed geodetic elevations, top and bottom of retaining walls and slopes, slope ratios
- Performance Security and preliminary construction cost estimate in accordance with Section 2.9 of this Bylaw

l) (i) If the preliminary landscape construction estimate exceeds \$50,000.00 the Landscape Plan must be prepared by a Registered Landscape Architect and include the additional details:

- Letter of understanding; BC Society of Landscape Architects Schedule L is required at time of Building Permit Submission.
- Notation on all drawings; "Landscape Construction Drawings and BCSLA Schedule L is required at time of Building Permit application. Must include a Water Conservation Report in accordance with Water Regulation Bylaw No. 10480 (as amended or replaced from time to time), including a Landscape Water Budget, a Hydrozone Plan and an Irrigation Plan prepared by a Certified Irrigation Designer"
- Irrigation Hydrozone Plan drawing
- All items noted above in Schedule 1 (l)";

9. AND THAT **Schedule '3' – Development Permit Applications**, 1.0 FORM AND CHARACTER & FARM PROTECTION DEVELOPMENT PERMITS, 1.1.2. and 1.2.1 Application Requirements **tables** be amended by

(a.) Deleting "Direct Landscape Plan" and replace it with "Landscape Plan";

(b.) Deleting "Staff Directed Landscape Plan" and replace it with "Landscape Plan";

(c.) Deleting "Architect Directed Landscape Plan" and replace it with "Landscape Plan";

10. AND THAT **'Schedule '4' Development Variance Permit Applications**, 1.0 APPLICATION REQUIREMENTS, 1.1 be amended by deleting "k) Council Landscape Plan" and replace it with "k) Landscape Plan (if applicable)";

11. AND THAT **'Schedule '5' – Temporary Use Permit Applications**, 1.0 APPLICATION REQUIREMENTS, 1.1 be amended by deleting "k) Council Landscape Plan" and replace it with "k) Landscape Plan (if applicable)";

12. AND THAT **'Schedule '9' – Temporary Farm Worker Housing Permit Applications**, 1.2 Application Requirements, 1.2.1 be amended by deleting "j) Council Landscape Plan" and replace it with "j)Landscape Plan";

13. AND THAT **'Schedule '9' – Temporary Farm Worker Housing Permit Applications**, 2.1 Application Requirements, 2.1.1 be amended by deleting " j) Council landscape Plan" and replace it with "j) Landscape Plan";

14. AND THAT **'Schedule '10' – Heritage Revitalization Agreement Applications**, 1.0 APPLICATION REQUIREMENTS, 1.1 be amended by deleting " l) Conceptual, Direct, or Council Landscape Plan (if applicable)" and replace it with "l) Landscape Plan (if applicable);

15. AND THAT '**Schedule '11' – Heritage Designation Bylaw Applications**, 1.1 Application Requirements, be amended by deleting " l) Council landscape Plan" and replace it with "l) Landscape Plan";
16. AND FURTHER THAT '**Schedule '12' – Heritage Conservation Covenant Applications**, 1.1 Application Requirements, be amended by deleting " l) Council landscape Plan" and replace it with "j) Landscape Plan".
17. This bylaw may be cited for all purposes as "Bylaw No. 12423, being Amendment No. 1 to Development Application and Heritage Procedures Bylaw No. 12310."
18. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first, second and third time by the Municipal Council this 26th day of September, 2022.

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk