

Electoral Area Services Committee

Thursday, October 15, 2020 - 11:00 pm

Via Zoom Video Conference



Join Zoom Meeting

<https://zoom.us/j/3020338984>

Meeting ID: 302 033 8984

+1 778 907 2071 Canada

A G E N D A

1. CALL TO ORDER

2. ACCEPTANCE OF AGENDA (ADDITIONS/DELETIONS)

- A)** That the October 15, 2020 Electoral Area Services Agenda be adopted as presented.

3. MINUTES

- A)** That the September 10, 2020 Electoral Area Services Minutes be adopted as presented.

[Electoral Area Services Committee - 10 Sep 2020 - Minutes - Pdf](#)

4. DELEGATIONS

5. UNFINISHED BUSINESS

6. **NEW BUSINESS**

A) Michael Combs and Erica Boyko

RE: Development Variance Permit
7775 and 7777 McRae Road
RDKB File: C-4037s-07285.055
[2020-09-14 BoykoCombs DVP EAS](#)

Recommendation: That the Development Variance Permit application submitted by Brock Pendergraft of Pendergraft Professional Land Surveying Inc., on behalf of Erica Boyko and Michael Combs, to vary Section 302.1(i) of the Area 'C' Zoning Bylaw No. 1300, 2007 to increase the maximum gross floor area of storage buildings, including garages, that may be located on a parcel that does not have a principal use or building provided they are only being used for non-commercial/industrial storage of personal goods or vehicles from 60 m² to 250 m² – a variance of 190 m², to facilitate the future subdivision on the properties legally described as Lot 2 District Lot 4037s Similkameen Division Yale District Plan KAP51313 and Lot 11 District Lot 4037s Similkameen Division Yale District Plan 31906, Electoral Area C/Christina Lake, be presented to the Regional District of Kootenay Boundary Board of Directors for consideration, with a recommendation to deny.

B) Lorne Garrett

RE: Development Variance Permit
1586 Neimi Road, Christina Lake
RDKB File: C-317-00273.010
[2020-10-15 Garrett DVP EAS](#)

Recommendation: That the Development Variance Permit application submitted by Lorne Garrett, to allow for a variance of Section 402.6 of Electoral Area 'C' Zoning Bylaw No. 1300 to reduce the minimum front parcel line setback from 4.5 m to 2.4 m – a variance of 2.1 m for the construction of a single family dwelling on the property legally described as Parcel E Block 14 Plan KAP50 District Lot 317 Similkameen Division of Yale Land, Electoral Area 'C'/Christina Lake, Christina Lake, be deferred until the applicant has had an opportunity to further assess their site plan and provided specific measurements of site setbacks, distance between buildings, and the parcel area of each building.

C) Joseph Gagnon and Sheri Anne Doyle

RE: Development Variance Permit
7390 Porcupine Road
RDKB File: BW-4109s-07405.000
[2020-09-09 Doyle DVP EAS](#)

Recommendation: That the Development Variance Permit application submitted by Sheri Doyle, on behalf of Sheri Doyle and Joseph Gagnon, to vary Section 402.7 of the Big White Zoning Bylaw No. 1166, 2001 to reduce the minimum front lot line setback from 4.5 m to 0 (zero) m – a variance of 4.5 m, for the construction of a covered staircase on the property legally described as Lot 10 Plan KAP23322 District Lot 4109S Similkameen Division of Yale Land District, Big White, Electoral Area 'E'/West Boundary be deferred, until the applicant has had the opportunity to update their proposal, address the Building Permit stop work order, and provide additional information on the status of permitting from the MoTI

D) Ryan/Jessica Onyschuk and Jason/Julie MacKenzie

RE: Development Permit
216 Feather Way, Big White
RDKB File: BW-4222-07499.008
[2020-10-15 Mackenzie Onyschuk DP EAS](#)

Recommendation: That the staff report regarding the Development Permit application submitted by Jason Mackenzie on behalf of Ryan Onyschuk, Jessica Onyschuk, Julie Mackenzie, and Jason Mackenzie, to construct a single family dwelling in the Alpine Environmentally Sensitive Landscape Reclamation Development Permit Area (DP2) on the parcel legally described as Strata Lot 5 Plan KAS3398 District Lot 4222 Similkameen Division of Yale Land District, Big White, Electoral Area 'E', be received.

E) Karen and Mathew Lewis

RE: MOTI Subdivision
RDKB File: E-2989s-07007.030
[2020-10-15 MoTI Lewis EAS](#)

Recommendation: That the staff report regarding the Ministry of Transportation and Infrastructure referral for a proposed four lot conventional subdivision, for the parcel legally described as the Lot 3

District List 2989s Similkameen Division Yale District Plan KAP91954, located in Electoral Area 'E', be received.

F) Cowboy Forestry Ltd.

RE: MOTI Subdivision

9190 Paradise Road, Electoral Area E/West Boundary

RDKB File: E-1920s-04956.000

[2020-10-15 CowboyForestry MOTI EAS](#)

Recommendation: That the staff report regarding the Ministry of Transportation and Infrastructure referral for a proposed four lot conventional subdivision, for the parcels legally described as the District Lot 1920s Similkameen Division of Yale Land District except Plan 28042, located in Electoral Area 'E', be received;
And That park dedication in the form of land or cash be secured for Proposed Lot 2.

G) Bylaw Enforcement Update

[2020-10-15 EAS re Enforcement Update](#)

Recommendation: *That the Staff Report regarding the October 15, 2020 Bylaw Enforcement Update be received.*

H) Draft Notice Enforcement Bylaw

[2020-10-15 Bylaw Notice Enforcement](#)

Recommendation: That the Staff Report regarding the Planning and Development Department's 2016 Annual Report be received.

I) Ministry of Agriculture Intentions Paper

RE: Rural Slaughter Modernization

[Ministry of Agriculture - Intentions Paper - Rural Slaughter Modernization](#)

Recommendation: That the Ministry of Agriculture Intentions Paper dated September 4, 2020 be received.

J) Agricultural Land Commission Update

[Agriculture Land Commission Update-October 5 2020](#)

Recommendation: That the Agriculture Land Commission update dated October 5, 2020 be received.

K) Grant in Aid Report

[Grant In Aid Report](#)

Recommendation: That the Grant in Aid report be received.

L) Gas Tax Report

[Gas Tax Report](#)

Recommendation: That the Gas Tax report be received.

M) Grants in Aid

(Director Russell)

N) Gas Tax - Threat to 3rd party applications

(Director Gee)

O) Statutory Exemptions (through BC Assessment) vs. Permissive Tax Exemption (RDKB)

(Director Gee)

7. LATE (EMERGENT) ITEMS

8. DISCUSSION OF ITEMS FOR FUTURE AGENDAS

9. CLOSED (IN CAMERA) SESSION

10. ADJOURNMENT



**Electoral Area Services Committee
Minutes**

Thursday, September 10, 2020
Via Zoom Video Conference

Directors Present

Chair Ali Grieve
Director Linda Worley
Director Grace McGregor
Director Roly Russell
Director Vicki Gee

Staff Present

James Chandler, General Manager of Operations/Deputy Chief Administrative Officer
Janine Dougall, General Manager of Environmental Services
Barb Ihlen, General Manager of Finance
Donna Dean, Manager of Planning and Development
Theresa Lenardon, Manager of Corporate Administration
Goran Denkovski, Manager of Infrastructure and Sustainability
Mark Stephens, Manager of Emergency Programs
Joe Geary, Christina Lake Fire Chief
Brandy Rafuse, Bylaw Enforcement Officer
Danielle Paterson, Planner
Maria Ciardullo, Recording Secretary

Delegates

Rob Gay, Regional Connectivity Committee Chair
Amy Ambrosone, Columbia Basin Broadband Corp

CALL TO ORDER

Chair Grieve called the meeting to order at 11:00 a.m.

ACCEPTANCE OF AGENDA (ADDITIONS/DELETIONS)

Moved/Seconded

That the September 10, 2020 Electoral Area Services Agenda be adopted as presented.

Carried.

MINUTES

Moved/Seconded

That the May 14, 2020 Electoral Area Services Committee meeting minutes be adopted as presented.

Carried.

ROUNDTABLE INTRODUCTIONS

Chair Grieve requested that everyone introduce themselves.

DELEGATIONS

**Rob Gay, Chair of RDEK Board of Directors/Director RDEK Electoral Area
C/Chair of the Columbia Basin Broadband Committee
RE: Memorandum of Understanding for broadband**

Rob Gay, Board Chair for the Regional District of East Kootenay, presented information regarding broadband service in the Kootenay region which included a vision for high speed connectivity; term length of service and a name change to 'Southeastern BC Regional Connectivity Committee'. There was discussion about this essential service and the associated costs. Mr. Gay stated he would forward the most recent Memorandum of Understanding to Theresa Lenardon, Manager of Corporate Administration.

UNFINISHED BUSINESS

There was no unfinished business to discuss.

NEW BUSINESS

Ben and Tersia DeJager

RE: MOTI Subidivision

RDKB File: A-Twp7A-1-519.100

Moved/Seconded

That the staff report regarding the Ministry of Transportation and Infrastructure referral for a proposed two lot boundary subdivision (conventional), for the parcels legally described as the Lot A, Plan NEP7089, TWP 7A, KD and Sublot 17, Plan NEPX66, KD, located in Electoral Area 'A', be received.

Carried.

City of Rossland

RE: Subdivision Referral

RDKB File: R-1

Moved/Seconded

That the staff report regarding the City of Rossland referral for a proposed 8 lot bare land strata at 1007 Mountain View Road, for the parcel legally described as Portion of Lot A Section 10 TWP 28 KD Plan EPP84853, the City of Rossland, be received.

Carried.

Allowable Expenses for Directors

Chair Grieve queried the committee members regarding allowable expenses. There were no questions or concerns from the members.

Impact of Emergency Operations Centre activations on work plans

There was discussion around staff time when the Emergency Operations Centre is activated. James Chandler, Deputy CAO/General Manager of Operations suggested this topic could be addressed when the Emergency Management Workplan for 2021 is discussed.

Use of Electoral Area Directors' Communication and Expense Budget

Some Directors expressed their wish for more flexibility and freedom with regard to their communication budget and the desire for transparency. Discussed was the creation of guidelines for clarity and a consistent approach.

Newsletters for Electoral Areas

Chair Grieve stated she would be interested in receiving other Electoral Area's newsletters/communications so they can be informed regarding each other's activities and support each other.

Planning Department Application Procedures and Applicant Attendance at Meetings

Chair Grieve expressed concern that applicants do not necessarily attend APC meetings to address questions and concerns the APC may have. She also would like staff to ensure that communication with applicants encourages them to attend meetings where their application is considered.

Grants in Aid

This item was deferred to a future meeting.

Noise Bylaws

There was a discussion regarding whether noise bylaws in rural areas can be enforced effectively and the fact that there is an existing noise bylaw at Big White. Director McGregor stated that she would like to do some public consultation to determine whether her community would like a noise control bylaw.

Gas Tax - threat to 3rd party applications

This item was deferred to a future meeting.

Statutory Exemptions (through BC Assessment) vs. Permissive Tax Exemption (RDKB)

This item was deferred to a future meeting.

Grant in Aid report

Moved/Seconded

That the Grant in Aid report be received.

Carried.

Gas Tax Report

Moved/Seconded

That the Gas Tax Report be received.

Carried.

Planning and Development (005) Work Plan Update

Moved/Seconded

That the Electoral Area Services Committee receive the September 10, 2020 staff report titled 'Work Plan Update and 2021 Look Ahead for the Planning and Development Department Service'.

Carried.

Parks & Trails - Electoral Area 'B' (014) Work Plan Update

Moved/ Seconded

That the Electoral Area Services Committee receive the September 2020 Work Plan Update Report and proposed 2021 projects for the Regional Parks & Trails Services – EA 'B' /Lower Columbia/Old Glory (014) as presented to the Committee on September 2, 2020.

Carried.

Regional Parks and Trails Service (045) Workplan Update

Moved/Seconded

That the RDKB Electoral Area Services Committee receive the 2020 Area 'D'/Rural Grand Forks – Regional Parks and Trails Service (045) Workplan Update and Look Ahead 2021 Report.

Carried.

Fire Protection - Christina Lake (051) Work Plan Update

Moved/Seconded

That the Regional District of Kootenay Boundary Electoral Area Services Committee receive the September 2020 Work Plan update and 2021 look ahead report, for the Christina Lake Fire Department, as presented to the committee on September 10th, 2020.

Carried.

Fire Protection - Beaverdell (053) Work Plan Update

Moved/Seconded

That the Regional District of Kootenay Boundary Electoral Area Services Committee receive the September 2020 Work Plan update and 2021 look ahead report, for the Beaverdell Fire Service, as presented to the committee on September 10th, 2020.

Carried.

Big White Fire - Specified Area (054) Work Plan Update

Moved/ Seconded

That the Regional District of Kootenay Boundary Electoral Area Services Committee receive the September 2020 Work Plan update and 2021 look ahead report, for the Big White Fire Department, as presented to the committee on September 10th, 2020.

Carried.

Weed Control - Christina Lake Milfoil (091) Work Plan Update

Moved/Seconded

That the Electoral Area Services Committee receive the September 2020 work plan update and 2021 proposed projects report for the Noxious Weed Control – Christina Lake Milfoil – Service 091 as presented to the Committee on September 10, 2020.

Carried.

LATE (EMERGENT) ITEMS

There no late or emergent items.

DISCUSSION OF ITEMS FOR FUTURE AGENDAS

The following items were deferred to a future meeting:

- Grants in Aid
- Gas Tax - threat to 3rd party applications
- Statutory Exemptions (through BC Assessment) vs. Permissive Tax Exemption (RDKB)

CLOSED (IN CAMERA) SESSION

A closed (in camera) meeting was not required.

ADJOURNMENT

There being no further business to discuss, Chair Grieve adjourned the meeting at 1:05 p.m.



Electoral Area Services (EAS) Committee Staff Report

RE:	Development Variance Permit – Boyko-Combs		
Date:	October 6, 2020	File #:	C-4037s-07285.055
To:	Chair Grieve and members of the EAS Committee		
From:	Danielle Patterson, Planner		

Issue Introduction

The Regional District of Kootenay Boundary (RDKB) received a development variance permit application to increase the permitted size of accessory buildings on a parcel without a principal building in Electoral Area 'C'/Christina Lake (see Attachments).

Property Information	
Owner(s):	Mike Combs and Erica Boyko
Agent:	Brock Pendergraft, Pendergraft Professional Land Surveying
Location:	7775 and 7777 McRae Road
Electoral Area:	Electoral Area 'C'/Christina Lake
Legal Description:	Lot 11, Plan KAP31906 and Lot 2, KAP51313, District Lot 4037s, SDYD
Area:	2.1 ha (5.3 ac) and 1.1 ha (2.7 ac)
Current Use:	Residential and Vacant
Land Use Bylaws	
OCP Bylaw: 1125	Rural Residential
DP Area(s):	Partial - Waterfront Environmentally Sensitive
Zoning Bylaw: 1166	Rural Residential 3
Other	
Waterfront / Floodplain:	NA
Service Area:	Deer Ridge Water Association
Planning Agreement Area:	NA

History / Background Information

The subject properties are located on McRae Road near English Point at Christina Lake (see Site Location and Subject Property Maps). The subject property at 7775 McRae Road has a single family dwelling, a shop, two garages and a shed located on the parcel. The parcel at 7777 McRae Road is vacant. A single family dwelling and accessory buildings and structures are permitted uses in the Rural Residential 3 Zone.

These properties are part of a Ministry of Transportation and Infrastructure (MoTI) subdivision application that was referred to the RDKB in 2019. The proposed subdivision involves the two existing lots and would create one new lot, resulting in three lots, all a minimum of 1 ha in area. Proposed Lot 1 would have the single family dwelling and one of the garages located on it, while proposed Lot 2 would have the remaining buildings. Proposed Lot 3 is shown as being vacant.

The buildings on proposed Lot 2 were identified through the subdivision referral as not meeting the Zoning Bylaw requirements. Section 302.1(i) states that storage buildings may be located on a parcel that does not have a principal use or building, though gross floor area must not exceed 60 m² and the buildings must be used for non-commercial/industrial storage of personal goods. The combined area of the buildings on proposed Lot 2 were determined to be larger than 60 m². Meeting the requirements of the RDKB's land use bylaws is a condition of the Preliminary Layout Review (PLR) issued by MoTI for this subdivision application.

Proposal

The applicant is proposing to vary the permitted gross floor area of storage buildings on proposed Lot 2 from 60 m² to 250 m², for a variance of 190 m² (see Applicant Submission).

Advisory Planning Commission (APC)

The Electoral Area 'C'/Christina Lake APC considered the application at their October 6, 2020 meeting. The APC recommends the application not be supported.

The reasons the APC provided for not supporting the proposal is summarized as follows:

- Concerns about whether the applicant is sourcing water from Deer Ridge Water system or a well;
- The size of the requested variance exceeds other variances presented to the Board of Directors;
- Unanswered questions about campground operations and accessory buildings on the property that are not permitted in the Zoning Bylaw; and
- Concerns about current access and maintenance of a shared easement with neighbouring properties and access to the Deer Ridge Water system.

The subject property owners as well as members of the public attended the APC meeting. The APC meeting minutes did not contain comment from the subject property owners. Comments from members of the public are summarized as follows:

- Concerns about the legality of water connections, volume of water utilized, and their impact on the Deer Ridge Water Association;
- Comments about the use of the property not permitted in the Zoning Bylaw, such as commercial vehicle storage and campground; and

- Concerns the requested Development Variance Permit would be used for “other uses”.

The APC received four emails from the public regarding the applicant’s proposal. All of the emails state they do not support the proposed Development Variance Permit. The content of the emails, as they may relate to the Development Variance Permit proposal are summarized as follows:

- The buildings are “huge” and concerns that the buildings will be used for commercial purposes, contrary to the Zoning Bylaw;
 - The property owners have been using the property as an illegal campground since April 2020 and intend to expand the campground;
 - The property is unsightly and contains derelict vehicles;
 - At least one trailer on the property appears to have been occupied for over six months;
 - The property owners have used boulders, snow, and dirt to block existing property access easements on multiple occasions, including the only available access to a neighbouring property;
 - The property owners have disposed of animal carcass on the subject property;
 - The property owners have removed landscaping from neighbours’ properties without consent;
- Large, unsightly objects have been placed on the subject property. The placement of these objects blocks the view of Christina Lake on neighboring properties; and
- The property owners access their property via a utility easement rather than their existing driveway to transport semi-trucks, commercial goods, commercial vehicles, and camping traffic.

Implications

The RDKB application requests the inclusion of a clear statement as to whether a Development Variance Permit proposal may resolve a hardship, improve the development, or cause negative impacts to the neighbouring properties. Each Development Variance Permit is to be reviewed based on its own merit.

The applicant’s rationale states that the owner intends to build a new house on proposed Lot 2 following approval of the subdivision. In the circumstance that a single family dwelling were built on the proposed Lot 2 then the storage buildings would be permitted as accessory buildings. The applicant states that the hardship would be having to demolish the buildings in the interim to meet the Zoning Bylaw requirements. They explain that a development variance permit would allow the buildings to remain and would resolve this hardship.

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The applicant also states that the variance would improve development by reducing the costs of developing the lot, by avoiding the removal and reconstruction of the storage buildings. The applicant also states that the variance would improve development through bringing the subdivision to a speedier resolution.

The applicant asserts that the variance would have no negative impacts to neighbouring properties as the structures within this proposal are already existing.

Access, volume, and quality of available water is part of the MoTI's subdivision review process, and does speak to issues related to the accessory building area variance as proposed in this application. None of the existing accessory buildings are located in an easement. As such, concerns over easement access do not directly relate to the requested variance; however, concerns with access to existing easements may indirectly relate to the likelihood that the property owners may abide by the nature of charges, liens, and interests registered on Title, including Development Variance Permits.

When considering the proposed Development Variance Permit, staff note the following:

1. The request for a 190 m² variance to allow accessory buildings of 250 m² is more than a four fold (416.7%) increase in the permitted area of storage buildings without a principal use in place. The 250 m² (2,690 ft²) area of the storage buildings is twice the area of the average single detached dwelling in British Columbia, which has an average area of 133 m² (1,430 ft²)¹.
2. If the Development Variance Permit was approved, the owners of the subject property would not be obligated to build a single family dwelling. This could result in the storage buildings staying on the subject property indefinitely as a legal-nonconformity.
3. Only a Temporary Use Permit could require the property owners to build a single family dwelling or require the buildings and structures to be removed in the absence of a single family dwelling after a period of time.
4. If the single family dwelling is built on the subject property, the storage buildings could be used for personal use, agriculture, or a home occupation (once a single family dwelling is constructed). Use of storage buildings for the latter would not align with the Area 'C' OCP Bylaw No. 1520, 2004 Policy 2.13.1.3(3) which states that home occupations "*should only operate at a scale and in a manner, which is entirely compatible with the predominately residential neighbourhoods. Large and growing home occupations should relocate to proper commercial or industrial zones if they can no longer meet this criteria.*" Due to this policy, if the Development Variance Permit is approved, it is recommended that the permit contain a condition that places some limitations on the ability of the storage

¹ Government of Canada. *Statistics Canada: Canadian Housing Statistics Program*. Available from <https://www150.statcan.gc.ca/n1/daily-quotidien/190503/dq190503b-eng.htm>. Last updated May 3, 2019.

buildings to be used for a home occupation to ensure compliance with the noted OCP policy.

5. If the Development Variance Permit is approved, it is recommended that the permit contain a condition that clearly states the development variance applies only to the existing storage buildings or the maintenance/replacement thereof. Such a condition would ensure that future storage buildings would be required to meet the Zoning Bylaw regulations.

There are current bylaw infractions associated with these properties that are under investigation.

Recommendation

That the Development Variance Permit application submitted by Brock Pendergraft of Pendergraft Professional Land Surveying Inc., on behalf of Erica Boyko and Michael Combs, to vary Section 302.1(i) of the Area 'C' Zoning Bylaw No. 1300, 2007 to increase the maximum gross floor area of storage buildings, including garages, that may be located on a parcel that does not have a principal use or building provided they are only being used for non-commercial/industrial storage of personal goods or vehicles from 60 m² to 250 m² – a variance of 190 m², to facilitate the future subdivision on the properties legally described as Lot 2 District Lot 4037s Similkameen Division Yale District Plan KAP51313 and Lot 11 District Lot 4037s Similkameen Division Yale District Plan 31906, Electoral Area C/Christina Lake, be presented to the Regional District of Kootenay Boundary Board of Directors for consideration, with a recommendation to deny.

Attachments

1. Site Location Map
2. Subject Property Map
3. Applicant Submission

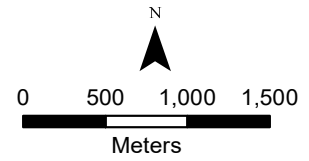


Regional District of
Kootenay Boundary

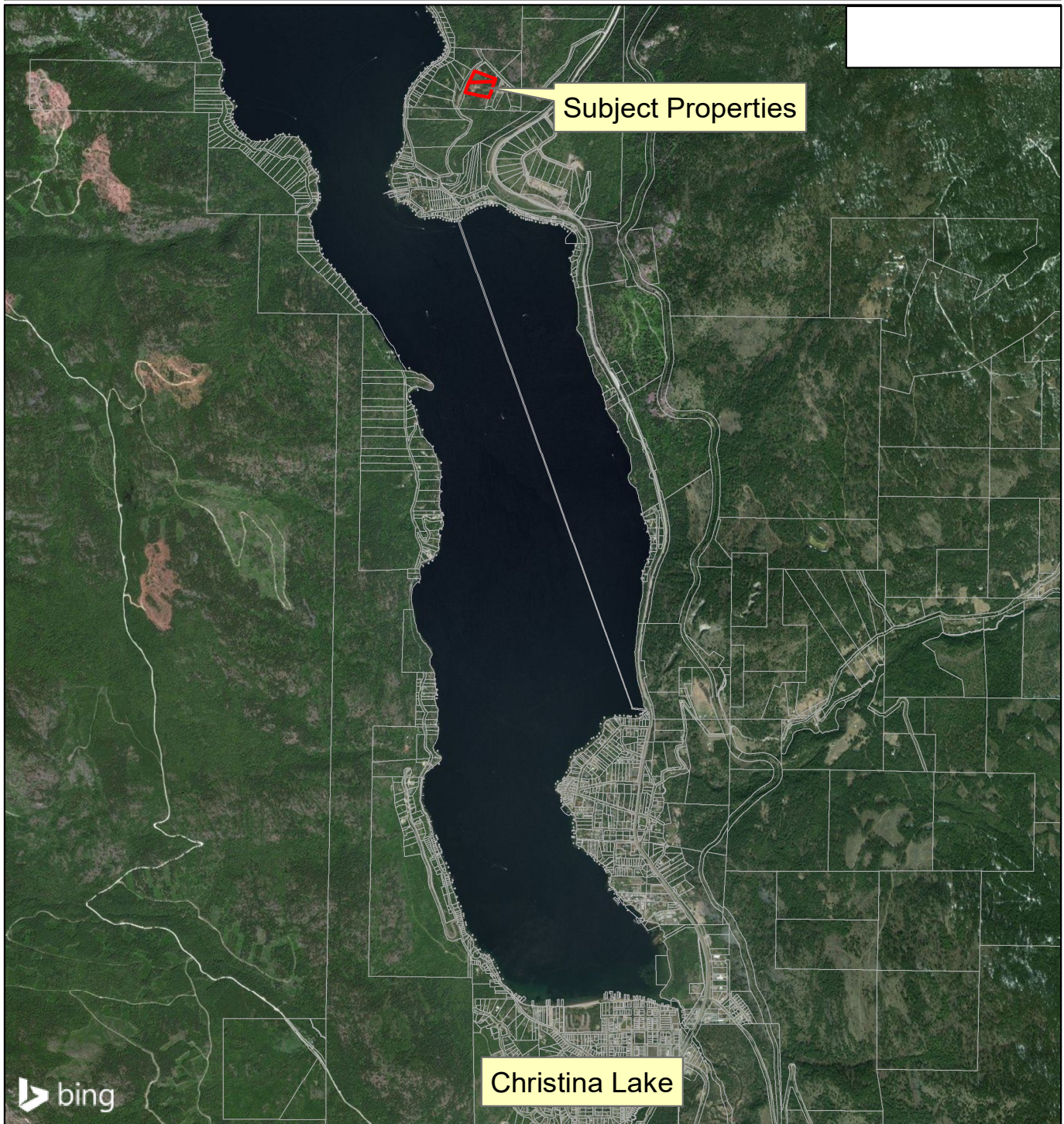
Date: 2019-07-25

Site Location Map

Lots 2, Plan KAP51313 & Lot 11
DL 4037s, SDYD



1:40,000



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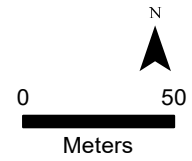


Regional District of
Kootenay Boundary

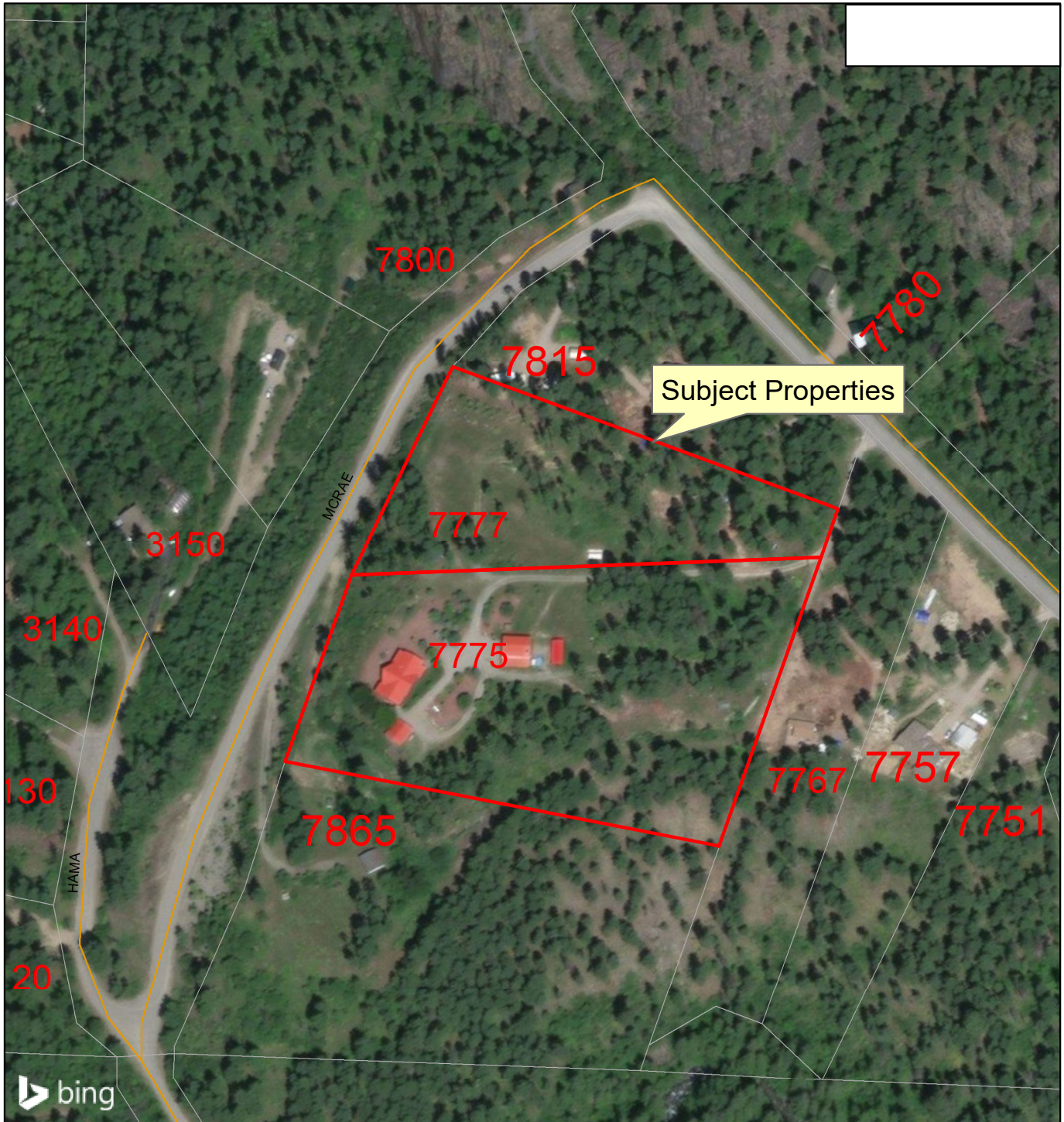
Date: 2019-07-25

Subject Properties Map

Lots 2, Plan KAP51313 & Lot 11
DL 4037s, SDYD



1:2,184



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PENDERGRAFT

PROFESSIONAL LAND SURVEYING

Brock A.W. Pendergraft, B.C.L.S.

Applicant Submission

P.O. Box 640 • 8714 Main Street
 Osoyoos, B.C. • V0H 1V0
 Phone: 250-495-7127
 E-mail: brock@pendergrantsurveying.ca
www.pendergrantsurveying.ca

August 6, 2020

RDKB Planning and Development Department
 2140 Central Avenue – PO Box 1965
 Grand Forks, BC, V0H 1H0

Proposed Development Variance Permit
7775-7777 McRae Road, Christina Lake
Mike Combs Proposed Subdivision EDAS file 2019-03458

My client Mike Combs has authorized me to act as agent for him for a proposed subdivision submitted to MOTI. We received a PLR back dated December 18, 2019, with MOTI eDAS file 2019-03458.

We received back RDKB staff report dated August 29, 2019, your file number C-4037s-07285 in relation to the proposed subdivision.

The proposed subdivision involves 2 existing lots, and would result in 3 lots, all a minimum of 1 ha.

Proposed Lot 1 currently has an existing residence on it. Mike intends to sell this lot.
 Proposed Lot 3 is currently vacant. Mike intends to sell this property as a vacant lot.

Proposed Lot 2 currently has a larger shop, newer garage, and an older storage garage on it. There is also a small sun deck and shed. These accessory buildings total around 250m² of floor area. There is no principle residence currently on Proposed Lot 2.

If his subdivision is completed, Mike would like to keep Proposed Lot 2 for himself and build his own new personal residence.

The present proposal would result in a contravention of your RDKB Area C zoning bylaw. Specifically Section 302.1(i) – Permitted Uses of Land, Buildings, and Structures in all Zones

Section 302.1.

i) Storage buildings, including garages, may be located on a parcel that does not have a principal use or building provided they are only to be used for the non-commercial/industrial storage of personal goods or vehicles. Such buildings are subject to the regulations for accessory buildings in the zone within which they are located and the gross floor area must not exceed 30m² for boat access only parcels and 60m² for all other parcels.

Applicant Submission

As the current accessory buildings floor area would exceed the 60m² limit, we would like to request a Development Variance Permit for relief from this section, in order to permit the subdivision to proceed without removal of the accessory buildings. We believe the intent of the bylaw was to prevent the construction of new accessory structures without a primary residence. The fact that these accessory structures are already existing and will end on a new lot during the course of subdivision is somewhat different from the plain intent of the bylaw.

Once the subdivision completes, Mike will be able to take out a building permit to construct his new principal residence on Proposed Lot 2. Once this occurs, the accessory buildings will be back in compliance with Section 302.1.

Allowing this proposal would both resolve a hardship & improve development.

The hardship that would be resolved is the unnecessary destruction of buildings. Mike would still be permitted to subdivide if he removes the accessory structures to be in compliance with the RDKB bylaws, but then he would need to re-construct them after building his new principal residence to meet his storage needs.

Possible destruction & re-building is not cost effective. It also would not be environmentally friendly by creating needless waste product. Allowing the variance would be the better alternative.

This proposal also improves development by reducing costs as stated above, as well as bring the subdivision to a speedier resolution. It would help the proposal achieve its goal of creating one extra 1 hectare lot, as was done to the north on plan KAP51313 in 1994 and to the east on plan KAP55961 in 1995. The newly created lots would have the same size and function as most of the surrounding lots.

There are no apparent negative impacts to neighboring properties as the accessory structures within this proposal are already existing. Requiring their removal would bring extra demolition noise and work, which could be considered a nuisance by neighbors.

I would hope that you approve this Development Variance Application for Section 302.1(i) based on the above. I am attaching the proposed subdivision drawings, as well as title searches, and the easement and covenant charges.

Sincerely,



Digitally signed by
Brock Pendergraft
RBRRHE
Date: 2020.08.06
16:59:13 -07'00'

Brock A.W. Pendergraft, BCLS

Applicant Submission

PROPOSED**SUBDIVISION PLAN OF:**

- (1) LOT 11, DL 4037s, SDYD, PLAN 31906
 (2) LOT 2, DL 4037s, SDYD, PLAN KAP51313.

PURSUANT TO SECTION 67 L.T.A.

BCGS 82E-012

LOT 11 PID: 001-559-402
 CHARGES: COVENANT 540735 SRW 568376
 EASEMENTS 568374 & 570255
 STATUTORY BUILDING SCHEME 546005

LOT 2 PID: 018-570-559
 CHARGES: COVENANT 540735 SRW 568376
 EASEMENTS 568376 & 570254
 STATUTORY BUILDING SCHEME 546005

SCALE 1:750

ALL DISTANCES SHOWN ARE IN METRES
 THE INTENDED SIZE OF THIS PLAN IS 300 mm
 IN WIDTH BY 600 mm IN HEIGHT (3 SIZE)
 WHEN PLOTTED AT A SCALE OF 1:750

CIVIC ADDRESS:
 7775 / 7777 - MARAE ROAD, CHRISTINA LAKE

CLIENT: MARK DONNS

FIELD SURVEY DATE: APRIL 12, 2019

VERSION #1

DRAWING DATE: MAY 30, 2019

LEGEND

- DENOTES STANDARD IRON POST PLACED
 * DENOTES STANDARD IRON POST FOUND
 △ DENOTES TRAVERSE HUB PLACED

GRID BEARINGS ARE DERIVED FROM DUAL
 FREQUENCY OBSERVATIONS AND ARE REFERRED
 TO THE CENTRAL MERIDIAN OF UTM ZONE 11
 TO OBTAIN LOCAL ASTRONOMIC BEARINGS REFERRED
 TO THE MERIDIAN THROUGH THE TRAVERSE HUB
 LABELED "MAGNETIC SURVEY OF 537 54."

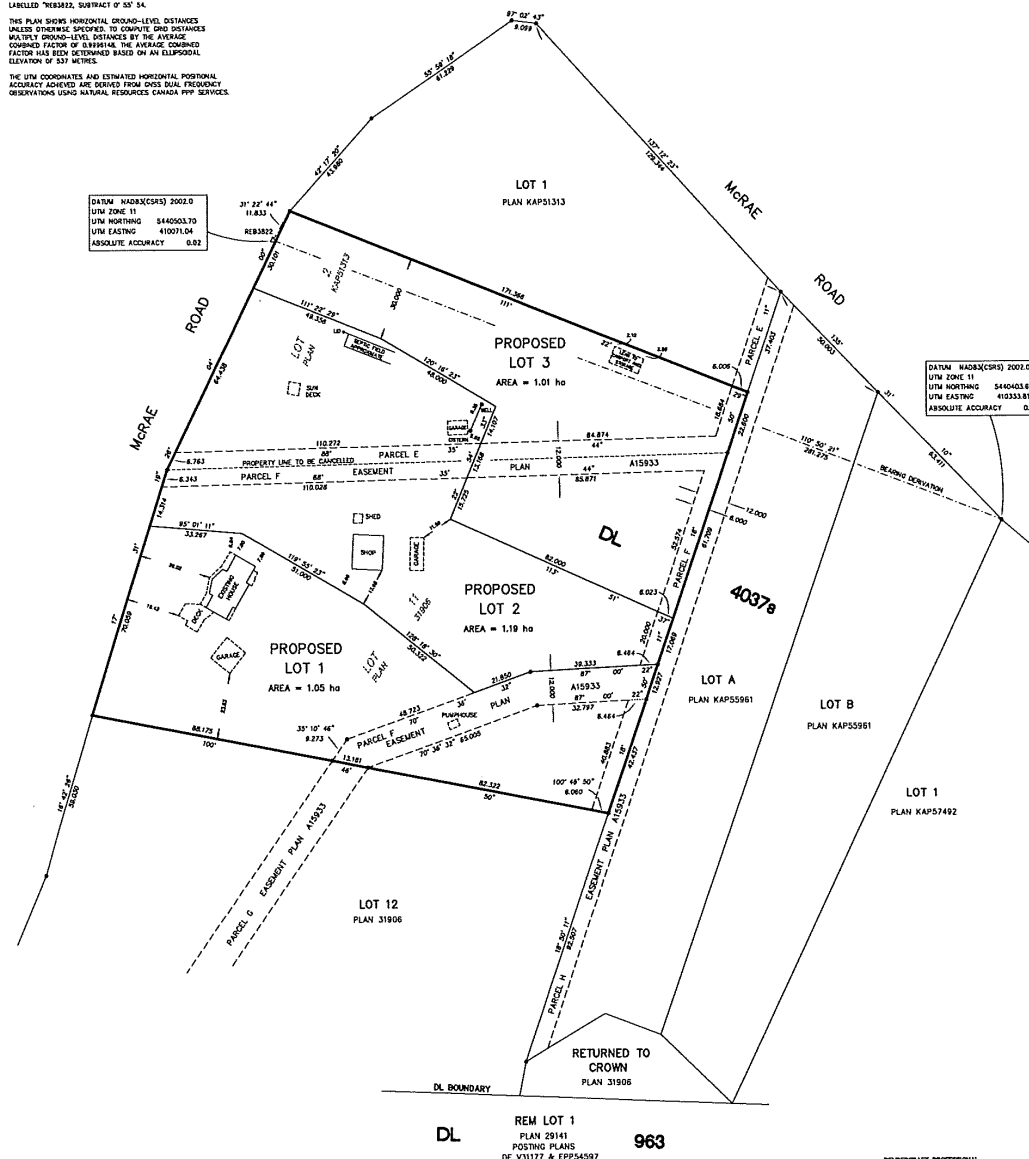
THIS PLAN SHOWS HORIZONTAL GROUND-LEVEL DISTANCES
 UNLESS OTHERWISE SPECIFIED, TO COMPUTE GRID DISTANCES
 MULTIPLE GROUND-LEVEL DISTANCES BY THE AVERAGE
 CORRECTION FACTOR OF 0.999141. THE AVERAGE CORRECTION
 FACTOR HAS BEEN DETERMINED BASED ON AN ELLIPSOIDAL
 ELEVATION OF 537 METRES.

THE UTM COORDINATES AND ESTIMATED HORIZONTAL POSITIONAL
 ACCURACY ACHIEVED ARE DERIVED FROM DUAL FREQUENCY
 OBSERVATIONS USING NATURAL RESOURCES CANADA PPP SERVICES.

DATUM: NAD83(CSRS) 2002.0
 UTM ZONE 11
 UTM NORTHING 5440503.70
 UTM EASTING 410071.04
 ABSOLUTE ACCURACY 0.05

DATUM: NAD83(CSRS) 2002.0
 UTM ZONE 11
 UTM NORTHING 5440403.68
 UTM EASTING 410333.81
 ABSOLUTE ACCURACY 0.05

THIS PLAN LIES WITHIN THE REGIONAL DISTRICT
 OF KOOTENAY BOUNDARY.



DL REM LOT 1
 PLAN 29141
 POSTING PLANS
 OF V31177 & EPP54597

963

PODEGRAFT PROFESSIONAL
 LAND SURVEYING INC.
 BOX 840
 COQUITON, B.C.
 V0N 1V0
 PHONE: (250) 485-7127
 FAX: (250) 485-7127
 EMAIL: mark@podgraftsurveying.ca
 OUR FILE NO. 1192878 PROJ.DWG
 DC FILE NO. 1192878

Applicant Submission

PROPOSED

SUBDIVISION PLAN OF:

- (1) LOT 11, DL 4037s, SDYD, PLAN 31906
(2) LOT 2, DL 4037s, SDYD, PLAN KAP51313.

PURSUANT TO SECTION 67 L.T.A.

BCGS 82E.019

LOT 11 PH: 001-599-402
CHARGES: COVENANT 540738 SRW 565376
EASEMENTS 568374 & 570255
STATUTORY BUILDING SCHEME 546005

LOT 2 FID: 018-570-559
CHARGES: COVENANT S40735 SR# 568376
EASEMENTS 568376 & 570254
STATUTORY BUILDING SCHEME S46005

SCALE 1:750

ALL DISTANCES SHOWN ARE IN METRES

CIVIC ADDRESS:
7775 / 7777 - McRAE ROAD, CHRISTINA LAKE

CURRENT LAW CONCEPTS

FIELD SURVEY DATE: APRIL 12, 2019

VERSION #1

DRAWING DATE: MAY 30, 2019

LEGEND

DIFFERS STANDARD FROM POST PLACED

DEPOTES STAMARD BROW POST FOUND

DONOTED TRAVERSE PLAN PLACED

THIS PLAN SHOWS POSITIONAL ORIGIN-LEVEL DISTANCES
WHICH WERE OTHERWISE SPECIFIED TO COMPUTE DISTANCES
MULTIPLY ORIGIN-LEVEL DISTANCES BY THE AVERAGE
COSINED FACTOR OF 0.9999146. THE AVERAGE COSINED
FACTOR HAS BEEN DETERMINED BASED ON AN ELLIPSOIDAL
ELEVATION OF 537 METERS.

THE UTM COORDINATES AND ESTIMATED HORIZONTAL POSITIONAL ACCURACY ACHIEVED ARE DERIVED FROM GCS83 DUAL FREQUENCY OBSERVATIONS USING NATURAL RESOURCES CANADA PPP SERVICES.

DATUM	NAD83(CRS)	2002.0
UTM ZONE	11	
UTM NORTHING	540503.70	
UTM EASTING	116371.04	
ABSOLUTE ACCURACY	0.02	

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DATEM NAD83(CSRS) 2002.0
UTM ZONE 11
UTM NORTHING 5460453.68
UTM EASTING 410333.61
ABSOLUTE ACCURACY 0.05

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FIDONET PROFESSIONAL
 AND SUPPORT INC.
 BOX 840
 OSMOS, B.C. ©
 V8H 1V0
 PHONE (250) 495-7127
 FAX: 250-495-7127
 OUR FAX NO. 112878 PRO1290
 OR FAX NO. 112876



Electoral Area Services (EAS) Committee Staff Report

RE:	Development Variance Permit – Garrett		
Date:	October 15, 2020	File #:	C-317-00273.010
To:	Chair Grieve and members of the EAS Committee		
From:	Danielle Patterson, Planner		

Issue Introduction

The Regional District of Kootenay Boundary (RDKB) has received a development variance permit application to reduce the front parcel line setback for a principal building to allow for the construction of a new single family dwelling in the Christina Lake area (see Site Location Map).

Property Information	
Owner:	Lorne Garrett
Location:	1586 Neimi Road
Electoral Area:	Electoral Area 'C'/Christina Lake
Legal Description:	Parcel E Block 14 Plan KAP50 District Lot 317 Similkameen Division of Yale Land District
Area:	1,675.4 m ² (18,029.6 ft ²)
Current Use:	Residential
Land Use Bylaws	
OCP Bylaw: 1250	Residential
DP Area:	NA
Zoning Bylaw: 1300	Single Family Residential 1
Other	
Waterfront / Floodplain:	NA
Service Area:	Christina Lake Water Utility Service (formerly known as Christina Waterworks District)
Planning Agreement Area:	NA

History / Background Information

The subject property is located at 1586 Neimi Road and was formed through a consolidation of three parcels in 2015 (see Site Property Map). A single family dwelling, two garages, a driveway, and six mature horse chestnut trees are located on the subject property. The 1950s era house has an area of 35.7 m² (384 ft²) and the two garages are each 111.5 m² (1,200 ft²) in area.

Proposal

As the application contained few details, staff had two telephone conversations with the applicant to obtain additional information about the proposal, as described below.

The applicant plans to build a new house on the subject property. This new house would have an area of approximately 83.6 m² to 111.5 m² (900 ft² to 1,200 ft²) and would replace the older 35.7 m² (384 ft²) house located on the subject property.

The applicant is requesting a 2.03 m (6.7 ft) variance to the front parcel line setback for a principal dwelling. This is to allow the new house to be setback 2.47 m (8.1 ft) from the front parcel line rather than 4.5 m (14.8 ft).

Advisory Planning Commission (APC)

The Electoral Area 'C'/Christina Lake APC considered the application at their October 6, 2020 meeting. The applicant attended the meeting and discussion included concerns about heavy equipment being stored on the property and confirmation that there is not a secondary use (business without a home) operated on the property. The APC recommended the application be postponed for the following reasons:

"Applicant will reassess location of new house plans to see if it could move to respect the required setback, without being too close to their septic field. Applicant will be in touch with planning if the need for the variance is no longer required."

Implications

The RDKB application requests the inclusion of a clear statement as to whether a Development Variance Permit proposal may resolve a hardship, improve the development, or cause negative impacts to the neighbouring properties. The applicant communicated three reasons for requesting this setback:

1. The existing house is 2.47 m (8.1 ft) from the front parcel line and the applicant wants to utilize the existing foundation to reduce costs;
2. The applicant does not want to disturb the six mature horse chestnut trees in the yard (see Attachment 4). Any requirement to remove the existing foundation would cause disturbance to the trees; and
3. The applicant installed a new septic system in 2014. Interior Health requires septic systems to be setback 1 m (3.3 ft) from buildings and 3 m (9.8 ft) from domestic water supplies. It is further noted one should *"[i]ninstall the tank in a location that provides easy access for pump-out, any time of the year"*. The applicant expressed concerns that without the variance to the front parcel line setback, the new house would be too close to the septic system.

Zoning Bylaw 1300 allows parcel coverage of 33% of parcel area. Based on the information provided by the applicant, the proposed single family dwelling and the two garages cover 20% of the parcel area, complying with the Zoning Bylaw. In the Electoral Area 'C' Official Community Plan, Objective 2.12.1 is to *"encourage the use of existing residential lots for new house construction."*

If the development variance permit for a reduced front parcel line setback for a principal building is approved, the applicant is still required to meet all other zoning and permit requirements. Approval from the Ministry of Transportation and Infrastructure for a front parcel line setback of less than 4.5 m (14.8 ft) is required before the RDKB may issue a Development Variance Permit.

Recommendation

That the Development Variance Permit application submitted by Lorne Garrett, to allow for a variance of Section 402.6 of Electoral Area 'C' Zoning Bylaw No. 1300 to reduce the minimum front parcel line setback from 4.5 m to 2.4 m – a variance of 2.1 m for the construction of a single family dwelling on the property legally described as Parcel E Block 14 Plan KAP50 District Lot 317 Similkameen Division of Yale Land, Electoral Area 'C'/Christina Lake, Christina Lake, be deferred until the applicant has had an opportunity to further assess their site plan and provided specific measurements of site setbacks, distance between buildings, and the parcel area of each building.

Attachments

1. Site Location Map
2. Subject Property Map
3. Applicant Submission
4. Image of Horse Chestnut Trees at 1586 Neimi Road

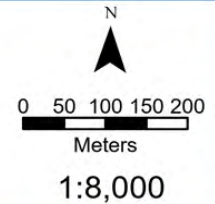


Regional District of
Kootenay Boundary

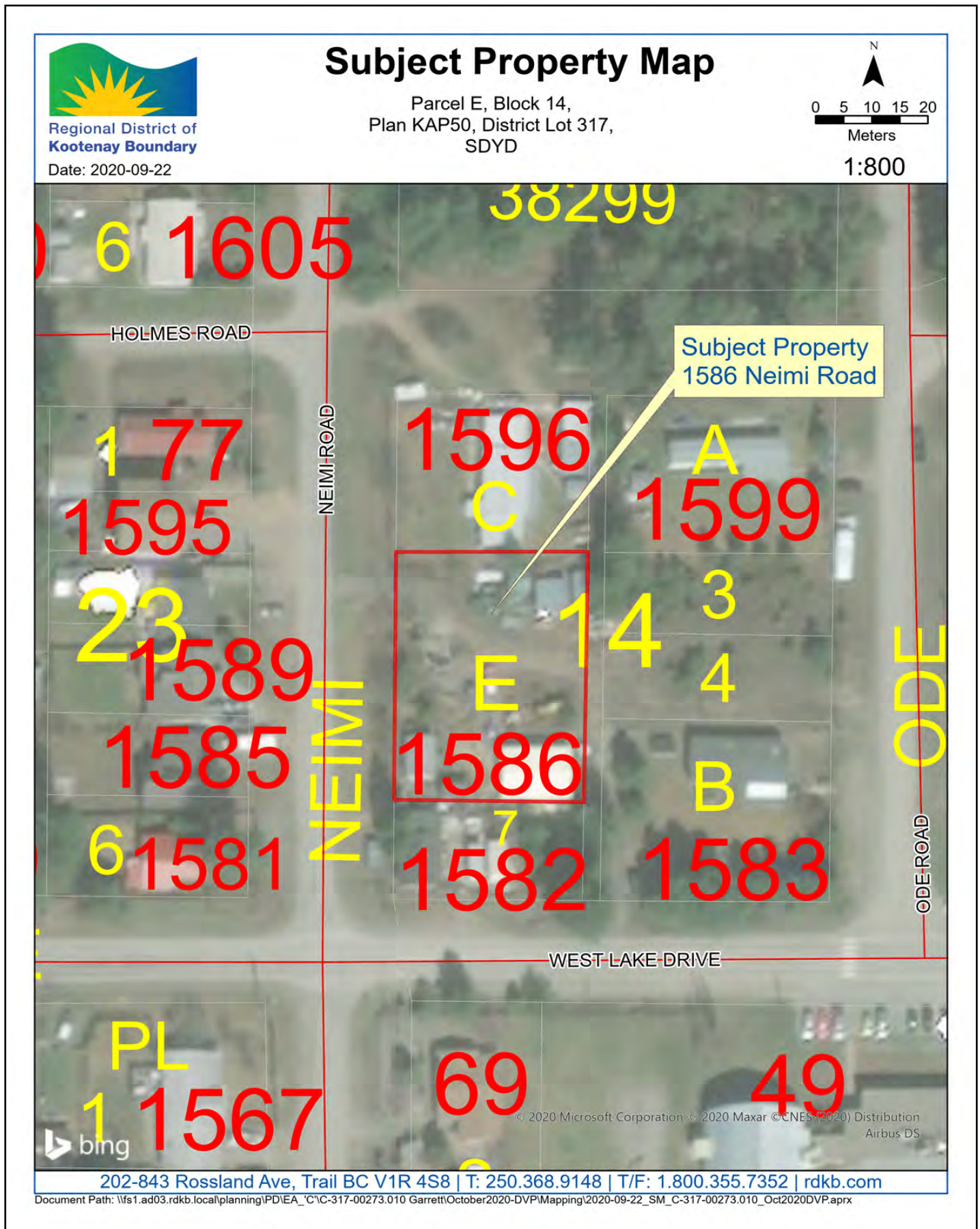
Date: 2020-09-22

Site Location Map

Parcel E, Block 14,
Plan KAP50, District Lot 317,
SDYD



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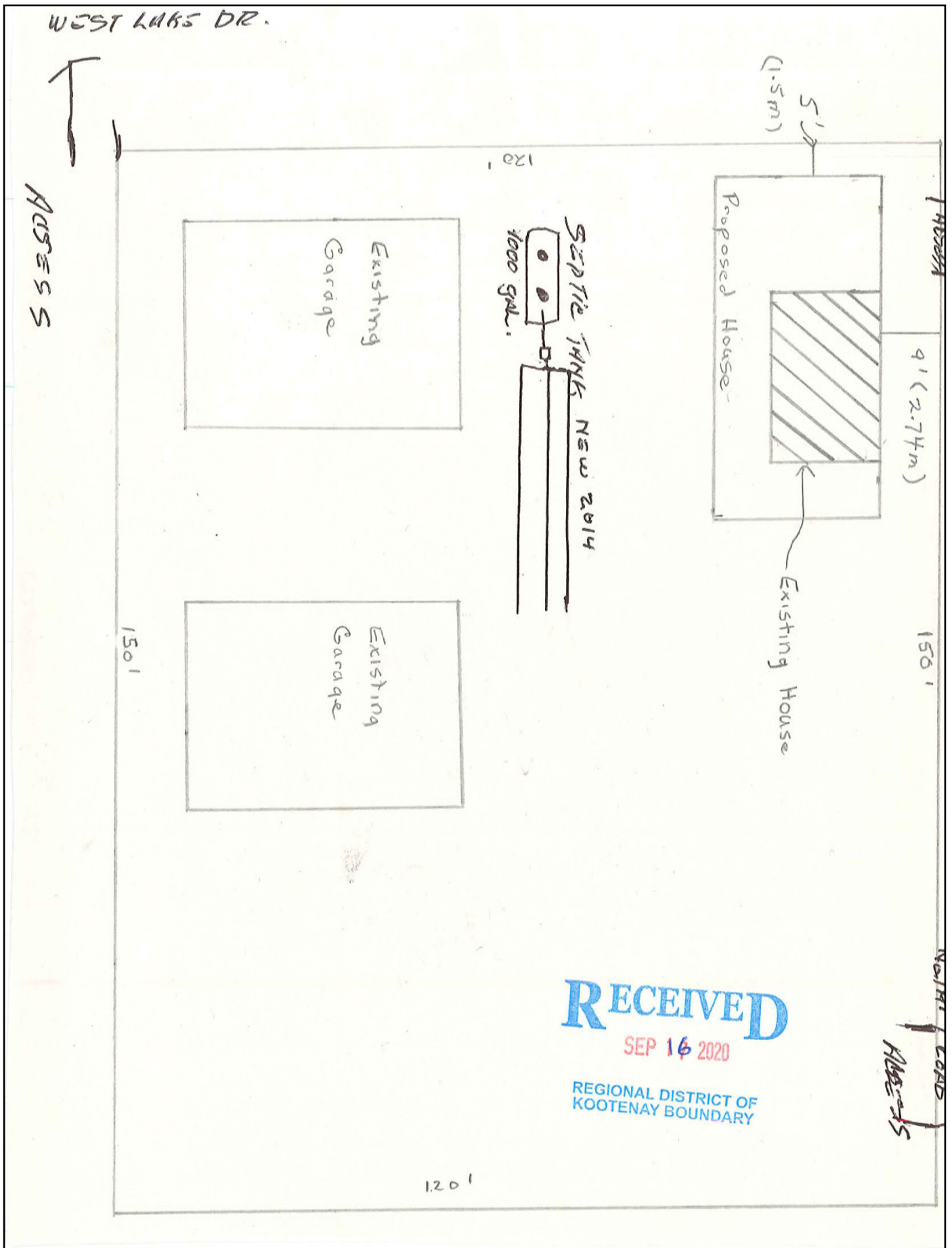
The space below is provided to describe the proposed development. Additional pages may be attached.

I ~~Robert Smith~~ WISH TO BUILD
A NEW HOME ON 1586 LOT ³¹⁷ NEIMI ROAD.
AS PER SITE PLAN, ON EXSITING SITE
900-1150 SQ. FT.

RECEIVED

SEP 16 2020

REGIONAL DISTRICT OF
KOOTENAY BOUNDARY



Attachment #4: Image of Horse Chestnut Trees at 1586 Neimi Rd



Source: *Google Maps*. Image captured October 2012.



Electoral Area Services (EAS) Committee Staff Report

RE:	Development Variance Permit Application – Doyle-Gagnon		
Date:	October 15, 2020	File #:	BW-4109s-07405.000
To:	Chair Grieve and members of the EAS Committee		
From:	Danielle Patterson, Planner		

Issue Introduction

The Regional District of Kootenay Boundary (RDKB) has received a development variance permit application to reduce the front lot line setback to allow for the construction of a covered staircase in Electoral Area 'E'/West Boundary at Big White (see attachments).

Property Information	
Owner(s):	Sheri Doyle and Joseph Gagnon
Agent:	Sheri Doyle
Location:	7390 Porcupine Road
Electoral Area:	Electoral Area 'E'/West Boundary
Legal Description:	Lot 10 Plan KAP23322 District Lot 4109S Similkameen Division of Yale Land District
Area:	983.4 m ² (0.2 ac)
Current Use:	Residential
Land Use Bylaws	
OCP Bylaw: 1125	Medium Density Residential
DP Area(s):	Commercial and Multi-Family DP1 and Alpine Environmentally Sensitive DP2
Zoning Bylaw: 1166	Chalet Residential 1 (R1)
Other	
Waterfront / Floodplain:	NA
Service Area:	NA
Planning Agreement Area:	NA

History / Background Information

The subject property has a single family dwelling and is located at Big White Ski Resort (see Site Location and Subject Property Maps). Single family dwellings are a permitted use in the Chalet Residential 1 Zone.

The proposal is exempt from the Commercial and Multiple Family Development Permit Area requirements as the proposal does not include building an addition to the existing dwelling. An Alpine Environmentally Sensitive Development Permit was approved for the subject property on June 8, 2020 for a staircase replacement (see Development Permit 649-20D in attachments). As reduced setbacks are not part of the Development Permit guidelines, the requested variance could not be considered as part of the June 2020 Development Permit.

Proposal

The applicant proposed replacing an aging wood staircase that was in disrepair with a new covered staircase (see Applicant Submission). The proposal is to vary the minimum front lot line setback for a structure from 4.5 m to 0 (zero) m, in order to navigate the terrain of the subject property (see Applicant Submission). The proposal includes the staircase being constructed on the Ministry of Transportation and Infrastructure's (MoTI's) Highway Right-of-Way.

Since the time of the receipt of the Development Variance Permit application, staff have become aware that the applicant has replaced the staircase without a development variance permit. This is discussed in both the "Advisory Planning Commission (APC)" and "Implications" sections of this report.

Advisory Planning Commission (APC)

The Electoral Area 'E'/Big White APC considered the application at their October 6, 2020 meeting. The APC recommends the application not be supported.

During their discussions the APC noted the following about the proposed DVP:

- When the applicant's initial Alpine Environmentally Sensitive Development Permit application was reviewed by the APC, the membership "were fine with it replacing the original stairs with covered stairs," but noted that the applicant has since built their staircase without receiving an approved Development Variance Permit and that the staircase has is built "past the original foundations and well into the highway right of way".
- Concerns were raised about the proposal's impact on run off in the ditch, snow removal, and the site line of the road. Furthermore, the APC membership had concerns the new staircase built by the applicant prior, without a Development Variance Permit, may be encroaching on a neighbouring property.

On October 7, 2020 Building/Plumbing Official R. Silva visited the subject property and was able to confirm that a new staircase had been built.

While the Building Inspection Department had issued a Building Permit for a new staircase on the subject property, the Building Permit was for a staircase that conformed to the 4.5 m front lot line setback requirements of the Zoning Bylaw. R. Silva confirmed that the

Page 2 of 4

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newly built staircase does not conform to the design or setbacks of the issued Building Permit. As a result of this, R. Silva is issuing a stop work order for the staircase.

R. Silva stated the newly built staircase does not encroach on the neighbour's property and does not believe the development variance permit proposal will effect site lines based on the location of the parking on the subject property.

On October 8, 2020, Bylaw Enforcement Officer B. Rafuse took photos of the subject property showing a newly built staircase (see Photos in Attachments).

Implications

The RDKB application requests the inclusion of a clear statement as to whether a Development Variance Permit proposal may resolve a hardship, improve the development, or cause negative impacts to the neighbouring properties.

The applicant's rationale states the only access point to the subject property is by way of this staircase. In addition, the applicant states the slope of the property requires a reduced front lot line setback and an encroachment on the MoTI Right-of-Way.

The proposal, as presented by the applicant, utilizes the footprint of the former staircase, which encroached into the front lot line setback into the MoTI Right of Way. Some residences on the same road have covered staircases that fall short of the minimum front line setback outlined in the Zoning Bylaw.

Since that time the applicant has built the staircase which has added complexity in evaluating the implications of the proposal. It creates a situation where it is difficult to distinguish whether it is the proposed staircase or the staircase as built that should be evaluated in the consideration of the Development Variance Permit application.

This newly built and enclosed staircase does not match the open design presented in applicant's proposal. This effects the consideration of the proposal as any approved Development Variance Permit would be specific to the proposal. As such it would not apply in an open-ended manner to the design or siting of any staircase. Questions have also been brought forward by the APC related to effects of drainage and snow removal, which are both under the jurisdiction of the MoTI but may effect conditions on neighbouring properties.

While the applicant has a permit from the MoTI to allow the former staircase to encroach approximately 3 m into the Highway Right-of-Way, the wording of the MoTI permit does not include new staircases. Approval from the MoTI for a new staircase encroachment would be required prior any final approval by the RDKB of a Development Variance Permit.

More information from Building Inspection, the MoTI, and the applicants through an update to their Development Variance Permit application would have the potential of adding clarity to the applicant's proposal.

Due to the broad wording of Development Permit 649-20D and the content of the permit schedules, an approval of this proposal would not require amendments to Development

Page 3 of 4

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Permit 649-20D unless the newly built staircase is shown to not comply with the terms of Development Permit 649-20D.

Recommendation

That the Development Variance Permit application submitted by Sheri Doyle, on behalf of Sheri Doyle and Joseph Gagnon, to vary Section 402.7 of the Big White Zoning Bylaw No. 1166, 2001 to reduce the minimum front lot line setback from 4.5 m to 0 (zero) m – a variance of 4.5 m, for the construction of a covered staircase on the property legally described as Lot 10 Plan KAP23322 District Lot 4109S Similkameen Division of Yale Land District, Big White, Electoral Area 'E'/West Boundary be deferred, until the applicant has had the opportunity to update their proposal, address the Building Permit stop work order, and provide additional information on the status of permitting from the MoTI.

Attachments

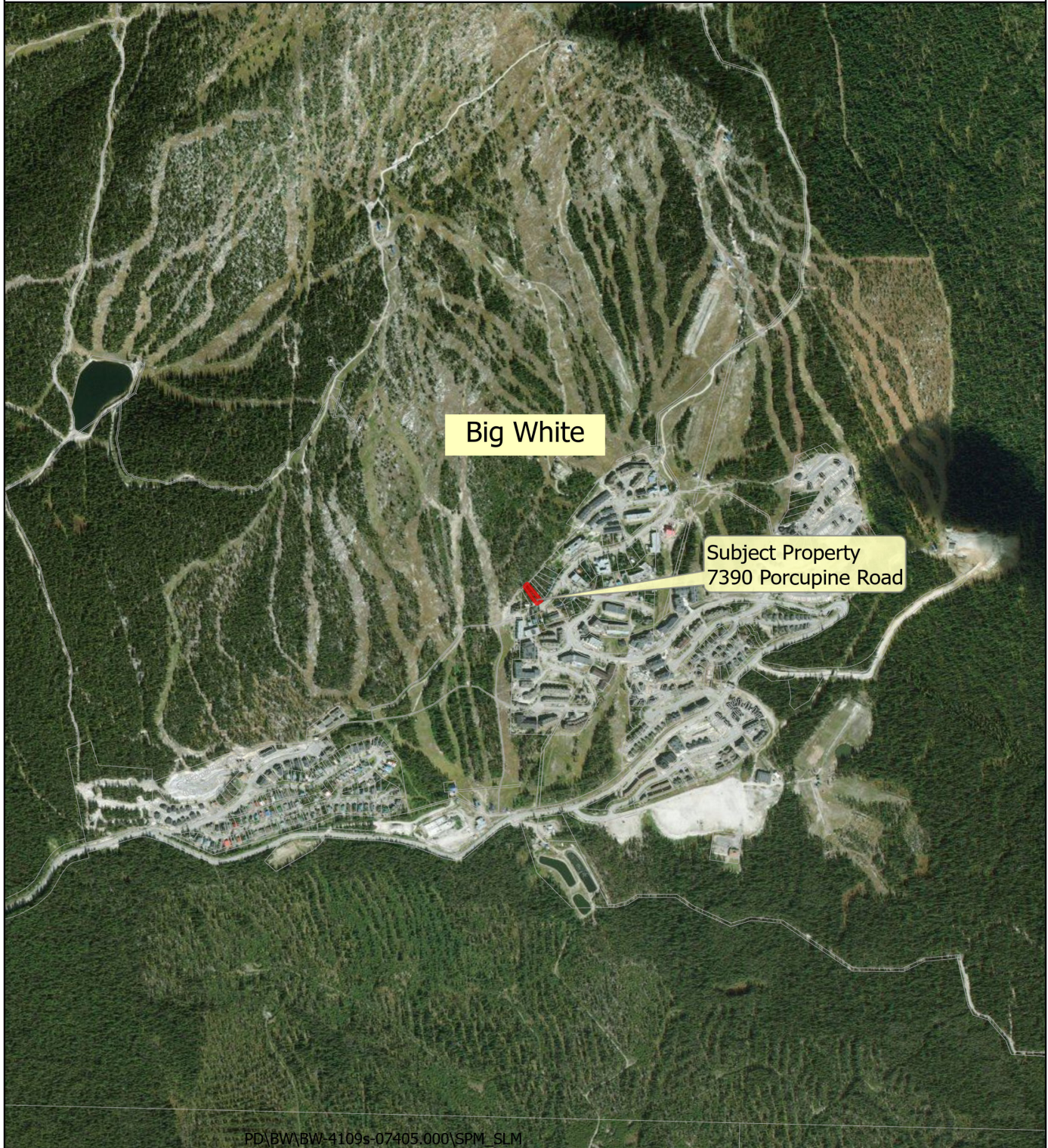
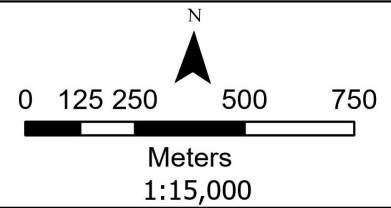
1. Site Location Map
2. Subject Property Map
3. Development Permit 649-20D
4. Applicant Submission
5. Site Photos from October 8, 2020



2020-05-14

Site Location Map

Lot 10, Plan KAP23322,
District Lot 4109S,
Similkameen Div of Yale Land District



PD\BW\BW-4109s-07405.000\SPM_SLM

202-843 Rossland Ave, Trail BC V1R 4S8 | T: 250.368.9148 | T/F: 1.800.355.7352 | rdkb.com





REGIONAL DISTRICT OF KOOTENAY BOUNDARY

202-843 Rossland Avenue
Trail, BC V1R 4S8

Phone: 250-368-9148 1-800-355-7352

Permit No.: 649-20D
 Date Issued: June 8, 2020
 File No.: BW-4109s-07405.000
 Address: 7390 Porcupine Road
 Issued to: Joe Gagnon & Sheri Anne Doyle *
 * (Owners as defined in the *Community Charter*, hereinafter referred to as the Permittee)

DEVELOPMENT PERMIT

1. This Development Permit is issued subject to compliance with all of the bylaws of the Regional District of Kootenay Boundary (RDKB) applicable thereto, except as specifically varied by this permit.
2. No variances to any RDKB Bylaw may be construed to be granted as a result of the Development Permit approval process unless specifically identified in the text of this Permit.
3. This Permit applies to and only to those lands within the RDKB described below, and any and all buildings, structures and other development thereon: **Lot 10, Plan KAP23322, DL4109S, SDYD**; as shown outlined in red on the attached **Schedule 1**, forming part of this Permit, referred to hereafter as the "land".
4. If the works permitted by this Permit are not commenced within two years of the date of the issuance of this Permit, this Permit shall lapse.
5. This Permit shall not have the effect of varying the use or density of land as specified in the applicable Zoning Bylaw of the RDKB, nor a floodplain specification under Section 524(3) of the *Local Government Act*.
6. The Permittee has received approval from the RDKB to:
to replace an existing wooden staircase with a new covered staircase in substantial compliance with the plans identified as 'Schedule 2' attached hereto and forming a part of this Permit.
7. As a condition of the approval granted in Section 6 above, the Permittee is required to:
 - a) Reclaim all disturbed areas using natural vegetation as soon as reasonably possible to ensure successful planting and retention;
 - b) Plant fire-resistant vegetation, avoid the application of wood chips and take appropriate measures to mitigate the threat of wildfire;
 - c) Ensure that grass and wildflower seed mixes do not include invasive plant species.

- d) Remove construction debris;
- e) Designate areas for snow clearing and storage to ensure vegetation is not destroyed by these activities.
- f) Comply with the Landscape Reclamation Plan submitted by the Permittee, attached to and forming a part of this permit as **Schedule 2**. Areas disturbed during construction activities must be replanted in substantial compliance to the Landscape Plan. The Landscaping must be satisfactory to the Building Inspector before a Certificate of Final Occupancy is issued.

If landscape reclamation cannot be fully implemented prior to issuance of a Certificate of Final Occupancy, the Regional District of Kootenay Boundary may require the deposit of a security from the Permittee, in an amount to be determined by the Regional District of Kootenay Boundary. Receipt of a security may allow a Certificate of Final Occupancy to be issued before the Landscape Reclamation Plan is implemented.

A security deposit shall be in the form of an automatically renewing Irrevocable Letter of Credit (ILOC). Any fees associated with the issuance and renewal of the ILOC are the responsibility of the Permittee.

As a condition of the posting of the security, should the Permittee fail to carry out the landscape reclamation works as herein above stated, according to terms and conditions of this permit within the time provided, the Regional District may use the security to complete the landscape reclamation works by servants, agents or contractors, and any surplus shall be paid over to the Permittee. If the security deposit is insufficient to cover the actual cost of completing the said works, then the Permittee shall pay such deficiency to the Regional District immediately upon receipt of the Regional District's bill for same.

The Permittee shall complete the landscape reclamation works required by this permit within twelve (12) months of the occupancy permit being issued for the building(s). Within this twelve (12) month period, the required landscape reclamation works must be installed by the Permittee, and inspected and approved by the Regional District.

If the landscape reclamation is not approved within this twelve (12) month period, the Regional District has the option of continuing to renew the security until the required landscape reclamation is completed or has the option of drawing the security and using the funds to complete the required landscape reclamation. In such a case, the Regional District or its agents have the irrevocable right to enter into the property to undertake the required landscape reclamation for which the security was submitted

- 8. The approval in **Section 6** in no way relieves the Permittee of the responsibility of adhering to all other legislation that may apply to the land.
- 9. The land remains within the Alpine Environmentally Sensitive DP2 AND Commercial & Multiple Family DP1 Development Permit Area of the **Big White Official Community Plan, Bylaw No. 1125, 2001**. Any additional work to buildings and/or the land not specifically authorized in this Permit may necessitate another development permit application.

10. The land shall be developed strictly in accordance with the terms and conditions and provisions of this Permit and any plans and specifications attached hereto which shall form a part hereof.
11. This Permit prevails over the provisions of the bylaw in the event of conflict.
12. This Permit is not a Building Permit.

APPLICATION APPROVED by a designated officer of the Regional District of Kootenay Boundary this 8th day of June, 2020.



Designated Officer of the Regional District of
Kootenay Boundary

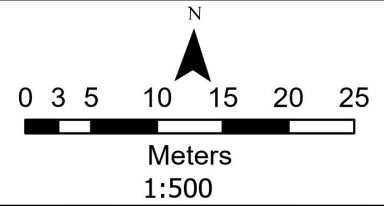
PERMIT ISSUED THIS 8th DAY OF June, 2020.



2020-05-19

Subject Property Map

Lot 10, Plan KAP23322,
District Lot 4109S,
Similkameen Div of Yale Land District



PD\BW\BW-4109s-07405.000\SPM_SLM

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May 12, 2020

Landscape Reclamation Plan – Staircase Replace and Rebuild

7390 Porcupine Road, Big White, V1P 1P3
Lot 10 Plan KAP23322 District Lot 4109S Land District 54
PID: 006-481-744

Project Description

The staircase leading to the entrance of the cottage at 7390 Porcupine Road is in disrepair. The current staircase has been in place for many years (20+). Several stairs and some railings are in poor condition and pose a safety risk.

The project involves the rebuilding of a new staircase in the same location as the old. The new staircase will follow the same “footprint” as the old and be made of wood. The new staircase will have a small roof over the stairs to prevent snow buildup and to improve the safety of the staircase (for ice buildup etc.). The roof will be similar to those above the staircases of adjacent properties. All existing trees/shrubs will be retained.

Landscape Remediation Plan

As there has been a staircase in place for over twenty years, there is minimal vegetation under the staircase due to lack of sunlight. The vegetation consists of native grass. The slope upon which the staircase is build is mainly rock with several fir trees and small shrubs on either side of the stairs.

We will protect the natural landscape during the construction of a new staircase in the following ways:

1. Staircase will be constructed using footprint of existing staircase
2. No trees or shrubs will be removed – several fir trees on either side of staircase provide slope erosion control.
3. Debris will be removed immediately (and not piled on existing vegetation)
4. Staircase will rest on footings – with soil disruption only needed at footing locations. This reduces erosion.
5. Reseeding any area where landscape may have been disturbed with Eco-Green Rapid Cover Reveg Mix for rapid erosion control.

Time Sensitivity of Request

Outdoor construction at Big White has a short window. We were planning on beginning construction in June/July 2020 and ask that this request be approved as soon as possible to provide the opportunity to schedule a contractor to complete the project (subject to approval of building permit – to be submitted shortly).

Image #1 – Front View of Cottage showing existing staircase. Same footprint will be used for new staircase



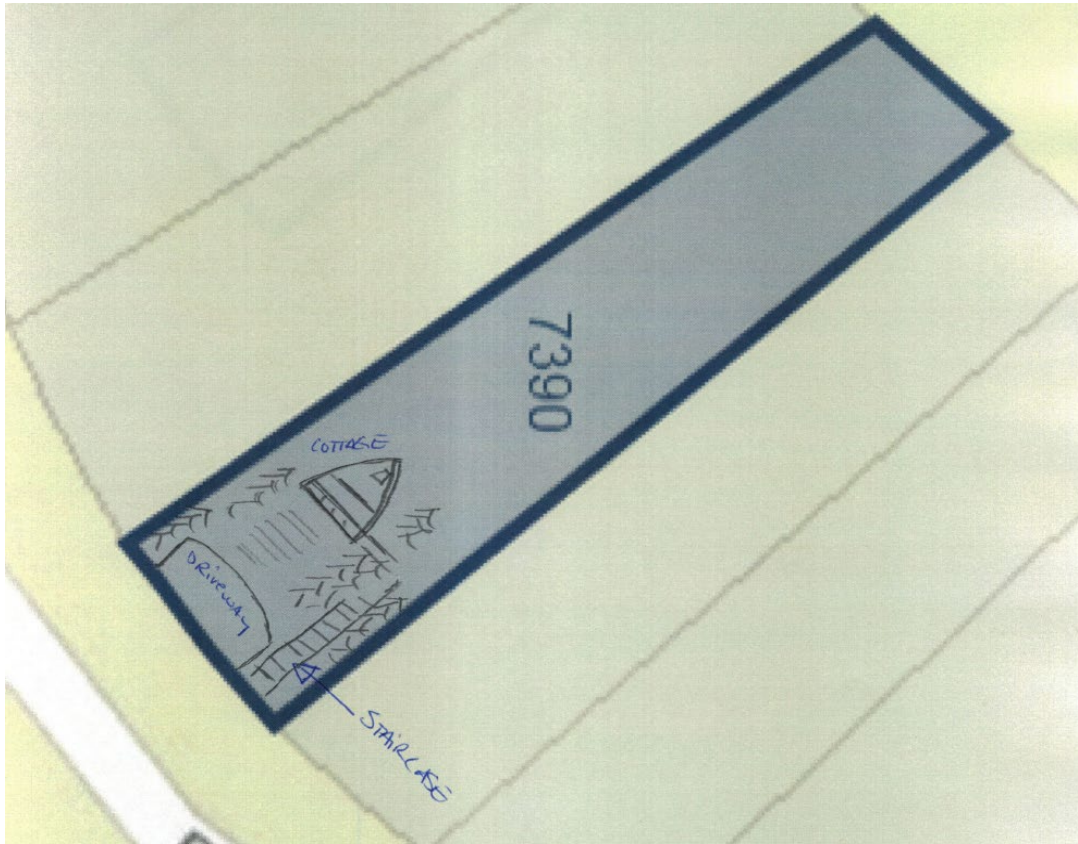
Image #2 – Closer view of existing staircase depicting vegetation under stairs (minimal native grass among rock)



Image #3 – View of staircase from cottage depicting fir trees surrounding staircase which will not be disturbed, and which provide erosion control on slope



Image #6 – Image showing staircase placement on property (refer also to Image #1 for stair placement as new stairs will replace old)



September 10, 2020

Development Variance Permit Application – Staircase Replace and Rebuild

7390 Porcupine Road, Big White, V1P 1P3
 Lot 10 Plan KAP23322 District Lot 4109S Land District 54
 PID: 006-481-744

Project Description

The chalet at 7390 Porcupine was built in 1971. It is located on a slope with the only accessible entrance at the top of a steep staircase. Due to the slope, the stairs cross the property line onto the highway right of way (as do the covered staircases of adjacent properties).

The staircase is in disrepair. Several stairs and some railings are in poor condition and pose a safety risk. The project involves the rebuilding of a new wood staircase following the same “footprint” as the old. The new staircase will have a small roof over the stairs to prevent snow buildup and to improve safety (for ice buildup etc.). The roof will be like those above the staircases of adjacent properties. BAR Engineering was retained to draw up the construction plan – all work will be done to code and will enhance the appearance of the chalet.

The following permits have been requested and obtained:

1. Development Permit #649-20D (RDKB) – Approving landscape reclamation plan
2. Building Permit 20-0252BW (RDKB) – permitting the building of the covered staircase respecting a 4.5 meter setback from property line
3. Encroachment Permit #2020-03461 (Ministry of Transportation – attached) – permitting staircase within right-of-way of Porcupine Road. The Ministry confirmed by email that they do not consider a covered staircase to be a “building or structure” – consequently, it did not trigger the need for a Setback permit from the Ministry

We are requesting a variance of the front setback requirements – from 4.5 M to 0 M – to allow the covered staircase to extend to the property line.

The reasons for the request are as follows:

1. To enable the staircase to be completely covered from top to bottom – the steep slope does not allow for an alternative configuration and is the only way to access the chalet.
2. The covered stairs will be safer (less ice buildup) and relieve the hardship of shoveling over 35 stairs to the front door in an area that receives frequent heavy snowfall.
3. Neighboring properties have covered stairs that extend into the road right-of-way.
4. The construction will improve the curb appeal of the property as stairs will be new, solid and with a tasteful design.
5. There is no impact on our neighbors from this construction.
6. We have already received permission for the covered staircase from the Ministry of Transportation for the portion extending into the road right-of-way (and they do not object to the construction of the covered staircase within the setback, as they do not consider the covered stairs to be a “building or structure”).

**Front View of Chalet showing existing staircase. Same footprint will be used for new staircase
(note covered staircase of neighbor)**



Attachments

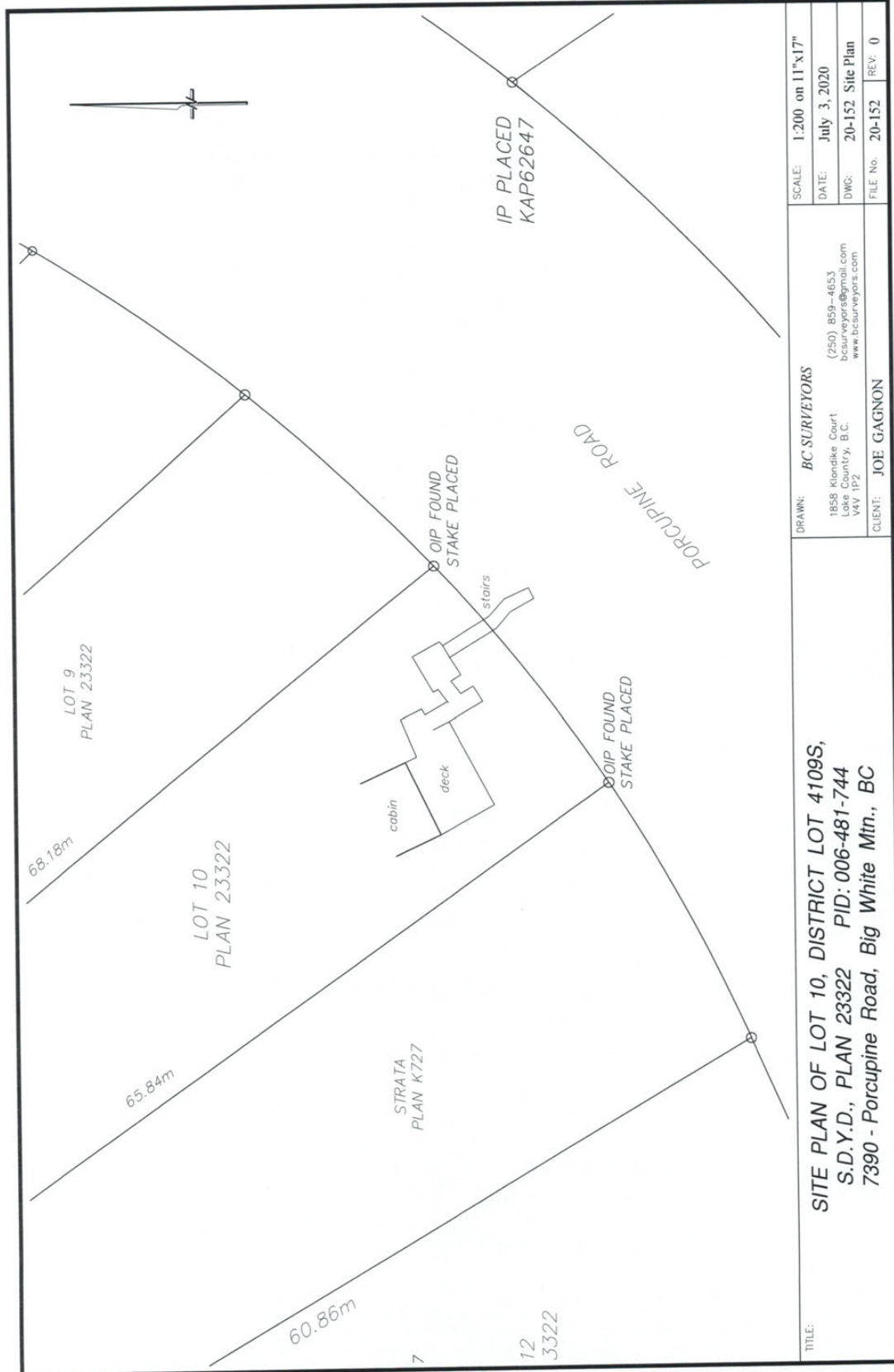
[A] – Site Survey

[B] – BAR Engineering Structure Design

[C] – Design Indicating Setbacks/Property Line

[D]- Copy 2020 Tax Notice

[E] – Encroachment Permit – Ministry of Transportation and related emails

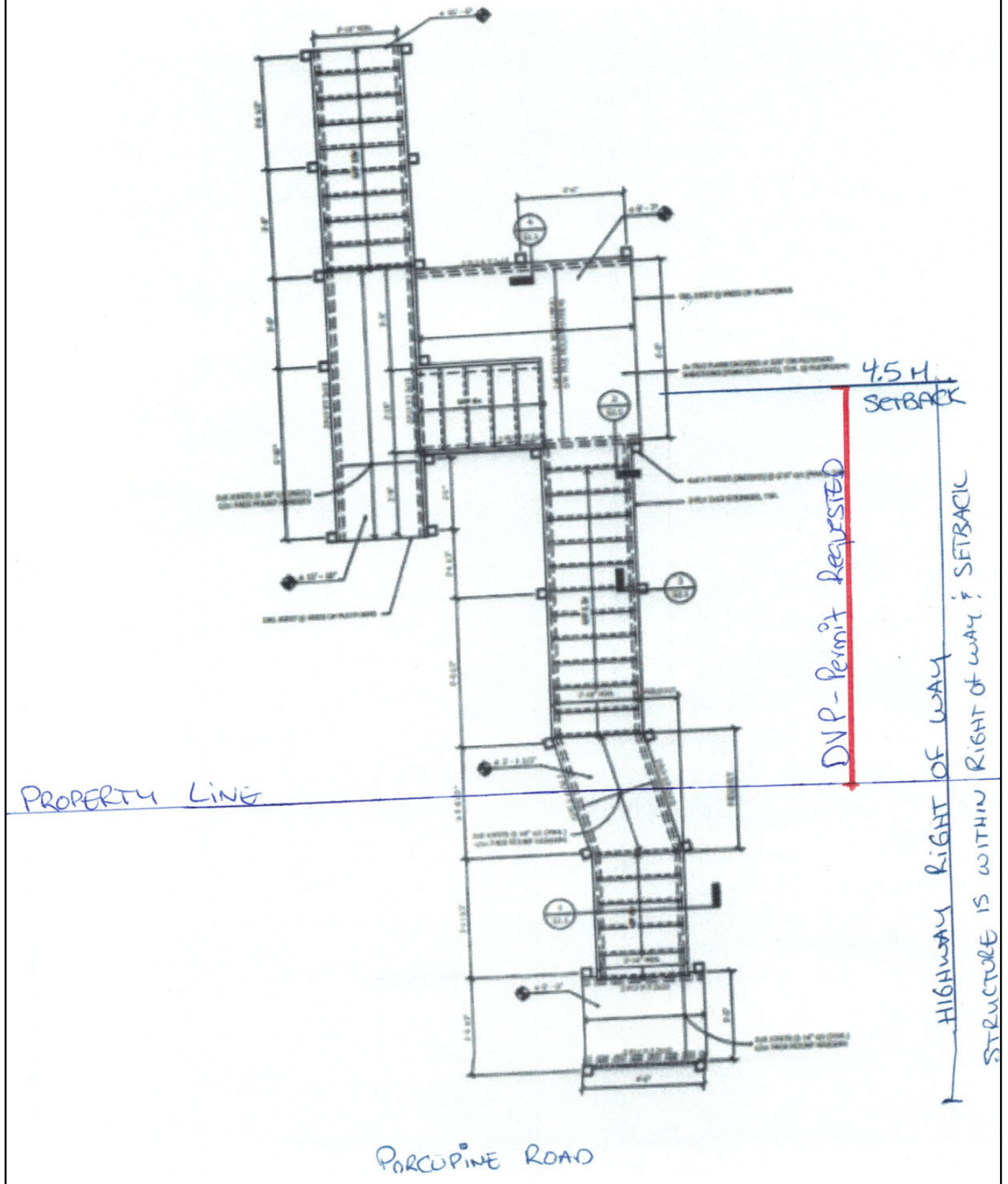


[A] Site Survey

[illegible]

[B] BAR Engineering Structure Design

[C] - Design INDICATING SETBACKS



**Development Variance Permit Application – Doyle-Gagnon
Photos of New Staircases Constructed Prior to Board of Directors'
Consideration of DVP Application**

Photo #1: wide view of new staircase from Porcupine Road



Photo #2: close up of first landing attached to existing deck



**Development Variance Permit Application – Doyle-Gagnon
Photos New Staircases Constructed Prior to Board of Directors'
Consideration of DVP Application Continued**

Photo #3: close up of first new staircase



Photo #4: entrance of new staircase





Electoral Area Services (EAS) Committee Staff Report

RE:	Development Variance Permit – Mackenzie and Onyschuk		
Date:	October 15, 2020	File #:	BW-4222-07499.008
To:	Chair Grieve and members of the EAS Committee		
From:	Danielle Patterson, Planner		

Issue Introduction

The Regional District of Kootenay Boundary (RDKB) received a development permit application for a property located at Big White Resort and within both the Commercial and Multiple Family and Alpine Environmentally Sensitive Landscape Development Permit Areas (see Site Location Map).

Property Information	
Owner(s):	Ryan Onyschuk and Jessica Onyschuk; Jason Mackenzie and Julie Mackenzie
Agent:	Jason Mackenzie
Location:	216 Feathertop Way (Strata Lot 5)
Electoral Area:	Electoral Area 'E'/West Boundary
Legal Description:	Strata Lot 5 Plan KAS3398 District Lot 4222 Similkameen Division of Yale Land District
Area:	432.9 m ² (4,660.9 ft ²)
Current Use:	Vacant bare land strata
Land Use Bylaws	
OCP Bylaw No.: 11625	Medium Density Residential
Development Permit Area:	Commercial and Multiple Family (DP1) and Alpine Environmentally Sensitive Landscape Reclamation (DP2)
Zoning Bylaw No.: 1166	Chalet Residential 3 Zone
Other	
ALR:	NA
Waterfront / Floodplain:	NA
Service Area:	NA
Planning Agreement Area:	NA

History / Background Information

The subject property is part of a bare land strata. It is located along Feathertop Way and accessed via Terraces Drive. As part of the original surveying and subdivision of the bare land strata, the ground of the subject property was disturbed. Ground preparation is exempt from the requirements of the Alpine Environmentally Sensitive Landscape

Development Permit Area. An approximately five meter wide Statutory Right of Way runs along the rear width of the subject property.

While the subject property is located in the Commercial and Multiple Family Development Permit Area, the proposal is exempt from requiring a Commercial and Multiple Family Development Permit because it does not include a commercial development or a multi-family dwelling (defined as three or more dwellings on a single parcel of land).

Proposal

The agent is requesting a development permit to build a single family dwelling (see Applicant Submission). The subject property must adhere to the requirements of the Alpine Environmentally Sensitive Landscape Development Permit Area as the land on the property was disturbed during the subdivision process and construction will cause further land disturbance.

Implications

A Landscape Reclamation Plan was submitted with the application, which includes the site plan for the proposed single detached dwelling as well as the location and variety of landscaping materials and vegetation to be used in the reclamation.

The proposed dwelling utilizes the natural slopes of the subject property in its design. The property frontage will include one exterior parking space and "Eco-Green Rapid Cover" grass. This grass is recommended for rapid erosion control. The side yards and the rear exterior perimeter of the dwelling incorporates Yarrow, Arctic Lupin, and Creeping Oregon Grape, surrounded by gravel beds.

The majority of the rear yard includes Eco-Green Rapid Cover grass, a variety of shrubs, and Mountain Alder. As most of the rear yard is located in a Statutory Right of Way, staff have informed the Agent that the Alders should be moved to the side yards or front yard. In addition, staff requested details regarding surface materials for the driveway as they were not provided in the application.

The proposal is consistent with the goals, objectives, and policies contained within the OCP, including the Alpine Environmentally Sensitive Development Permit Area Guidelines.

The siting and form of the building as presented in the Development Permit application meet the requirements of the Zoning Bylaw, including permitted use, building height, setbacks, minimum parcel frontage, parcel area and coverage, and parking.

Advisory Planning Commission (APC)

The Electoral Area 'E'/Big White APC considered the application at their October 6, 2020 meeting. The APC recommends the application be supported, *"without trees planted in the sewer easement."*

Recommendation

That the staff report regarding the Development Permit application submitted by Jason Mackenzie on behalf of Ryan Onyschuk, Jessica Onyschuk, Julie Mackenzie, and Jason

Mackenzie, to construct a single family dwelling in the Alpine Environmentally Sensitive Landscape Reclamation Development Permit Area (DP2) on the parcel legally described as Strata Lot 5 Plan KAS3398 District Lot 4222 Similkameen Division of Yale Land District, Big White, Electoral Area 'E', be received.

Attachments

- Site Location Map
- Subject Property Map
- Applicant Submission



Regional District of
Kootenay Boundary

Date: 2020-09-22

Site Location Map

Strata Lot 5,
Plan KAS3398, District Lot 4222,
SDYD



0 100 200 300 400
Meters

1:12,000



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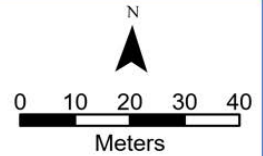


Regional District of
Kootenay Boundary

Date: 2020-09-22

Subject Property Map

Strata Lot 5,
Plan KAS3398, District Lot 4222,
SDYD



1:1,200



202-843 Rossland Ave, Trail BC V1R 4S8 | T: 250.368.9148 | T/F: 1.800.355.7352 | rdkb.com

Document Path: \\fs1.ad03.rdkb.local\planning\PD\EA_E_Big_White\BW-4222-07499.008 Onyschuk Mackenzie\2020-OCT-

GENERAL NOTES & DISCLAIMER

1. ALL WORKMANSHIP IS TO BE OF A STANDARD QUALITY IN ALL RESPECTS TO GOOD BUILDING PRACTICE.
2. ALL WORK SHALL BE IN ACCORDANCE WITH THE CURRENT EDITION OF THE 2018 B.C. BUILDING CODE (BCBC) & ALL LOCAL LAWS AND BYLAWS.
3. IT IS THE RESPONSIBILITY OF THE OWNER & CONTRACTOR TO INSURE THAT CHANGES MADE TO THE BCBC ARE COMPLIED WITH & ALL AMENDMENTS ARE INCORPORATED IN THE CONSTRUCTION OF THIS PLAN.
4. BEFORE CONSTRUCTION COMMENCES, IT IS THE RESPONSIBILITY OF THE OWNER & CONTRACTOR TO CHECK ALL DETAILS & DIMENSIONS TO CONFIRM ACCURACY & TO ASSURE THERE ARE NO DISCREPANCIES.
5. WRITTEN DIMENSIONS ALWAYS TAKE PRECEDENCE OVER SCALED MEASUREMENTS.
6. ANY VARIANCE FROM STRUCTURAL DRAWINGS & SPECIFICATIONS, OR FROM CONDITIONS ENCOUNTERED AT THE JOB SITE, SHALL BE RESOLVED BY THE OWNER & CONTRACTOR, & SUCH SOLUTIONS SHALL BE THEIR SOLE RESPONSIBILITY.
7. IT IS THE RESPONSIBILITY OF THE CONTRACTOR FOR THE CORRECT SITING OF THE BUILDING TO CONFORM WITH NECESSARY SETBACKS.
8. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO ENSURE THAT ALL FOUNDATIONS, FOOTINGS, POSTS, BEAMS, JOISTS, TRUSSES, & ALL OTHER STRUCTURAL COMPONENTS & DESIGN ARE APPROVED BY A PROFESSIONAL ENGINEER & CONFORM WITH NOTE (2).
9. ALTHOUGH EVERY EFFORT HAS BEEN MADE TO PROVIDE COMPLETE & ACCURATE DRAWINGS, WE CANNOT ELIMINATE THE POSSIBILITY OF HUMAN ERROR; THEREFORE, KNOWLTON CONCEPTS INC. WILL NOT BE LIABLE FOR ANY ERRORS OR OMISSIONS.

MASONRY

1. ALL CONCRETE TO HAVE A MINIMUM COMPRESSIVE STRENGTH OF 2,900 PSI (20 MPA) AT 28 DAYS.
2. CONCRETE FOOTINGS MUST BE PLACED ON UNDISTURBED OR COMPACTED SOIL TO AN ELEVATION BELOW FROST PENETRATION.
3. FOOTINGS HAVE BEEN DESIGNED FOR MIN. 36" FROST COVERAGE, MIN. 6" REC'D TOP OF WALL EXTENSION ABOVE GRADE, & MIN. WIDTH FOR 8" FOUNDATION WALL AS PER BCBC 9.15.3.4. IF A SMALLER FOOTING IS DESIRED IT IS THE RESPONSIBILITY OF THE OWNER/ CONTRACTOR TO HAVE THE FOOTINGS REDESIGNED BY QUALIFIED PERSONS TO SUIT EXISTING CONDITIONS.
4. ALL FOUNDATION WALLS 24" (600 MM) AND HIGHER SHOULD HAVE ONE HORIZONTAL 10 MM REINFORCING BAR 3" (75 MM) FROM THE TOP. CORNER REINFORCING TO BE LAPPED MINIMUM 24" (600 MM).
5. ALL FOOTINGS ARE TO HAVE TWO 15M REINFORCING BARS. THE REINFORCING BARS ARE TO BE SITUATED SUCH THAT ONE BAR IS 3" (75 MM) CLEAR OF THE SIDE AND BOTTOM OF THE FOOTING ON BOTH SIDES OF THE FOOTING.
6. GRADES SHOWN ON ELEVATIONS ARE ESTIMATED. ADJUST ON SITE AS REQUIRED.
7. RETAINING WALLS OTHER THAN THE FOUNDATION WALLS OF THE BUILDING ARE BEYOND THE SCOPE OF THESE DRAWINGS UNLESS OTHERWISE NOTED.
8. ALL ABOVE GRADE MASONRY IS TO CONFORM TO THE BC BUILDING CODE.

FRAMING

1. FRAMING LUMBER SHALL BE S-P-F NO.2 OR BETTER UNLESS OTHERWISE SPECIFIED.
2. DIMENSIONAL LUMBER USED AS JOISTS SHALL BE (AT MINIMUM CODE) S-P-F NO.2 OR BETTER @ 16" O/C, WITH BRIDGING
3. ALL BEAM AND LINTEL SIZES SHOWN ON THE DRAWINGS TO BE REVIEWED & CONFIRMED BY TRUSS MANUFACTURER AND CONTRACTOR. ANY BEAM OR LINTEL SIZES PROVIDED BY TRUSS/FLOOR MANUFACTURER TAKE PRECEDENCE.
4. ROOF DESIGN TO BE COMPLETED BY CONTRACTOR/TRUSS MANUFACTURER.
5. JOISTS ARE TO BE DOUBLED UNDER PARALLEL PARTITIONS.
6. EVERYWHERE WOOD IS IN CONTACT WITH CONCRETE, IT SHALL BE DAMP PROOFED WITH 45 LB. FELT, OR SILL GASKET. ON EXTERIOR WALLS, WOOD IN CONTACT WITH CONCRETE SHALL BE PRESSURE TREATED.
7. SILL PLATES ARE TO BE EMBEDDED MIN. 4" INTO TOP OF CONC. WALL W/ 1/2" ANCHOR BOLTS @ MAX. 94.5" o/c, OR AS PER ENG. SPEC'S.
8. FLUSH FRAMED WOOD MEMBERS SHALL BE ANCHORED WITH 200 LB. JOIST HANGERS UNLESS OTHERWISE SPECIFIED.

SUBTRADES

1. HVAC TO BE SUPPLIED BY OWNER APPROVED APPLIANCE/SYSTEM. HVAC CONTRACTOR TO ADVISE GENERAL CONTRACTOR OF ANY NECESSARY FRAMING, ELECTRICAL, OR OTHER.
2. IT IS THE RESPONSIBILITY OF ALL SUBTRADES TO VERIFY NECESSARY DIMENSIONS ON SITE.
3. CONSULT W/GEOTECH AS REQUIRED FOR FOUNDATION AND SOIL BEARING CAPACITIES.

MISCELLANEOUS

1. WINDOWS AND DOORS STYLES/MANUFACTURER TO BE DETERMINED BY OWNER
2. CAULK OVER AND AROUND ALL EXTERIOR OPENINGS USING NON-HARDENING CAULKING COMPOUND.
3. FLASH ALL CHANGES OF MATERIALS ON EXTERIOR WALLS AND OVER ALL EXTERIOR OPENINGS.
4. ALL HARDIE TO BE A MINIMUM OF 6" (150 MM) ABOVE FINISHED GRADE.

CONSTRUCTION ASSEMBLIES & INSULATION REQUIREMENTS

	RSI	R-VAL
1. ROOF SYSTEM		
ASPHALT SHINGLES & ROOFING FELT		
1/2" STD. PLY SHEATHING		
VENTED ROOF AIR SPACE	0.03	0.17
MIN. 11" OF BLOWN IN GLASS FIBRE LOOSE FILL INSULATION	5.24	29.75
2X4 ENGINEERED TRUSSES @ 24" O.C. W/	1.48	8.40
6 MIL. POLY. AIR BARRIER		
1/2" CEILING GWB.	0.08	0.45
PAINTED LEVEL-4 FINISH		
INTERIOR AIR FILM	0.11	0.62
	6.94	39.40
2. EXTERIOR WALLS		
EXTERIOR AIR FILM	0.03	0.17
FIBRE CEMENT BOARD SIDING		
X2 LAYERS OF BUILDING PAPER (1/2 LAPPED)		
1/2" STD. PLY SHEATHING	0.11	0.62
2X6 WOOD FRAMING @ 16" O.C. W/ R-24 BATT INSULATION	2.66	15.10
6 MIL. POLY VAPOUR/AIR BARRIER		
1/2" STANDARD GWB	0.08	0.45
PAINTED LEVEL-4 FINISH		
INTERIOR AIR FILM	0.12	0.68
	3.00	17.03
3. INTERIOR WALLS		
LEVEL-4 PAINT FINISH ON		
1/2" GYPSUM WALL BOARD ON		
2X4 WOOD FRAMING @ 24" O/C W/		
3" "SAFE 'N' SOUND" BATT INSULATION		
1/2" GYPSUM WALL BOARD ON		
LEVEL-4 PAINT FINISH		
4. FLOOR SYSTEM		
FLOOR FINISH (AS PER HOMEOWNER'S SPECS)		
3/4" PLY T&G SHEATHING ON		
11 7/8" I-JOISTS @ 16" O/C W/		
5" 2LB MED. DENSITY SPRAY FOAM @ JOIST ENDS		
OPEN BELOW		
5. FOUNDATION WALLS		
ASPHALT EMULSION DAMP PROOFING BELOW GRADE		
8" CONCRETE WALL	0.08	0.45
1/2" AIR SPACE		0.16
2X6 WOOD FRAMING @ 24" O/C W/R-24 BATT INSULATION	3.18	18.05
1/2" STD. GYPSUM WALL BOARD ON	0.08	0.45
PAINTED LEVEL-4 FINISH		
INTERIOR AIR FILM	0.12	0.68
	3.62	20.55
6. UNHEATED CONCRETE FLOORS ABOVE FROST LINE		
8" NORMAL DENSITY CONCRETE WALL ON	0.08	0.45
2.4" TYPE 2 XPS RIGID INSULATION ON INSIDE DOWN TO FTG	2.13	12.09
BACKFILL MATERIAL W/ RADON ROCK		
4" REINFORCED CONC SLAB	0.04	0.22
INTERIOR AIR FILM	0.12	0.68
	2.37	13.45

ENERGY EFFICIENCY REQUIREMENTS

MINIMUM EFFECTIVE INSULATION REQUIREMENTS, ZONE 5

	WITH HRV RSI R-VALUE	WITHOUT HRV RSI R-VALUE
CEILING BELOW ATTICS	6.91	39.23
CATHEDRAL CEILING & FLAT ROOFS	4.67	26.51
EXTERIOR WALLS	2.97	16.86
FLOORS OVER UNHEATED SPACES	4.67	26.51
FENESTRATION AND DOORS	0.55	3.12
SKYLIGHTS	2.90	16.46
ACCESS HATCH	2.60	14.76
FOUNDATION WALL	2.98	16.92
UNHEATED FLOOR BELOW FROST LINE	N/A	N/A
UNHEATED FLOOR ABOVE FROST LINE	1.96	11.12
HEATED FLOORS	2.32	13.17
SLABS-ON-GRADE WITH INTEGRAL FOOTING	1.96	11.12

SITE

ZONING

PROPOSED BUILDING FOOTPRINT	R3
PARCEL AREA	139.17 M ²
PROPOSED PARCEL COVERAGE	433.01 M ²
GROSS FLOOR AREA	4660.88 FT ²
FLOOR AREA RATIO	32.14 %

FLOOR AREAS

LOWER FINISHED AREA	115.94 M ²	1248 FT ²
LOWER COVERED PATIO	15.42 M ²	166 FT ²
MIDDLE FINISHED AREA	100.00 M ²	1076 FT ²
MIDDLE STORAGE AREA	9.85 M ²	106 FT ²
MIDDLE MECH. RM. AREA	6.13 M ²	66 FT ²
MIDDLE COVERED DECK	15.42 M ²	166 FT ²
MAIN FINISHED AREA	90.86 M ²	978 FT ²
MAIN GARAGE AREA	25.08 M ²	270 FT ²
MAIN COVERED DECK	15.42 M ²	166 FT ²
MAIN COVERED PORCH	7.53 M ²	81 FT ²

NOTE: ALL DIMENSIONS ARE APPROXIMATE & TO BE VERIFIED BY A REGISTERED BC LAND SURVEYOR

1 EAST ELEVATION

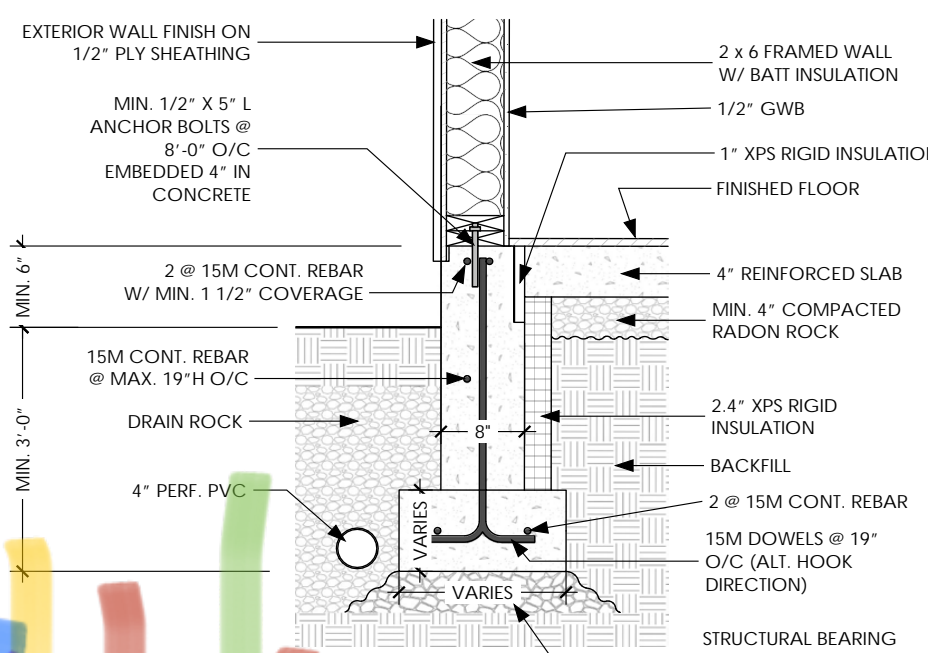
(A-001) Scale: 1/8" = 1'-0"

2 WEST ELEVATION

(A-001) Scale: 1/8" = 1'-0"

3 SITE PLAN

(A-101) Scale: 1/8" = 1'-0"



Gravel

Eco green rapid growth grass.

Yarrow 20-50cm. 10-15 plants

Arctic Lupin 30-60cm. 10-15 plants

Creeping Oregon Grape 15-30cm. 10-15 plants

Shrubby Cinquefoil 90cm. 5-10 plants

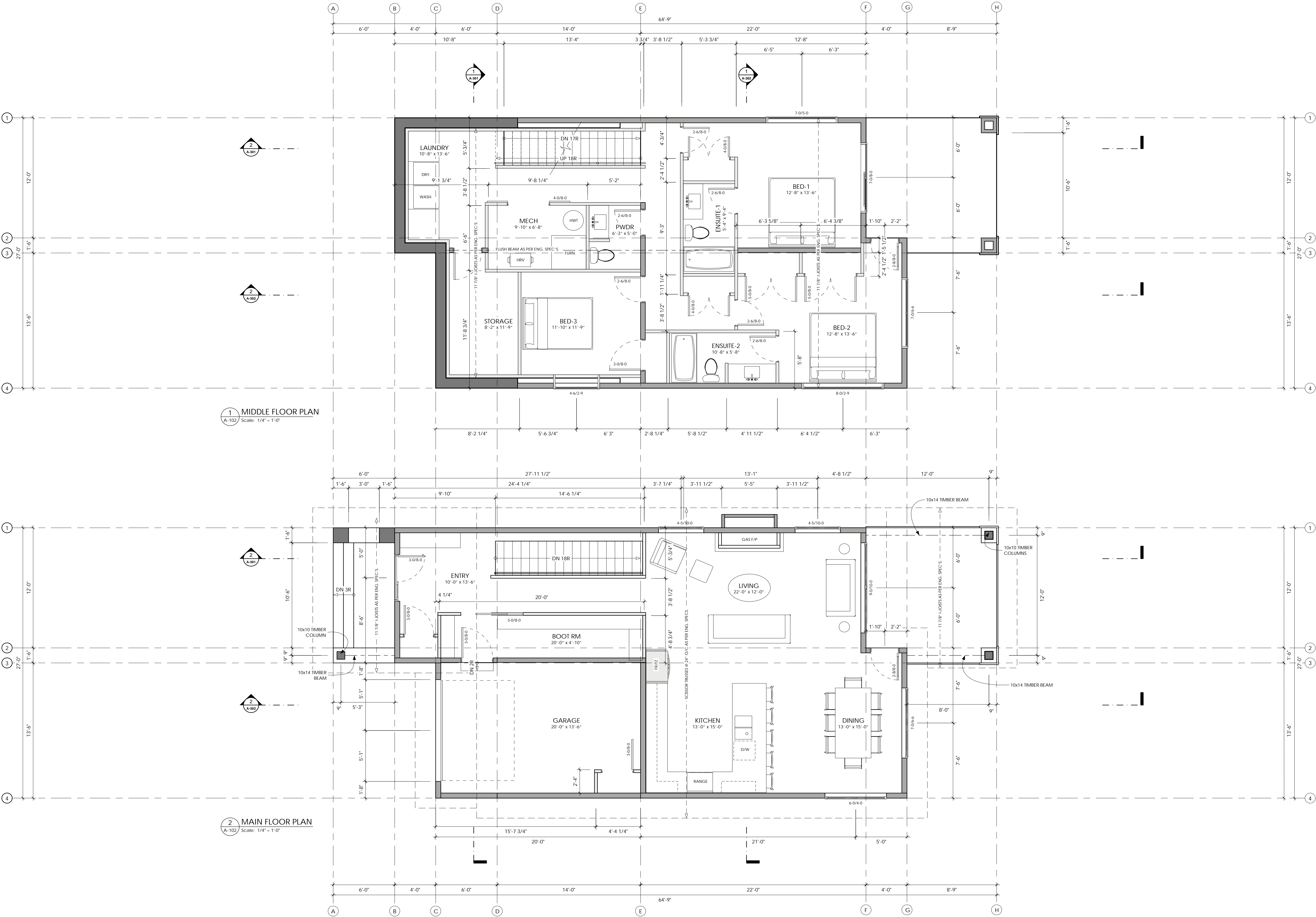
Western & Yellow Columbine 60-90cm. 5-10 plants

Prickly Rose Rosa 30-100cm. 5-10 plants

Mountain Alder 3m. 2-3 plants



A-101



1 MIDDLE FLOOR PLAN
A-102 Scale: 1/4" = 1'-0"

2 MAIN FLOOR PLAN
A-103 Scale: 1/4" = 1'-0"

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20-08-22	COORDINATION
20-08-25	COORDINATION
20-09-04	PERMIT
20-09-14	PERMIT

MIDDLE FLOOR &
MAIN FLOOR PLANS

MAC-ONY RESIDENCE
216 FEATHER TOP WAY, BIG WHITE, BC
STRATA LOT 5, PL KAS3398, DL 4222, SDYLD
PID: 027402240

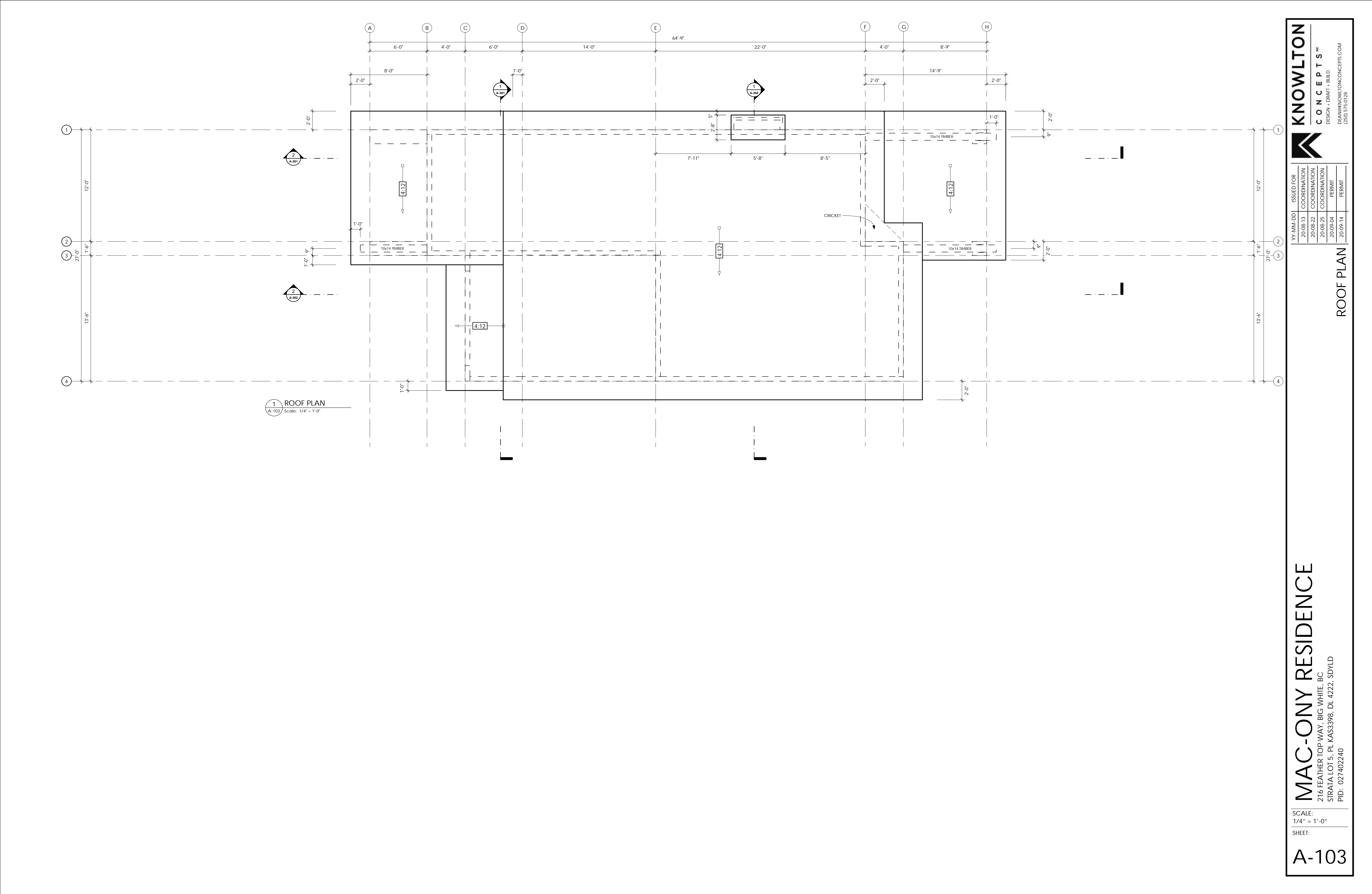
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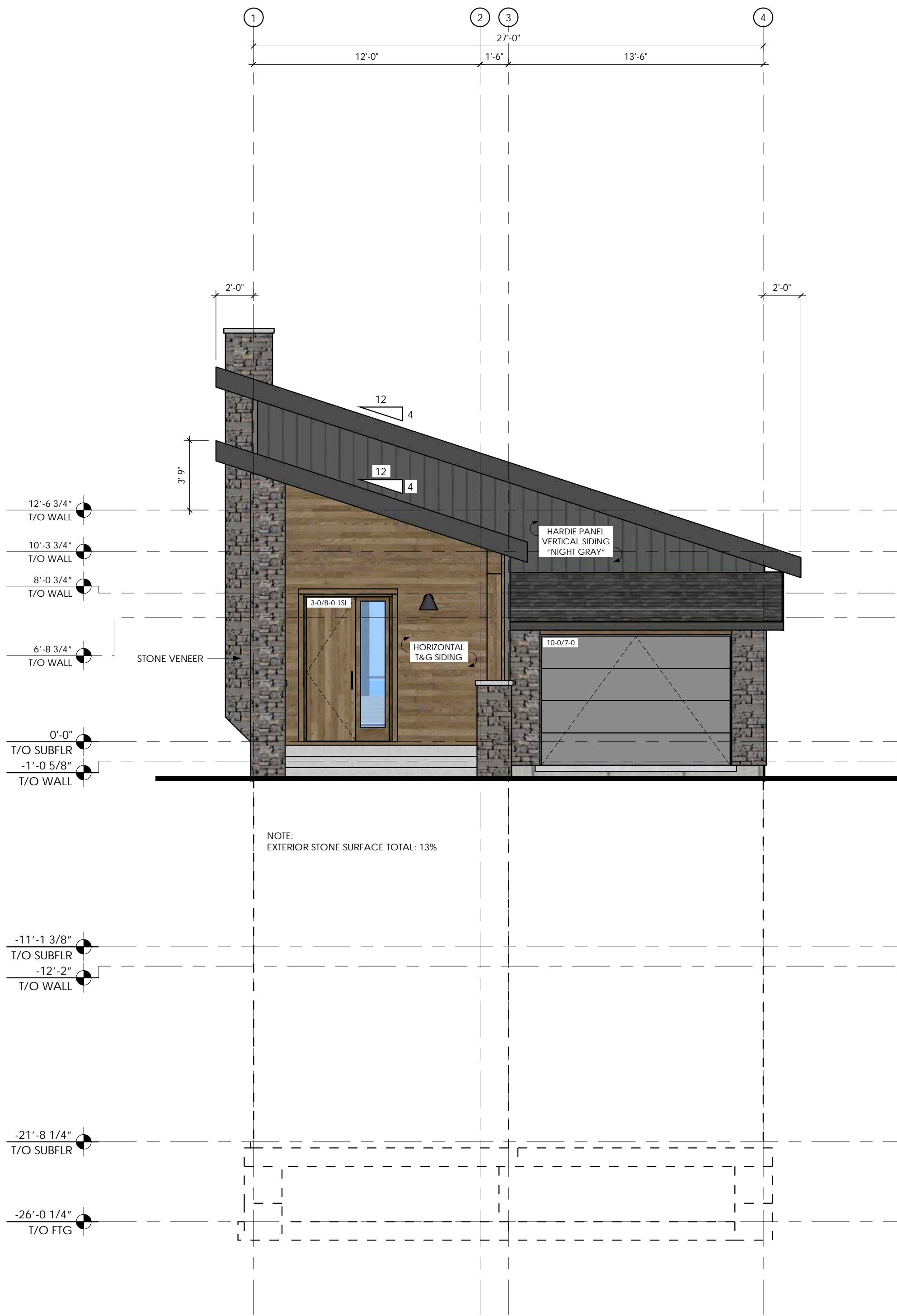
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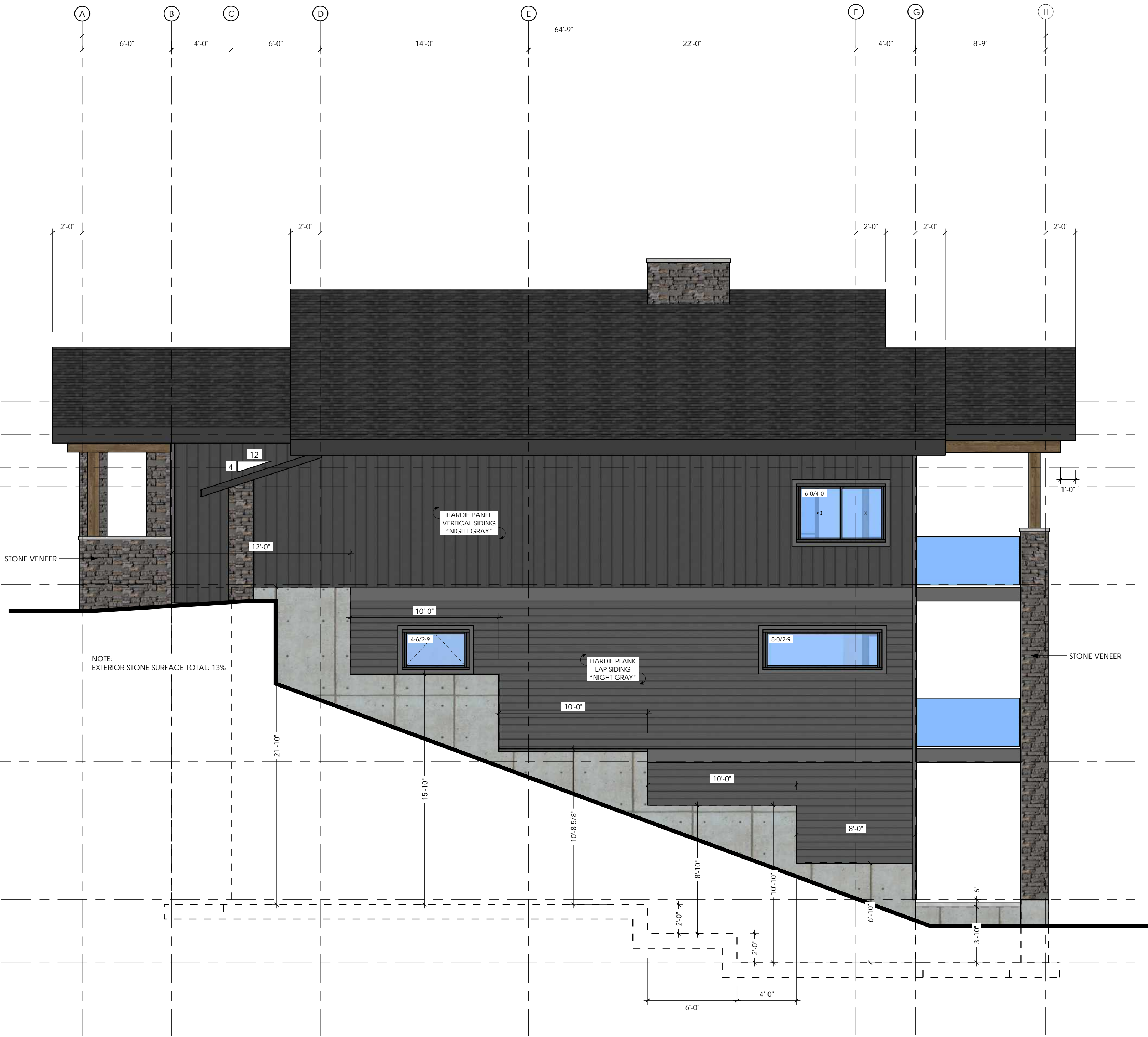
Attachment # 6.D)





1 NORTH ELEVATION
A-201 Scale: 1/4" = 1'-0"

NOTE: EXTERIOR STONE COMPRISES 22% OF EXTERIOR VERTICAL SURFACE FINISHES



2 WEST ELEVATION
A-201 Scale: 1/4" = 1'-0"

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20-08-22	COORDINATION
20-08-25	COORDINATION
20-09-04	PERMIT
20-09-14	PERMIT

NORTH & WEST ELEVATIONS

MAC-ONY RESIDENCE

216 FEATHER TOP WAY, BIG WHITE, BC

SIRATA LOT 5, PL KAS3398, DL 4222, SDYLD

PID: 027402240

SCALE:
1/4" = 1'-0"

SHEET:

A-201



NOTE: EXTERIOR STONE COMPRISES 22% OF EXTERIOR VERTICAL SURFACE FINISHES



MAC-ONLY RESIDENCE

216 FEATHER TOP WAY, BIG WHITE, BC
STRATA LOT 5, PL KAS3398, DL 4222, SDYLD
PID: 027402240

PID: 027402240

SCALE:
1/4" = 1'-0"

SHEET:

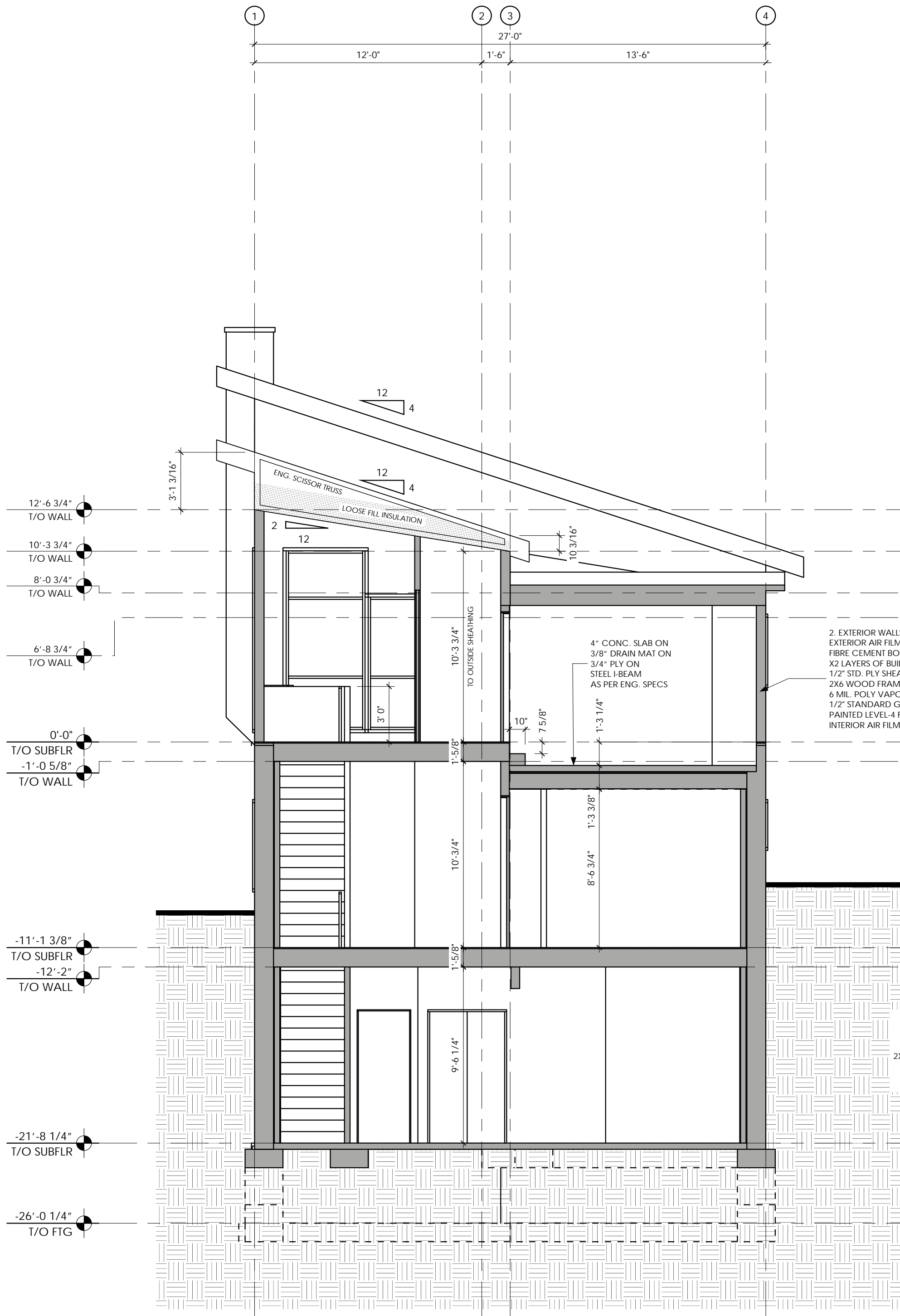
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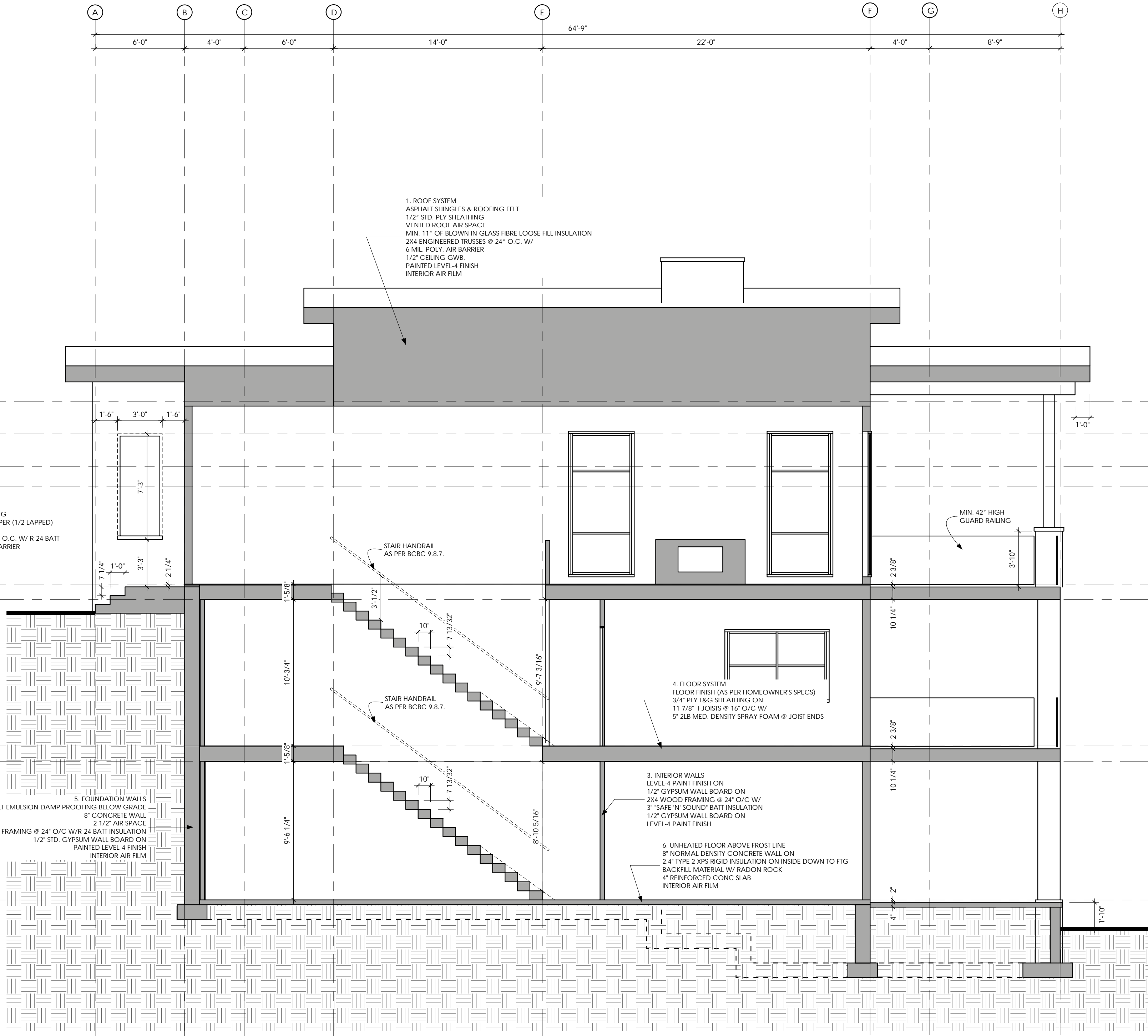
YY-MM-DD	ISSUED FOR
20-08-13	COORDINATION
20-08-22	COORDINATION
20-08-25	COORDINATION
20-09-04	PERMIT
20-09-14	PERMIT

SOUTH & EAST
ELEVATIONS

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1 SECTION
A-301 Scale: 1/4" = 1'-0"



2 SECTION
A-301 Scale: 1/4" = 1'-0"

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20-08-13	COORDINATION
20-08-22	COORDINATION
20-08-25	COORDINATION
20-09-04	PERMIT
20-09-14	PERMIT

MAC-ONY RESIDENCE
216 FEATHER TOP WAY, BIG WHITE, BC
STRATA LOT 5, PL KAS3398, DL 4222, SDYLD
PID: 027402240

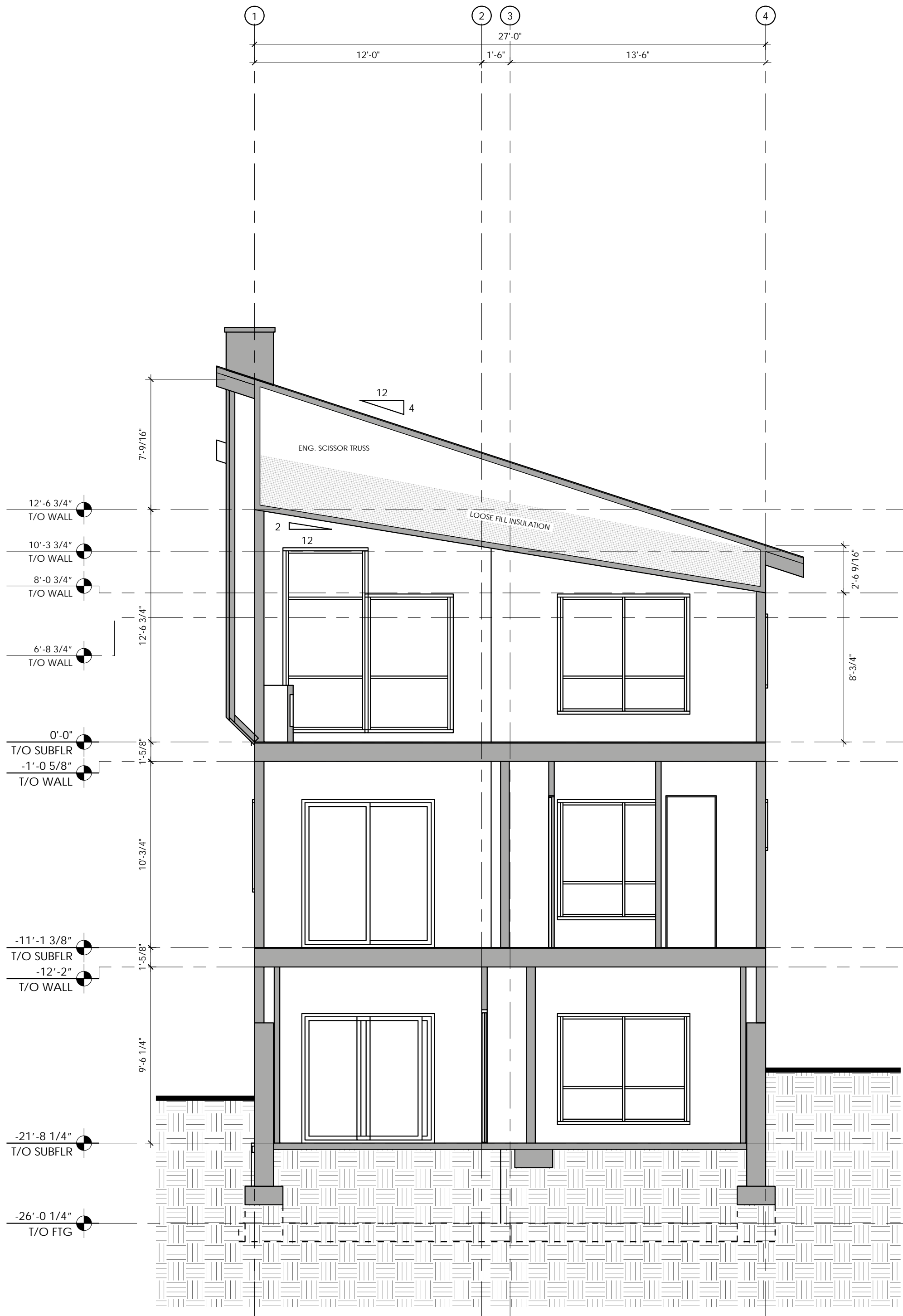
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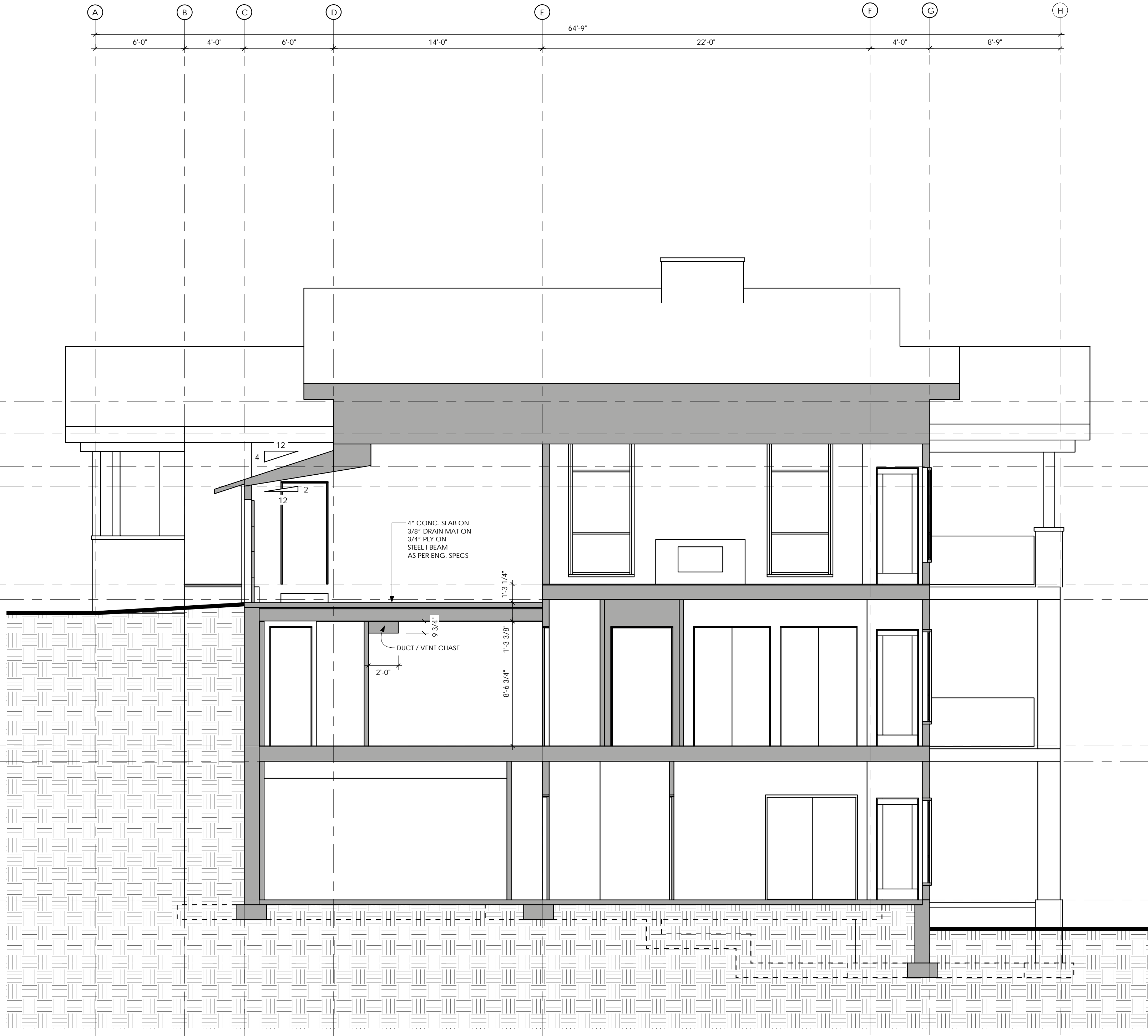
SECTIONS

Page 65 of 276

Attachment # 6.D)



1 SECTION
A-302 Scale: 1/4" = 1'-0"



2 SECTION
A-302 Scale: 1/4" = 1'-0"

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ISSUED FOR

COORDINATION

20-08-13

COORDINATION

20-08-22

COORDINATION

20-08-25

PERMIT

20-09-04

PERMIT

20-09-14

SECTIONS

MAC-ONY RESIDENCE

216 FEATHER TOP WAY, BIG WHITE, BC

SIRATA LOT 5, PL KAS3398, DL 4222, SDYLD

PID: 027402240

SCALE:

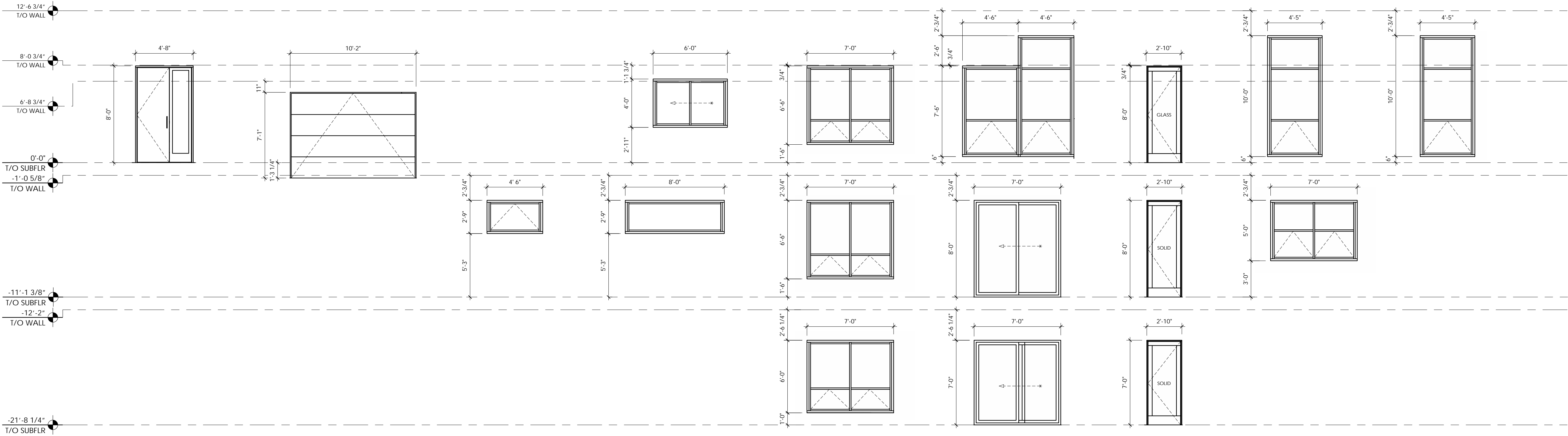
1/4" = 1'-0"

SHEET:

A-302

Page 66 of 276

Attachment # 6.D)



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CONCEPTS

DESIGN + DRAFT + BUILD

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ISSUED FOR

COORDINATION

20-08-13

COORDINATION

20-08-22

COORDINATION

20-08-25

PERMIT

20-09-04

PERMIT

20-09-14

MAC-ONY RESIDENCE

216 FEATHER TOP WAY, BIG WHITE, BC

STRATA LOT 5, PL KAS3398, DL 4222, SDYLD

PID: 027402240

SCALE:

1/4" = 1'-0"

SHEET:

A-601

WINDOW & EXTERIOR

DOOR SCHEDULE



Electoral Area Services (EAS) Committee Staff Report

RE:	Ministry of Transportation and Infrastructure – Subdivision – Lewis		
Date:	October 5, 2020	File #:	E-2989s-07007.030
To:	Chair Grieve and members of the EAS Committee		
From:	Danielle Patterson, Planner		

Issue Introduction

The Regional District of Kootenay Boundary (RDKB) received a referral from the Ministry of Transportation and Infrastructure (MOTI) regarding a subdivision application in Electoral Area 'E'/West Boundary. The subject property is located along Christian Valley Road and backs onto Crown land (see Site Location Map and Subject Property Map).

Property Information	
Owner(s):	Karen Lewis and Mathew Lewis
Agent:	Mathew Lewis
Location:	Unaddressed (incorrect address listed in application)
Electoral Area:	Electoral Area 'E'
Legal Description:	Lot 3 District List 2989s Similkameen Division Yale District Plan KAP91954
Area:	15.9 ha (39.3 ac)
Current Use(s):	Recreational/Cabin
Land Use Bylaws	
OCP Bylaw No.:	N/A
DP Area:	NA
Zoning Bylaw No.:	N/A
Other	
ALR:	NA
Waterfront / Floodplain:	NA
Service Area:	NA
Planning Agreement Area:	NA

History / Background Information

The subject property was created when the MoTI gave final approval to a four lot subdivision in 2011. As a part of that subdivision process, the subject property has a covenant on Title, which falls under Section 219 of the *Land Titles Act*. Section 219 covenants allow restrictions to development until certain requirements are met. Under this circumstance, the restriction on development is for no building on the property "until

the owner receives information from Interior Health Authority regarding the potability of a surface or ground (Well) water source, pursuant to the Canadian Drinking Water Standards.” Both Interior Health and the RDKB are parties to this covenant.

The subject property has a recreation cabin, a septic field, and a well located toward the northern property boundary.

Proposal

The property owners are seeking a four lot subdivision of their property consisting of:

- three (3) new lots, each with areas of 1.8 ha (4.4 ac) and
- one (1) remainder lot with an area of 10.5 ha (25.9 ac) in area.

The agent has provided proposed locations for septic systems and wells (see Applicant Submission).

In communications with staff, the agent has stated that the property's proximity and easy access to the backcountry has attracted interested parties seeking to purchase recreational properties. The property owners wish to subdivide so they may sell the three (3) new proposed lots.

Advisory Planning Commission (APC)

The Electoral Area 'E'/West Boundary APC considered the application at their October 5, 2020 meeting. The APC recommends the application be supported with the following conditions:

“contaminated site issues be resolved; that the septic fields and the wells be proven up; the wells be located a reasonable distance from the road; if there is a requirement for parkland the RDKB should receive cash; and the land owners be made aware of the danger of forest fires and the Firesmart program.”

Implications

While the Electoral Area 'E'/West Boundary does not have any land use bylaws, policy directions, or regulations for this area with regard to land use, Section 510 of the *Local Government Act* requires provision of park land or payment for park purposes when a) three or more are being created and b) the smallest of the lots has an area of 2 ha or less. This proposal creates three new lots with areas less than 2 ha.

As Electoral Area 'E'/West Boundary does not have an Official Community Plan, Section 510 of the *Local Government Act* states that it is the owner's option to a) pay the RDKB or b) provide, without compensation, land that is acceptable to RDKB. The quantity or value of land cannot exceed five percent of the land being subdivided.

Best practice is for properties without community water or sewer services to be no less than one hectares in area. All of the proposed lots exceed this minimum guideline.

Any potential subdivision of the subject property should include an update to the section 219 covenant among the property owner, Interior Health, and the Regional District to ensure adequate water sources are available to service the proposed lots.

Page 2 of 3

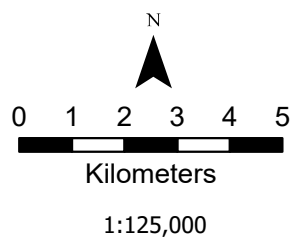
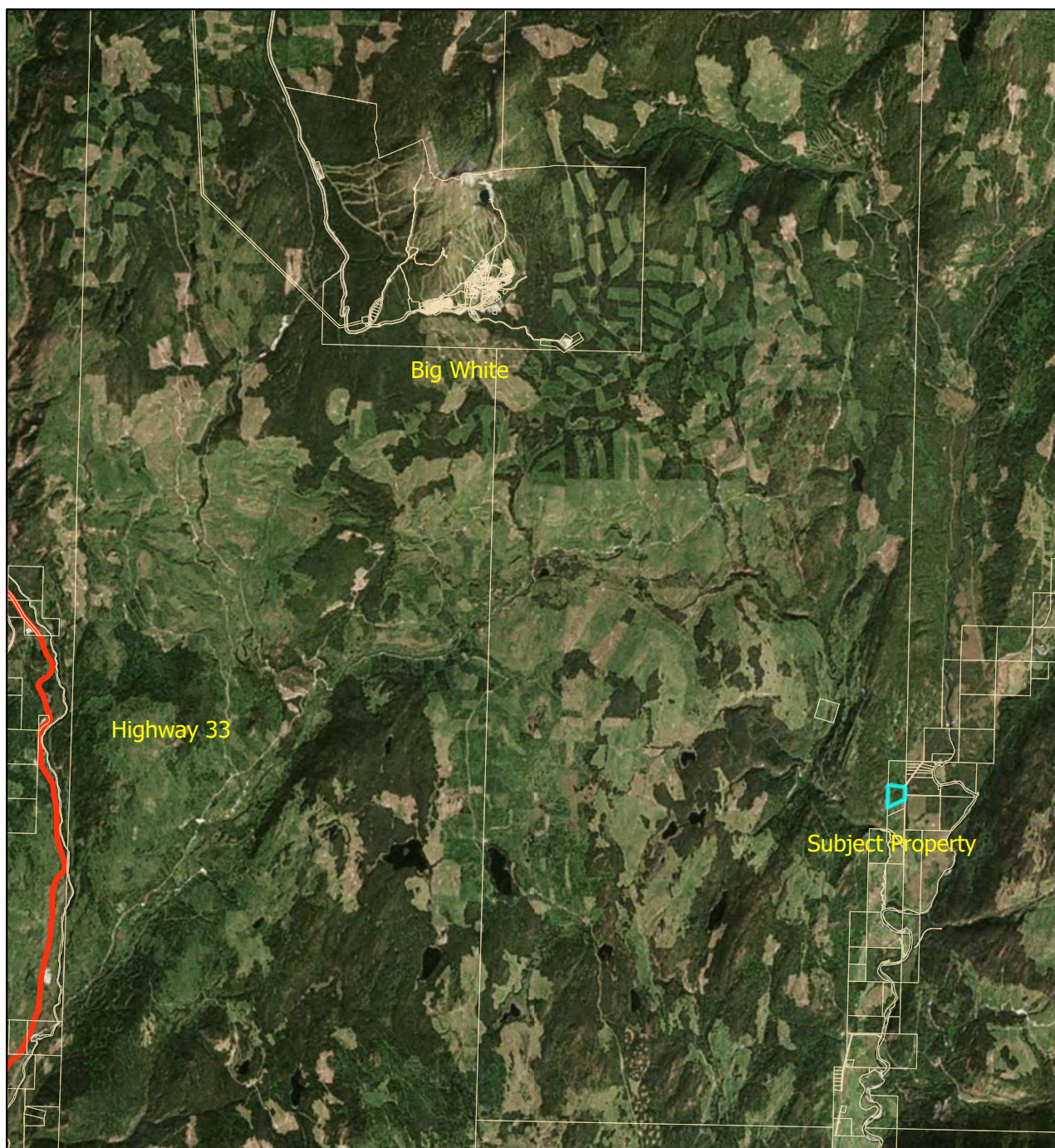
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Recommendation

That the staff report regarding the Ministry of Transportation and Infrastructure referral for a proposed four lot conventional subdivision, for the parcel legally described as the Lot 3 District List 2989s Similkameen Division Yale District Plan KAP91954, located in Electoral Area 'E', be received.

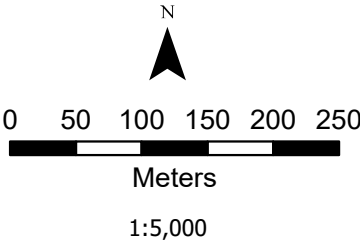
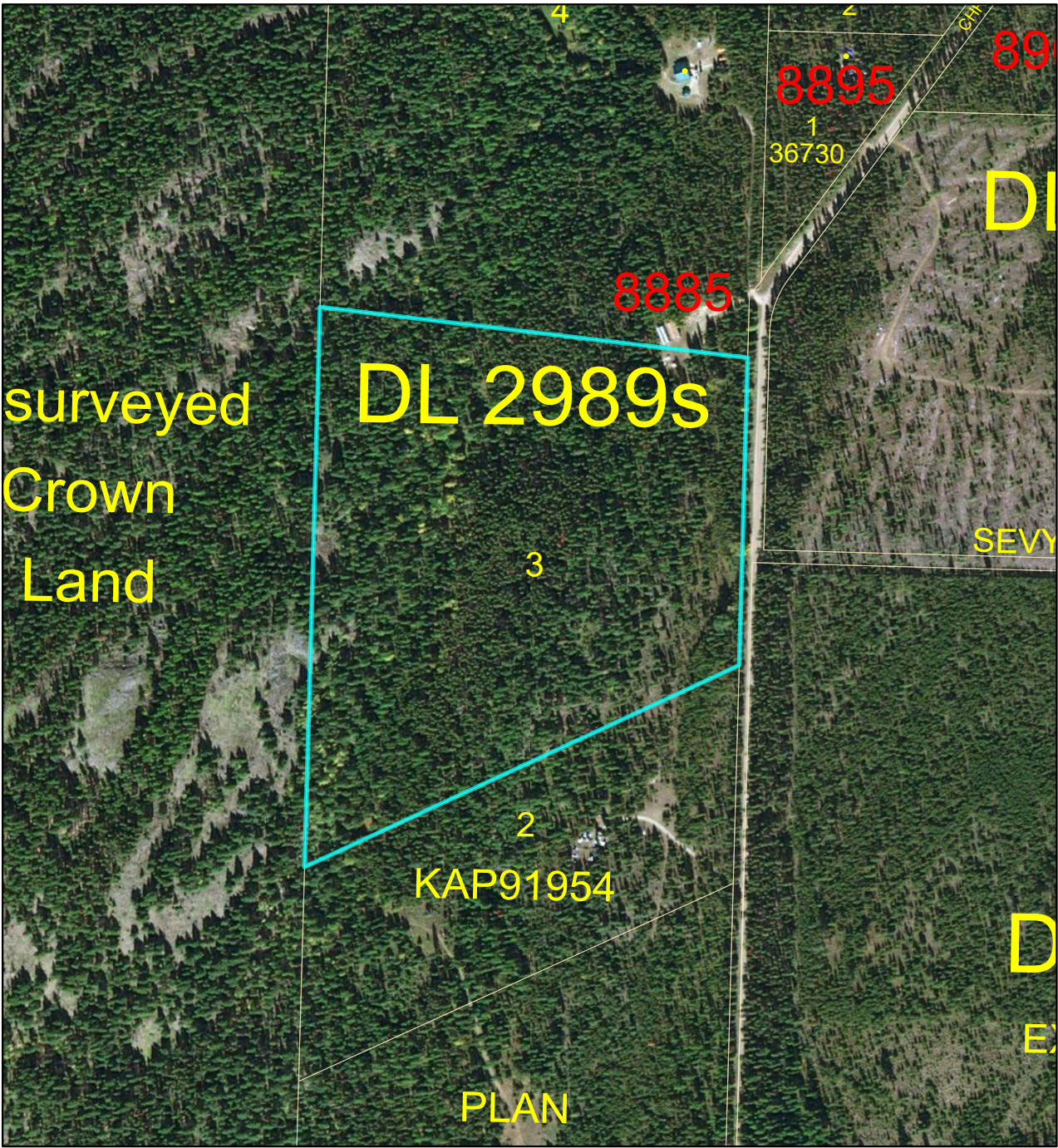
Attachments

- Site Location Map and Subject Property Map
- Applicant Submission



Site Location Map
 Lot 3, Plan KAP91954
 District Lot 2989S
 Similkameen Div of Yale Land District

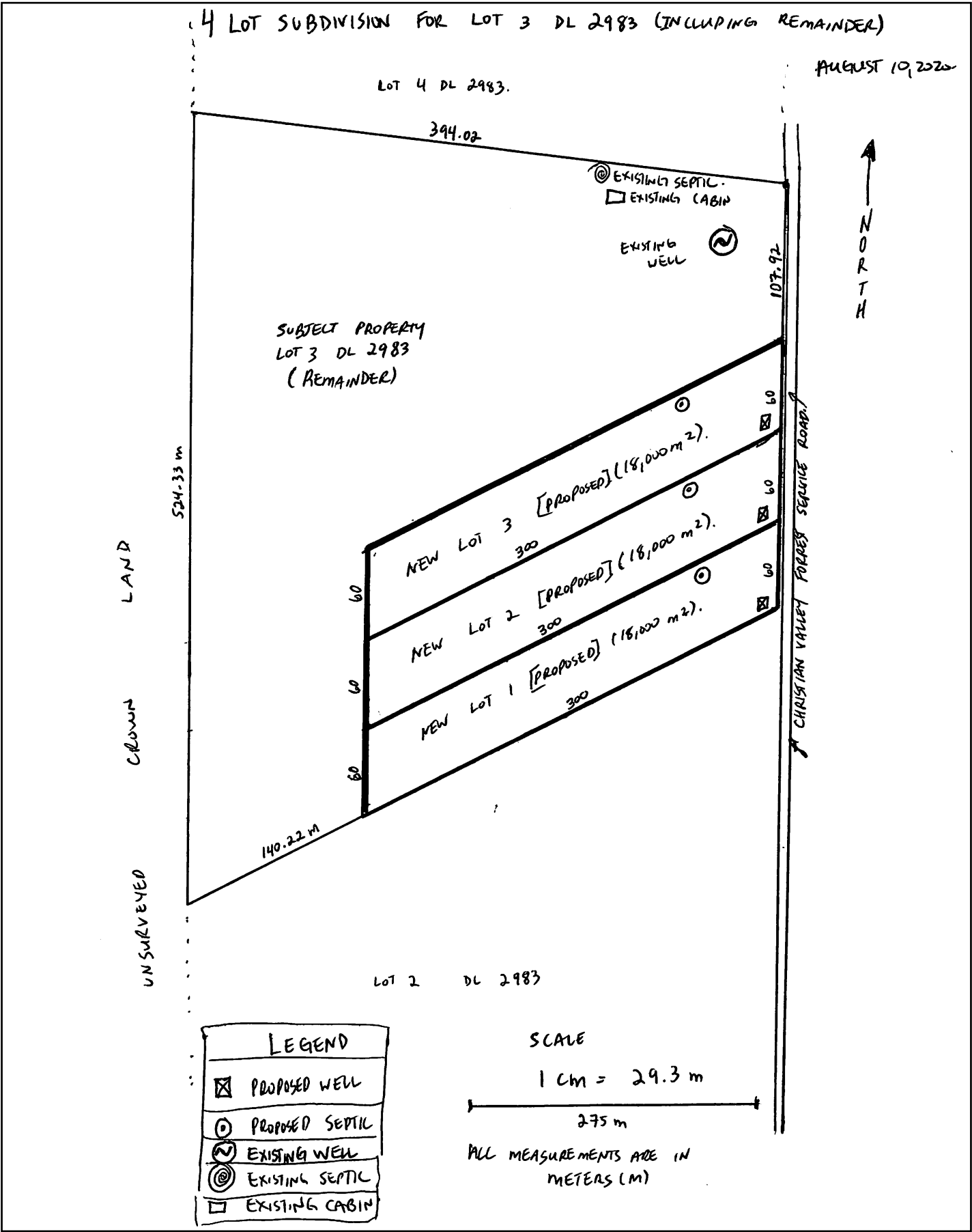




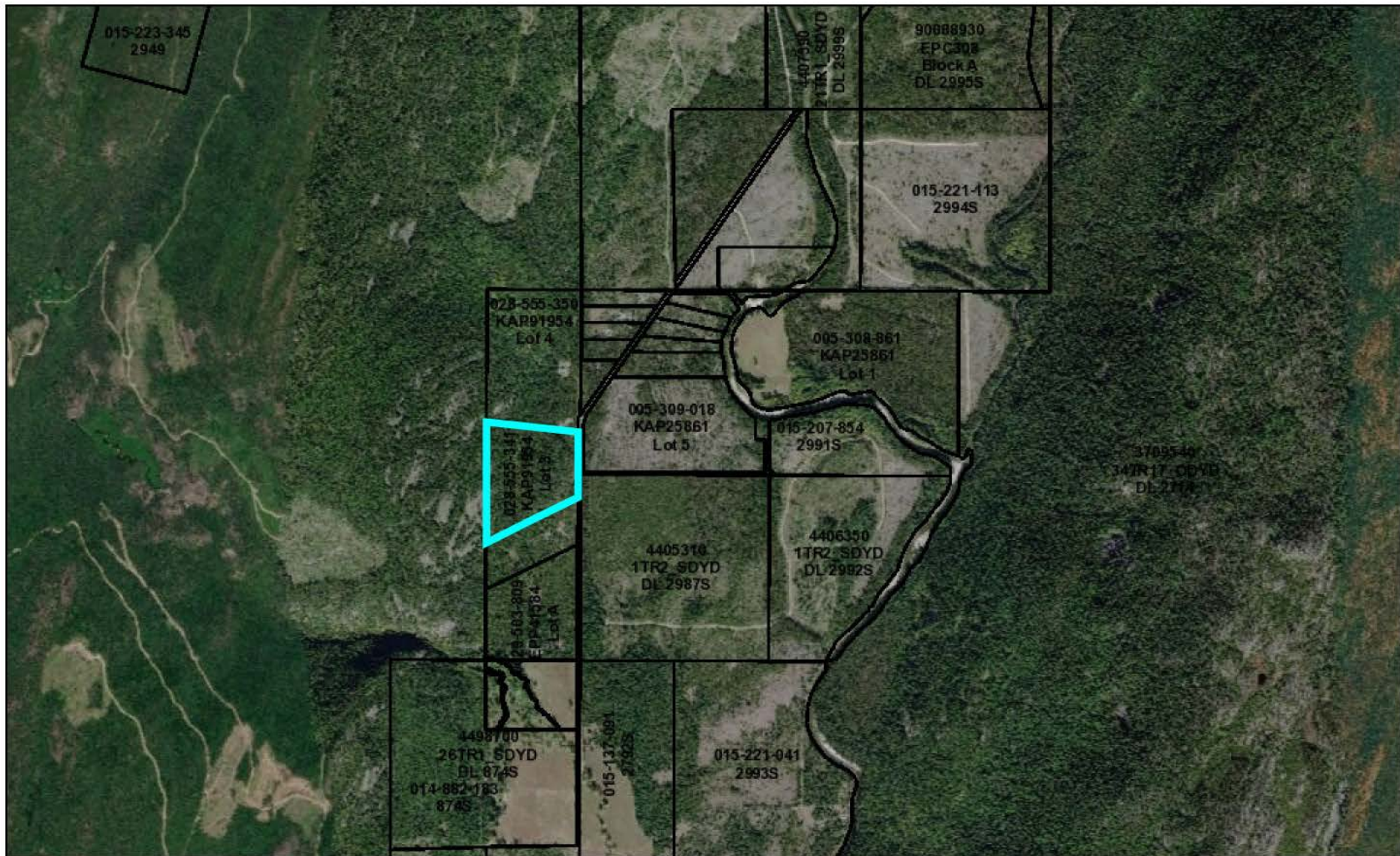
Subject Property Map

Lot 3, Plan KAP91954
District Lot 2989S
Similkameen Div of Yale Land District





ParcelMap BC Print Report



September 8, 2020

WARNING: MAP IS NOT PRINTED TO SCALE

Parcel Boundaries

-  Ownership
-  Road

World Imagery

Low Resolution 15m Imagery

High Resolution 60cm Imagery

High Resolution 30cm Imagery

Citations

9.6m Resolution Metadata

Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGR D, IGN, and the GIS User Community

Cadastral data from ParcelMap BC
Copyright 2018 LTSAA

ALR Property and Map Finder



2020-08-13, 8:49:30 AM

- ALR Polygons
- ParcelMap BC Parcel Fabric



Provincial Agricultural Land Commission
© Provincial Agricultural Land Commission. The information provided is for reference purposes only and may not reflect the current state of the ALR.



Electoral Area Services (EAS) Committee Staff Report

RE:	Ministry of Transportation and Infrastructure Subdivision Referral – Cowboy Forestry Ltd.		
Date:	October 15, 2020	File #:	E-1920s-04956.000
To:	Chair Grieve and members of the EAS Committee		
From:	Danielle Patterson, Planner		

Issue Introduction

The Regional District of Kootenay Boundary (RDKB) received a referral from the Ministry of Transportation and Infrastructure (MoTI) for a subdivision application in Electoral Area 'E'/West Boundary at Idabel Lake (see Site Location Map).

Property Information	
Owner:	Cowboy Forestry Ltd.
Agent:	NA
Location:	9190 Paradise Road
Electoral Area:	Electoral Area 'E'/West Boundary
Legal Description:	District Lot 1920s Similkameen Division of Yale Land District except Plan 28042
Area:	25 ha (61.8 ac)
Current Use:	Vacant/Recreation
Land Use Bylaws	
OCP Bylaw No.:	NA
DP Area:	NA
Zoning Bylaw No.:	NA
Other	
ALR:	NA
Waterfront / Floodplain:	Idabel Lake
Service Area:	NA
Planning Agreement Area:	NA

History / Background Information

The 25 ha (62.8 ac) subject property is located in Electoral Area 'E'/West Boundary. The boundaries of the parcel are adjacent to Paradise Road and Idabel Lake to the west, Idabel Lake Road to the north, and Okanagan Falls Forestry Service Road to the east (see Subject Property Map).

The RDKB has an informal “transfer station” located at 300 Idabel Lake Road, abutting the subject property. This “transfer station” is comprised of a pull out, three garbage bins, and a recycling bin. It provides informal services to the Idabel Lake area residents (see Attachments). The RDKB does not have any formal licensing or permitting for this informal “transfer station”. It is not clear whether the “transfer station” is in the road Right of Way or on the subject property.

The property owner applied to the Ministry of Forests, Lands, Natural Resource Operations and Rural Development for a Private Moorage under the *Water Sustainability Act* in 2020. At the May 4, 2020 Electoral Area ‘E’/West Boundary APC meeting, the APC supported the dock proposal with the condition that the dock be “well secured and built to Provincial standards”.

Proposal

The applicant proposes a four lot subdivision which would create three smaller lots on the north-east corner of the existing property. These proposed lots would have septic fields. The larger remainder lot would continue to have waterfront access to Idabel Lake (see MoTI Referral Package in Attachments). The approximate areas of the proposed lots are as follows:

- Lot 1: 1.99 ha (4.92 ac),
- Lot 2: 2.05 ha (5.07 ac),
- Lot 3: 2.92 ha (7.22 ac), and
- Lot 4/Remainder Lot: 18 ha (44.48 ac).

The proposal states access would be via Idabel Road for Lots 1 and 2 and via Paradise Road (Lots 3 and 4), pending approval from the MoTI.

Implications

Electoral Area ‘E’/West Boundary does not have any land use bylaws, policy directions, or regulations for this area with regard to land use. Section 510 of the *Local Government Act* requires provision of park land or payment for park purposes when a) three or more are being created and b) the smallest of the lots has an area of 2 ha or less. This proposal creates three new lots. One lot is approximately 2 ha (1.99 ac) and therefore park dedication is required.

As Electoral Area ‘E’/West Boundary does not have a an Official Community Plan, Section 510 of the *Local Government Act* states that it is the owner’s option to a) pay the RDKB or b) provide, without compensation, land that is acceptable to RDKB. The quantity or value of land cannot exceed five percent of the land being subdivided.

Best practice is for properties without community water or sewer services to be no less than one hectares in area. All of the proposed lots exceed this minimum guideline.

In telephone communications with Tim Dueck, Solid Waste Coordinator for the RDKB, T. Dueck commented that depending on the locations of the driveways for proposed Lots 1 and 2, the driveways could interfere with the informal RDKB “transfer station”. Furthermore, T. Dueck commented that suitable replacement sites are not readily available. If the subdivision moves forward, communications between MoTI and RDKB

Page 2 of 3

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staff on the location of the driveways for Lots 1 and 2 is encouraged in order to maintain the viability of waste management services in the Idabel Lake area.

Surveying of the lot lines will confirm whether the transfer station is in the road Right of Way or on private land. If the transfer station is on private land, further discussions should take place regarding whether the land owner would consider entering a formal agreement with the RDKB or whether it should be relocated or removed all together.

Advisory Planning Commission (APC)

The Electoral Area 'E'/West Boundary APC considered the application at their October 5, 2020 meeting. The APC recommends the application be supported with the following conditions:

"the septic fields and the wells be proven up; access to the transfer station be accommodated; if there is a requirement for parkland the RDKB should receive cash; the land owners be made aware of the danger of forest fires and the Firesmart program. The APC has concerns about development in remote forested areas in regard to risk of forest fires and lack of services."

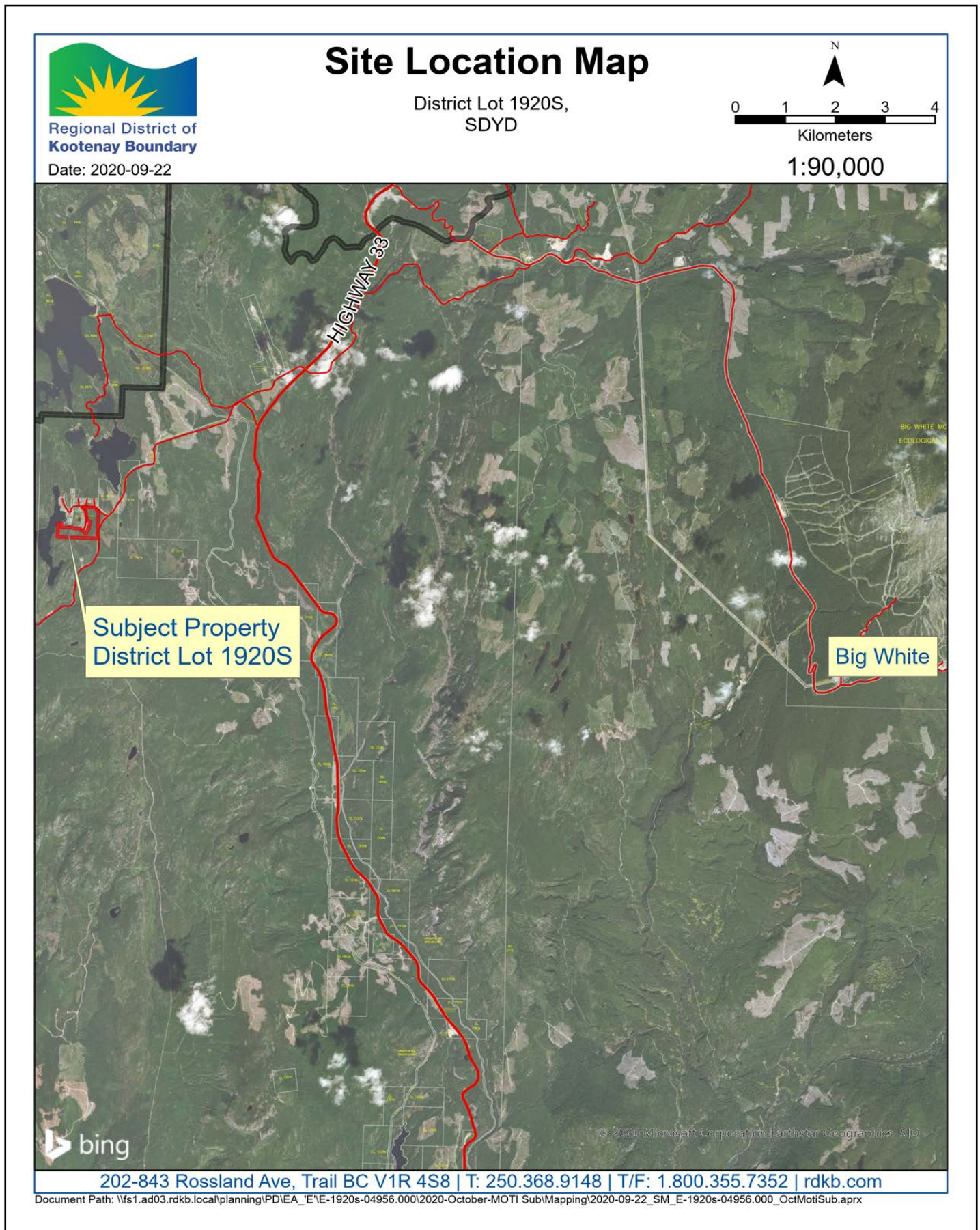
Recommendation

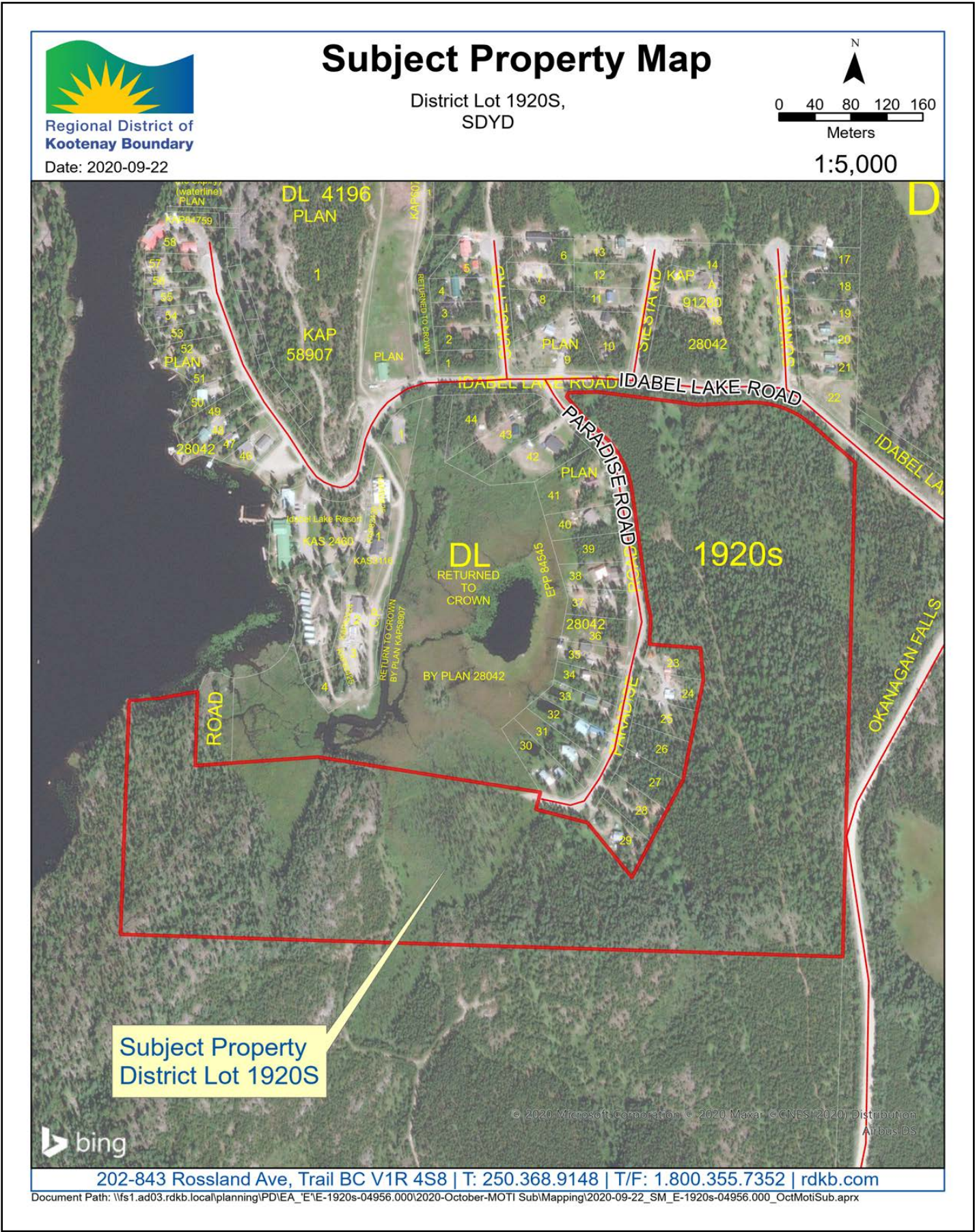
That the staff report regarding the Ministry of Transportation and Infrastructure referral for a proposed four lot conventional subdivision, for the parcels legally described as the District Lot 1920s Similkameen Division of Yale Land District except Plan 28042, located in Electoral Area 'E', be received;

And That park dedication in the form of land or cash be secured for Proposed Lot 2.

Attachments

1. Site Location Map
2. Subject Property Map
3. "Transfer Station" Photos
4. MoTI Referral Package





"Transfer Station" Photos

Informal RDKB "transfer station"



View from the shoulder of Idabel Lake Road



Application Summary

eDAS File Number: 2020-03794

Subdivision Application:

Subdivision Type: Conventional
 Selected Office: West Kootenay District
 Applicant File Number:

No. of Lots: 4

Land Use:

Local Government: Regional District of Kootenay Boundary
 Property Zoning: Recreation
 Existing Land Use: Recreation Intended Land Use: Recreation

Surrounding Land Use:

North:
Residential
 South:
Crown
 East:
Crown
 West:
Residential

Services:

Proposed Sewage Disposal: Septic Tank (if other)
 Proposed Water Supply: Well (if other)

Location:

Order Location

Description: 6 km West from Hwy 33 between Big White Turn Off and 201 Forest Service, Hwy 33 south, Right on 201 FSR, Right on Idabel Lake Road, Left on Paradise Road

Legal Description: District Lot 1920S. similkameen div of yale land district. except plan 28042

Map: 1491499,548720

Property Address: 9190 Paradise Road, Naramata - Idabel Lake

Subdivision Application Details:

Required items include:

- ☐ An authorization letter from the owner if someone else, such as an agent, is applying on the owner's behalf
- ☐ Original plus five copies of a scaleable sketch plan of proposed layout.
 The sketch must include the approximate grades and widths of roads and a design profile, preferably including a cross-section of the proposed road.
 Properly engineered drawings will be required for final approval. The sketch should contain:
 - ☒ The date it was drawn
 - ☒ The scale
 - ☒ North arrow
 - ☒ Legal description of the property being subdivided, and its adjacent properties
 - ☒ Outline of the subdivision in red or heavy black line
 - ☒ All proposed lots, remainders, parks, rights of way, easements and roads showing dimensions and areas
 - ☒ Any existing property lines or roads proposed to be removed, closed or relocated
 - ☐ All steep banks or slopes exceeding 2 m high and all slopes of 25% or greater, within or adjacent to the proposal area
 - ☒ Location of existing buildings and structures on the property and adjacent properties within 30m of property boundaries
 - ☐ Location of any onsite water sources to be developed
 - ☐ Approximate location of all existing and proposed utility services
 - ☐ Existing access roads and other roads and trails on the property (state names of roads)
 - ☐ Site locations of the soil inspection test holes and the percolation tests on each parcel
 - ☐ Approximate extent of area available for sewage disposal surrounding the test holes

Application Summary

eDAS File Number: 2020-03794

- ☐ Location of sewage disposal system and wells on adjacent properties within 30 m of property boundaries
- ☒ One copy of the current State of Title Certificate so that property encumbrances can be checked
- ☐ Copies of any covenants, easements, rights-of-way or other charges registered against the title. These are available through the Land Title Office
- ☐ A copy of Contaminated Sites Profile form or Contaminated Sites declaration statement, duly completed and signed
- Include these items as well, where applicable**
- ☐ A copy of the Provincial Agricultural Land Commission application (if located within ALR). While a developer can apply for subdivision approval before he or she receives permission to proceed from the Agricultural Land Commission or the local government if it has been delegated the authority, the Provincial Approving Officer can only give approval if the property has cleared the Land Commission process in the meantime.
- ☐ One copy of any test required by the Regional Health Authority
- ☐ A Development Permit and plan where applicable.
- ☒ A copy of BC Assessment Authority Tax Notice showing property tax classification.

Attachments:

Filename	File Description	Classification
idabellaketitle.pdf	Title Certificate	Legal Document
idabelassessment.JPG	BC Assessment	Document
CCF20200806_0003.pdf	Septic Lot 1	Professional Stud
CCF20200806_0004.pdf	Septic Lot 2	Professional Stud
CCF20200806_0005.pdf	Septic Lot 3	Professional Stud
idablezoningneighbours.pdf	Idabel neighbouring properties	Map
idabellots.JPG	Proposed Lots	Map
KAP28042.pdf	Legal Survey Map	Legal Document
16-226 Idabel Lake Propose	Proposed Lot Dimensions	Design Drawing
idabelotproposal.pdf	Lot proposal	Map

Subdivision Application Project Details:

Project Description: Proposing to subdivide three five acre parcels from the 60 plus acres at Idabel Lake.

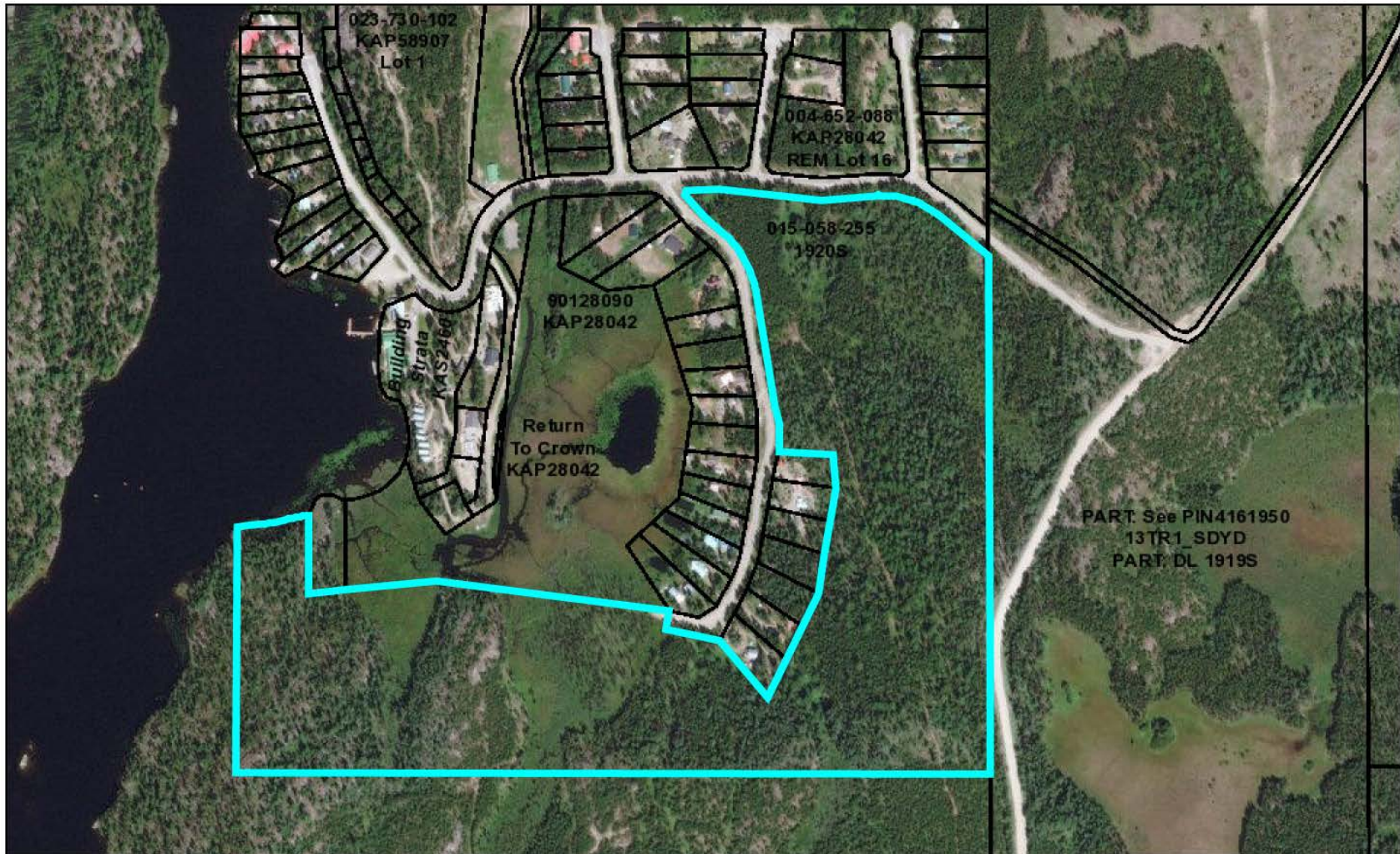
- + The property has been recently selectively logged to remove the dead and down timber.
- + The three proposed lots have been flagged in pink in the field.
- + A Registered Onsite Wastewater Practitioner has completed reports for each lot.
- +The lots all have Fortis power at the lot line and road frontage onto Idabel Lake or Paradise Roads., which are both paved.
- +Lots 1 & 2 have current access roads off Idabel Lake Road. Lot 3 will have an access road construct off of Paradise after preliminary approval

Other Information: There is a stream running through all three lots and set backs have been followed.
 +No wells have been drilled yet but will be drilled 30 meters away from the proposed septic field areas.
 + There are no existing buildings on the property and no neighbouring buildings or wells within 30 metres of the proposed lots.

Subdivision Application Parties:

Type	Name/Company	Address	Role
Applicant	Marshall, Tim - Cowboy Forestry Ltd.		
Owner	Marshall, Tim - Cowboy Forestry Ltd.		

ParcelMap BC Print Report



August 26, 2020

WARNING: MAP IS NOT PRINTED TO SCALE

Parcel Boundaries

-  Ownership
-  Road

World Imagery

Low Resolution 15m Imagery

High Resolution 60cm Imagery

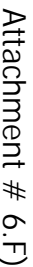
High Resolution 30cm Imagery

Citations

2.4m Resolution Metadata

Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGR D, IGN, and the GIS User Community

Cadastral data from ParcelMap BC
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Electoral Area Services Committee Staff Report

RE:	Bylaw Enforcement Update		
Date:	October 15, 2020	File #:	B/EAS Reports
To:	Chair Grieve and members of the EAS Committee		
From:	Donna Dean, Manager of Planning and Development		

Issue Introduction

A staff report to provide an update on the bylaw enforcement files for the electoral areas.

Background

Staff responds to written complaints regarding contraventions of the Regional District's land use bylaws according to the Board's Bylaw Enforcement Policy (attached). Our bylaw enforcement officer position was filled on March 2, 2020. Soon after the start date, most staff in the Trail Administration building moved to working remotely including the bylaw enforcement officer.

A number of administrative tasks were required following the March 2, 2020 start date to get the program up and running including, but not limited to, the following:

- Assigning a dedicated vehicle to the bylaw enforcement officer. Given that few staff are travelling to meetings, we have been able to dedicate one of the general vehicles to bylaw enforcement thereby reducing the need for extensive cleaning between uses.
- Development of safety protocols for site visits given the risks around the spread of the COVID virus.
- Unique to this position is the need for a uniform, which was acquired early on although there were some delays due to COVID-19 and the supply chain (pants, shirts, bullet proof vest among other things), a computer suitable for working in all weather, and a locker for storage.
- Researching and acquiring other safety equipment for communication from remote work sites. The position covers a large geographic area and we cannot always predict risk factors. A Spot was purchased, which is worn on the uniform and can send an alert to emergency services if the staff person needs assistance. If we are aware of potential safety issues staff will not attend a site alone.

- Contact with RCMP detachments to make them aware of the new position.
- Board appointment of the new position to enforce our bylaws.
- A July 17, 2020 press release regarding the new position.

There are a number of tasks, which will elevate the effectiveness of the service including the following:

- Setting a vehicle up for a mobile office, which will include a computer stand and mobile printer. This will result in the ability to issue letters while conducting field work to property owners who are not complying with our bylaws, thereby speeding up the enforcement process.
- Forwarding a Bylaw Enforcement Bylaw to the Board of Directors for adoption, which is the subject of a separate report to the Electoral Areas Services Committee. In conjunction with the Bylaw Enforcement Bylaw there are a number of position assignments and processes that must be in place in order to implement it.

Other Impacts on the Enforcement Role

On March 26, 2020, the Minister of Public Safety and Solicitor General ordered that bylaw enforcement officers in the province provide assistance to enforce public health orders (see attached Ministerial Order No. M082). While this has been a relatively small portion of the job, the bylaw enforcement officer has fielded a number of COVID related calls and conducted site visits to provide information on the need for COVID safety plans for commercial establishments. There have been approximately 26 calls 48 site visits have been conducted. Fulfilling this duty has the added benefit of increasing the profile of the position in our communities.

The bylaw enforcement officer also played an important role in coordinating and delivering evacuation orders during the flooding in the Boundary area this spring. She facilitated the use of a new collector ap by the RCMP and SAR that was developed in-house by the GIS team. The ap enables the collection of the evacuation status of addresses in an evacuation order area and can be viewed live in the Emergency Operations Centre.

Planning staff and the bylaw enforcement officer have been working together to take a more preemptive role regarding building siting and land use for construction projects. We are working on processes that will potentially address concerns before they become bylaw enforcement files.

Update on Enforcement Files

Previous reports to the EAS Committee communicated that there have been an average of 10 new complaint files per year. Since March of this year a total of 15 complaint files have been opened. Several other calls were taken; 21 of which were general inquiries and 19 were referred to other agencies. These additional calls, which are not enforceable by the RDKB, can be time consuming and we have taken steps to deflect those calls before they reach the bylaw enforcement officer. For example staff on the phone lines now have information on where to direct animal control complains and wildlife concerns.

The press release in July generated a great deal of interest in bylaw enforcement and resulted in an increased call volume. Many of the calls were for perceived offences that we do not have bylaws for such as noise and unsightly premises, which led to frustration among some members of the public.

As of March 1, 2020 there were 116 existing files distributed across the electoral areas as shown in the table below. Of those files 28 have been concluded.

Electoral Area	# of Enforcement Files as of March 2020	# of those files that have been concluded as of September 2020	# of pre-March 2020 files that remain open
A	21	3	18
B/Lower Columbia-Old Glory	26	4	22
C/Christina Lake	21	11	10
D/Rural Grand Forks	34	10	24
E/West Boundary	14 (12 Big White)	0	14 (12 Big White)
Totals	116	28	88

This table shows the new enforcement created after March 1, 2020

Electoral Area	# of Enforcement Files Opened	# of those files that have been concluded as of September 2020	# of post-March 2020 files that remain open
A	3	0	3
B/Lower Columbia-Old Glory	2	0	2
C/Christina Lake	5	1	4
D/Rural Grand Forks	3	0	3
E/West Boundary	2 (1 Big White)	1	1
Totals	15	2	13

Recommendation

That the Staff Report regarding the October, 15, 2020 Bylaw Enforcement Update be received.

Attachments

RDKB Bylaw Enforcement Policy

Ministerial Order No. M082



POLICY TITLE: Bylaw Enforcement

ORIGINAL APPROVAL DATE: October 29, 2009

REVIEWED BY P&P COMMITTEE: February 14, Apr 18, May 9, 2018

ADOPTED BY BOARD OF DIRECTORS: May 24, 2018

Policy: The Regional District of Kootenay Boundary does not have the resources to formally review properties on a regular basis in order to determine whether or not its various building and zoning bylaws are being complied with at all times. Therefore, it is the policy of the Regional District to primarily rely on citizen complaints as a means of enforcing these bylaws. In order to encourage valid complaints and to reduce the opportunity for intimidation and conflict, the Regional District needs to establish a balance of accountability and confidentiality among the various parties to this process.

Purpose: To establish a process in which alleged bylaw enforcement matters are investigated and adjudicated.

Procedure: The following policies shall therefore apply regarding bylaw enforcement procedures:

1. To be considered valid by the Regional District, a complaint shall be in writing and shall contain the name, address and phone number of the complainant and shall describe the nature of the alleged infraction.
2. As a matter of practice, the identity of the complainant and the written complaint itself shall not be disclosed to the alleged violator or any member of the public. It is not necessary for the complainant to request confidentiality. Likewise, the response of the alleged violator shall not be disclosed to the complainant, whether it is in writing or made orally. This policy is in recognition of the fact that many complaints take place in the context of other disputes between neighbours and that the motivation for the complaint itself could be one of retribution. Disclosure could serve to exacerbate the dispute and may even put persons at risk.
3. Upon receipt of a valid complaint, the Regional District will then initiate an investigation. Should an infraction be suspected, and in seeking a remedy therefore, the Regional District will consider such matters as the scale, number

*Bylaw Enforcement Policy
Page 1 of 2*

and duration of the infraction(s); the current, short, and long-term impacts caused by the infraction; the potential for precedents and the resources available to resolve the matter. It will not be the policy of the Regional District to necessarily seek a final legal remedy for all alleged infractions. As a rule, in order for a complaint to be considered valid, it shall be submitted by a person who owns, resides upon, or otherwise has interest in property that is impacted by the alleged infraction.

4. The anonymity and confidentiality given to complainants and alleged violators under this policy cannot be assured if investigation results in court proceedings. If a request is made to the Regional District for disclosure under the Freedom of Information and Protection of Privacy Act, it shall be the policy of the Regional District to refuse disclosure under Section 15 of the Act, unless consent is obtained from the persons who supplied the information and who would otherwise be assured of confidentiality under this policy. The Regional District, however, is subject to orders issued by the Information and Privacy Commissioner under the Act and will not necessarily appeal an order for disclosure.
5. This policy does not preclude the Regional District from initiating enforcement of its bylaws in the absence of a complaint where special circumstances warrant such action. Such circumstances may include health and safety considerations; Regional District liability; the scale or the flagrancy of the infraction.

Notwithstanding the above, it is the policy of the Regional District of Kootenay Boundary to enforce all Building Bylaw infractions that are known to the Regional District's Building Inspection Department. At a minimum, the Regional District shall endeavor to place a notice on the title of the property pursuant to Section 302 of the Local Government Act where the Building Inspector becomes aware of a contravention of a Building Bylaw.

PROVINCE OF BRITISH COLUMBIA

**ORDER OF THE MINISTER OF PUBLIC SAFETY AND
SOLICITOR GENERAL**

Emergency Program Act

Ministerial Order No. M082

WHEREAS a declaration of a state of emergency throughout the whole of the Province of British Columbia was declared on March 18, 2020 because of the COVID-19 pandemic;

AND WHEREAS section 10 (1) of the *Emergency Program Act* provides that I may do all acts and implement all procedures that I consider necessary to prevent, respond to or alleviate the effects of any emergency or disaster;

I, Mike Farnworth, Minister of Public Safety and Solicitor General order that the attached Bylaw Enforcement Officer (COVID-19) Order is made.

March 26, 2020

Date


Minister of Public Safety and Solicitor General

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Emergency Program Act*, R.S.B.C. 1996, c. 111, s. 10

Other: MO 73/2020

BYLAW ENFORCEMENT OFFICER (COVID-19) ORDER

Definitions

1 In this order:

“**bylaw enforcement officer**” means the following:

- (a) a person in a class of persons described in section 3 (c), (d) or (f) of the Community Charter Bylaw Enforcement Ticket Regulation, B.C. Reg. 425/2003, who is designated as a bylaw enforcement officer under
 - (i) section 264 (1) (b) of the *Community Charter*, or
 - (ii) section 264 (1) (b) of the *Community Charter* as that section applies to a regional district for the purposes of section 414 of the *Local Government Act*;
- (b) a person in a class of persons described in section 3 (d) of the Vancouver Charter By-law Enforcement Ticket Regulation, B.C. Reg. 189/2007, who is designated as a bylaw enforcement officer under section 482.1 (1) (b) of the *Vancouver Charter*;

“**health officer**” means the provincial health officer or a medical health officer within the meaning of the *Public Health Act*;

“**public health order**” means an order made by a health officer under the *Public Health Act* in respect of the COVID-19 pandemic.

Application

2 This order only applies during the period that the declaration of a state of emergency made March 18, 2020 under section 9 (1) of the *Emergency Program Act*, and any extension of the duration of that declaration, is in effect.

Bylaw enforcement officers to provide assistance

- 3 (1) To the greatest extent possible without unduly compromising any other bylaw enforcement objectives of the local authority, each local authority must ensure that the local authority’s bylaw enforcement officers provide such assistance as may be required for the purposes of enforcing public health orders, including, without limitation, the following:
- (a) monitoring facilities and areas closed to the public by a public health order;
 - (b) providing warnings, information and advice to businesses and members of the public in respect of public health orders, including warnings to businesses and members of the public who may be acting in contravention of a public health order;
 - (c) providing health officers with information in respect of potential contraventions of a public health order.
- (2) In providing assistance under this section, a bylaw enforcement officer is not authorized to
- (a) detain an individual as a result of a contravention or suspected contravention of a public health order, or

- (b) issue a fine or penalty, including an administrative penalty, under the *Public Health Act*.
- (3) Nothing in this section is to be construed as limiting any powers or duties of a bylaw enforcement officer under the *Community Charter*, *Local Government Act*, *Vancouver Charter* and related regulations or local authority bylaws, as the case may be.



Electoral Area Services Committee Staff Report

RE:	Bylaw Enforcement Notice Bylaw		
Date:	October 15, 2020	File #:	B/EAS Reports
To:	Chair Grieve and members of the EAS Committee		
From:	Donna Dean, Manager of Planning and Development		

Issue Introduction

A staff report to present a draft bylaw notice enforcement bylaw for the committee to consider.

Background

The bylaw notice dispute adjudication process will offer a streamlined and more cost-effective approach than court-directed approaches. Details regarding the establishment of the process are outlined in the Electoral Area Administration 2020 Work Plan which is attached to this report. The report lists the regulatory bylaws that can be enforced, which include land use planning bylaws, the floodplain bylaw, the building and plumbing bylaw, animal control bylaws, the Big White noise bylaw, the mobile home park bylaw and the solid waste management facilities regulatory bylaw.

The first step in implementation of the bylaw adjudication process for the RDKB was to have our Regional District added to BC's Bylaw Notice Enforcement Regulation. Our Manager of Corporate Administration, with the Board's approval, facilitated this taking place on October 28, 2016.

The next step in the process is for the Board of Directors to adopt a bylaw notice enforcement bylaw. A draft version of the bylaw, that was prepared by our solicitor, is attached. Schedule A of the draft bylaw includes the enforceable bylaws listed below; lists the enforceable sections of the bylaws; and assigns penalty amounts including early payment reduced amounts and late penalty payments. The maximum fine allowable is \$500. The proposed fines are based on research by our bylaw enforcement officer on fines in adjacent regional districts.

More details on enforcement options, the role of elected officials and conducting bylaw investigations can be found in the attached Ombudsperson report on Bylaw Enforcement: Best Practices for Local Governments.

	Bylaw Description
1	Electoral Area A Zoning Bylaw No. 1460, 2014
2	Electoral Area B Zoning Bylaw No. 1540, 2015
3	Electoral Area C Zoning Bylaw No. 1300, 2007
4	Electoral Area D/Rural Grand Forks Zoning Bylaw No. 1299, 2005
5	Electoral Area E/Big White Ski Resort Zoning Bylaw No. 1166, 2001
6	Electoral Area E/Mount Baldy Ski Resort Zoning Bylaw No. 1340, 2010
7	Electoral Area E/Jewel Lake Zoning Bylaw No. 855, 1995
8	Electoral Area E/Bridesville Townsite Rural Land Use Bylaw No. 1485, 2012
9	Regional District of Kootenay Boundary Floodplain Management Bylaw No. 677, 1995
10	Regional District of Kootenay Boundary Building and Plumbing Bylaw No. 449, 1985
11	Regional District of Kootenay Boundary Electoral Area 'A' and 'B' Dog Control and Licensing Bylaw No. 1117, 2000
12	Regional District of Kootenay Boundary Animal Control Bylaw No. 1550, 2014
13	Big White Noise Control Bylaw No. 1431, 2009
14	Regional District of Kootenay Boundary Mobile Home Park Bylaw No. 97, 1975
15	Solid Waste Management Facilities Regulatory Bylaw No. 1605, 2016

Official Community Plans have not been included in the bylaw since our solicitor has advised that they are not enforceable. While the building and plumbing bylaw is listed, no details are included because the new building and plumbing bylaw is in progress and can be added following adoption. It should also be noted that each time one of the above bylaws is amended, or a new bylaw is adopted, an amendment to this bylaw may also be required.

Schedule B of the bylaw is draft wording for a compliance agreement.

Next Steps

- Appoint screening officer(s);
- Appoint other staff to support the related administrative tasks;
- Establish pay periods for violations;
- Establishes a bylaw notice dispute adjudication system to resolve disputes; and
- Once the system is up and running the Board may want to consider enacting additional regulatory bylaws that control noise, unsightly premises, weed control and nuisances. The Board would be required to seek the assent of electors to adopt new service establishment bylaws relating to those new regulatory services.

Recommendation

That the Staff Report regarding the Planning and Development Department's 2016 Annual Report be received.

Attachments

Electoral Area Administration 2020 Work Plan

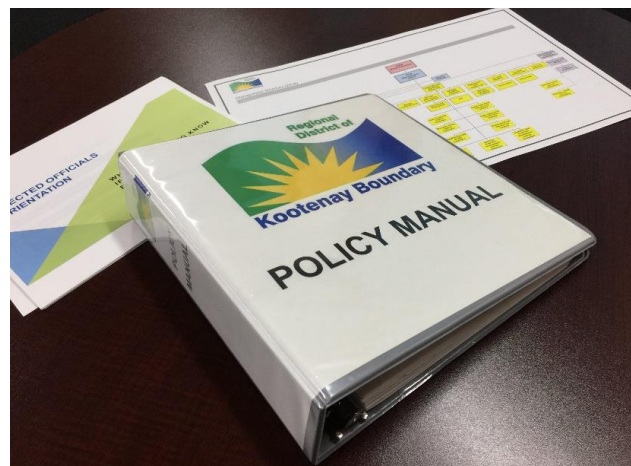
Draft RDKB Bylaw Notice Enforcement Bylaw

Bylaw Enforcement: Best Practices Guide for Local Governments



Electoral Area Administration

2020 Work Plan



ELECTORAL AREA ADMINISTRATION

2020
Mark Andison, CAO



Electoral Area Administration

2020 Work Plan

Service Name: Electoral Area Administration

Service Number: 002

Committee having jurisdiction:
Electoral Area Services

General Manager/Manager Responsible:
Mark Andison, CAO / Theresa Lenardon, Manager of Corporate Administration

Description of Service:

1. Provision of broad legislative, legal, financial, and administrative support to Electoral Area Directors.
2. Corporate obligations are similar to those of a “clerk” and which are legislatively required for this position in relation to Electoral Area Administration include the following powers, duties and functions:
 - a. ensure meeting agendas and minutes are prepared
 - b. keeping bylaws
 - c. acts as Commissioner for taking Oaths and Affidavits
 - d. certifying documents and custody of the Corporate Seal
 - e. processes and manages official documents related to land transactions and property transfers
 - f. corporate legal matters
 - g. Chief Elections Officer
 - h. Freedom of Information Protection of Privacy Officer
 - i. Paper and electronic records management

Establishing Authority:

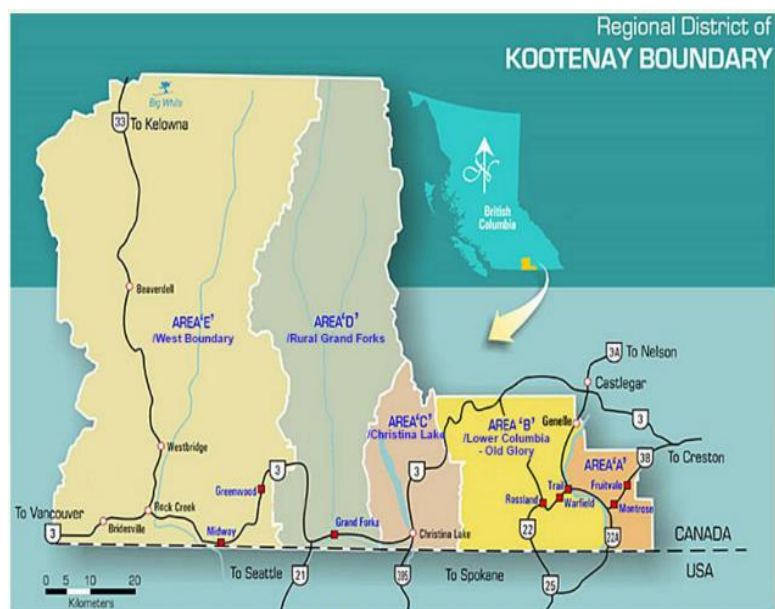
Local Government Act Sections 233, 234, 236, 263
 RDKB Officer Establishment Bylaw No. 1050, 1999

Requisition Limit:

Not applicable.

Regulatory/Administrative Bylaws:

- *Local Government Act*
- *Community Charter*
- RDKB Procedure Bylaw No. 1616, 2016
- *Freedom of Information and Protection of Privacy Act*
- RDKB Elections and Referendum Conduct Bylaw No. 1608

Service Area Map:**Service Participants:**

All electoral areas.

Service Levels:

1. Bylaws: Elections and Referendums Conduct Bylaw, Loan Authorization Bylaws, Member Municipality Security Issuing Bylaws, Conversion Bylaws (from SLPs to Establishment) Taxation Exemption Bylaws, Service Establishment and Service Establishment Amendment Bylaws.
2. Arrangement and management of Electoral Area Directors Travel and Registration for attendance at Conferences, Conventions, meetings etc. (e.g. Electoral Area Directors Forum AKBLG, LGLA, UBCM, FCM etc.).
3. Chief Elections Officer for General Local Government Elections, Bi-Elections, Alternative Approval Process and Referenda.

Human Resources:

1. CAO
2. Manager of Corporate Administration/Corporate Officer
3. Corporate Communications Officer
4. Executive Assistant
5. Clerk/Secretary Receptionist (1.8 FTE)

2019 Requisition/Budgeted Expenditures:

\$263,447/\$599,606

Significant Issues and Trends:

1. Ongoing improvement in efficiency and effectiveness of action items, tasks, duties, etc.
2. Increasing involvement with non-profit, cultural, social and natural resource planning and initiatives requiring efforts with more partnership agreements and grant opportunities.

2020 Projects:

Project: Engagement of a Bylaw Enforcement Coordinator

The Electoral Area Services Committee has expressed an interest in increasing the capacity of the Regional District to enforce its bylaws by adding a dedicated bylaw enforcement staff resource to the organization. Following approval of the 2019 budget, staff began the recruitment process for a two-year term employee, with some challenges experienced in finding a suitable candidate.

Current Regulatory Bylaws

The Regional District is entitled to enforce any regulatory bylaws that it has adopted, to levy penalties and/or require compliance with those bylaws. The regulatory bylaws currently in effect in the RDKB that are currently enforceable include:

- Electoral Area 'A' Zoning Bylaw No. 1460, 2014;
- Electoral Area 'B' Zoning Bylaw No. 1540, 2015;
- Electoral Area 'C' Zoning Bylaw No. 1300, 2007;
- Electoral Area 'D'/Rural Grand Forks Zoning Bylaw No. 1299, 2005;
- Electoral Area 'E'/ Big White Ski Resort Zoning Bylaw No. 1166, 2001;
- Electoral Area 'E'/Mount Baldy Ski Resort Zoning Bylaw No. 1340, 2010;
- Electoral Area 'E'/Jewel Lake Zoning Bylaw No. 855, 1995;
- Electoral Area 'E'/Bridesville Townsite Rural Land Use Bylaw No. 1485, 2012;
- Electoral Area 'A' OCP Bylaw No. 1410, 2010 (Development Permit Provisions);
- Electoral Area 'B'/Lower Columbia-Old Glory OCP Bylaw No. 1470, 2012 (Development Permit Provisions);
- Electoral Area 'C'/Christina Lake OCP Bylaw 1250, 2004 (Development Permit Provisions);
- Electoral Area 'E'/Big White Ski Resort OCP Bylaw No. 1125, 2001 (Development Permit Provisions);
- Electoral Area 'E'/Mount Baldy Ski Resort OCP Bylaw No. 1335, 2007 (Development Permit Provisions);
- Regional District of Kootenay Boundary Heritage Designation Bylaw No. 1236, 2004;
- Regional District of Kootenay Boundary Floodplain Management Bylaw No. 677, 1995;
- Regional District of Kootenay Boundary Building and Plumbing Bylaw No. 449, 1985;
- Regional District of Kootenay Boundary Mobile Home Park Bylaw No. 97, 1975;
- Regional District of Kootenay Boundary Electoral Area 'A' and 'B' Dog Control and Licensing Bylaw No. 1117, 2000;
- Regional District of Kootenay Boundary Boundary Animal Control Bylaw No. 1550, 2014;
- Big White Noise Control Bylaw No. 1431, 2009
- Solid Waste Management Facilities Regulatory Bylaw No. 1605, 2016

Most of the regulatory bylaws that the RDKB currently has in place are land use bylaws. Bylaw enforcement work is regularly undertaken by Planning Department staff with respect to the various land use bylaws that the department administers. Staff work with property-owners, on a complaint

basis, to seek compliance relating to variety of land use matters. The legal tools currently available to the RDKB to penalize non-confirming property-owners, or to achieve compliance, are either long-form prosecution or court-ordered injunction. The tool generally utilized, when all other avenues available to seek compliance have failed, is to pursue a court injunction. If successful, an injunction can result in the non-compliant situation being remedied, whereas a long-form prosecution may simply result in a fine to the property-owner. The threat of the costs and legal consequences associated with the RDKB initiating injunctive proceedings is often sufficient motivation for property-owners to comply with the bylaw.

The Building Inspection Department regularly enforces RDKB Building and Plumbing Bylaw No. 449, 1985. There is a statutory tool available to local governments under Section 57 of the Community Charter that provides authority for local governments to register a notice on the title of properties to warn prospective purchasers and interest holders that construction activity has occurred on the property in contravention of a building bylaw. While this tool is intended alert prospective purchasers of problems associated with a property, it also has the effect of facilitating compliance - as it makes it more difficult for the owner to sell the property as purchasers, and the financial institutions that provide mortgage funding to those purchasers, are often reluctant to invest in a non-conforming property.

The two animal control bylaws listed above are also a regular source of bylaw enforcement activity, through the RDKB's two contracted animal control service providers - the BC SPCA in the east end and the Commissionaires in parts of the Boundary. The main enforcement tool available to animal control officers is the impoundment of animals and the fees associated with impoundment. As with other types of regulatory bylaws, the implementation of the Bylaw Dispute Adjudication System will provide animal control officers with a significantly improved bylaw enforcement tool, as they will be able to issue "bylaw notices" with the associated fines for a range of offenses identified in the animal control bylaws (eg, having a dog off leash in a public space, not picking up after a dog).

Most of the other RDKB regulatory bylaws listed above have very little enforcement demand. The Big White Noise Bylaw is the exception, as there are regularly noise complaints during the winter season at Big White. The RDKB's current community security contractor appears to have been fairly successful in achieving compliance with noisy occupiers of residences simply by notifying them of the noise bylaw and requesting compliance. A regular security presence and monitoring appears to be working, in most cases.

Potential Regulatory Bylaws

There a range of other regulatory bylaws that the RDKB may wish to consider adopting, if it is deemed that there is a need to regulate those issues. Many of these fall under Part 9, Division 6 of the Local Government Act - Noises, Nuisances, and Disturbances. For any of these issues to be regulated, the RDKB would first need to establish a service specifically for the control of those issues, as was done with the adoption of the Big White Noise Control Service Establishment Bylaw No 1386, 2008. Once a service establishment bylaw is adopted, the Regional District would have the authority to regulate and enforce bylaws enacted under that service. Typical bylaws would be noise control bylaws, unsightly premises bylaws, nuisance bylaws (controlling smoke, dust, odour, etc.), and fireworks bylaws. The assent of electors is required to establish any of these regulatory services. Once

a service establishment bylaw is adopted, the Board would then have to turn its attention to drafting and adopting a regulatory bylaw which, once adopted, would be enforceable.

The Bylaw Dispute Adjudication System as an Alternative Model of Bylaw Enforcement for the RDKB

Bylaw infractions are a common occurrence in any local government that enacts regulatory bylaws. Bylaw adjudication is an alternative to the Court-based model currently in place to enforce bylaw violations (e.g. long-form prosecution or injunctive proceedings). Through the *Local Government Bylaw Notice Enforcement Act*, bylaw adjudication provides a framework for a non-judicial system for local governments to deal with bylaw enforcement disputes. Under the Act, local governments may adopt a Bylaw Notice Enforcement Bylaw to establish a Bylaw Notice and Dispute Adjudication system which largely replaces the Provincial Court as a venue for resolving minor bylaw breaches and disputes.

Initiating formal court proceedings can be costly, and some municipalities choose to avoid these enforcement costs by abandoning enforcement if voluntary compliance is not forthcoming. The goal of the Bylaw Notice model is to create a simple, fair, and cost-effective system for dealing with minor bylaw infractions

There are a couple of key features of the Bylaw Notice Dispute Adjudication System:

1. It provides local government with authority to deal with bylaw contraventions by way of a bylaw. Authority is obtained from the Lieutenant Governor in Council.
2. It establishes the penalty as a debt owed to the local government.

There are three key components of the system:

- I) Bylaw Notices do not have to be delivered via personal service. The notice can be delivered via a "windshield" service, which allows delivery of the Bylaw Notice to be left on a vehicle, at a residence, or via Canada Post etc.
- II) A Screening Officer, who acts in a dispute resolution role facilitates compliance through various approaches and tools.
- III) Adjudications can be heard at arms-length by an "agent", in writing (including e-mail), in person, via telephone or via teleconference by experienced, professional Adjudicators who are appointed by the Attorney General. The Adjudicator bases decisions on a clearly written bylaw, whether or not a contravention did in fact occur and the balance of probability. The Adjudicator's decision is final and conclusive. Should the disputant still not pay the fine, the matter would be referred to a collection agency and should the fine not be collected for some reason by the collection agency, the debt would be registered as a lien against the disputant's property.

The enabling bylaw, the Bylaw Notice Enforcement Bylaw:

- designates the regulatory bylaws that may be dealt with by the Bylaw Notice,
- establishes penalties for violations,
- sets out staff positions for issuing a Bylaw Notice,
- establishes pay periods for violations,
- establishes a bylaw notice dispute adjudication system to resolve disputes, and

- establishes the position of Screening Officer, by class of person, powers, duties and functions, the power to enter into compliance agreements.

Summary - Benefits and Opportunities

In addition to the advantages noted above, further benefits of the Bylaw Enforcement Notice system for enforcing minor bylaw infractions include:

1. **Improved Service to Citizens:** The existing Court-based model is complicated, time consuming, costly and lengthy. Local governments that have adopted the Bylaw Notice Dispute Adjudication System have indicated that not only are citizens pleased with the flexibility of dispute scheduling (adjudication hearings may be held at various times of day in various locations), they see bylaw adjudication as being more credible and meaningful. Local governments that have implemented bylaw adjudication have found that the increased credibility leads to increased payment rates and reduced bylaw dispute rates (e.g. more people opt to pay without disputing).
2. **Increased Revenue and Operating Efficiencies:** Under this system, all penalties are due and payable upon receipt unless disputed. As such, the local government can proceed with the collection of all unpaid penalties, after specific steps are taken as defined by the *Local Government Bylaw Notice Enforcement Act* and the local government Bylaw Notice Enforcement Bylaw. Further, staff are not required to attend the adjudication hearings in person and therefore have more time to work on other projects and or daily operations.
3. **Disputes can be resolved in one to two months as opposed to six months or longer in the Courts.**
4. **Partnerships:** It is possible to partner with member municipalities, adjacent municipalities and or regional districts which may be using this model to share Screening Officers and adjudication hearings.
5. **RCMP:** It is also possible to include members of the RCMP with authority to issue the Bylaw Notices/tickets.

The Bylaw Dispute Adjudication System

Electoral Area Services Committee members have expressed an interest in improved bylaw enforcement. The Bylaw Dispute Adjudication System, when implemented, will provide the Regional District with a significantly improved tool for enforcing regulatory bylaws. But, the system will apply only to those regulatory bylaws that we currently have in place (above). If there is an interest in enacting additional regulatory bylaws that control noise, unsightly premises, and nuisances, the Board will be required to seek the assent of electors to adopt new service establishment bylaws relating to those new regulatory services.

The implementation of the Bylaw Dispute Adjudication System will provide significantly improved bylaw enforcement tool for all of the Regional District's regulatory services. The ability to issue bylaw notices, with the associated fines, will constitute a powerful bylaw enforcement tool. However, there

will need to be someone dedicated to coordinating the system (delivering notices, establishing timelines, acting as the screening officer, referring contested notices to an adjudicator, drafting compliance agreements, etc.).

2020 Work Plan Objectives Related to Bylaw Enforcement Coordinator Position


The objectives with respect to the Bylaw Enforcement Coordinator position in 2020 are as follows:

1. Include all costs associated with a new Bylaw Enforcement Coordinator in the Electoral Area Administration annual budget and five-year financial plan;
2. The Bylaw Enforcement Coordinator will take on the responsibilities that are currently being undertaken by Planning Department staff. The Bylaw Enforcement Coordinator will primarily be responsible for coordinating day-to-day bylaw enforcement activities currently undertaken by Planning Department staff; and
3. RDKB planning and administrative staff, with the assistance of the solicitors, will develop a Bylaw Dispute Adjudication System for the Regional District of Kootenay Boundary through the drafting of a "Bylaw Enforcement Notice and Dispute Adjudication System Bylaw", as well as the establishment of the associated bylaw notice, screening, and adjudication process. Once the system is established, the Bylaw Enforcement Coordinator will be responsible for coordinating the new system under the supervision of the Manager of Planning and Development, similarly to the process shown below.

Bylaw Notice Dispute Adjudication Process



Relationship to Board Priorities:

	<p>Cost Effective and Efficient Services – Having a dedicated bylaw enforcement resource within the organization will provide an opportunity for the RDKB to develop a Bylaw Notice Dispute Adjudication Process which offers a streamlined and more cost-effective approach to bylaw enforcement than court-directed approaches (i.e. seeking court injunctions)</p>
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Regional District of
Kootenay Boundary

REGIONAL DISTRICT OF KOOTENAY BOUNDARY

BYLAW NO.

WHEREAS pursuant to section 415(1) of the *Local Government Act* and the *Local Government Bylaw Notice Enforcement Act* and subsequent to Lieutenant Governor in Council enacting Order in Council No. 753, made under section 29 of *Local Government Bylaw Notice Enforcement Act* by adding the Regional District of Kootenay Boundary, the Regional Board of the Regional District of Kootenay Boundary may enforce the Local Government Bylaw Notice Enforcement Act;

AND WHEREAS, excerpts from the *Local Government Bylaw Notice Enforcement Act* and are included in this Bylaw for convenience, and this Bylaw is intended to reflect and implement the requirements contained in the *Local Government Bylaw Notice Enforcement Act*;

NOW THEREFORE the Regional District of Kootenay Boundary Board of Directors, in open and public meeting assembled, enacts the following:

1. Title

This Bylaw may be cited as Regional District of Kootenay Boundary' Bylaw Notice Enforcement Bylaw, _____, No. _____ or Bylaw Notice Enforcement Bylaw No. _____.

2. Definitions

In this Bylaw:

"Act" means the *Local Government Bylaw Notice Enforcement Act*, as amended or replaced from time to time.

"Bylaw Enforcement Officer" means those persons listed in section 10 of this Bylaw.

"Bylaw Notice" means a bylaw notice referred to in section 4 of the Act and issued under this Bylaw;

"Regional District" means the Regional District of Kootenay Boundary.

"Regional District Board" means the Regional District of Kootenay Boundary Board of Directors.

"Registry" means the Regional District Bylaw Notice Adjudication Registry established pursuant to this Bylaw.

"Screening Officer" means those persons listed in section 8 of this Bylaw.

"This Bylaw" means Regional District of Kootenay Boundary Bylaw Notice Enforcement Bylaw No. _____.

3. Terms

The terms in this Bylaw have the same meaning as the terms defined in the *Act*.

4. Bylaw Contraventions

The bylaws and bylaw contraventions designated in Schedule "A" attached to this Bylaw and forming part of this Bylaw may be enforced by Bylaw Notice in addition to and without limiting other enforcement options available to the Regional District under the *Local Government Act*, *Community Charter* and all other applicable legislation, including legislation referenced within the *Local Government Act* and *Community Charter*.

5. Offence and Penalty

(1) The penalty for a contravention referred to in section 4 is as follows:

- (a) Subject to subsection 5(1)(b) and 5(1)(c), the penalty amount set out in the "Penalty" column of Schedule "A";
- (b) If Received by the Regional District within 14 days of the person receiving or being presumed to have received the Bylaw Notice, the early payment reduced penalty set out in the "Early Payment Reduced Penalty" column of the Schedule "A";
- (c) If more than 28 days after the person received or being presumed to have received the Bylaw Notice, is subject to a late payment surcharge in addition to the penalty under subsection 5(1), and is set out in the "Late Payment Penalty" column of the Schedule "A"; and

(2) Each day that a contravention referred to in section 4 of this Bylaw continues or existed is deemed to be a separate and distinct offence.

6. Paying or Disputing a Bylaw Notice

(1) A Bylaw Notice may be delivered by any or more of the followings options:

- (a) delivery to the named person;
- (b) if the named person is a corporation or a business, by delivery of the bylaw notice to a director, manager or other executive officer of the corporation or business, or of a branch of it;
- (c) if the named person is an extraprovincial company as defined in the *Business Corporations Act*, by delivery of the bylaw notice to the attorney for the extraprovincial company; or
- (d) if the bylaw notice is in respect of a particular parcel of real property or an improvement on a particular parcel of real property, by delivery to a person who appears to be at least 16 years old at that parcel;

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- (e) by mailing a copy of the Bylaw Notice by any or more of the following options:
 - (i) if the Bylaw Notice is in respect of a contravention involving a vehicle, to the address for each registered owner of the vehicle as contained in the records of the government or a person responsible for maintaining records of vehicle registrations in British Columbia or in another province of Canada;
 - (ii) to the actual or last known address of the named person; or
 - (iii) if the named person is a corporation of a business to the registered office or head office as set out in the records of the Registrar of Companies; and
 - (f) if the Bylaw Notice is in respect of a parking contravention, by leaving the Bylaw Notice on the vehicle involved.
- (2) A Bylaw Notice delivered under section 6(b), (c) or (d), the bylaw notice is presumed to have been received by:
 - (a) the named person, if delivered personally, on the date of delivery; and,
 - (b) otherwise, on the 7th day after mailing.
 - (3) A Bylaw Notice delivered under section 6(e) is presumed to have been received by the person to whom it is addressed on the 7th day after mailing.
 - (4) A Bylaw Notice delivered under section 6(f) is presumed to have been received by each registered owner of the vehicle, as contained in the applicable records described under section 6(1)(e)(i), on the day it is left on the vehicle.
 - (5) A person who receives a Bylaw Notice, or their authorized agent, must, within 14 days of the date on which the person received or is presumed to have received the Bylaw Notice
 - (a) pay the penalty, or
 - (b) request dispute adjudication in strict accordance with the instructions within the Bylaw Notice.
 - (6) A person may pay the appropriate penalty after 14 days of receiving a Bylaw Notice [section 5 and Schedule "A"], but no person may dispute a Bylaw Notice after 14 days of receiving the Bylaw Notice.

7. Bylaw Notice Dispute Adjudication Registry

- (1) The Registry is established as bylaw notice dispute adjudication system in accordance with the Act to resolve disputes in relation to Bylaw Notices.
- (2) The civic address of the Registry is _____ (202-843

Rossland Avenue, Trail, BC V1R 4S8).

- (3) All processes, procedures, hearings and determinations will be in accordance with the Act. In the event of inconsistency between the Act and this Bylaw, the Act will apply to the extent of the inconsistency.
- (4) The Registry will administer the dispute adjudication system. A bylaw notice adjudicator will hear disputes in the circumstance prescribed in the Act and authorizing bylaws.
- (5) The Regional District will enter into a contract with the Attorney General to provide an adjudicator from the provincial roster of adjudicators who will be assigned to individual disputes in the manner prescribed by the Bylaw Notice Enforcement Regulation and regulations under the Act, as may be amended from time to time.
- (6) Every person who is unsuccessful in a dispute adjudication in relation to a bylaw notice or a compliance agreement under the dispute adjudication system established under this section must pay the Registry an additional fee of \$25 for the purpose of recovering the costs of the adjudication system.

8. Screening Officers

- (1) The position of Screening Officer is established.
- (2) The following are designated classes of persons that may be appointed by the Regional District Board as Screening Officers:
 - (a) Chief Administrative Officer;
 - (b) Manager of Corporate Administration;
 - (c) General Manager of Operations;
 - (d) Manager of Planning and Development;
 - (e) Manager of Building Inspection;
 - (f) General Manager of Environmental Services;
 - (g) Senior Planner;
 - (h) Planner;
 - (i) Fire Chief; and
 - (j) Any other person appointed by the Regional District Board as a screening officer from time to time.

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- (3) The Screening Officer reviewing the Bylaw Notice must be a different person from the Bylaw Enforcement Officer who issued that Bylaw Notice.

9. Powers and Duties of Screening Officers

The powers, duties and functions of screening officers are as set out in the Act and include the following powers:

- (a) Where requested by the person again whom a contravention is alleged, communicate information respecting the nature of the contravention, the provision of the bylaw contravened, the facts on which the contravention allegation is based, the penalty for a contravention, the opportunity to enter into a compliance agreement, the opportunity to proceed to the bylaw notice dispute adjudication system and the fee or fees payable in relation to the bylaw notice enforcement process;
- (b) To communicate with any of the following for the purpose of performing their functions under this Bylaw or the Act:
 - (i) The person against whom a contravention is alleged or his or her representative;
 - (ii) The officer issuing the Bylaw Notice;
 - (iii) The complainant or his or her representative;
 - (iv) The Regional District's staff and records regarding the disputant's history of bylaw compliance;
- (c) To prepare and enter into the Compliance Agreement for a maximum duration of one year and in substantially in the format as set out in Schedule "B" attached to and forming part of this Bylaw; and
- (d) To cancel Bylaw Notices in accordance with the Act or Regional District policies and guidelines.

Local Government Bylaw Notice Enforcement Act Excerpts Included for Convenience – Screening Officers and Compliance Agreements

Screening officer

- 10 (1) If a local government establishes a screening officer position and appoints a screening officer, a bylaw notice issued to enforce a bylaw of the local government must be reviewed by the screening officer before a dispute adjudication in respect of the bylaw notice may be scheduled.
- (2) A screening officer, after reviewing a bylaw notice, may
- (a) cancel the notice if, in the screening officer's opinion,
 - (i) the contravention did not occur as alleged,
 - (ii) the bylaw notice does not comply with section 4 (4) [bylaw notice — required information], or
 - (iii) a ground for cancellation authorized by the local government is satisfied,
 - (b) confirm the bylaw notice and refer it to an adjudicator unless the request for dispute adjudication is withdrawn, or
 - (c) if authorized by bylaw, enter into a compliance agreement with the person.

Compliance agreements

- 11 (1) A person who enters into a compliance agreement with a screening officer is conclusively deemed to have accepted liability for the contravention as alleged in the bylaw notice.
- (2) A compliance agreement must set out the amount of any reduction authorized by a bylaw under section 2 (3)

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(d) [application of Act] and may include the terms and conditions the screening officer considers necessary or advisable.

(3) A local government that authorizes compliance agreements must establish the maximum duration of compliance agreements by bylaw under section 2 (3) (c) [application of Act].

Effect of compliance agreement

12 (1) If a person who has received a bylaw notice

(a) enters into a compliance agreement with a screening officer in respect of the contravention alleged in the notice, and

(b) observes or performs all the terms of the compliance agreement, the amount of the penalty set out in the bylaw notice is deemed to have been paid.

(2) If, in the opinion of the screening officer, a person who has entered into a compliance agreement breaches a term of the agreement or otherwise fails to observe or perform the terms of the compliance agreement, the screening officer may rescind the agreement.

10. Bylaw Enforcement Officers

Persons acting as any of the following are designated as Bylaw Enforcement Officers for the purposes of this Bylaw and the Act:

- (a) Special constables, officers, members or constables of:
 - (i) The provincial police force as defined in section 1 of the *Police Act*, or
 - (ii) A municipal police force;
 - (iii) Members of the Royal Canadian Mounted Police;
- (b) Local Assistants to the Fire Commissioner under the *Fire Services Act*; and
- (c) Bylaw enforcement officers, building inspectors, animal control officers, planners or other persons acting in another capacity on behalf of the Regional District for the purpose of enforcement of one or more of the Regional District's bylaws.

11. Form of Bylaw Notice

The Regional District may from time to time provide for the form or forms of the Bylaw Notice, provided the Bylaw Notice complies with section 4 of the Act.

12. Severability

If any portion of this Bylaw is held to be invalid by a court of competent jurisdiction, then the invalid portion must be severed and the remainder of this Bylaw is deemed to have been adopted with the severed section, subsection, paragraph, subparagraph, clause or phrase, and such invalidity will not affect the validity of the remaining portions of this Bylaw.

13. Citation

This Bylaw may be cited as Regional District of Kootenay Boundary Bylaw Notice Enforcement Bylaw No. _____ or Bylaw Notice Enforcement Bylaw No. _____.

7

READ A FIRST, SECOND AND THIRD TIME this ____ day of _____, 2020.

RECONSIDERED AND ADOPTED this ____ day of _____, 2020.

Manager of Corporate Administration

I, Theresa Lenardon, Manager of Corporate Administration of the Regional District of Kootenay Boundary, hereby certify that this is a true and correct copy of Bylaw No. _____, cited as "Regional District of Kootenay Boundary Bylaw Notice Enforcement Bylaw No. _____" as reconsidered and adopted by the Regional District of Kootenay Boundary Board of Directors this ____ day of _____, 2020.

Chair

Manager of Corporate Administration

DRAFT

Schedule “A” – Appendices Index
DESIGNATED BYLAW CONTRAVENTIONS AND PENALTIES

Appendix	Bylaw
1	Electoral Area ‘A’ Zoning Bylaw No. 1460, 2014
2	Electoral Area ‘B’ Zoning Bylaw No. 1540, 2015
3	Electoral Area “C” Zoning Bylaw No. 1300, 2007
4	Electoral Area ‘D’/Rural Grand Forks Zoning Bylaw No. 1299, 2005
5	Electoral Area ‘E’/Big White Ski Resort Zoning Bylaw No. 1166, 2001
6	Electoral Area “E’/Mount Baldy Ski Resort Zoning Bylaw No. 1340, 2010
7	Electoral Area ‘E’/Jewel Lake Zoning Bylaw No. 855, 1995
8	Electoral Area ‘E’/Bridenville Townsite Rural Land Use Bylaw No. 1485, 2012
9	Regional District of Kootenay Boundary Floodplain Management Bylaw No. 677, 1995
10	Regional District of Kootenay Boundary Building and Plumbing Bylaw No. 449, 1985
11	Regional District of Kootenay Boundary Electoral Area ‘A’ and ‘B’ Dog Control and Licensing Bylaw No. 1117, 2000
12	Regional District of Kootenay Boundary Animal Control Bylaw No. 1550, 2014
13	Big White Noise Control Bylaw No. 1431, 2009
14	Regional District of Kootenay Boundary Mobile Home Park Bylaw No. 97, 1975
15	Solid Waste Management Facilities Regulatory Bylaw No. 1605, 2016

Schedule "A" APPENDIX "1" Electoral Area 'A' Zoning Bylaw No. 1460, 2014				
Section	Description	Penalty Amount	Early Payment Reduced Penalty	Late Penalty Payment
202 and 402(1), 402(2), 403(1), 403(2), 404(1), 404(2), 405(1), 405(2), 406(1), 406(2), 407(1), 407(2), 408(1), 408(2), 409(1), 409(2), 410(1), 410(2), 411(1), 411(2), 412(1), 412(2), 413(1), 413(2), 414(1), 414(2), 415(1), 415(2), 416(1), 416(2), 417(1), 417(2), 418(1), 418(2), 419(1), 419(2), 420(1), 420(2), 421(1), 421(2), 422(1), 422(2), 423(1), 423(2), 424(1) or 424(2)	Unlawful Use of Land, Building, or Structure	\$200	\$175	\$275
		\$400	\$375	\$475
303(3)	Unlawful Storage of Derelict Vehicle	\$200	\$175	\$275
		\$400	\$375	\$475
303(4)	Unlawful Residential Occupancy	\$200	\$175	\$275
		\$400	\$375	\$475

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Schedule "A" APPENDIX "1" Electoral Area 'A' Zoning Bylaw No. 1460				
Section	Description	Penalty Amount	Early Payment Reduced Penalty	Late Penalty Payment
303(5)	Unlawful Cannabis Retail Store	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
303(6)	Unlawful Cannabis Production Bunker	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
304	Unlawful Secondary Suites	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
305	Unlawful Home-Based Business	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "1" Electoral Area 'A' Zoning Bylaw No. 1460				
Section	Description	Penalty Amount	Early Payment Reduced Penalty	Late Penalty Payment
411(4), 412(6), 413(7), 415(7), 416(7), 417(7), 418(6), 419(5), 420(6), 421(5), 422(5)	Exceeds Number of Dwelling Units	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
402(4), 403(4), 404(5), 406(4), 407(4)(a), 408(4)(a), 409(4)(a),	1 st & 2 nd Offence	\$200	\$175	\$275
	3 rd & Subsequent Offence	\$400	\$375	\$475
402(5), 403(6)	Exceeds Minimum Dwelling Width	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "1" Electoral Area 'A' Zoning Bylaw No. 1460				
Section	Description	Penalty Amount	Early Payment Reduced Penalty	Late Penalty Payment
408(4)(b), 409(4)(b), 410(4)(a),	Exceed Number of Bedrooms for a Bed and Breakfast	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
408(4)(c), 409(4)(c)	Exceeds Number of Guest Cabins	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
412(4), 413(4), 414(4), 415(4), 416(4), 417(4), 418(4), 419(3)	Exceeds Maximum Site/Lot coverage	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "1" Electoral Area 'A' Zoning Bylaw No. 1460				
Section	Description	Penalty Amount	Early Payment Reduced Penalty	Late Penalty Payment
307 and 402(5), 403(5), 404(5), 406(5), 407(5), 409(5), 410(5), 411(5), 412(5), 413(5), 414(5), 415(5), 416(5), 417(5), 418(5), 419(4), 420(5), 421(3), 422(3), 423(4), or 424(3)	Unlawful Sited Building or Structure	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
308	Unlawful Sited Pit Privies	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
309(a) and 407(4), 412(7), 413(6), 415(6), 416(5), 421(4) or 424(5)	Unlawful Height Building or Structure	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
313	Visibility at Intersection Obstructed	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "1" Electoral Area 'A' Zoning Bylaw No. 1460				
Section	Description	Penalty Amount	Early Payment Reduced Penalty	Late Penalty Payment
314	Unlawful Fence	\$200	\$175	\$275
	1 st & 2 nd Offence			
	3 rd & Subsequent Offence	\$400	\$375	\$475
315 and 412(8), 414(7), 415(9), 416(9), 417(9), 418(7), 419(6)	Unlawful Screening	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
316	Unlawful Sign	\$200	\$175	\$275
	1 st & 2 nd Offence			
	3 rd & Subsequent Offence	\$400	\$375	\$475
412(9), 413(9), 415(8)(c), 416(8)(c), 417(8)(c)	Sign Exceeding Visible Surface Area	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
415(8(a), 416(8)(b), 417(8)(a)	Exceeding Number of Free-Standing Sign	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "1" Electoral Area 'A' Zoning Bylaw No. 1460				
Section	Description	Penalty Amount	Early Payment Reduced Penalty	Late Penalty Payment
415(8)(b), 416(a), 417(8)(b)	Exceeding Number of Fascia Signs	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
414(8)	Unlawful Ore Storage	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
317 and 402(7), 403(7), 405(6), 406(6), 408(6), 409(6), 410(6), 411(6), 412(10), 413(9), 414(9), 415(10), 416(9), 417(10), 418(8), 419(7), 420(7), 421(6), 422(6), 423(5) or 424(7)	Unlawful Parking	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "2" Electoral Area 'B' Zoning Bylaw No. 1540, 2015				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
202, 302 and 602(1), 602(2), 603(1), 603(2), 604(1), 604(2), 605(1), 605(2), 605(3), 605(4), 606(1), 606(2), 607(1), 607(2), 608(1), 608(2), 609(1), 609(2), 610(1), 610(2), 611(1), 611(2), 612(1), 612(2), 613(1), 613(2), 614(1), 614(2), 615(1), 615(2), 616(1), 616(2), 617(1), 617(2), 618(1), 618(2), 618A(1), 618A(2), 619(1), 619(2), 620(1), 620(2), 621(1), 621(2), 622(1), 622(2), 623(1), 623(2), 624(1), 624(2), 625(1), 625(2), 627(1), 627(2), 628(1), 628(2)	Unlawful Use of Land, Building, Structure	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
302(1)(e)	Unlawful Storage of Derelict Vehicle	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475

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Schedule "A" APPENDIX "2" Electoral Area 'B' Zoning Bylaw No. 1540, 2015				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
302(1)(f)	Unlawful Residential Occupancy	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
302(1)(g)	Unlawful Cannabis Cultivation or Cannabis Retail Store	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
302(1)(h)	Unlawful Cannabis Production Bunker	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
602(7), 603(6), 605(8), 606(5), 607(5), 608(5), 609(5), 610(5), 611(4), 612(5), 613(5), 614(5), 615(5), 616(4), 617(5), 618(5), 618A(5), 619(5), 620(5), 621(5), 622(5), 623(5), 624(5), 625(4), 627(4), 628(5)	Unlawful Sited Building or Structure	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475

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Schedule "A" APPENDIX "2" Electoral Area 'B' Zoning Bylaw No. 1540, 2015				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
303(3)	Unlawful Sited Pit Privy	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
303(5)	Visibility at Intersection Obstructed	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
304(1) and 602(9), 603(8), 605(10), 606(7), 607(7), 608(7), 624(3), 625(4), 626(5), 627(6)	Unlawful Height of Building or Structure	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
304(3) and 602(6), 603(6)	Unlawful Dwelling Width	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
305(2) and 602(5), 603(4), 605(7), 606(4), 607(4), 608(4), 609(4), 610(4), 612(4), 613(4), 614(4), 615(4), 618A(4)	Exceeds Number of Single Family Dwelling and Secondary Suites	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475

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Schedule "A" APPENDIX "2" Electoral Area 'B' Zoning Bylaw No. 1540, 2015				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
305(2) and 618A(4)	Exceeds Number of Guest Cabins and Dormitory Space for Guests Within Retreat Campground	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
305(2) and 605(6), 620(4)(a), 621(4)(a), 622(4)(a), 623(4)(a), 624(4)(a), 626(3)	Exceeds Number of Dwelling Units	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
620(4)(b), 621(4)(b), 622(4)(b), 623(4)(b), 624(4)(b)	Gross Floor Area of Dwelling Unit Exceeded	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
306(2)	Unlawful Frontage	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
401	Unlawful Home- Based Business	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "2" Electoral Area 'B' Zoning Bylaw No. 1540, 2015				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
402 and 605(11)	Unlawful Secondary Suites	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
605(13)	Unlawful Common Storage and Maintenance Facility	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
403	Bed and Breakfast Operating Unlawfully	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
404 and 618(7), 618A(8), 619(7), 620(7), 621(7)	Unlawful Screening and Fencing	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
405	Unlawful Sign	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent			

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	Offence			
Schedule "A" APPENDIX "2" Electoral Area 'B' Zoning Bylaw No. 1540, 2015				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
Part 5 and section 602(11), 603(9), 604(10), 605(14), 606(8), 607(8), 608(8), 609(7), 610(7), 611(6), 612(7), 613(7), 614(7), 615(7), 616(6), 617(7), 618(8), 619(8), 620(8), 621(7), 622(7), 623(7), 624(7), 625(6), 626(6), 627(7), 628(7)	Unlawful Parking or Off-Street Loading	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
602(10), 603(10)	Unlawful Large Vehicle and Recreational Vehicle Parking	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

Schedule "A" APPENDIX "3" Electoral Area "C" Zoning Bylaw No. 1300, 2007				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
202, 303 and 402(1), 402(2), 402A(1), 402A(2), 403(1), 403(2), 404(1), 404(2), 405(1), 405(2), 406(1), 406(2), 407(1), 407(2), 407(3), 408(1), 408(2), 409(1), 409(2), 410(1), 410(2), 411(1), 411(2), 411A(1), 411A(2), 412(1), 412(2), 413(1), 413(2), 414(1), 414(2), 415(1), 415(2), 416(1), 416(2), 417(1), 417(2), 418(1), 418(2), 419(1), 419(2), 420(1), 420(2), 421(1), 421(2), 422(1), 422(1), 422(2), 423(1), 423(2), 424(1), 424(2)	Unlawful Use of Land, Building or Structure	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
303(4)	Unlawful Unloading, Loading or Storage of Hazardous Wastes or Products 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200 \$400	\$175 \$375	\$275 \$475

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Schedule "A" APPENDIX "3" Electoral Area "C" Zoning Bylaw No. 1300, 2007				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
419(9)	Unlawful Discharge of Hazardous Waste	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
303(5)	Unlawful Storage of Prohibited Goods	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
411(8), 411A(8), 412(8), 413(8), 414(8), 417(9)	Unlawful Outdoor Storage Area	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
303(6), 418(3)	Unlawful Junkyard or Wrecking, Salvage or Storage of Derelict Vehicle	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475

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Schedule "A" APPENDIX "3" Electoral Area "C" Zoning Bylaw No. 1300, 2007				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
303(7)	Unlawful Occupancy for Commercial Purposes	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
303(8)	Unlawful Residential Occupancy of Houseboats and Floating Homes	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
303(9)	Unlawful Houseboat Storage	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
305 and 402(8), 402A(8), 403(8), 404(8), 405(7), 406(15), 407(5), 408(7), 411(7), 411A(7), 412(7), 413(7), 414(7), 415(8), 416(7), 417(8), 418(7), 419(8), 420(4), 422(4), 423(6), 424(6)	Unlawful Height Building or Structure	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475

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Schedule "A" APPENDIX "3" Electoral Area "C" Zoning Bylaw No. 1300, 2007				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
402(5), 402A(5), 403(4), 404(5), 406(8)	Unlawful Building Width	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
405(8)	Unlawful Gross Floor Area for a Dwelling Unit	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
412(6)	Exceeds Gross Floor Area for Motel	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
406(3), 406(7), 411(4), 411A(4), 412(4), 413(4), 414(4), 415(4), 416(4), 417(4), 419(5), 420(5)	Exceed Number of Dwelling Units	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
402(4), 402A(4), 403(4), 404(4), 405(4), 407(4), 408(4)(a), 408(4)(b), 408(4)(c), 409(4)	Exceeds Number of Single Family Dwellings, Secondary Suites, Sleeping Quarters	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd &			

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	Subsequent Offence			
Schedule "A" APPENDIX "3" Electoral Area "C" Zoning Bylaw No. 1300, 2007				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
414(9), 415(5)(a), 417(5)(b)	Exceeds Number of Recreational Vehicles, Camp Sites or Cabins	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
415(5)	Unlawful Resort Campground	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
406(9)	Unlawful Recreation Centre	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
402(6), 402A(6), 403(6), 404(6), 405(5), 406(10), 406(11), 408(5), 409(5), 411(6), 411A(6), 412(6), 413(6), 414(6), 415(7), 416(6), 417(7), 418(6), 419(7), 420(3), 422(3), 423(5), 424(5)	Unlawful Siting of Building or Structure	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "3" Electoral Area "C" Zoning Bylaw No. 1300, 2007				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
402(7), 402A(7), 403(7), 404(7), 405(6), 406(5), 408(6), 409(6), 411(5), 411A(5), 413(5), 416(5), 417(6), 418(5), 419(6), 423(4)	Exceed Parcel Coverage	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
408(8)	Exceeds Animal Restrictions	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
406(13)	Unlawful Storage	\$200	\$175	\$275
	1 st & 2 nd Offence			
	3 rd & Subsequent Offence	\$400	\$375	\$475
406(14)	Failure to Include Recreation Area	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
309	Unlawful Home- Based Business	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
310	Unlawful Bed and Breakfast or Boarding	\$200	\$175	\$275

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	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
Schedule "A" APPENDIX "3" Electoral Area "C" Zoning Bylaw No. 1300, 2007				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
312	Unlawful Use of Property for Community Sewer System	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
312	Insufficient Setback from Bodies of Water	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
313	Unlawful Sited Pit Privie	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
314	Unlawful Siting, Encroachment into Crown Foreshore	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
316	Visibility at Intersection	\$200	\$175	\$275

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	Obstructed 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
Schedule "A" APPENDIX "3" Electoral Area "C" Zoning Bylaw No. 1300, 2007				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
317, 406(12)	Unlawful Landscape Screen 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200 \$400	\$175 \$375	\$275 \$475
318 and 402(9), 402A(9), 403(9), 404(9), 405(9), 406(16), 407(6), 408(9), 409(8), 410(4), 411(9), 411A(10), 412(9), 413(9), 414(10), 415(9), 416(8), 417(10), 418(8), 419(10), 422(5), 423(7), 424(7)	Unlawful Sign 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200 \$400	\$175 \$375	\$275 \$475
319 and 402(10), 402A(10), 403(10), 404(10), 405(10), 406(17), 408(10), 409(9), 410(4), 411(10), 411A(10), 412(10),	Unlawful Parking 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200 \$400	\$175 \$375	\$275 \$475

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	1 st & 2 nd Offence 3 rd & Subsequent Offence			
324, 408(4)(d)	Unlawful Secondary Suite 1 st & 2 nd Offence	\$200	\$175	\$275
	3 rd & Subsequent Offence	\$400	\$375	\$475

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Schedule "A" APPENDIX "4" Electoral Area 'D'/Rural Grand Forks Zoning Bylaw No. 1299, 2005				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
202, 301(1)(a) and 602(1), 602(2), 603(1), 603(2), 604(2), 604(3), 605(1), 605(2), 605(8)(a), 606(1), 606(2), 607(1), 607(2), 608(1), 608(2), 609(1), 609(2), 610(1), 610(2), 611(1), 611(2), 612(1), 612(2), 613(1), 613(2), 614(1), 614(2), 615(1), 615(2), 616(1), 616(2), 617(1), 617(2), 618(1), 618(2), 619(1), 619(2), 620(1), 620(2), 621(1), 621(2), 622(1), 622(2), 623(1), 623(2), 624(1), 624(2), 624(1), 624(2), 625(1), 625(2)	Unlawful Use of Land, Building or Structure	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
301(1)(e)	3 rd & Subsequent Offence			
	Unlawful Storage of Derelict Vehicles	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "4" Electoral Area 'D'/Rural Grand Forks Zoning Bylaw No. 1299, 2005				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
301(f)	Unlawful Residential Occupancy	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
301(g)	Unlawful Unloading, Storage and Loading of Special Wastes and Hazardous Wastes	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
302(1), 302(2), 602(5), 603(5), 604(7), 605(5), 606(5), 607(5), 608(5), 609(5), 610(5), 611(5), 612(5), 613(4), 614(4), 615(5), 616(5), 616(5), 617(5), 618(6), 619(6), 620(5), 622(3), 623(5), 624(3), 625(5)	Unlawful Siting of Building or Structure	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
617(7)	Unlawful Siting of Outdoor Storage	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent			

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	Offence			
Schedule "A" APPENDIX "4" Electoral Area 'D'/Rural Grand Forks Zoning Bylaw No. 1299, 2005				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
602(6), 603(6), 605(6), 606(5), 606(6), 607(6), 608(6), 609(6), 610(6), 611(6), 612(6), 613(5), 615(6), 616(6), 617(6), 618(5), 619(5), 620(6), 625(6)	Exceeds Parcel Coverage 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200 \$400	\$175 \$375	\$275 \$475
302(3)	Unlawful Sited Pit Privie 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200 \$400	\$175 \$375	\$275 \$475
302(5)	Visibility at Intersection Obstructed 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200 \$400	\$175 \$375	\$275 \$475
303 and 602(7), 603(7), 605(7), 624(5)	Unlawful Height or Width of Building or Structure 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200 \$400	\$175 \$375	\$275 \$475

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Schedule "A" APPENDIX "4" Electoral Area 'D'/Rural Grand Forks Zoning Bylaw No. 1299, 2005				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
304 and 602(5), 603(4), 604(6), 606(4), 606(4), 607(4), 608(4), 609(4), 610(4), 611(4), 612(4), 615(4), 616(4), 617(4), 618(4), 619(4), 620(4), 621(4), 623(3)	Exceeds Number of Secondary Suites, Single	\$200	\$175	\$275
	Family Dwellings, Manufactured Home, Season Farm Labour Dwelling or Convenience Store	\$400	\$375	\$475
	1 st & 2 nd Offence 3 rd & Subsequent Offence			
625(4)	Exceeds Number of Units for Community Care Facility	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
605(8)(b)	Exceeds Animal Unit Restrictions	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
305(1)	Unlawful Parcel Area	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "4" Electoral Area 'D'/Rural Grand Forks Zoning Bylaw No. 1299, 2005				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
401	Unlawful Home-Based Business	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
402	Unlawful Secondary Suite	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
403	Unlawful Bed and Breakfast and Boarding	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
404	Unlawful Campground	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
405	Unlawful Guest Ranch Density	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
406	Unlawful Seasonal Farm Labour Dwelling	\$200	\$175	\$275

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	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
Schedule "A" APPENDIX "4" Electoral Area 'D'/Rural Grand Forks Zoning Bylaw No. 1299, 2005				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
407, 616(7), 617(8), 618(7), 619(7)	Unlawful Screening and Fencing	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
408	Unlawful Sign	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
Part 5 and 602(8), 603(8), 604(8), 605(9), 606(7), 607(7), 608(7), 609(7), 610(7), 611(7), 612(7), 613(6), 615(7), 616(8), 617(9), 618(8)(a), 619(8), 620(7), 621(5), 623(6), 624(6), 625(7)	Unlawful Parking or Off-Street Loading	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
618(8)(b)	Failure to Surface Off- Street Parking and Loading and Storage Area with Clean Gravel	\$200	\$175	\$275
		\$400	\$375	\$475

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Schedule "A"- APPENDIX "5"				
Electoral Area 'E'/Big White Ski Resort Zoning Bylaw No. 1166, 2001				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
202 and 402(1), 402(2), 402A(1), 402A(2), 403(1), 403(2), 403A(1), 403A(2), 404(2), 404A(2), 405(2), 406(2), 406A(2), 406B(1), 406B(2), 407(2), 407A(2), 408(2), 409(2), 410(2), 411(2), 411A(2), 412(2)	Unlawful Use of Land, Building or Structure	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
303(b), 303(c), 402(7), 402A(7), 403(6), 403A(6), 404(6), 404A(6), 405(5), 406(6), 406A(8), 406(6), 406A(8), 406B(6), 407(5), 407(7), 407A(5), 408(6) 409(6), 410(5), 411(5), 411A(5), 412(4)	Unlawful Siting of Building and Structures	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
320	Unlawful Setback Adjacent to Publicly Owned Ski Trail	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
402(9), 402A(9), 403(8), 403A(9), 404(8), 404A(8), 405(7), 406(8), 406A(9), 406B(8), 407A(7), 408(7), 409(7), 411(6), 412(6)	Unlawful Height of Building or Structure	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "5" Electoral Area 'E'/Big White Ski Resort Zoning Bylaw No. 1166, 2001				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
402(8), 402A(8), 403(7), 403A(7), 404(7), 404A(7), 405(6), 406(5), 406A(6), 406B(5), 407(6), 407A(6), 408(6), 409(6), 411(4), 411A(4), 412(5)	Exceeds Parcel Coverage	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
304	Unlawful Height of Radio, Television Antennas, Monuments, Chimney Stacks, Flag Poles, Lighting Poles, and Elevator Shafts	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
305	Unlawful Home Occupation Use	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
308	Visibility at Intersection Obstructed	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475

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Schedule "A" APPENDIX "5" Electoral Area 'E'/Big White Ski Resort Zoning Bylaw No. 1166, 2001				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
309	Unlawful Screening and Closed Fencing	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
310	Unlawful Junkyard, Wrecking or Storage of Derelict Vehicle	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
311	Unlawful Bed and Breakfast or Boarding	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
312	Unlawful Floor Area	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "5" Electoral Area 'E'/Big White Ski Resort Zoning Bylaw No. 1166, 2001				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
314	Unlawful Sign	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
315(1)	Unlawful Residential Occupancy	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
315(2)	Unlawful Accessory Building or Structure	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
402(5), 402A(5), 403(5), 403A(5), 406A(5)(a), 406(5)(c), 406A(7), 408(3)	Exceeding Number of Buildings, Guest Rooms, Dwelling Units, Habitation Units or Single Family Dwellings	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475

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Schedule "A" APPENDIX "5" Electoral Area 'E'/Big White Ski Resort Zoning Bylaw No. 1166, 2001				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
406B(9)(1)	Exceeds Area of Dwelling Unit of Multi Family Dwelling 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475
402(11), 402A(11), 403(11), 403A(11)	Exceeding Number of Bedrooms or Sleeping Units for Bed and Breakfast or Lodgers 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475
406A(5)(d)	Exceeding Number of Seats in Eating and Drinking Establishment 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475

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Schedule "A" APPENDIX "5" Electoral Area 'E'/Big White Ski Resort Zoning Bylaw No. 1166, 2001				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
406(5)(e)	Exceeding Number of Seats in Neighbourhood Pub	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
402(6), 402A(6)	Unlawful Dwelling Unit or Accessory Unit Building on a Common Lot Access	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
406A(5)(a)	Exceeds Number of Guest Rooms for a Hotel, Motel or Motor Inn	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "5" Electoral Area 'E'/Big White Ski Resort Zoning Bylaw No. 1166, 2001				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
409(5)(a)	Exceeding Number of Guest Bedrooms in a Pension	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
409(5)(b)	Exceeding Number of Beds within a Pension Bedroom	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
409(5)(c)	Exceeding Number of Seats in Pension Restaurant	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
409(5)(d)	Exceeding Occupancy Rating for Pension Drinking Establishment	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475

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Schedule "A" APPENDIX "5" Electoral Area 'E'/Big White Ski Resort Zoning Bylaw No. 1166, 2001				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
316	Failure to Connect to Community Water System and Community Sewer System 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475
317 and 402(11), 402(12), 402A(12), 403(12), 403A(13), 404(12), 404A(12), 405(12), 406(9), 406A(10), 406B(11)(1), 407(8), 407A(8)(a), 408(8), 409(8), 410(6), 411(7), 411A(7), 412(7)	Unlawful Parking 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475
318 and 404(12), 404A(12), 406(9), 406A(10), 406B(11)(2), 407(9), 408(8), 409(8), 410(6), 411(7), 411A(7)	Unlawful Off-street Loading Facilities 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475

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Schedule "A" APPENDIX "6" Electoral Area 'E'/Mount Baldy Ski Resort Zoning Bylaw No. 1340, 2010				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
202, 303 and 304(b), 402(1), 402(2), 403(1), 403(2), 404(1), 404(2), 405(1), 405(2), 406(1), 406(2), 407(1), 407(2), 407A(1), 407A(2), 408(1), 408(2), 409(1), 409(2), 410(1), 410(2)	Unlawful Use of Land, Building or Structure 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475
402(5), 403(7), 404(7), 405(6), 406(5), 407(6), 407A(5), 408(4), 409(5)	Unlawful Siting of Building or Structure 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475
402(7), 403(9) 404(9), 405(8), 406(7), 407(7), 407A(6), 408(5), 409(6), 410(6)	Unlawful Height of Building or Structure 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475

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Schedule "A" APPENDIX "6" Electoral Area 'E'/Mount Baldy Ski Resort Zoning Bylaw No. 1340, 2010				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
305(b)	Unlawful Height of Radio, Television Antennas, Monuments, Chimney Stacks, Flag Poles, Lighting Poles, Elevator Shafts and Towers for Ski Lifts and Recreational Infrastructure	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
402(6), 403(8), 404(7), 405(5), 406(6), 407(5), 407A(4), 409(4), 410(4)	Exceeds Parcel Coverage	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
308	Unlawful Floor Area	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
309	Unlawful Bed and Breakfast and Boarding	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "6" Electoral Area 'E'/Mount Baldy Ski Resort Zoning Bylaw No. 1340, 2010				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
310	Unlawful Home-Based Business	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
311	Visibility at Intersection Obstructed	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
312	Unlawful Fencing	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
313, 402(8)	Unlawful Sign	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
402(4), 403(5), 404(5)	Exceeding Number of Dwelling Units, Single Family Dwelling or Two Family Dwelling	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "6" Electoral Area 'E'/Mount Baldy Ski Resort Zoning Bylaw No. 1340, 2010				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
403(6)(a), 403(6)(b), 404(6)(a), 404(6)(b)	Exceeds Area of Dwelling Unit	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
314	Failure to Connect to Community Water System and Community Sewer System	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
315 and 403(11), 404(11), 405(9), 406(8), 407(8), 407A(7), 408(6), 409(7), 410(7)	Unlawful Parking	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
316 and 405(9), 406(8), 407(8), 408(6), 409(7), 410(7)	Unlawful Off- Street Loading	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "7" Electoral Area 'E'/Jewel Lake Zoning Bylaw No. 855, 1995				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
5.2.3 and 7.1 8.1, 9.1, 10.1, 11.1, 12.1, 13.1, 14.1, 15.1	Unlawful Use of Land, Building or Structure	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
5.2A	Unlawful Cannabis Cultivation, Cannabis Retail Store and Cannabis Bunker	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
5.3	Unlawful Home Occupation	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
8.4, 9.4, 10.4, 12.3, 14.4	Unlawful Siting of Building or Structure	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "7" Electoral Area 'E'/Jewel Lake Zoning Bylaw No. 855, 1995				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
5.6	Unlawful Siting of Building or Structure to Natural Boundary of Jewel Lake 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475
8.6, 9.6, 10.6, 11.4, 12.5	Unlawful Height of Building or Structure 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475
8.5, 9.5, 10.5, 12.4	Exceeds Parcel Coverage 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475
8.3, 9.3, 10.3, 11.3, 14.3	Exceeds Number of Dwelling Units 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475

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Schedule "A" APPENDIX "7" Electoral Area 'E'/Jewel Lake Zoning Bylaw No. 855, 1995				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
5.10	Unlawful Screening and Fencing	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
5.11	Unlawful Junkyard or Dismantling, Wrecking or Storage of Derelict Vehicle	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
5.12	Unlawful Borders and Lodgers	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "8" Electoral Area 'E'/Bridestown Rural Land Use Bylaw No. 1485, 2012				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
3.1.2, 3.2.3 and 3.3.1.1, 3.3.1.2, 3.3.2.1, 3.3.2.2, 3.3.3.1, 3.3.3.2, 3.3.3A.1, 3.3.4.1, 3.3.4.2	Unlawful Use of Land, Building or Structure	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
3.3.16, 3.3.2.6, 3.3.3.5, 3.3.3A.2, 3.3.3A.5, 3.3.4.4	Unlawful Siting of Building or Structure	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$374	\$475
3.2.4	Unlawful Home Occupation	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
3.3.1.4, 3.3.2.4, 3.3.3.4, 3.3.3A.4	Exceeds Number of Single Family Dwellings or Dwellings	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475

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Schedule "A" APPENDIX "8" Electoral Area 'E'/Bridestown Rural Land Use Bylaw No. 1485, 2012				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
3.3.1.5, 3.3.2.5	Unlawful Keeping of Roosters and Number of Animals	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475
3.2.6, 3.3.3.6, 3.3.3A.6	Unlawful Screening and Fencing	\$200	\$175	\$275
	1 st & 2 nd Offence 3 rd & Subsequent Offence	\$400	\$375	\$475

Schedule "A" APPENDIX "9" Regional District of Kootenay Boundary Floodplain Management Bylaw No. 677, 1995				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
9 and 5(b)(i), 5(b)(ii)	Unlawful Siting of Building or Structure within Floodplain Setback to Pend d'Oreille 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475
9 and 5(b)(iii)	Unlawful Siting of Building or Structure within Floodplain Setback to Columbia River 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475
9 and 5(b)(iv)	Unlawful Siting of Building or Structure within Floodplain Setback to Kettle or Grandy Rivers 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475

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Schedule "A" APPENDIX "9" Regional District of Kootenay Boundary Floodplain Management Bylaw No. 677, 1995				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
9 and 5(b)(v)	Unlawful Siting of Building or Structure within Floodplain Setback to Watercourse 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475
9 and 5(b)(vi)	Unlawful Siting of Building or Structure within Floodplain Setback to Lake, Marsh or Pond 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475
9 and 5(b)(vii)	Unlawful Siting of Building or Structure within Floodplain Setback to Standard Dyke right-of way or Flood Protection or Seepage Control Structure 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475

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Schedule "A" APPENDIX "9" Regional District of Kootenay Boundary Floodplain Management Bylaw No. 677, 1995				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
9 and 6(a)(i)	Failure to Meet Floodplain Specifications for Underside of Floor System or Top of Any Pad	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
9 and 6(a)(ii)	Landfill Supporting Floor System or Pad Exceeds Watercourse Setback	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
9 and 6(a)(iii)	Failure to Protect Structural Support or Fill from Erosion or Scour	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" - APPENDIX "11" Regional District of Kootenay Boundary Electoral Area 'A' and 'B' Dog Control and Licensing Bylaw No. 1117, 2000				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
7(a)	Dog at large on public lands	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
7(b)	Dog at large on private lands	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
8(a)	Diseased or Vicious Dog at Large	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
8(b)	Pit Bull Not Leashed and Muzzled in Public	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
8(c)	Operating Kennel without Fence and Confinement of Pitbulls	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "12" Regional District of Kootenay Boundary Animal Control Bylaw No. 1550, 2014				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
3	Failure to License Dog	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
5(1)	Unleashed Dog at Large in Public Place	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
5(3)	Uncontrolled Dog	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
5(5)	Failure to Remove Dog Excrement	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
6	Noisy Dog Causing Nuisance	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "12" Regional District of Kootenay Boundary Animal Control Bylaw No. 1550, 2014				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
7	Dog or Animal At Large in Control Area	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
10(1)	Vicious Dog Within Prohibited Area	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
10(2)	Failure to Comply With Duties of Owner or Person in Control of Vicious Dog	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
11(1)	Improperly Having Animal With Incurable Disease	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
14	Obstruction of Animal Control Officer	\$200	\$175	\$275

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	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
Schedule "A" APPENDIX "12" Regional District of Kootenay Boundary Animal Control Bylaw No. 1550, 2014				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
15	Keeping More Than 3 Dogs	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "13" Big White Noise Control Bylaw No. 1431, 2009				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
1	Noise That Disturbs	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
2	Noise Emanating From Property That Disturbs	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
3(a)	Amplification Equipment That Disturbs	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
3(b)	Animal Sound That Disturbs	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
4(a)	Amplified Music or Audible Speech Within Prohibited Time	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
Schedule "A"				

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APPENDIX "13" Big White Noise Control Bylaw No. 1431, 2009				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
4(b)	Amplified Music or Speech in Prohibited Area	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
4(c)	Animal Sound Outside Premises Within Prohibited Time	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
4(d)	Machine or Equipment Noise or Sounds Within Prohibited Time in Residential Area	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
4(e)	Construction Noises Within Prohibited Time in Residential or Industrial Area	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "14" Regional District of Kootenay Boundary Mobile Home Park Bylaw No. 97, 1975				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
2.1	Failure to Obtain Permit	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
6.1	Unlawful Mobile Home Park	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
6.2	Obstruction of Building Inspector	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
9.1.2	Unlawful Siting of Building or Mobile Home Space to Lake, Watercourse or Above Flood Level or Flood Hazard Area	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "14" Regional District of Kootenay Boundary Mobile Home Park Bylaw No. 97, 1975				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
9.3, 9.5, 9.12, 15.2, 15.3	Unlawful Siting of Mobile Home Park or Mobile Home or Addition 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475
17.1, 17.3, 18.3	Unlawful Storage of Boats, Recreational Vehicles, Trucks Camping Units or Heavy Equipment or Park Maintenance Equipment 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475
17.4	Insufficient Screening or Fencing of Storage Area 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475

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Schedule "A" APPENDIX "14" Regional District of Kootenay Boundary Mobile Home Park Bylaw No. 97, 1975				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
9.2.2	Prohibited Sewage Disposal Treatment System or Ground Water Source	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
9.7	One Family Use of Mobile Home Exceeding	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
9.10	Insufficient Landscaping	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
11.1	Insufficient Buffer Area	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
11.2(1)	Unlawful Siting of Mobile Home Space in Buffer Area	\$200	\$175	\$275
		\$400	\$375	\$475

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	1 st & 2 nd Offence			
	3 rd & Subsequent Offence			
Schedule "A" APPENDIX "14" Regional District of Kootenay Boundary Mobile Home Park Bylaw No. 97, 1975				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
11.2(3)	Unlawful Siting of Garbage Disposal in Buffer Area 1 st & 2 nd Offence	\$200	\$175	\$275
		\$400	\$375	\$475
11.3(4)	Unlawful Siting of Private Sewage Disposal System in Buffer Area 1 st & 2 nd Offence	\$200	\$175	\$275
		\$400	\$375	\$475
11.2(5)	Unlawful Removal of Plant Material in Buffer Zone 1 st & 2 nd Offence	\$200	\$175	\$275
		\$400	\$375	\$475
11.3.1	Unlawful Road or Access from Public Highway or Secondary Road in Buffer Zone to Mobile Home Space	\$200	\$175	\$275
		\$400	\$375	\$475

	1 st & 2 nd Offence			
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "14" Regional District of Kootenay Boundary Mobile Home Park Bylaw No. 97, 1975				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
12.2	Insufficient Access for Mobile Home Park	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
12.3	Failure to Surface Roadway	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
12.4	Insufficient Road With	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
12.5	Insufficient Turning Circle Radius	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
12.6	Insufficient Gradient or Drainage of Road	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "14" Regional District of Kootenay Boundary Mobile Home Park Bylaw No. 97, 1975				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
12.7	Insufficient Access to Mobile Home Space, Storage Areas and Buildings	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
13.1, 13.3	Unlawful Off- Street Parking and Parking Spaces or Bays	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
13.2	Unlawful Location of Parking Space	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
14.2	Insufficient Landscaping in Recreation Area	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "14" Regional District of Kootenay Boundary Mobile Home Park Bylaw No. 97, 1975				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
15.1.1, 15.1.2	Unlawful Amount, Area, Width and Frontage of Mobile Home Spaces for Single Wide Mobile Homes	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
15.1.3	Unlawful Amount, Area, Frontage and Width of Double Wide Mobile Homes	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
19.2	Insufficient Screening or Protection of Garbage	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
19.3	Unlawful Disposal of Garbage or Refuse	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "14" Regional District of Kootenay Boundary Mobile Home Park Bylaw No. 97, 1975				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
19.5	Insufficient Lighting	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
19.8	Insufficient Fire Extinguishing Equipment	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
19.9	Unlawful Fires	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			
19.11	Failure to Maintain and Prevent Vermin	\$200	\$175	\$275
	1 st & 2 nd Offence	\$400	\$375	\$475
	3 rd & Subsequent Offence			

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Schedule "A" APPENDIX "15" Solid Waste Management Facilities Regulatory Bylaw No. 1605, 2016				
Section	Description	Penalty	Early Payment Reduced Penalty	Late Penalty Payment
3.2	Unlawful Disposal of Waste at Unauthorized Location of Solid Waste Management Facility 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475
3.3	Unlawful Deposit of Refuse or Entry Within Prohibited Time 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475
3.7	Failure to Pay Fees 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475
3.8	Unlawful Deposit of Municipal Solid Waste 1 st & 2 nd Offence 3 rd & Subsequent Offence	\$200	\$175	\$275
		\$400	\$375	\$475

Schedule "B"**COMPLIANCE AGREEMENT PURSUANT TO THE REGIONAL DISTRICT OF KOOTENAY
BOUNDARY BYLAW NOTICE ENFORCEMENT BYLAW _____**

I, _____ of _____
(NAME) (ADDRESS)

acknowledge receipt of Bylaw Offence Notice(s) # _____ (the "Bylaw Notice"), and wish to enter into this Compliance Agreement whereby I agree to fulfill the conditions below, in exchange for a reduced penalty which shall be one half of the penalty identified on the face of the Bylaw Offence Notice.

Specifically, I agree to pay the reduced penalty of \$_____ on or before_____.
I further agree to comply with the following terms and conditions of this Agreement:

1. On or before _____ I will: _____

and

2. On or before _____ I will: _____

I understand that this Agreement is binding upon me for one year from the date of this Agreement.

I also understand that if I breach a term of this Agreement, or fail to observe or perform the above terms and conditions, the Regional District's Screening Officer may rescind this Agreement.

I understand that if this Agreement is rescinded, I will have 14 days to dispute the Screening Officer's decision to rescind the Agreement and that, if I do not dispute this decision in that time,

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the full penalty stated in the Bylaw Notice(s) of \$_____ will be immediately due and payable and subject to all fees and penalties as if the Bylaw Notice was not disputed.

Signature of Bylaw Notice Recipient

Signature of Screening Officer

Date

Date

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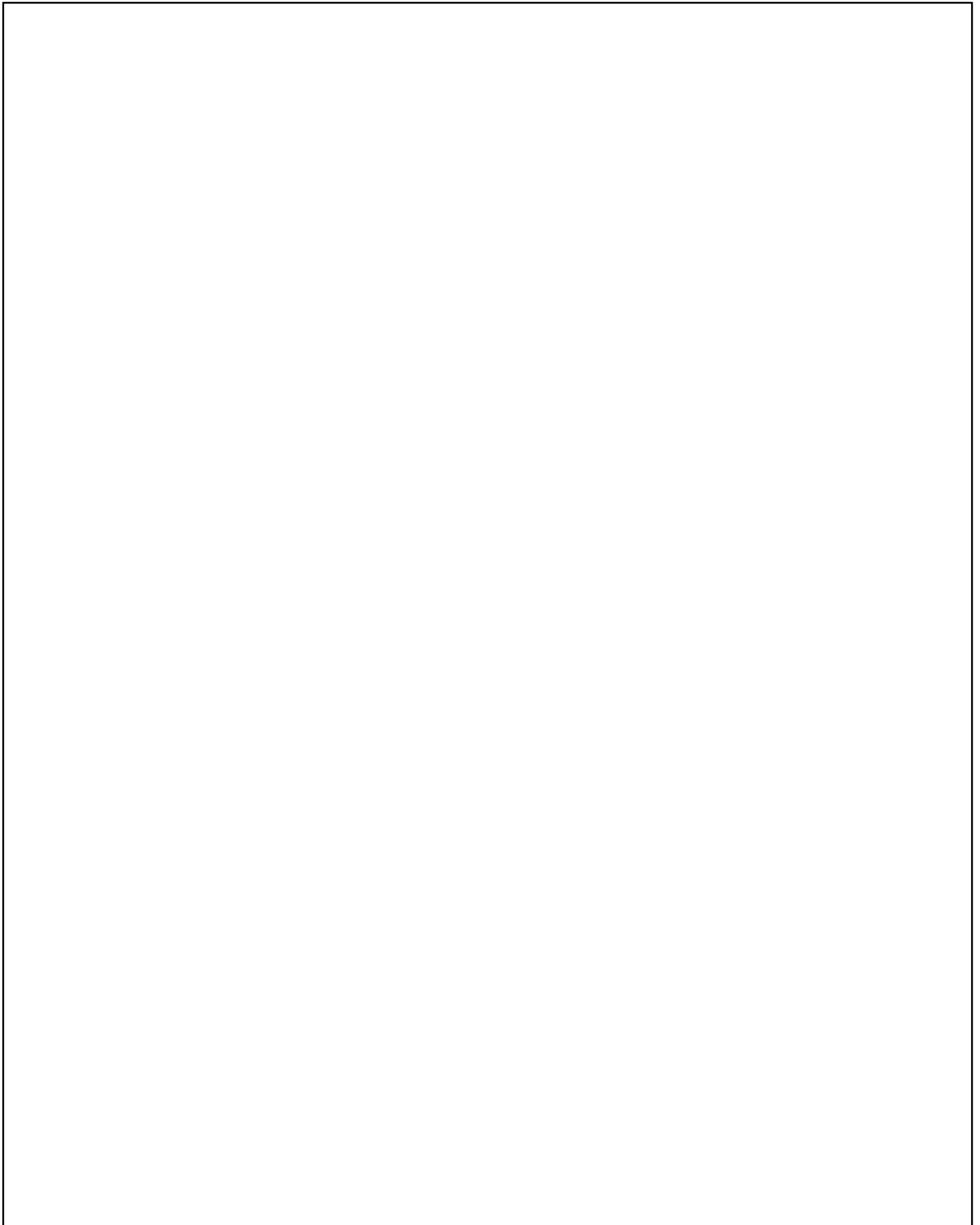
BYLAW ENFORCEMENT:

BEST PRACTICES GUIDE FOR LOCAL GOVERNMENTS



The Office of the
ombudsperson
B.C.'s Independent Voice For Fairness

Special Report No. 36 | MARCH 2016
to the Legislative Assembly of British Columbia



BYLAW ENFORCEMENT:

BEST PRACTICES GUIDE FOR LOCAL GOVERNMENTS



The Office of the

ombudsperson

B.C.'s Independent Voice For Fairness

Special Report No. 36 | MARCH 2016
to the Legislative Assembly of British Columbia

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Thank You

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FROM THE OMBUDSPERSON

Bylaw enforcement occupies an important and complex place in the work of local governments. It brings together such diverse factors as community aspirations, dispute resolution, effective planning, procedural and substantive fairness and even the administration of justice. Fair, reasonable and transparent practices in bylaw enforcement can enhance citizen confidence in local governments and can save public dollars by resolving disputes early and efficiently. Through fair treatment, local governments can ensure residents – be they those complaining of a bylaw infraction or those alleged to be in contravention of a bylaw – are dealt with respectfully. Ultimately, good bylaw enforcement practices can foster community harmony.

Unfortunately, our experience is that bylaw enforcement does not always achieve those goals. Our office has investigated and evaluated bylaw enforcement complaints over the years. This is a field that can be fraught with conflict, unfairness, frustration and cost. The consequences affect both private individuals and the staff of local governments.

Surprisingly, there are few resources available for local government officials in British Columbia to help establish and administer a high quality bylaw enforcement program. That's where this best practices guide comes in. It is designed to provide information and tools to promote fairness in the administration of local government bylaws. To that end this guide:

1. Sets out the role of council in developing and enforcing bylaws;
2. Outlines how complaints about possible bylaw infractions are best handled;
3. Describes the importance of a consistent, transparent approach to bylaw investigations and enforcement;
4. Clarifies the key role that a fair and accessible appeal process can play; and
5. Provides some practical checklists to assist staff of local governments.

Many of the values and perspectives inherent in this best practices approach to bylaw enforcement are similar to those that guide the Office of the Ombudsperson: transparency, consistency, evidence-based decision-making and, above all, a commitment to fairness. These values are essential to ensuring British Columbians are treated fairly and reasonably by all public authorities, and specifically those British Columbians who are affected by local government bylaw enforcement.

Following the best practices set out in this guide will help local governments achieve these critically important goals as they administer and enforce their bylaws. Greater public confidence in the work of local governments is the outcome of doing so. This is to the benefit of citizens and local governments alike.



Jay Chalke
Ombudsperson
Province of British Columbia



FROM THE OMBUDSPERSON



Fair, reasonable and transparent practices in bylaw enforcement can enhance citizen confidence in local governments and can save public dollars.



INTRODUCTION

Since 1995, the Office of the Ombudsperson has had jurisdiction to investigate complaints about local governments in British Columbia, including municipalities (cities, towns, villages, districts, townships, resort municipalities and regional municipalities), regional districts, the Islands Trust and improvement districts.¹

Each year, approximately 8 per cent of the complaints we receive are about local governments, and we investigate and seek to resolve these matters on an individual basis.

Of those complaints, a significant number are about how local governments enforce their bylaws, such as those about animal control, unsightly premises, permitting, zoning, noise and other common issues. While the complaints vary widely in subject, they raise recurring concerns of administrative fairness in how local governments respond to complaints and enforce their bylaws.

Identifying, encouraging and upholding best practices in administrative fairness are central to the Ombudsperson's role. Through individual complaint investigations, our office has gained significant knowledge and understanding of fair practices in local government bylaw enforcement. However, with almost 200 municipalities and regional districts in British Columbia, it has been difficult for us to share best practices broadly for the benefit of all local governments.²

In the 20 years that we have had jurisdiction to investigate complaints about local governments, we have seen that it can be challenging for elected officials and staff to balance serving the demands of the community and individuals with ensuring fairness in bylaw enforcement. Few tools are available in British Columbia to help local governments develop, adopt and implement best practices that encourage fairness in bylaw enforcement.

The *Bylaw Enforcement: Best Practices Guide for Local Governments* seeks to fill that gap by providing information and practical tools, such as checklists, to promote administrative fairness in bylaw enforcement.

Who This Guide Is For

This guide is for anyone interested in bylaw enforcement, but is intended primarily to be a resource for three key groups.

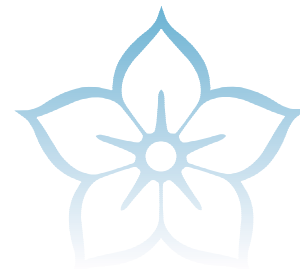
- *Elected officials for local government who are responsible for enacting bylaws and establishing a fair framework for bylaw enforcement* – Many of the best practices highlighted in this guide will be most effective if they are incorporated directly into the bylaws passed and policies approved by a council or board.

The guide also highlights best practices for the role that elected officials should play in setting policy and ensuring it is implemented well.

¹ *Ombudsperson Act*, R.S.B.C. 1996, c. 340, Schedule, ss. 4-11.

² In addition to 162 municipalities and 27 regional districts, there are 211 improvement districts in the province that provide defined services to residents living within the district boundaries. In this guide, we use the term "local government" primarily to mean municipalities (including the City of Vancouver) and regional districts. To the extent that improvement districts are involved in bylaw enforcement, this guide includes them as well. We refer specifically to municipalities, regional districts or the City of Vancouver where certain rules apply to those entities only. The City of Vancouver is governed by the *Vancouver Charter*, S.B.C. 1953, c. 55, which makes it legally distinct from other municipalities. However, for the purpose of this report, we have not treated it differently from other municipalities except where the statutory framework for the City of Vancouver differs, in which case we note the unique situation that applies to that city.

INTRODUCTION



Administrative fairness is an approach to dealing with the community that is transparent, fair and accountable.

INTRODUCTION

- *Local government staff, from front desk staff to bylaw enforcement officers and chief administrative officers* – Administratively fair bylaws, policies and practices can make more efficient use of resources and help local governments save money and time. Enforcing bylaws in a consistently fair manner provides good service to the community. It can also increase compliance with bylaws and reduce the number of complaints made to local government staff or to the Office of the Ombudsperson.
- *Community members* – The guide articulates standards of fairness and reasonableness that people in a community can expect their local government to follow, whether a person is making a complaint about a bylaw infraction or is the subject of enforcement action. The guide also provides benchmarks against which people can evaluate their local government's bylaw enforcement practices.

This guide is not meant to be prescriptive or to cover all aspects of bylaw enforcement. It is not a training guide for bylaw enforcement officers, nor does it explain the bylaw drafting process. Rather, it offers local governments and residents a starting point from which to consider the fairness of their bylaws and related enforcement policies, practices and procedures, to identify gaps, and to improve bylaw enforcement.

Throughout the guide, we give examples (shown in italics) from our own investigations. In some cases, these examples illustrate best practices; in other cases, they describe practices that fell below the standards we expect of local governments but were addressed through the collaborative work of our office and local government staff. Names in all of the examples have been changed to protect the confidentiality of our investigations.

How We Developed This Guide

To understand the diverse context of bylaw enforcement in the province, we conducted a systemic review of complaints about bylaw enforcement that our office has received and investigated. We also researched relevant case law and reports and guides related to bylaw enforcement in British Columbia, Canada and internationally. As well, we analyzed a number of frequently enforced bylaws from a sample of local governments in the province.

In addition to this research, we consulted with 38 local governments of all sizes from every corner of the province – cities, towns, villages, districts, resort municipalities and regional districts. We also spoke with the Union of BC Municipalities (UBCM), the Local Government Management Association, the Licence Inspectors and Bylaw Officers Association, and the Justice Institute of British Columbia (which runs a training course for bylaw enforcement officers). We presented our preliminary work in a clinic at the UBCM Convention in September 2015 and invited feedback.

The Diversity of Local Governments and Their Approach to Bylaw Enforcement

The almost 200 local governments in British Columbia vary widely in type, population, area, budget and composition.

Some have existed longer than British Columbia has been part of Canada (e.g. the City of New Westminster is 155 years old); others are relatively young, such as the Districts of Clearwater, Barriere and West Kelowna, all incorporated in 2007.

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In geographic size, local governments range from 63 hectares (Silverton, slightly larger than Vancouver's Queen Elizabeth Park) to 11.9 million hectares (Peace River Regional District, which covers about 12 per cent of the total area of the province).³ Most municipalities, urban and rural, have an area of less than 10,000 hectares. Most regional districts have an area greater than 2 million hectares.

The financial resources of local governments vary significantly too. In 2013, a total of 141 of the 160 municipalities had an annual revenue under \$100 million, and for most the amount was less than \$10 million.⁴ In the same year, 25 of the province's 27 regional districts had an annual revenue under \$100 million, and for 20 of those it was under \$50 million.⁵

While local governments with large budgets may be able to devote substantial resources to bylaw enforcement, those jurisdictions also likely have larger populations and so more bylaw enforcement issues to address. Conversely, jurisdictions with large geographic areas or limited financial resources may have small populations and thus fewer bylaw enforcement issues, yet face significant challenges in establishing an effective enforcement program.

Bylaws Evolve as Values and Standards Change

Bylaws enacted by local governments reflect community values and standards. Those values and standards are not uniform across the province. Rather, they vary based on each jurisdiction's history, location, size and the political direction set by its governing council or board. For example, a historically rural community with a strong industrial base may have very different noise bylaws from those in a suburban, primarily residential community.

These values and standards are not static; they evolve over time as a community changes – for example, transitioning from rural to urban, or away from or toward an economy based on primary industries. Changes in the composition of communities over time mean that bylaws and enforcement practices need to evolve as well to respond to the inevitable conflicts that arise in the “interface” areas between different types of land uses and competing priorities.

Bylaw Enforcement Practices Vary Widely

Local governments in British Columbia use a wide variety of bylaw enforcement practices and approaches.

- Large local governments have specialized teams enforcing different types of bylaws, such as those related to the environment, parks or building inspection. By contrast, smaller local governments may rely on their chief administrative officer or a single bylaw enforcement officer to carry out all bylaw enforcement functions. Some local governments have agreements with an external agency (such as a private company, municipal police or another local government) to carry out all or part of their bylaw enforcement. For example, local governments

³ In addition to total area, the Ministry of Community, Sport and Cultural Development provides statistics for each municipality on Taxable Land Area, Taxable Water Area, Exempt Parkland, and Other Exempt Area. British Columbia is 94,473,500 hectares.

⁴ Based on figures reported by the Ministry of Community, Sport and Cultural Development for 2013 (the most recently reported consolidated revenue figures). The information is for the calendar year 2013 (January 1 to December 31) and reported in form 401 on the ministry's website: <http://www.cscd.gov.bc.ca/lgd/infra/library/Schedule401_2013.xls>.

⁵ Based on figures reported by the Ministry of Community, Sport and Cultural Development for 2013 (the most recently reported consolidated revenue figures). The information is for the calendar year 2013 (January 1 to December 31) and reported in form 901 on the ministry's website: <http://www.cscd.gov.bc.ca/lgd/infra/library/Schedule901_2013.xls>.

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Our goal is to help local governments, when exercising their discretion to enforce bylaws, do so in a manner that is, and is seen to be, administratively fair.

may contract with external agencies for specialized services such as animal control. Or, they may contract externally as a means of increasing the capacity of existing enforcement teams when they are busy.

- Bylaw enforcement staff or contractors may be designated as bylaw enforcement officers under provincial legislation.⁶ Only bylaw enforcement officers designated in this way have the authority to issue a municipal ticket information or a bylaw notice.⁷ In communities with a municipal police force, an individual appointed under the *Police Act* is also considered a bylaw enforcement officer, but would report to the local police chief or detachment head rather than to the local government directly.⁸ These individuals must also be specifically designated by council before they can issue a municipal ticket information or bylaw notice.

Besides the designated officers, many other local government staff have a role in bylaw enforcement, such as responding to questions, recording complaints, explaining enforcement processes and encouraging voluntary compliance.

Therefore, when we refer in this guide to “bylaw enforcement staff,” we mean (unless otherwise stated) all individuals who may be involved in bylaw enforcement in a community, whether or not they are designated as bylaw enforcement officers under the relevant legislation.

- Local government bylaw enforcement programs exist on a continuum between voluntary compliance and enforcement. The exact position on this continuum reflects the priorities set by a local government’s council or board. Compliance-focused programs incorporate strategies such as public education, informal resolution, warnings, and alternatives for dispute resolution or mediation. Enforcement-focused programs carry out strategies such as issuing bylaw offence notices or tickets, seeking injunctions, taking direct enforcement action, and prosecuting.

The bylaw enforcement programs of most local governments in British Columbia adopt elements of both approaches.

Despite differences in the content of bylaws and in approaches to enforcement, and despite the unique challenges that face each local government, residents anywhere in the province should be able to expect that their local government will interpret, apply and enforce its bylaws fairly and reasonably.

This expectation of fair treatment is the underlying premise of this guide. Our goal is to help local governments, when exercising their discretion to enforce bylaws, do so in a manner that is, and is seen to be, administratively fair.



⁶ Section 264(1)(b) of the *Community Charter*, S.B.C. 2003, c. 26, allows a council to designate a person as a bylaw enforcement officer. This section also applies to regional districts under s. 414 of the *Local Government Act*, R.S.B.C. 2015, c. 1. Section 482.1(1)(b) of the *Vancouver Charter*, S.B.C. 1953, c. 55, serves a similar function for the City of Vancouver.

⁷ Section 264(2) of the *Community Charter*, S.B.C. 2003, c. 26 gives a designated officer the authority to issue a municipal ticket information. Section 482.1(2) of the *Vancouver Charter*, S.B.C. 1953, c. 55, serves a similar function for the City of Vancouver. Persons designated as bylaw enforcement officers in this manner are also considered bylaw enforcement officers under the *Local Government Bylaw Notice Enforcement Act*, S.B.C. 2003, c. 60, s.1 and can therefore issue bylaw notices for designated bylaw offences under s. 4 of that act.

⁸ Appointed under s. 36 of the *Police Act*, R.S.B.C. 1996, c. 367.

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The Office of the Ombudsperson upholds democratic principles of accountability and transparency by investigating both individual complaints and broad systemic issues and recommending resolutions.

The work of our office is guided by principles of natural justice and administrative fairness. These principles establish a framework within which we developed the best practices set out in this guide.⁹

Administrative Fairness in a Local Government Context

Administrative fairness refers broadly to an overall approach to administrative decision-making that is transparent, fair and accountable.

For local governments involved in bylaw enforcement, administrative fairness is characterized by:

- bylaws that are authorized by, and consistent with, the governing legislation
- a written policy for fairly and reasonably exercising discretion when enforcing bylaws
- written standards and expectations of conduct by bylaw enforcement staff when they interact with the public
- clear, consistent and available public information about bylaws and enforcement practices, and how to make complaints and appeal decisions
- a process for receiving, assessing and responding to complaints in a timely manner
- a consistently applied and well-documented investigative process that establishes a clear factual basis for enforcement
- adequate notice to affected persons before any enforcement is taken
- enforcement decisions that are authorized by applicable legislation and bylaws
- enforcement decisions that are consistent with policy and with other similar decisions, are equitable, and are proportionate to the problem being addressed
- reasons for enforcement decisions that are appropriate, that set out the basis for the enforcement and that provide information about how to appeal
- appeal processes that are accessible and fair, and that are communicated to affected persons in a timely way

⁹ See Office of the Ombudsperson, *Code of Administrative Justice 2003*, Public Report No. 42, British Columbia Legislative Assembly, March 2003, 15 <<https://www.bcombudsperson.ca/sites/default/files/Public%20Report%20No%20-%2042%20Code%20of%20Administrative%20Justice.pdf>>.

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Why Administrative Fairness Is Important

Demonstrating a commitment to administrative fairness increases the public's confidence in their local government's enforcement program, and gives local governments confidence that they are treating everyone fairly. Adopting bylaw enforcement practices that are based on administrative fairness principles benefits local governments in several important ways.

- *Abiding by principles of administrative fairness can help staff of large and small local governments reduce conflict in matters of bylaw compliance and enforcement* – When enforcing bylaws, local government staff interact with the public, sometimes in high conflict situations. Enforcement decisions often affect people on their property or in their home. When enforcement decisions are seen to be reasonable and appropriate, conflict may be reduced.
- *Establishing and promoting fair bylaw enforcement processes can help local governments both reduce the number of complaints received and resolve issues more quickly and effectively, thus saving time and money* – Bylaw enforcement processes that are clearly laid out and accessible to all involved enable staff not only to work more efficiently in dealing with complaints, but also to be consistent in the actions taken when problems arise. This clear, open approach can lead to fewer bylaw complaints. Furthermore, a fair enforcement framework can also help local governments with limited resources build their enforcement capacity.
- *Adopting a consistently fair and reasonable approach to bylaw enforcement can help local governments build strong community relationships* – A local government that clearly demonstrates a commitment to administrative fairness helps increase its public perception of being responsive, transparent and accountable.

The *Bylaw Enforcement: Best Practices Guide for Local Governments* can help local governments to realize these benefits by building administrative fairness principles into their bylaw enforcement programs.



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Municipal councils and regional district boards are responsible for developing a fair and reasonable bylaw enforcement framework for their communities. This section describes best practices that councils and boards can adopt to fulfill this role. We have used the term “council” throughout this guide to refer to the body through which local government elected officials exercise their decision-making powers. Unless otherwise stated, the term should be read to also include the boards of regional districts and, where appropriate, improvement districts.

Provincial legislation gives local governments broad powers to create and enforce bylaws. For municipalities, this authority is found in the *Community Charter*.¹⁰ The City of Vancouver’s authority to make and enforce bylaws is found in the *Vancouver Charter*.¹¹ The *Local Government Act*¹² grants regional districts and improvement districts the authority to make and enforce bylaws, and the *Islands Trust Act*¹³ gives this power to the Islands Trust local trust committees. The *Local Government Bylaw Notice Enforcement Act* allows local governments listed in the *Bylaw Notice Enforcement Regulation* to deal with bylaw violations through bylaw notices.¹⁴

The different enabling statutes mean that not all local governments have the same enforcement powers. The best practices in this guide take into account the variations in legislative requirements so as to be relevant to all local governments in British Columbia.

Developing Bylaws

An important role of council is to develop bylaws that establish, maintain and reflect community standards. The bylaw-making power possessed by local governments “permits a highly diverse, localized regulatory response, including the choice not to regulate at all, in accordance with locally determined priorities and approaches.”¹⁵

Administrative fairness in bylaw enforcement begins with council developing bylaws that can be fairly and reasonably enforced. This guide is not intended to be a comprehensive manual on bylaw drafting.¹⁶ Instead, we have identified key points for council to consider during bylaw development that will contribute to an administratively fair bylaw enforcement framework.

¹⁰ *Community Charter*, S.B.C. 2003, c. 26.

¹¹ *Vancouver Charter*, S.B.C. 1953, c. 55.

¹² *Local Government Act*, R.S.B.C. 2015, c. 1.

¹³ *Islands Trust Act*, R.S.B.C. 1996, c. 239.

¹⁴ *Local Government Bylaw Notice Enforcement Act*, S.B.C. 2003, c. 60; *Bylaw Notice Enforcement Regulation*, B.C. Reg. 153/2015, 31 July 2015.

¹⁵ William Buholzer, *Local Government in British Columbia*, The Continuing Legal Education Society of British Columbia, current to 1 January 2013, s.5.1.

¹⁶ For some resources on bylaw development and drafting, see the following: Ontario Ministry of Municipal Affairs and Housing, *The Municipal Councillor’s Guide 2014*, 6-7 and 32-44 <<http://www.mah.gov.on.ca/AssetFactory.aspx?did=4965>>; Municipalities Newfoundland and Labrador, *Municipal Council Handbook*, revised 2014, 79-81 <http://www.miga.gov.nl.ca/publications/training/Councillor_Handbook_2014.pdf>; Alberta Municipal Affairs, *Municipal Resource Handbook, Basic Principles of Bylaws* <http://www.municipalaffairs.alberta.ca/documents/ms/Basic_Principles_of_Bylaws_2013.pdf>; and Donald Lidstone, Lidstone Young Anderson, Local Government Administration Association, *Bylaw Drafting Manual*, 1st ed., 2 January 2003.

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Can a Bylaw Be Enforced?

A bylaw that is too vague, uncertain or unspecific may be struck down as unenforceable.¹⁷ It is a matter of common sense that a bylaw should be drafted in such a way that it can be fairly enforced. A local government seeking compliance must be able to point to a specific bylaw that clearly sets out how and why a person's actions (or non-actions) are prohibited. If a bylaw is drafted in an unclear way that prevents its enforcement, or leads to inconsistent decision making, then its administration will be problematic. To help avoid such situations, council should consider at the outset whether the bylaw it is adopting is clear, specific and enforceable.

Do Staff Know How to Enforce a Bylaw?

The existence of a bylaw does not necessarily mean that staff know how the bylaw can be enforced. The following example, from a complaint we investigated, illustrates the problems that can arise when the language of a bylaw makes local government staff question whether it can be enforced. In this case, ambiguity in the bylaw led to inaction by staff.

Enforcement at a Standstill

Beth called our office with a complaint about her local government. She told us that her neighbours operated an incinerator in their backyard, which caused large amounts of noxious smoke to drift across her property. Beth had complained to the city repeatedly about the smoke, but no investigation or enforcement resulted. According to Beth, the city told her that the relevant sections of its air quality bylaw were not enforceable and that it had no plans to amend the bylaw.

Beth thought it was unfair that the city had not taken enforcement action against her neighbours for operating their incinerator in a way that negatively affected the use and enjoyment of her property.

We investigated whether the city followed a reasonable process investigating Beth's complaints about the incinerator and the smoke drifting across her property. We also investigated whether the city followed a reasonable process to inform her of the steps it planned to take to change its bylaw.

In our investigation, we learned that the city had been aware of Beth's and other residents' concerns about air quality for many years. However, city staff had been uncertain whether the city's existing air quality protection bylaw was enforceable. In addition, several years previously, the city's bylaw enforcement officer had investigated Beth's concerns and concluded that no enforcement action was required.

In response to our investigation, the city obtained information that confirmed its existing bylaw was enforceable. We then consulted with the city to determine whether it would consider taking several steps to address Beth's concerns. The city agreed:

- *to investigate any new complaints about burning to determine whether the activity contravened the bylaw*

¹⁷ *United Taxi Drivers' Fellowship of Southern Alberta v. Calgary (City)*, [2004] 1 S.C.R. 485. See also *Puslinch (Township) v. Monaghan*, [2015] O.J. No. 2136. In the *Puslinch* case, the Ontario Superior Court of Justice refused to uphold the local government's zoning bylaw enforcement actions because the bylaw itself was "unacceptably vague, uncertain and unspecific" and therefore of no force and effect.

- *as part of its investigation(s), to obtain statements from Beth and other residents, as required, about the impact of the smoke on their quality of life to determine whether the burning activity contravened the bylaw*
- *to consider amending some parts of the bylaw in accordance with the legal advice it received with a view to making enforcement action easier in the future*
- *to write to Beth to explain the approach it intended to take in the future to address her concerns, and to provide written reasons why no enforcement action was appropriate if it concluded none was required at the end of its investigation(s)*

In our view, the steps the city agreed to take responded to Beth's concerns.

The above example emphasizes the importance of local governments understanding whether and how their bylaws can be enforced.

In some cases, enforceability is a legal question that council needs to consider before implementing a new bylaw. In other cases, it may arise as staff attempt to respond to complaints. In these instances, local governments that have a process for dealing with questions about a bylaw's enforceability when they arise are in a good position to take remedial action in a timely manner.

In Beth's case above, it was several years before the question of the bylaw's enforceability was finally resolved. A more proactive process would allow staff who have identified a concern about enforceability to communicate the necessary information to council. Council can then take steps to either amend or repeal the bylaw, or to address any other issues preventing enforcement.

Best Practices: Enforceability of Bylaws

Council considers enforceability when developing or adopting a new bylaw.

Local government enforcement staff can quickly and easily raise a concern about the enforceability of a bylaw with council.

Enforcement Capacity

The public expects local governments to enforce the regulatory bylaws council adopts. When passing a new bylaw, it is important for council to consider whether local government has the capacity – staff, equipment and other resources – to meet those public expectations through adequate enforcement of the bylaw. Insufficient enforcement capacity may defeat the purpose of enacting the bylaw in the first place.

We heard from local governments that geography, a lack of staff or other resource shortages can make enforcement difficult. Smaller local governments, with one person or a small team responsible for all bylaw enforcement, may find it especially difficult to respond to complaints about bylaw infractions. Many local governments address these challenges by placing a significant focus on voluntary compliance. While voluntary compliance is cost-effective, it is still important for local governments to take enforcement action when necessary. Failure to do so will, over time, reduce the credibility of a local government's bylaws and will likely reduce voluntary compliance.

The local governments we spoke with as we developed this report have developed creative ways for enforcing bylaws despite resource or geographic challenges. Most commonly, local governments develop ways to share enforcement resources across

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A bylaw enforcement policy allows council to outline, in a public way, the goals of the local government's bylaw enforcement program and to set clear expectations and standards for bylaw enforcement.

jurisdictional boundaries – whether on a particular matter such as animal control, or more generally.

Regardless of the approach a local government chooses, enforcement capacity should be one of the issues that council anticipates and addresses when adopting a new bylaw and when providing direction to staff about enforcement priorities.

Guidelines for Exercising Discretion: Developing a Bylaw Enforcement Policy

Local governments have wide discretion in whether to enforce a bylaw in a particular circumstance. As long as a local government can point to a bylaw violation, the courts will generally not interfere with the resulting bylaw enforcement decision.¹⁸ The existing case law does not, however, provide much guidance for local governments on how to fairly and reasonably exercise their discretion when making enforcement decisions. The principles of administrative and procedural fairness require that local governments use their discretion in a fair, reasonable and transparent manner.

A written policy can assist enforcement staff in exercising this discretion. Given the breadth of bylaw types, local governments must consider whether one policy on exercising discretion is sufficient, or whether separate policies are needed for each bylaw.

By developing and implementing a policy on exercising discretion, local governments can make decisions in a manner that is, and is seen to be, administratively fair.

Why Develop a Bylaw Enforcement Policy?

A bylaw enforcement policy allows council to outline, in a public way, the goals of the local government's bylaw enforcement program and to set clear expectations and standards for bylaw enforcement.

A bylaw enforcement policy provides a framework against which council or others can evaluate the enforcement process and is a useful tool for training staff. By addressing matters that frequently arise, a bylaw enforcement policy can promote the efficient use of resources. In cases where staff may be enforcing bylaws against their neighbours, friends or relatives – perhaps because of a small population – a well-written enforcement policy that is appropriately followed can help staff defend against allegations of conflict or unfair process. A clearly articulated bylaw enforcement policy can help a local government respond fairly to the inevitable question, “why me?” when it takes enforcement action against an individual.

With local government elections being held every four years, a written bylaw enforcement policy promotes consistency and certainty against a backdrop of political change, and protects against potentially inconsistent, unfair or arbitrary decision making.

Managing public expectations about enforcement in the face of limited resources is a challenge for all local governments, and particularly for small ones. Establishing a framework for enforcement within a bylaw enforcement policy, and making it readily accessible to the public, can help local governments with few resources manage public expectations while promoting transparency and accountability.

¹⁸ For examples, see *Burnaby (City) v. Oh*, 2011 BCCA 222, and *Powell River (City) v. Sliwinski*, 2013 BCSC 737.

Content of a Bylaw Enforcement Policy

An effective bylaw enforcement policy meets the following criteria, which are based on administrative fairness principles. The policy:

- is written in plain language that is easily understood and applied
- sets out clearly what the policy is intended to achieve
- is flexible enough to cover a variety of circumstances where staff must exercise discretion
- does not fetter staff in exercising discretion by requiring them to take the same steps in each case, regardless of the circumstances, or discouraging individual responsibility for decisions
- sets out the relevant considerations that staff should take into account when exercising discretion
- sets out its relationship to – and accurately reflects – governing legislation and bylaws
- is communicated to staff
- is readily accessible to the public (e.g. on an easily found website)
- is reviewed and revised as appropriate given changing circumstances in the community¹⁹

The remaining sections of this guide address issues specific to the steps in the enforcement process. They also provide suggestions on how local governments can ensure staff exercise discretion when enforcing bylaws and follow a fair process every step of the way.

Applying a Bylaw Enforcement Policy

An enforcement policy establishes broad guidelines for a fair and consistent enforcement process. It covers most situations where staff must make discretionary enforcement decisions. A properly applied enforcement policy should achieve three goals:

- result in similar cases being treated in a similar way
- provide local government staff with guidance on, and limits to, exercising discretion
- provide the public with clarity and detail on how and why enforcement decisions are being made

It is important for staff applying an enforcement policy to guide their decision making to understand the nature and limits of that policy. Local governments must keep in mind two important caveats that apply to any policy that provides such guidelines.

First, nothing in the policy can override the mandatory requirements of a bylaw. For example, if a bylaw requires a bylaw enforcement officer to provide notice in a particular way, this requirement must be met even if a general policy provides several options for providing notice.

¹⁹ This list is adapted from Ombudsman Western Australia, *Guidelines: Exercise of Discretion in Administrative Decision-Making*, revised October 2009 <<http://www.ombudsman.wa.gov.au/Publications/Documents/guidelines/Exercise-of-discretion-in-admin-decision-making.pdf>>. See also Ministry of Attorney General, *The Development and Use of Policies and Guidelines in the Decision-Making Process: A Discussion Paper*, 2009 <http://www.llbc.leg.bc.ca/public/pubdocs/bcdocs/458061/policy_paper_draft9.pdf>.

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Second, a policy is not a bylaw. It cannot be so prescriptive that staff are unable to exercise discretion to make an independent enforcement decision, especially when circumstances require an exception. Achieving fairness in discretionary decision making means considering the circumstances of the particular matter.

Best Practices: Developing and Applying a Bylaw Enforcement Policy

Council develops a written policy to assist staff in exercising discretion when making enforcement decisions.

Council and senior local government officials provide guidance to staff on how to apply the enforcement policy in their day-to-day decision making.

Standards of Conduct

In addition to having clear bylaws and a bylaw enforcement policy, council can enhance bylaw enforcement by developing standards of conduct for bylaw enforcement staff. As a set of expectations for how staff will act, standards of conduct help local governments define appropriate enforcement practices, whether enforcement is done by designated bylaw enforcement officers, other staff or contractors.

It is important that those responsible for enforcement are adequately trained and have sufficient understanding of bylaws, enforcement policies and the principles of administrative fairness. Most of the local governments we spoke with have established mandatory training requirements for their bylaw enforcement staff, whether they are employees or contractors.

Standards of conduct can assist local government staff in navigating difficult enforcement situations.

Bylaw enforcement staff regularly try to reach practical resolutions for often intractable problems by using the enforcement tools available to them. Bylaw enforcement staff may have to be persistent in the face of resistance or even outright hostility. Standards of conduct can assist local government staff in navigating those difficult enforcement situations and in making fair and unbiased enforcement decisions.

Most of the time, local government staff act in good faith when they enforce bylaws. However, there are cases in British Columbia where the courts have found that the conduct of bylaw enforcement officers constituted an abuse of power. These cases illustrate how important it is for local governments to recognize that bylaw enforcement staff must act within certain boundaries.

Abuse of power occurs when public officials operate without authority and know that their conduct would probably cause harm to a person or his or her property. In one case, bylaw enforcement officers removed items from a resident's property even though no bylaw authorized the removal of these items. The resident challenged the local government's actions. The court found that the bylaw enforcement officers had acted without authority and with indifference to any harm arising from their actions. This conduct constituted an abuse of power. The court awarded the resident \$1,000 in damages and ordered the local government to return his property.²⁰

However, the same resident had also argued that bylaw enforcement officers had harassed him by ordering him, on several occasions, to clean up his property. The local government did not act on all of these orders, and the court found that they were part of an ongoing dialogue between the city and the resident. The court

²⁰ *Prince George (City) v. Reimer*, 2010 BCSC 118.

found that the resident deliberately set himself up to challenge the city and that he had baited staff with his extreme and self-interested interpretations of city bylaws.²¹

This case shows that as long as actions are authorized and appropriate, it is not unreasonable for local governments to persist with enforcement even in the face of refusal or hostility from a resident.

In another case, a resident alleged in court that bylaw enforcement officers were excessively persistent, as well as “arrogant, hostile, and inappropriate” when inspecting her secondary suite. The court noted that this behaviour, for which there was no evidence, was likely a consequence of the defendant’s refusal to grant the bylaw officers access to the suite as they were legally entitled to have. This refusal, the court noted, provided a justifiable reason for the city’s persistence in enforcement.²²

These cases demonstrate the importance of distinguishing between enforcement actions that are necessary and reasonable (but a resident may vehemently disagree with) and those that are clearly beyond the authority of local government enforcement staff. Persisting in multiple attempts to enforce is not unreasonable if such action is both authorized and necessary.

Individuals who contact our office with a complaint rarely assert that a bylaw enforcement officer abused his or her power. More frequently, individuals complain that they were treated poorly by local government staff. Individuals may be angry, frustrated or rude when dealing with local government staff. Fairness is not just about the process followed in making decisions – it also involves communicating about the process and resulting decisions in an appropriate and respectful way.

Treating people well in an enforcement context can help resolve conflicts, encourage voluntary compliance and shape positive public perceptions of a local government. Written standards of conduct are a useful tool to outline the professionalism that local governments expect of their bylaw enforcement staff. For example, one local government’s website describes professional conduct expectations for bylaw enforcement staff, emphasizing accountability, impartiality, integrity, protection, respectfulness and service.²³ Such standards can also prevent bylaw enforcement officers from inadvertently acting outside the scope of their authority.

Best Practice: Standards of Conduct

Council and senior local government officials establish and make public standards of conduct for bylaw enforcement staff.

The Role of Council in the Enforcement Process

When we spoke with bylaw enforcement staff, managers and chief administrative officers as we were developing this guide, we heard concerns about council members becoming personally involved in bylaw enforcement investigations on behalf of residents, and directing bylaw enforcement staff to take a specific course of action.

As discussed in previous sections, council establishes overall priorities for enforcement, enacts bylaws, and adopts bylaw enforcement policies and standards of conduct for bylaw enforcement staff. Council may also provide direction on

²¹ *Prince George (City) v. Reimer*, 2010 BCSC 118.

²² *Burnaby (City) v. Oh*, [2010] B.C.J. No. 2857.

²³ Town of Creston, “Bylaw Compliance” <<http://www.creston.ca/2169/Bylaw-Compliance>>.

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specific types of bylaw enforcement issues. For example, council may direct its enforcement staff to prioritize enforcement of certain bylaws, or to issue warnings rather than tickets for specific categories of violations.

Within this framework, everyday enforcement decisions are delegated to staff. Defining and maintaining separation between council and front-line enforcement staff is essential to an administratively fair bylaw enforcement system. It is important for council members to be aware of how their own actions can affect the fairness of an enforcement process. This means that while council sets policy and provides general direction on enforcement priorities, its individual members should not become directly involved in enforcement action by directing enforcement against specific residents, groups or businesses, or by directing that enforcement action not occur in a particular circumstance. Rather, individual enforcement decisions should be made by delegated bylaw enforcement staff or contractors.²⁴

It can be difficult for council members to remain a step removed from the day-to-day enforcement process when they are a main point of contact for members of the public who have complaints or who have been the subject of enforcement. It is understandable that council members want to be responsive to the concerns of those who elected them. In such situations, it is certainly appropriate for a member of council to seek assurance that bylaw enforcement staff have fairly responded to a person's concerns.

However, even if motivated by good intentions, council members should not advocate either publicly or privately for a particular result in a specific case. Doing so can create the appearance of bias, particularly if council later hears an appeal on the same matter after bylaw enforcement action is taken. Moreover, any action by a council member that is motivated by favouritism or personal animosity toward an individual may be perceived as an improper use of discretion.²⁵ Each member of council should strive to remain uninvolved in a specific bylaw enforcement decision unless and until the matter is put on the agenda for the entire council to consider.

Best Practices: The Role of Council

Council and senior local government officials develop a written policy to clearly define the separate roles of bylaw enforcement staff, council as a whole and individual members of council.

Local government policy clearly articulates that council members are not to be involved in day-to-day bylaw enforcement decisions.

²⁴ The City of Toronto Ombudsman has investigated concerns about elected local government officials interfering with the work of local government staff. In one investigation, the Ombudsman found that the Mayor's office was improperly directing security staff at city hall and was not following its own policy: Office of the Ombudsman, *Ombudsman Report: An Investigation into Toronto City Hall Security*, April 2015 <<http://ombudstoronto.ca/ombudsman-report-investigation-toronto-city-hall-security>>. In another investigation, the Ombudsman found that the Mayor's office directly influenced the public appointment process that resulted in inadequate vetting: Office of the Ombudsman, *An Investigation into the Administration of the Public Appointments Policy*, 25 September 2012 <<http://ombudstoronto.ca/sites/default/files/Final%20Report%20September%2025%20Post.pdf>>.

²⁵ Office of the Ombudsperson, *Code of Administrative Justice 2003*, Public Report No. 42, British Columbia Legislative Assembly, March 2003, 15 <<https://www.bcombudsperson.ca/sites/default/files/Public%20Report%20No%20-%2042%20Code%20of%20Administrative%20Justice.pdf>>.

Providing Information to the Public

Any local government bylaw enforcement program is enhanced by clear and accessible public information. Council can promote accessibility and transparency by requiring staff to make information about bylaw enforcement public.

Our review of local government websites found significant inconsistencies in the amount and type of information that is posted. Some local governments do an excellent job of providing useful and up-to-date bylaw and enforcement information for their residents, while others have websites that contain little information or out-of-date bylaws. We noted that these disparities were not necessarily related to the size of a government; some small local governments provided high-quality public information while some larger ones did not.²⁶

Making information available and accessible to the public helps to proactively manage public expectations about enforcement by. Bylaw enforcement information is most easily provided through an up-to-date website that includes:

- all current bylaws
- enforcement policies
- information about the complaints process, including any applicable forms
- information about the bylaw enforcement review or appeal process and potential outcomes
- contact information for bylaw enforcement staff

Local governments should review their websites regularly to ensure their information is current and complete.

Public information increases the transparency of the bylaw enforcement process, improves accountability and may reduce the time staff have to spend answering questions. When the public is aware of the bylaw enforcement process, they are less likely to make complaints to the local government or to the Office of the Ombudsperson.

Best Practices: Public Information

Post all current bylaws, enforcement policies and complaint information on the local government's website.

Review bylaw enforcement information on the website on a regular basis to ensure information is current, accurate and complete.



²⁶ Two small municipalities with good information on their websites, including online complaint forms, are the Town of Smithers <<http://www.smithers.ca/municipal-hall/departments-services/bylaw-enforcement-animal-control>> and District of Central Saanich <<http://www.centralsaanich.ca/hall/Departments/planning/Bylaw.htm>>.

THE ROLE OF COUNCIL

DEALING WITH BYLAW COMPLAINTS



DEALING WITH BYLAW COMPLAINTS

All local governments receive complaints from the public about possible bylaw violations. Members of the public observe what is occurring in their community and can report to their local government when they believe a bylaw is being violated. Bylaw complaints may be about a traffic violation, a long-standing neighbour dispute over unsightly premises, an off-leash dog, a property with safety hazards, or many other issues.

A significant number of the matters brought to the attention of our office are about a perceived failure of a local government to enforce a bylaw in response to a complaint made by the public.

The public is well served when local government staff respond fairly and in a timely manner to complaints about potential bylaw violations. This includes providing decisions (with reasons) not to pursue enforcement. The following example, from a complaint we investigated, shows one such response.

Unsightly but Acceptable

Michelle's house was located in an elevated position with a view over several properties below. She contacted our office because she believed the city had not adequately responded to her complaint that the property owners below should maintain the overgrown area of their land that lay between her house and theirs. The city had not previously required these property owners to maintain that part of their lots.

We investigated whether the city followed a reasonable process in responding to Michelle's concerns and informing her why enforcement action was not taken. The reply we received from the city showed that Michelle had submitted a complaint to its bylaw enforcement department. Bylaw enforcement officers met with Michelle within one day of receiving her complaint and then began an investigation that lasted about 10 days. After the investigation was complete, a bylaw enforcement officer met with Michelle and told her that the city did not consider the properties to be overgrown and that no additional steps would be taken. The city concluded that the slope of the hillside was too steep to be mowed, the land had never been established as a landscaped area, and the existing vegetation contributed to the stability of the hillside.

Because the city conducted a timely investigation and provided Michelle with an explanation for its decision not to pursue enforcement that was reasonable in the circumstances, we concluded that the complaint was not substantiated.

Developing a Complaints Policy

Many local governments, especially smaller ones with few resources, do not conduct proactive bylaw enforcement. Instead, the standard approach used by every local government we spoke with in developing this guide is bylaw enforcement in response to public complaints.

However, despite their reliance on this approach, most local governments we spoke with when we were developing this guide do not have a formal written process for receiving, recording and responding to those complaints.

Receiving, recording and responding to complaints is made easier when a local government has a written and publicly available policy explaining its process. From a fairness perspective, the benefits of a written policy include:

- consistency in staff responses to complaints
- public information about the process that is followed once a complaint is made
- a framework for evaluating the effectiveness of a response to a particular complaint

Best Practices for a Complaints Policy

Creating and following a policy for complaints is something that all local governments can do, regardless of size. For example, one small local government we spoke with (responsible for a population of 5,300) has written a thorough bylaw enforcement complaints policy. It includes direction on how complaints should be submitted to it and how a bylaw incident log can be used to record complaints and their outcomes.

A complaints policy does not have to be complex. In fact, it should be clear and simple, focused on helping local government staff respond fairly and effectively to people who make a complaint about a bylaw violation. An effective policy:

1. Outlines how a person can make a complaint and what information must be included in that complaint.
2. States which staff will be responsible for receiving, recording and responding to complaints.
3. States whether and how the local government prioritizes complaints for response.
4. Sets out a process for recording each complaint and the outcome, and expected timelines for staff to respond to complainants.
5. Lists steps staff must follow to assess a complaint and determine any necessary follow-up, including whether to investigate.
6. Sets out procedures for dealing with frivolous, repeat or multiple complaints.
7. Sets out a process for acknowledging a complaint and communicating the results to the complainant.

All of these components are discussed in the following sections of this guide.

A local government can also develop processes for responding to specific kinds of common complaints. The following example, from a complaint we investigated, shows how a local government responded to a complaint about barking dogs by referring an individual to an established process for that type of complaint.

Dog Barking Log a Reasonable Request

Fran came to us because she was disturbed by her neighbours' barking dogs and did not agree with how her city had responded to her complaints about the noise. Fran said she had asked the neighbours to stop their dogs from barking so much, but they had not taken any effective action. She then contacted the city for help.

The city sent Fran's neighbours a warning letter, but she didn't think that had made a difference and called the city again. This time, a bylaw enforcement officer sent Fran a letter asking her to keep a log of when the dogs barked, and suggesting she ask two other sets of neighbours to do so as well.

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A complaints policy does not have to be complex. In fact, it should be clear and simple.

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Fran was reluctant to approach her other neighbours with this suggestion because she did not know them well. She thought it should be the city's job to maintain a log and to get other residents in the neighbourhood involved. At that point, Fran decided to contact our office.

After receiving Fran's complaint, we contacted the city's bylaw enforcement supervisor. The supervisor explained that the city's general counsel had advised that asking for noise logs from two other affected local residents would help demonstrate that the noise concern was general and not just a conflict between two parties. As well, the city was aware that any fine it issued for violating its noise bylaw could be challenged in court. If this happened, having evidence from more than one source would help the city defend its position. The enforcement supervisor also said that if Fran could supply the names of two neighbours who she thought were also disturbed by the barking dogs, the city would send them blank noise logs so she wouldn't have to do so herself.

We were satisfied that in responding to Fran, the city was following its established initial process for dealing with complaints about barking dogs. The city had good reasons for asking for noise logs, and did the right thing by agreeing to send noise logs to Fran's neighbours for filling in. We considered this to be a satisfactory resolution.

Best Practice: Developing a Complaints Policy

Local governments develop and implement a bylaw complaints policy that provides direction to staff and information for the public about:

- how to make complaints
- which staff members are responsible for receiving, recording and responding to complaints
- how staff will record and respond to complaints
- how complainants will be informed of outcomes

Making, Receiving and Recording Complaints

A consistent process that enables people to make bylaw enforcement complaints and also enables staff to receive those complaints is key to ensuring that:

- the public has a fair opportunity to raise bylaw concerns with local government
- local government staff can make efficient use of their time handling those complaints

As well, a clear process for recording complaints helps staff identify and organize important information consistently, and initiate any necessary actions in a timely manner.

A local government may receive complaints from the public in person, over the telephone or in writing, sometimes online.

The public must be made aware of the procedures to follow in making a complaint, and of the process that local government staff will follow when they receive a complaint.

A bylaw complaint form can help ensure that complainants provide the information necessary for a local government to record, assess and determine how to respond to the matter. If used, a complaint form should clearly outline what information is required and should have instructions about how to submit the completed form (e.g. email, fax, mail or in person). The form should also be publicly accessible – for example, available on the government’s website. Nine of the 25 local government websites we reviewed when we were developing this guide included complaint forms.

However, even if using an online or written complaint form, a local government should be flexible about how people can make complaints. For example, people with language or literacy barriers may have difficulties completing a written complaint form. Similarly, some complainants may feel more comfortable speaking to a person about their complaint on the telephone or in person. In such cases, staff can use a complaint form to guide their conversation with the complainant and ensure that relevant information is collected.

However people make complaints, a local government must have a consistent way of recording the complaint information. The following example, from a complaint we investigated, shows that not properly recording a complaint when it is made can result in critical delays and a frustrated complainant.

If a Tree Falls...

Kelly complained to her city about a neighbour who had begun cutting down trees on forested property, contrary to a local bylaw. Eight weeks later the city responded, issuing a stop work order to the neighbour, although by this time most of the trees had been cut down. Unhappy with the eight-week delay, Kelly called us.

We investigated why it took so long for the city to respond to Kelly’s complaint. The city admitted that the complaint had not been handled properly: staff responsible for taking action were not even aware of the complaint.

As a result of our investigation, the city provided training to its staff to ensure that all complaints in future are forwarded to the appropriate staff person in a timely fashion.

The system for receiving and recording complaints does not have to be complicated or costly, but it does need to be reliable and used regularly to be effective. The system – whether electronic or not – must allow government staff to record any decisions made about a complaint and to identify the next actions that need to be taken. This will help staff organize relevant information and ensure they have considered and responded to all complaints in a timely way based on urgency or any other considerations.

A clearly defined process for receiving and recording complaints and supporting information may also provide staff with better evidence to support bylaw enforcement action or decisions.

The policies and procedures for complaints submission and handling should also be made publicly accessible, on websites, in brochures or through other means of communication. The key information to be conveyed is:

- how to make a complaint
- how the local government will assess, investigate and respond to a complaint

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A local government should not require complaints to be made in a particular form because it is convenient for staff. Doing so may improperly discriminate against those who cannot use that method and may not be administratively fair.

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Best Practices: Making, Receiving and Recording Complaints

Local governments develop and implement an accessible complaints process that allows people to make complaints in a variety of ways.

Local government staff use one system to record all bylaw complaints and supporting information.

Local governments make all complaints processes and procedures publicly available.

Responding to Complainants

Most local governments we spoke with when we were developing this guide did not have a policy guiding how they follow up with people who make complaints. Responding thoroughly to a complaint demonstrates a local government's commitment to fairness and to providing good service to its residents. The following example, from a complaint we investigated, shows the value of this approach.

Beach Access Blocked

Pete had trouble accessing the beach near his home. He complained to the district about a derelict vehicle and debris, a rock barrier and an unstable tree all located on the public right-of-way. When the district's bylaw enforcement department did not respond to Pete's concerns in what he considered to be a timely and satisfactory manner, he contacted our office.

We investigated what enforcement action, if any, the district had taken in response to Pete's complaints. We found that although Pete had communicated at length with the district, the district had not responded sufficiently to the three specific concerns he raised, or explained why it had not taken action sooner.

As a result of our investigation, the district wrote a letter to Pete, explaining the reasons for the delay in taking enforcement action to remove the vehicle and debris from the beach access; clarifying its jurisdiction with regard to the rock barrier at the foreshore; and providing a detailed response about the unstable tree. Pete was happy to receive the information and even happier when the district followed up by ensuring that the public right-of-way was cleared.

In practice, some local governments do not follow up with complainants at all, while others only follow up if the complaint is serious or the complainant has specifically requested a response. Many complaints to the Office of the Ombudsperson are prompted by a person's belief that a local government has failed to respond to his or her complaint.

As a matter of fairness, it is important for a local government to respond to a person who makes a complaint. Local government staff can explain any action that has or has not been taken and the reasons for the decision. Such information provides the complainant with confirmation that his or her concerns have been heard by the local government, even if the desired action will not be taken.

The response from staff should be specific to the complaint. For example, in the above example, "Unsightly but Acceptable," the local government gave the complainant three reasons to explain why it did not enforce its bylaws in the circumstances. Individuals who have not received an adequate response to their

complaints may believe that the local government has not acted on their concerns, even if this is not the case.

Based on our experience investigating complaints about a perceived lack of response by a local government, we suggest that the following information be included in any response to a complainant, whether written or verbal:

- acknowledgement that the complaint has been received
- steps taken to assess the complaint
- any enforcement action taken or planned, or the reasons for no enforcement action
- any other relevant information

A verbal response to a complainant may be adequate if staff clearly document the conversation and the matter is routine or uncomplicated.

In all cases when responding to a complainant, local governments should be mindful of their obligation to protect the personal information of both the complainant and other parties involved. This may mean that certain information must not be shared, but in virtually all cases, some meaningful information can be given to a complainant.

Best Practices: Responding to Complainants

Local government staff document all interactions, whether written or verbal, with complainants.

When local government staff respond to a complainant, whether in writing or verbally, they:

- acknowledge receipt of the complaint
 - describe any steps taken to assess the complaint
 - describe any enforcement action taken or planned, or the reasons for no enforcement action
 - provide any other relevant information
-

Responding to Frivolous, Repeat or Multiple Complaints

Local government staff have often asked us questions about how to respond adequately and appropriately to individuals who make frivolous, repeat or multiple complaints. This is a particularly challenging issue for all local governments.

As a basic principle of administrative fairness, it is important to respond to all complainants. However, there may be times when responding to a repeat complainant or to a complainant whose concern has no basis in fact will result in staff expending significant resources on a single issue. Furthermore, continuing to follow up on multiple complaints about the same issue can result in the person who is the subject of the complaints feeling unfairly targeted. In these situations, the focus for local governments must be on balancing fairly the interests of both the individual making the complaint and the broader community.

The following example, from a complaint we investigated, shows how local government staff responded to multiple complaints from a single individual by

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The focus for local governments must be on balancing fairly the interests of both the individual making the complaint and the broader community.

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assessing those complaints and providing a reasoned explanation for the decision not to investigate.

The More Is Not the Merrier

When he contacted our office, Bret explained that he had complained to his district about a number of bylaw violations. He told us that the district had not taken reasonable enforcement measures in response to his complaints. We decided to investigate the matter.

In Bret's complaints to the district, he had alleged bylaw violations pertaining to at least 11 different properties. The district explained to us that its enforcement resources were focused on violations that raised demonstrable risks to human health or safety or to the environment. The district said that it was aware of acrimony between residents in Bret's neighbourhood and that it had chosen not to intervene in matters that were clearly disputes between individuals. The district also said that if it did receive complaints alleging a bylaw violation that could have serious consequences for human health or safety or to the environment, staff would investigate and take action in accordance with the district's policy.

The district was also able to demonstrate to us that the complaints raised by Bret were not ones that, according to the district's policy, would trigger an investigation.

We therefore concluded that the district's response to the complaints was in keeping with its policy and not unreasonable, and we determined Bret's complaint to our office to be unsubstantiated.

To ensure they deal with all complainants fairly and consistently, local governments should include in their written complaints policy a process for handling repeat complainants. Processes such as clearly documenting all communications with the complainant and all attempts by staff to address the concerns can help a local government track the steps it has already taken, which in turn can help it make informed decisions about future communication and action.

The above example shows a good practice for responding to multiple complaints. Instead of dismissing Bret's complaints because he had made many of them, the district was able to point to a clear policy basis for its response. It is important for local governments to assess complaints on their merits – even if numerous – to determine the appropriate response.

In contrast, the following example, from a complaint we investigated, shows how one local government acknowledged that it had gone too far in preventing a person from continuing to make complaints.

The Right to Raise Concerns

Elda was being driven to distraction by the activities of her neighbour. She told us she had complained repeatedly to the local government about her neighbour skinning animals in his backyard and leaving the carcasses lying around. She said that the smells and view from her property were intolerable and that the local government would not do anything.

We investigated on Elda's behalf and learned that she had complained to the local government several times about her neighbour. Her complaints were documented and investigated by bylaw enforcement officers.

We also learned that the local government had finally written to Elda to tell her that it would not investigate any further complaints from her about the neighbour's

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property. When we spoke to a senior official about the letter, he explained that it had been written because several of Elda's complaints turned out to be unfounded. The local government was concerned that her repeated complaints were using up scarce staff resources unnecessarily. Moreover, the neighbour in question was himself complaining of being harassed by government staff. As the official noted, the local government has to balance the rights of all residents, including the right of being free from excessive visits by enforcement officers.

While the intent of the letter sent to Elda had been to put an end to unnecessary complaints, the official agreed it had gone further than intended. The official agreed to write another letter to Elda, reassuring her that she had the right to make complaints about activities she believed to be in violation of the city's bylaws, but also pointing out the local government's duty to be responsive to the needs of all residents. It also invited Elda to call if she was unsure whether an activity was allowed under the current bylaw.

The initial letter that denied Elda the right to complain should not have been written. However, we concluded that the action was corrected by the second letter.

In this case, the local government did some things well: it clearly documented its earlier responses to Elda, it investigated her concerns, and it took steps to ensure her neighbour's property was in compliance with the bylaws. Nevertheless, it acted too quickly to prohibit her from making further complaints. Once the local government agreed to change course – taking the time to explain its process to Elda in writing and to leave the door open for her to raise future concerns or ask questions – it was able to appropriately balance the interests of both Elda and the broader community.

As a last resort, local governments may consider limiting the extent to which they will respond to frivolous complaints or repeat complainants (e.g. by responding only if the complainant in question provides new information or raises a new issue). However, such limits should be imposed only after careful consideration, as a person's ability to contact his or her local government is a fundamental component of the democratic values of openness and accountability.

If a local government does decide to restrict contact with a person who is making repeated complaints about the same issue, it is essential that:

- the decision be made by a senior official in the local government
- the local government clearly communicate to the complainant, in writing, the nature of the restrictions, the reasons for them and when they may be reconsidered
- the local government does not prevent or limit other necessary contact with staff that is unrelated to the person's complaints

Sometimes a local government may receive multiple complaints from different people about the same issue. In these cases, staff may assess and determine a response for the complaints as a whole rather than individually. In doing so, however, staff must consider any nuances of the different complaints and respond to each issue received from each complainant.

For example, a local government may receive multiple noise complaints about a residence, but one of the complainants also raises a concern about offensive odours coming from the same residence. In such a case, a blanket response from local government to all complainants about the noise is appropriate, but staff should also respond individually to the concern about odours raised by the one complainant.

DEALING WITH BYLAW COMPLAINTS

Best Practices: Responding to Frivolous, Repeat or Multiple Complaints

Local governments develop and implement a written policy for dealing with frivolous, repeat or multiple complaints.

If a local government decides to restrict a person from making complaints to the local government:

- that decision is made only by a senior local government official
- that decision is clearly communicated to the person in writing, outlining the nature of the restrictions, reasons for the restrictions, and when the restrictions will be reconsidered
- the local government does not prevent or limit other necessary contact with staff that is unrelated to the person's complaints

When responding to multiple complaints about the same issue, local government staff address each person's specific concerns.



CONDUCTING BYLAW INVESTIGATIONS

Whether acting in response to a complaint or on their own initiative, the investigations conducted by bylaw enforcement staff are an important step in the bylaw enforcement process. Before taking any enforcement action, bylaw enforcement staff must collect and assess the relevant evidence so they can determine if a complaint about a potential bylaw violation is valid.

This section describes best practices that local governments can adopt to ensure that their investigations of potential bylaw violations are conducted fairly, impartially, consistently and thoroughly.

A Consistent Approach to Investigations

A consistent approach to bylaw investigations helps local governments to ensure that any resulting decisions are fair, defensible, and have considered all relevant information.

Consistency does not mean that previous enforcement decisions are binding precedents from which decision makers cannot deviate. Rather, it means that similar cases should be treated in a similar way, unless there is a compelling reason not to do so.

The following sections describe how local governments can consistently approach investigation decisions by developing and implementing guidelines and by using investigation plans to focus and document an investigation.

Deciding Whether to Investigate

Local governments lacking the resources to investigate all complaints may prioritize the complaints that require immediate action, recommend that complainants take additional steps before making a complaint, and decline to investigate some complaints entirely. A local government can reasonably exercise its discretion not to investigate by considering the circumstances of the complaint and reviewing previous decisions for similar complaints. However, a local government should not have a blanket policy of not investigating particular kinds of complaints at all. Such a policy prevents bylaw enforcement staff from exercising their discretion.

As a best practice, staff who are deciding whether or not to investigate a complaint should have guidelines to assist them in making consistent and defensible decisions. Those guidelines should define the circumstances in which staff can decide not to investigate a complaint and outline the factors staff should consider when making that decision. Some factors that local government staff can reasonably consider when deciding whether or not to investigate include:

- the nature of the complaint and alleged violation
- the impact of the violation on the community
- the impact of the violation on the complainant (if there is one) or other individuals
- any general directives from council

Such guidelines can be contained in the local government's broader enforcement policy (see "Guidelines for Exercising Discretion" in The Role of Council section of this guide for more discussion).

CONDUCTING BYLAW INVESTIGATIONS



CONDUCTING BYLAW INVESTIGATIONS

The primary goal of an investigation plan is to ensure enforcement occurs only after an appropriate, fair and thorough investigation.

Best Practice: Deciding Whether to Investigate

Local governments provide bylaw enforcement staff with guidelines to assist them in making consistent and defensible decisions on whether to investigate a complaint. These guidelines define the circumstances in which staff can decide not to investigate a complaint and outline the factors staff should consider when making that decision.

Developing an Investigation Plan

The nature of the investigation that bylaw enforcement staff will need to conduct depends on the circumstances of the alleged violation. In some cases, such as a minor parking offence, the investigation will be minimal. Other bylaw violations, however, are more complex and require a significant investigation before staff can make an enforcement decision. One way to approach these complex cases in a consistent way is to develop an investigation plan.

Investigation plans can be customized by a local government to meet the needs of the community, and to reflect the nature of the investigations staff usually conduct. However, every investigation plan should include at least four key elements:

1. A summary of the complaint or alleged infraction.
2. The relevant bylaw and the test that must be met to confirm that a bylaw violation has occurred. In some cases, the bylaw will have multiple elements all of which must be proven to show that a bylaw has been violated.
3. The evidence staff will need to gather to meet that test and where and how they will obtain that evidence.
4. Any applicable timelines for completing steps in the investigation.

Local governments can simplify the process of developing an investigation plan by adopting a template for bylaw enforcement staff to follow. The primary goal of an investigation plan is to ensure enforcement occurs only after an appropriate, fair and thorough investigation.

By developing an investigation plan before beginning an investigation, bylaw enforcement staff can:

- ensure they have a clear understanding of the applicable bylaw
- consider what evidence they will need to gather from the investigation and how they will obtain that evidence
- identify potential issues they will need to address
- consider different options for resolving an issue
- clearly document the investigation

Most importantly, an investigation plan will assist staff in conducting thorough, timely and fair investigations. A well-developed investigation plan allows bylaw enforcement staff to remain objectively focused on the key issues that need to be resolved and ensures that all necessary steps – such as providing adequate notice – are taken.

Best Practices: Developing an Investigation Plan

Bylaw enforcement staff create an investigation plan before initiating a complex investigation, and follow the plan to the conclusion of the investigation.

Each investigation plan developed by bylaw enforcement staff includes, at a minimum:

- a summary of the complaint or alleged infraction
- the relevant bylaw and the test that must be met to confirm that a bylaw infraction has occurred
- the evidence staff will need to gather to meet the test and where and how they will obtain that evidence
- any applicable timelines for completing steps in the investigation

Documenting an Investigation

Adequate documentation of an investigation will support a decision to enforce or not to enforce a bylaw. A local government's investigation file should include all steps taken during the investigation, all evidence collected (including the source), any investigative decisions staff have made, and references to all relevant legislation, bylaws and policy.

A well-documented file can help later reviewers such as council or the Office of the Ombudsperson understand what steps enforcement staff took in an investigation and, importantly, the reasons those steps were taken. It can also help to demonstrate that the investigation followed an administratively fair process. The example below, from a complaint we investigated, shows the importance of a well-documented investigative file.

Good Documentation Pays Off

Alonso contacted us because he believed the city was not enforcing its bylaws. He had made several complaints alleging that a neighbour was running a business and keeping an illegal secondary suite at his residence. He said the city had not taken enforcement action.

We investigated whether the city had responded reasonably to Alonso's complaints. As part of our investigation, we met with the city's manager of bylaw enforcement, and reviewed the city's files on the matter.

The city had substantial documentation about Alonso's complaints and the steps its bylaw enforcement officers had taken in response. In keeping with the broad direction set by council, bylaw enforcement officers had sought voluntary compliance from Alonso's neighbour. The bylaw enforcement officers worked with the neighbour so that he would comply with the secondary suite bylaw, and determined that he was not violating the city's home-based business bylaw. The bylaw enforcement officers had canvassed other nearby neighbours who said they believed the matter had been resolved satisfactorily. The city also continued to monitor the situation on a regular basis.

After considering the actions taken by the bylaw enforcement officers, supported by the documentation on the city's file, we decided that the bylaw enforcement officers had responded reasonably to Alonso's complaint and had communicated the outcome of their investigation to Alonso.

CONDUCTING BYLAW INVESTIGATIONS

Another example, “The More Is Not the Merrier” (see the Dealing with Bylaw Complaints section of this guide) highlights the importance of clearly documenting decisions not to investigate a complaint. In that case, the local government’s documentation allowed staff to demonstrate to the complainant and our office that they had followed appropriate policy and procedures.

Best Practice: Documenting an Investigation

Bylaw enforcement staff thoroughly document their investigation and any resulting decisions. Each investigation file includes:

- the investigation plan
- significant steps taken during the investigation
- material evidence collected and the source of that evidence
- significant decisions made and the rationale for those decisions
- references to all relevant legislation, bylaws or policy

Inspecting Private Property as Part of a Bylaw Enforcement Investigation

Local government staff will sometimes need to enter private property as part of a bylaw enforcement investigation. This constitutes a significant intrusion into a space that would otherwise be private, so it is important for local governments to understand their obligations when entering property to ensure that any inspection is conducted fairly and appropriately. The following example, from a complaint we investigated, demonstrates that a lack of clear understanding of a local government’s authority to inspect can lead to conflict.

Get Off My Lawn!

Paul contacted us with a complaint that a city bylaw enforcement officer had entered his property on several occasions at various hours of the day and night, without permission and without notice. Paul said the officer told him that he had the right to inspect Paul’s property in this manner. Paul complained that the bylaw enforcement officer’s actions were unfair and that he did not get a response from the city when he raised his concerns.

We investigated whether the city had followed a reasonable process to inform Paul of his rights and obligations when the bylaw enforcement officer sought entry onto his property, and whether it had responded to the concerns Paul raised. The city’s existing bylaw granted bylaw enforcement officers broad powers to enter property at all reasonable times and did not require prior notice to the resident. After discussing the matter with city staff, we learned that the city did not have any written policy that addressed the steps bylaw enforcement officers were expected to take when inspecting private property. It was also unclear whether the information the city provided verbally to bylaw enforcement officers was consistent with the provisions of the Community Charter.

We therefore questioned whether the city’s application of its bylaw enforcement powers was inconsistent. In this case, the bylaw enforcement officer had not taken steps to notify Paul before entering his property, and the inspections were not always carried out at reasonable times. The city agreed to look at implementing a formal written policy to assist bylaw enforcement officers to comply with the legislation. As a result of this commitment, we considered the complaint settled.

Using the Authority to Inspect Fairly

Local government officers and other employees and individuals authorized by council can enter private property to determine if bylaws are being followed.²⁷

Regional districts and the Islands Trust must set out their authority to enter property in a bylaw.²⁸ By contrast, municipalities are not required to do so. Authorized individuals can exercise their authority to inspect under the *Community Charter* to determine if a municipality's bylaw is being followed.²⁹ A municipality can also specify who can exercise this authority and for what purposes – for example, all municipal employees, bylaw enforcement officers, or specific persons such as animal control or building inspectors.

Some local governments use contractors rather than their own employees to conduct these inspections. Local governments must ensure that contractors are clearly and specifically authorized by council to enter private property. To minimize any confusion, a contractor's authority to enter a property should be clarified in writing. This written authorization should identify the contractor, describe the scope of his or her authority to inspect, and state the date on which that authority expires.

A local government (other than the City of Vancouver, discussed below) does not need a warrant or permission from the owner or occupier to enter property. However, an inspection must be done in a reasonable manner and at a reasonable time. The inspector must also take reasonable steps to advise the owner or occupier before entering the property.³⁰

The City of Vancouver's authority to enter property is more limited. The *Vancouver Charter* authorizes the city to enter property for certain specified purposes, such as building inspection and identification of fire hazards.³¹ For some situations, the City of Vancouver must create bylaws setting out this authority.³² In other situations, the *Vancouver Charter* itself gives city employees the authority to enter property.³³ All City of Vancouver inspections must be conducted at a reasonable time. However, unlike the *Community Charter*, which also requires inspectors to carry out inspections in a reasonable manner and provide reasonable notice, the *Vancouver Charter* does not.

In some situations, an inspection conducted by a local government employee or contractor without a warrant may be considered an unreasonable search and a violation of the *Canadian Charter of Rights and Freedoms*. Courts in British Columbia have decided that a routine spot check and a brief inspection of the exterior of a house

CONDUCTING BYLAW INVESTIGATIONS

²⁷ *Community Charter*, S.B.C. 2003, c. 26, s. 16; *Local Government Act*, R.S.B.C. 2015, c. 1, s. 419; *Vancouver Charter*, S.B.C. 1953, c. 55, s. 300.1, 306, 311, 313, 560A. Improvement districts do not have this authority. Section 16 of the *Community Charter* provides authority to officers, employees or "other persons authorized by the council." Similarly, the *Local Government Act* provision applies to "officers, employees and agents of the regional district." This can be interpreted to apply to contracted bylaw enforcement officers; however, local governments may wish to set this out clearly in their bylaws if they do use contracted workers to enforce bylaws.

²⁸ *Local Government Act*, R.S.B.C. 2015, c. 1, s. 419; *Islands Trust Act*, R.S.B.C. 1996, c. 239, s. 28.

²⁹ *Community Charter*, S.B.C. 2003, c. 26, s. 16(6)(a).

³⁰ *Community Charter*, S.B.C. 2003, c. 26, s. 16(4). These requirements from the *Community Charter* apply to regional districts and Islands Trust through the *Local Government Act*, R.S.B.C. 2015, c. 1, s. 284.

³¹ *Vancouver Charter*, S.B.C. 1953, c. 55, s. 281(a), 306(1)(h), 311(a), 313, 324.1(4) and 560.A.

³² *Vancouver Charter*, S.B.C. 1953, c. 55, s. 281(a) (business tax), 300.1(3)(j) (energy utility systems), 306(1)(h) (building inspections) and 311(a) (fire hazards).

³³ *Vancouver Charter*, S.B.C. 1953, c. 55, s. 313 (electrical works), 324.1(4) (animal control) and 560.A (zoning).

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does not violate the Charter.³⁴ However, an intrusive and warrantless inspection of a residence by municipal employees to identify potential marijuana grow-operations does violate the Charter.³⁵

In determining whether an inspection has violated the Charter, courts consider a resident's reasonable expectation of privacy, the intrusiveness of the search, the stigma associated with the offence, the feasibility of obtaining a warrant, and the usefulness of a warrant.

Even if there is no potential Charter violation, any local government employee entering private property to investigate a potential bylaw infraction must ensure that his or her actions are carried out in good faith and in a careful manner. As discussed in "Standards of Conduct" in The Role of Council section of this guide, abuse of power may occur if a bylaw enforcement officer removes or damages property in a reckless manner. This, in turn, may leave a local government liable for damages and cause negative public perception.

Local governments can adopt best practices that will assist staff in using their authority to inspect private property in a reasonable manner. The best practices listed below would, in our view, be consistent with both legislative requirements and principles of administrative fairness. All local governments that have inspection powers should consider adopting them.

Best Practices: Inspecting Private Property

A local government develops a publicly accessible bylaw or policy that outlines when and how it can inspect private property and who may conduct those inspections.

The bylaw or policy describes any circumstances where local government staff may be exempt from providing notice of an inspection.

Before conducting an inspection, local government staff:

- determine whether an inspection is necessary to adequately investigate the alleged bylaw violation
- determine whether it is possible to allow a resident time to comply with the bylaw without the need for an inspection
- provide notice to the resident unless the situation is one in which the local government has stated in a bylaw or policy that notice is not necessary
- include the reasons for the inspection in the notice

When conducting an inspection, local government staff are as minimally intrusive as possible, only inspect what is relevant to the bylaw being enforced, and complete the inspection in a reasonable amount of time.



³⁴ In *R. v. Bichel*, 1986 BCCA 102, a building inspector inspected a residential premise for compliance with municipal zoning bylaws. In *Roback v. Chiang*, 2003 BCPC 509, a bylaw enforcement officer inspected the exterior of a house in response to a complaint about an unsightly premise. Neither inspection was found to infringe section 8 of the Charter.

³⁵ In *Arkinstall v. City of Surrey*, 2010 BCCA 250, an intrusive inspection of a residential premises' electrical systems for safety risks for the purpose of determining whether the residence was used for marijuana grow-operations, was found to infringe section 8 of the Charter.

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In most cases, a local government has full discretion to decide whether to enforce a particular bylaw.³⁶ Such broad discretion in enforcement means local governments can be creative in dealing with bylaw non-compliance. Local governments told us they are particularly proud of the strategies they use to seek voluntary bylaw compliance, which include:

- creating general public education materials
- educating individual residents in response to a complaint
- resolving matters informally
- using mediation and alternate dispute resolution
- issuing warnings prior to enforcement

Enforcement Options

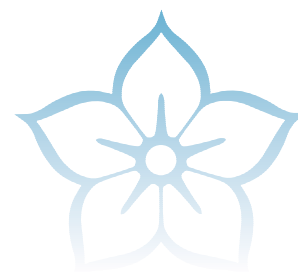
In addition to the voluntary compliance strategies described above, local governments can use a variety of bylaw enforcement options, all of which are set out in provincial legislation.

Local governments other than improvement districts can use the following enforcement options:

- prosecution under the *Offence Act*³⁷
- municipal ticketing³⁸
- bylaw offence notice³⁹
- direct enforcement⁴⁰
- civil proceedings⁴¹

In addition to the above, all local governments can suspend a license, permit or approval where the conditions have not been followed, and municipalities other than Vancouver can discontinue providing a service where the rules about that service have not been followed.⁴²

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³⁶ See, for example, *Burke v. Sunshine Coast (Regional District)*, 2011 BCSC 1636; *Myer Franks Agencies v. Vancouver (City)*, 2010 BCSC 1637. However, a local government that uses mandatory language in a bylaw, for example, “the bylaw officer must enforce...” may create a duty to enforce the bylaw, and could be liable for failing to do so: see *Kamloops v. Neilson*, 1984 SCC 21, [1984] 2 S.C.R. 2.

³⁷ *Local Government Act*, R.S.B.C. 2015, c. 1, s. 416; *Vancouver Charter*, S.B.C. 1953, c. 55, s. 333; *Community Charter*, S.B.C. 2003, c. 26, s. 263. A bylaw may establish the minimum or maximum fine that the local government can seek; however, if no penalty is specified, those under the *Offence Act* apply.

³⁸ *Community Charter*, S.B.C. 2003, c. 26, s. 264; *Vancouver Charter*, S.B.C. 1953, c. 55, s. 482.1.

³⁹ *Community Charter*, S.B.C. 2003, c. 26, s. 260(2)(b); *Vancouver Charter*, S.B.C. 1953, c. 55, s. 333B(1)(c); *Local Government Act*, R.S.B.C. 2015, c. 1, s. 415.

⁴⁰ *Community Charter*, S.B.C. 2003, c. 26, s. 17; *Vancouver Charter*, S.B.C. 1953, c. 55, s. 336; *Local Government Act*, R.S.B.C. 2015, c. 1, s. 418.

⁴¹ *Community Charter*, S.B.C. 2003, c. 26, s. 274; *Local Government Act*, R.S.B.C. 2015, c. 1, s. 420; *Vancouver Charter*, S.B.C. 1953, c. 55, s. 334.

⁴² *Vancouver Charter*, S.B.C. 1953, c. 55, s. 161 B and 277; *Local Government Act*, R.S.B.C. 2015, c. 1, s. 335; *Community Charter*, S.B.C. 2003, c. 26, ss. 15 and 18.

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Islands Trust local trust committees have the same enforcement options as regional districts.⁴³ Improvement districts can take legal action under the *Offence Act* after giving notice and providing time to comply, but cannot issue tickets.⁴⁴

Municipal Tickets

The municipal ticket information system set out in the *Community Charter* allows a designated bylaw enforcement officer to issue a ticket for specified bylaw violations. If the recipient disputes the ticket, this is heard in provincial court. The *Community Charter* authorizes local governments and regional districts⁴⁵ to implement this ticket information system by enacting a bylaw specifying which violations are subject to municipal ticketing, who is authorized to issue the tickets, and what penalties may be imposed.⁴⁶ The maximum penalty under the municipal ticket information system is \$1,000 per violation.⁴⁷

The City of Vancouver is also authorized to issue municipal tickets under the *Vancouver Charter*.⁴⁸

Bylaw Notices

The *Local Government Bylaw Notice Enforcement Act* establishes a process for enforcing a bylaw by issuing a bylaw notice.⁴⁹ A local government must designate the bylaw violation that can be dealt with under the Act.

The process is initiated when a bylaw enforcement officer issues a bylaw notice for an alleged violation. The bylaw notice imposes a fine that the recipient can dispute through an adjudication system rather than through the courts. The adjudication system is created by local governments, often as a shared service with other communities. An independent adjudicator hears the appeal and can cancel the fine if he or she finds that the violation did not occur.

Adjudication may also include a first-level review by an internal screening officer who can cancel or reduce the fine, or enter into a compliance agreement with the recipient.⁵⁰ A bylaw that has been designated by a local government under the *Local Government Bylaw Notice Enforcement Act* cannot be enforced by prosecution under the *Offence Act*.⁵¹

⁴³ *Islands Trust Act*, R.S.B.C. 1996, c. 239, s. 28(1).

⁴⁴ Ministry of Community, Sport and Cultural Development, *Improvement District Manual*, 2006, 17 <http://www.cscd.gov.bc.ca/lgd/gov_structure/library/improvement_district_manual.pdf>.

⁴⁵ Under the *Local Government Act*, R.S.B.C. 2015, c. 1, s. 414, Division 3 of Part 8 of the *Community Charter* applies to regional districts.

⁴⁶ Ministry of Community, Sport and Cultural Development, "Municipal Ticketing" <http://www.cscd.gov.bc.ca/lgd/governance/municipal_ticketing.htm>.

⁴⁷ *Community Charter Bylaw Enforcement Ticket Regulation*, B.C. Reg. 239/2010, s. 2.

⁴⁸ *Vancouver Charter*, S.B.C. 1953, c. 55, s. 482.1.

⁴⁹ *Local Government Bylaw Notice Enforcement Act*, S.B.C. 2003, c. 60, Part 2.

⁵⁰ *Local Government Bylaw Notice Enforcement Act*, S.B.C. 2003, c. 60, Part 3.

⁵¹ *Offence Act*, R.S.B.C. 1996, c. 338, s. 13(3).

The bylaw notice process is available to local governments listed in the *Bylaw Notice Enforcement Regulation*. The Regulation includes municipalities, local trust committees and regional districts.⁵²

Direct Enforcement

Municipalities, regional districts, the Islands Trust and the City of Vancouver have the authority to enforce some bylaws directly. This means that these local governments can require a person to take action to comply with a bylaw, and, if the person does not, they can seek to recover compliance costs. For example, a local government may require a property owner to clean up a property that contravenes its unsightly premises bylaw. If the property owner fails to take the required action, the local government may directly enforce the bylaw by cleaning up the property and charging the property owner for the cost of the clean-up.⁵³

The following sections describe best practices that local governments can adopt to ensure that their enforcement processes are fair and reasonable.

Jurisdiction and Authority to Act

In deciding whether to take enforcement action to address a bylaw infraction, local government staff must first consider whether the matter is within their jurisdiction and authority to act. This means looking at whether the matter is something that is regulated by the local government, whether the proposed enforcement action is permitted by the relevant legislation and whether staff have authority to take that action.

Residents may expect local government to resolve a wide array of issues through bylaw enforcement, even when doing so is not their responsibility. Local governments can, of course, become involved informally when seeking resolution to an issue, but both staff and the public should be made aware that in such circumstances, a local government can take enforcement action only if it is authorized by its enabling legislation.

Mediation or informal resolution of an issue may be practical if local government has the resources for it. For example, one local government we spoke with told us that in an effort to address complaints about a sign on a private property, its bylaw enforcement officers informed the owner of concerns about the sign, even though

⁵² *Local Government Bylaw Notice Enforcement Act*, s. 2. As of January 6, 2016, the following local governments were listed in the *Bylaw Notice Enforcement Regulation*: City of Abbotsford, Barriere, Bowen Island Municipality, Burnaby, Cariboo Regional District, Central Kootenay Regional District, Central Okanagan Regional District, Chilliwack, Coldstream, Coquitlam, Cranbrook, Creston, Dawson Creek, Delta, Denman Island Local Trust Committee, Duncan, Enderby, Esquimalt (Township), Fraser Valley Regional District, Fruitvale, Gabriola Island Local Trust Committee, Galiano Island Local Trust Committee, Gambier Island Local Trust Committee, Gibsons, Golden, Greater Vancouver Regional District, Harrison Hot Springs, Hope, Hornby Island Local Trust Committee, Kelowna, Kent, Lake Country, Langley (Township), Lasqueti Island Local Trust Committee, Lions Bay, Maple Ridge, Mayne Island Local Trust Committee, Nanaimo, Nelson, New Westminster, Northern Rockies Regional Municipality, North Pender Island Local Trust Committee, North Vancouver (City), North Vancouver (District), Okanagan-Similkameen Regional District, Oliver, Parksville, Peace River Regional District, Peachland, Penticton, Pitt Meadows, Port Alberni, Port Coquitlam, Richmond, Salt Spring Island Local Trust Committee, Saturna Island Local Trust Committee, South Pender Island Local Trust Committee, Sechelt (District), Squamish, Squamish-Lillooet Regional District, Summerland, Sun Peaks Mountain Resort Municipality, Sunshine Coast Regional District, Surrey, Thetis Island Local Trust Committee, Thompson-Nicola Regional District, Tofino, Valemount, Vancouver (City), Vernon, Victoria, Wells, West Kelowna, West Vancouver, Williams Lake.

⁵³ *Community Charter*, S.B.C. 2003, c. 26, s. 17; *Vancouver Charter*, S.B.C. 1953, c. 55, s. 336; *Local Government Act*, R.S.B.C. 2015, c. 1, s. 418.

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they could not order the sign to be removed. This local government considered such informal resolution to be a successful approach.

In many cases, however, a local government may not want to expend its resources investigating an issue when it cannot take enforcement action. If a local government does become involved in an effort to address the concerns of residents, bylaw enforcement staff must act within the limits of their authority (see “Standards of Conduct” in The Role of Council section of this guide for further discussion).

A local government must also ensure that its bylaw enforcement officers, employees and contractors who carry out enforcement, are given authority to act under the appropriate legislation. Some bylaw enforcement measures, such as municipal tickets or bylaw offence notices, require the bylaw enforcement officers using them to be designated by council through a bylaw. Regional districts and municipalities appoint bylaw enforcement officers under the *Community Charter*, while the City of Vancouver appoints its bylaw enforcement officers under a similar section in the *Vancouver Charter*.⁵⁴ Bylaw enforcement officers that are not properly designated through a bylaw would not have authority to take some enforcement actions, such as issuing municipal tickets or bylaw offence notices.

Best Practices: Jurisdiction and Authority to Act

Local government bylaw enforcement staff consider whether a matter falls within their jurisdiction and authority before taking enforcement action.

Council designates through bylaws the enforcement officers who issue municipal tickets or bylaw offence notices.

Notice Prior to Enforcement

Except in the specific circumstances discussed below, local governments should provide notice of potential enforcement action to the resident who will be affected by it. This notice is a key part of a fair enforcement process and affords local government an opportunity to inform a resident of its concerns. Providing notice gives the resident a chance to comply with the bylaw or question whether it applies to his or her situation. Notice helps to ensure that enforcement action occurs only after a resident has had a fair opportunity to be heard.

Some bylaws establish a progressive enforcement process where a local government issues a number of notices before taking action. An initial notice letter can be part of an educational approach, which may also include speaking with a resident to explain the bylaw and the local government’s expectations for compliance. For example, one local government we spoke with during our investigations issued notice letters about unsightly premises as a proactive measure. These notice letters reminded residents of the bylaw requirements and, as a result, owners of several

⁵⁴ *Community Charter*, S.B.C. 2003, c. 26, s. 264(1)(b), grants the authority to municipalities to designate through a bylaw, bylaw enforcement officers who may issue a municipal ticket information. *Local Government Act*, R.S.B.C. 2015, c. 1, s. 414, states that division 3 of Part 8 of the *Community Charter* applies to regional districts, therefore granting regional districts the same power to appoint bylaw enforcement officers under s. 264(1)(b) of the *Community Charter*. *Vancouver Charter*, S.B.C. 1953, c. 55, s. 482.1(1)(b), grants the City of Vancouver the same powers to designate bylaw enforcement officers through a bylaw. The *Local Government Bylaw Notice Enforcement Act*, S.B.C. 2003, grants all individuals who have been designated as bylaw enforcement officers under the *Community Charter*, or the *Vancouver Charter*, the authority to issue bylaw offence notices for bylaws that are themselves properly designated.

of the properties cleaned up their yards. Taking the time to communicate with a resident before enforcement can produce positive results.

It is equally important to allow a person reasonable time to comply with a notice after it is given, and to not arbitrarily change the deadlines that have been imposed. The example below, from a complaint we investigated, illustrates this issue.

Just Give Me a Chance!

Pam lived in the United States and owned a residential rental property in a medium-size British Columbia city.

The city inspected Pam's property and then sent her a bylaw compliance order directing her to clean the property up because it had become unsightly. The city did not provide Pam with any warning before making the order. The city sent the order by registered mail to Pam's American address and set a 10-day deadline for completing the clean-up work. Pam, however, didn't receive the notice until the deadline day. She called the city the same day only to learn the clean-up work had already been done. She was told she would be billed for the costs plus penalties. Shortly after, Pam travelled to the city and spoke with bylaw enforcement officials about her situation. She asked the city to contact her by email if there were any similar problems in the future and to allow her enough time to arrange the clean-up work herself.

About six months later, the city inspected Pam's property again and sent another bylaw compliance order by registered mail to her American address. Again, the city did not give Pam any warning before issuing the order. This second order was similar to the first, except this time the city set a 15-day deadline for compliance. Despite the longer deadline, Pam explained she still didn't receive the order until the deadline day. She tried to make arrangements to do the clean-up, but when she contacted the city, she learned staff had already carried out the work and billed her for the costs plus penalties. Although Pam paid the costs and penalties for both orders, she felt the city treated her unfairly. She complained the city did not give her enough notice to do the clean-up work herself and that the city should have contacted her earlier, as she had asked, if any other problems arose.

We questioned whether the city provided Pam with adequate warning or notice prior to each of the enforcement measures it took. We identified areas of concern including:

- whether compliance deadlines set by the city were reasonable since staff knew Pam lived in the United States*
- whether it was reasonable for the city to send the second compliance order by registered mail given the problems Pam told them she experienced with the first notification*
- whether out-of-date information included in the bylaw compliance orders and template notice letters had the potential to create uncertainty*
- whether it was reasonable for the city to do the clean-up work before the compliance deadlines had expired*

Based on the questions and concerns we identified, we consulted with the city and made several proposals aimed at resolving Pam's concerns and helping the city improve its bylaw enforcement process.

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As a result of our investigation, the city agreed to refund Pam the fee that she paid the city for the clean-up of her property. The city also agreed to:

- *review its bylaw enforcement process for unsightly premises*
- *review its communications to ensure they were up to date and accurately referenced the city's bylaws*
- *take measures to ensure staff were clear on the scope of the city's bylaw enforcement authority under the Community Charter*
- *look at developing policies concerning compliance orders*

In this example, the city's failure to provide Pam with adequate notice even after she had informed them of her willingness to comply made the situation worse.

The following sections highlight information that staff can include in enforcement notices to achieve a positive outcome for both residents and local governments.

Include Reasonable Time Limits

Local governments can avoid situations like the one Pam experienced by establishing clear time limits for residents to comply with a bylaw. Time limits must allow local governments the discretion to extend a time limit if necessary – for example, to accommodate an out-of-country resident. Local government staff should not, however, arbitrarily shorten a time limit, except in extraordinary circumstances, and not before attempting to communicate with the resident. A local government must also ensure that its staff are available if the resident has questions or wants to request an extension.

Describe Potential Consequences

When giving notice, local government staff should advise residents about the potential consequences of not complying with a bylaw. This can be done whether notice is verbal or written. For example, as in Pam's case, many unsightly premises bylaws allow local government staff to enter a person's property and clean it up at the owner's expense. The cost of the clean-up is then added to the property taxes if it is not paid within a specified period of time. A local government enforcing its unsightly premises bylaw can follow a fair process by providing notice that explains any steps it is prepared to take if the owner does not comply.

Provide Timely Notice

If a local government has concerns about a resident's activities, it should provide notice of those concerns to the resident in a timely way.

In the following example, from a complaint we investigated, a local government took enforcement action with no notice to the resident. In this case, the local government had been aware of complaints about activities on her property months earlier. This was not a case where the urgency of the situation outweighed the need to provide notice and give the resident an opportunity to respond. A phone call to the resident might have saved the local government a great deal of time.

Call First Next Time

Nara contacted us about the procedures used by her city to enforce its noise bylaw. Nara had received a letter from the city stating that neighbours were being disturbed by noise caused by welding and associated work being performed in the

garage on her property. With the letter, she also received two bylaw offence notices fining her \$1,000 for noise infractions that allegedly occurred on two occasions.

Nara learned that her neighbours had made several noise complaints approximately four months earlier, but the city had not brought those concerns to her attention. Nara thought the bylaw officer should have contacted her by phone or in person to discuss the noise problem and work with her to seek an amicable solution before taking enforcement action.

We investigated the process followed by the city in enforcing its noise bylaw. As a result of consultation with our office, the city offered to review Nara's situation, agreed to refund the \$1,000 fine and wrote Nara a sincere apology.

In Nara's case, it was apparent that she was interested in complying with the city's bylaws. Had she been given adequate notice or a warning about potential bylaw enforcement, she may have taken steps to comply, and further action may not have been necessary.

Not all bylaw offences require bylaw enforcement staff to give formal written notice. In many cases, it is sufficient for bylaw enforcement staff to telephone the person alleged to be violating the bylaw.

Use Template Notice Letters Carefully

In Pam's case, the city used a template notice letter to inform her of its concerns. Template letters should be used with caution. Although they allow local government staff to provide consistent information to residents, this benefit can be undermined, as it was in Pam's case, if the information is inaccurate, not followed by the staff, out of date, or simply confusing.

Use Signs to Provide Notice

For minor bylaw offences, local governments can provide sufficient general notice of potential enforcement by placing a sign describing the prohibited behaviour – such as a no parking sign. Many local governments take this approach, posting signs informing the public of bylaws on off-leash dogs, smoking, making noise late at night and other activities that contravene community standards in public spaces. Along with the relevant bylaw, such signs often post the maximum fine. When local government staff enforce these bylaws against individuals, they can point to the signs as providing notice.

Taking Action without Notice

As described above, a procedurally fair process provides a person with notice of pending administrative action that may affect his or her rights or interests. In a bylaw enforcement context, there may be situations where, due to the need for immediate action, a local government may not provide notice or a warning to an individual before taking enforcement action. Generally, this occurs when a bylaw violation creates an immediate risk to health, safety or the environment.

Posting signs as described above may not be feasible if the geographical area covered by a bylaw is too great, if the nature of the bylaw makes posting signs or providing individual notice impractical, or if a violation occurs infrequently. In such circumstances, taking enforcement action without notice may be justified, especially when the general public is likely to be aware of a bylaw, such as one prohibiting littering or riding bicycles on sidewalks.

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If a local government intends to take action without notice to address an immediate risk to health, safety or the environment, or other urgent circumstances, the relevant bylaws should include a clear provision for local government staff to take such immediate action. Such provisions, and accompanying policy, should also require staff to document their reasons for deciding to take immediate action (as discussed in “Guidelines for the Exercise of Discretion” in The Role of Council section of this guide).

Taking action without notice, even when warranted, does not mean a local government is exempt from following a fair process after that point. After enforcement action is taken, local government staff should provide the affected person with adequate reasons for the decision and information about how to appeal it.

Best Practices: Notice Prior to Enforcement

Local government bylaw enforcement staff provide reasonable notice prior to taking enforcement action. Notice includes:

- an explanation of the relevant bylaw and how the person is alleged to have contravened it
- reasonable time limits for compliance
- the potential consequences of failing to respond or comply within the time limits

Local government bylaw enforcement staff do not take enforcement action before the expiry of the compliance time limits set out in a notice letter or verbal communication.

Local governments define the circumstances in which notice may not be provided prior to enforcement.

Enforcing Bylaws Proportionally, Equitably and Consistently

Administratively fair enforcement decisions are proportional, equitable and consistent. A decision or action that fails to adhere to these principles may be unreasonable, unjust or arbitrary.⁵⁵ This section defines each of these principles and describes how local governments can make decisions that are consistent with them.

Proportional Enforcement

Bylaw enforcement action should be proportional to the nature of the violation. That is, enforcement measures should appropriately address the harm that is caused by the violation. For example, large fines are likely not an appropriate response to a minor bylaw violation. In sentencing a company after finding it had contravened standards of maintenance and fire bylaws, a British Columbia provincial court judge relied in part on the principle that “a sentence must be proportionate to the gravity of the offence” to determine the appropriate penalty.⁵⁶

⁵⁵ Office of the Ombudsperson, *Code of Administrative Justice 2003*, Public Report No. 42, British Columbia: Legislative Assembly, March 2003, 4, 11 and 12 <<https://www.bcombudsperson.ca/sites/default/files/Public%20Report%20No%20-%2042%20Code%20of%20Administrative%20Justice.pdf>>.

⁵⁶ *R. v. Picadilly Investments Ltd.*, [2008] B.C.J. No. 1570, 2008 BCPC 235, para 19.

Equitable Enforcement

Bylaw enforcement should be equitable – that is, applied in a way that is just in light of a person's circumstances.⁵⁷ This means that local government staff consider a person's circumstances and ability to comply before determining whether enforcement is appropriate and what enforcement tools they should use. This does not mean that local governments can never enforce bylaws against disadvantaged individuals. Rather, equity is a principle of fairness that goes to the heart of local governments' discretion to decide whether and how to enforce their bylaws.

For example, many local governments have a snow removal bylaw that requires residents and businesses to clear their sidewalks within a certain time after a snowfall. If a senior or person living with a disability is unable to comply, levying a fine or other similar enforcement measure for failing to clear the sidewalk without considering the person's circumstances would be unjust and unlikely to result in compliance. By first contacting a person who has failed to comply with a bylaw, local government staff can better understand his or her circumstances and explore alternatives.

As another example, some local governments have teamed up with health authorities and mental health experts to deal with unsightly premises of residents who may be dealing with a mental illness. This coordinated approach shows how local governments can take the particular circumstances of residents into consideration when deciding whether and how to take enforcement measures.

Consistent Enforcement

Consistency is also an important part of a fair bylaw enforcement process. As we state in our *Code of Administrative Justice*:

Administrative justice requires consistency in the application of determinative principles and standards. When the law spells out a test to apply, or when an authority has adopted a reasonable policy as a guide to the exercise of its discretion, the test or policy ought to be applied so that similar cases are treated in a similar way. Otherwise the authority acts arbitrarily, and an arbitrary decision is an unjust decision.⁵⁸

It is easier for local governments to meet public expectations about enforcement when staff follow a generally consistent approach to bylaw enforcement. Bylaw enforcement staff are not required to follow the same approach in every case, but if they enforce the same bylaw differently in similar circumstances, their decisions may appear to be arbitrary. When deciding what action is appropriate, bylaw enforcement officers should consider whether there is a compelling reason given the circumstances to deviate from policy and past practice.

When bylaw enforcement staff do deviate from policy or practice, they should be able to explain that to the individual who is affected. For example, a different enforcement approach may be justified if an individual has a past history of non-compliance, the violation is more severe than other cases, or the circumstances would make enforcement in the usual way unjust. The following example, from a complaint we investigated, shows how a local government initially took an inconsistent approach in enforcing its noise bylaw, leading to complaints of

⁵⁷ For further discussion of this principle in a local government context, see City of Toronto, Office of the Ombudsman, *Defining Fairness: The Office of the Ombudsman and the City of Toronto Public Service*, October 2010, 9 <http://ombudstoronto.ca/sites/default/files/FairnessHandFINALWEB_0.pdf>.

⁵⁸ Office of the Ombudsperson, *Code of Administrative Justice 2003*, Public Report No. 42, British Columbia Legislative Assembly, March 2003, 6 <<https://www.bcombudsperson.ca/sites/default/files/Public%20Report%20No%20-%2042%20Code%20of%20Administrative%20Justice.pdf>>.

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unfairness. It was unclear to the complainant why the city required compliance in one case, but not in another similar one.

No More Noise

Mark called us because he was dissatisfied with how the city responded to his complaints about noise from a restaurant located in a park adjacent to his home. The park was owned by the city and leased to a private individual to operate a restaurant. The restaurant proprietor held weddings and other special events at the restaurant, especially during the summer months. Four years before he contacted us, Mark began complaining to the city about noise from the restaurant. He was especially concerned about noise from weddings, which often went on late into the night. Mark wanted the city to enforce its noise control bylaw.

Mark pointed out that the city had required other private facilities that hold weddings to enclose their patios and monitor their outdoor areas with a decibel meter to ensure the noise didn't unduly disturb the surrounding neighbourhood. Mark thought it was unfair that the city didn't require the same sound mitigation strategies to be employed at the restaurant near his home – particularly when that restaurant was on property owned by the city.

Mark met with city staff and the commissioners at the park. The city then implemented a plan to reduce noise that was consistent with the noise reduction actions the city takes with private facilities. Because the actions taken by the city were now consistent, we considered the matter settled.

Best Practice: Enforcing Bylaws Proportionally, Equitably and Consistently

Local government bylaw enforcement staff apply principles of proportionality, equity and consistency in bylaw enforcement decisions by:

- considering whether an enforcement measure is proportionate to the harm caused by the violation
- considering whether a person's circumstances would make enforcement unjust
- considering whether an enforcement measure is consistent with policy and practice

Providing Reasons for Enforcement Decisions

When taking any enforcement action, local governments must provide adequate information about, and reasons for, the enforcement.

In some cases, this is required by legislation. A bylaw notice under the *Local Government Bylaw Notice Enforcement Act* must include details about the violation and the bylaw, the penalty amount and any discounts or surcharges for early or late payment, how to pay the penalty, how to dispute the notice, and any other information required by the bylaw.⁵⁹

Similarly, a municipal ticket must be signed by the enforcement officer and must describe the alleged violation and state the fine, the date, and the time and location of the violation. The back of the municipal ticket provides the recipient with

⁵⁹ *Local Government Bylaw Notice Enforcement Act*, R.S.B.C. 1996, c. 323, s. 4(4).

information on how to pay or dispute the ticket, describes the consequence of not paying, and sets out the timeframe for disputing it.⁶⁰

In all cases, whether or not required by legislation, bylaw enforcement staff should provide clear, complete, and consistent information about a violation, the enforcement action being taken, any options for complying, any important deadlines, how to appeal the decision, how to pay fines, and how to contact the local government with questions about the enforcement action.

In particular, it is essential for staff to provide reasons for enforcement action. This means that bylaw enforcement staff explain why the bylaw is being enforced in those circumstances. Written reasons in particular can help a person understand the decision and are especially useful if the decision is appealed. Whether written or verbal, adequate reasons should:

- directly and completely describe the concerns that led to the enforcement action and the evidence that supports those concerns
- set out the bylaw section on which the decision is based
- be clear and easily understood by the person affected by the enforcement measure
- provide information about options for reviewing or appealing the decision

Using a standard form to provide reasons can be useful and make the process less time consuming for staff. However, it is important that any reasons address the specific circumstances that led to enforcement action.

Best Practice: Providing Reasons for Enforcement Decisions

Bylaw enforcement staff provide a person affected by an enforcement decision with reasons for enforcement that:

- describe the concerns that led to the enforcement action and the evidence supporting those concerns
 - set out the bylaw section on which the decision is based
 - are clear and easily understood by the person affected by the decision
 - provide information about options for review or appeal of the decision
-

Discontinuing a Service

Services provided by municipalities vary widely and can include water, electricity, garbage removal, as well as libraries and community centres. The *Community Charter* allows municipalities other than the City of Vancouver to make a bylaw permitting them to discontinue a municipal utility or service for unpaid fees or for non-compliance with the terms of that service.⁶¹ This section of the *Community Charter* does not apply to regional districts.

⁶⁰ *Community Charter*, S.B.C. 2003, c. 26, s. 266; *Vancouver Charter*, S.B.C. 2003, c. 26, s. 482.3; *Community Charter Bylaw Enforcement Ticket Regulation*, B.C. Reg. 239/2010, s. 5, forms A2 and B2.

⁶¹ *Community Charter*, S.B.C. 2003, c. 26, s. 18(1). Because this section of the *Community Charter* only applies to municipalities, we have used that term rather than the broader term “local government” in this section of the guide. Section 18(1) requires that the unpaid fee is “in relation to the service,” which suggests that services can only be discontinued for unpaid fees relating specifically to that service.

TAKING ENFORCEMENT MEASURES

TAKING ENFORCEMENT MEASURES

The *Community Charter* establishes minimum requirements for procedural fairness that municipalities must meet when discontinuing a service. In all cases, a municipality must provide reasonable notice that it is considering ending the service. When discontinuing a service because a person has not complied with the terms of that service, a municipality must provide the person with an opportunity to make representations before council.⁶²

Discontinuing important services can have a significant impact on an individual, particularly if that person is vulnerable due to age, income or other factors. A municipality should apply more than just the minimum requirements of the *Community Charter* when considering the discontinuation of services. A municipality should provide written notice of pending enforcement that contains a clear explanation of why such action is being considered. The notice should outline the options for compliance and explain clearly how the individual can dispute the decision, including how to appear before council, if applicable.

In most cases, ending a service is a last resort that should only be pursued after a municipality has exhausted all other avenues to deal with non-compliance, such as encouraging individuals to honour payment plans or compliance agreements.

Best Practices: Discontinuing a Service

Local governments only end a service after all other options have been exhausted.

Before ending a service, bylaw enforcement staff provide a person with:

- written notice of the pending enforcement decision
 - reasons for the local government's decision
 - information about how the person can comply with the requirements, if that is an option
 - information about the person's right to dispute the decision and, if applicable, make representations to council before a final decision is made
-



APPEALS OF ENFORCEMENT DECISIONS

Through enforcement, local governments may impose fines, seize animals, cancel business licenses, stop providing services or charge fees for cleaning up unsightly premises. All of these decisions can have a significant impact on the people subject to enforcement measures. As the previous sections of this guide describe, local governments can take enforcement action in a number of ways. Some enforcement processes and any resulting appeals involve the courts, for example, civil action, prosecutions or appeals of municipal tickets.

This section focuses on best practices in reviews or appeals of enforcement decisions where the review or appeal is heard by local government staff or local government administrative bodies instead of the courts.

Fairness requires that a person has an adequate opportunity to dispute a decision by an administrative body that affects his or her rights or interests. In the bylaw enforcement context, a review or appeal process should allow a person who is the subject of enforcement measures to dispute the enforcement decision. A fair review or appeal process is especially important when a person had no opportunity to be heard before the enforcement decision was made.

Establishing Appeal Processes

Bylaw Notice Appeals

The *Local Government Bylaw Notice Enforcement Act* establishes an appeal process for bylaw notices that is implemented by local governments. To use the bylaw notice adjudication process set out in this Act, a local government must be listed in the *Bylaw Notice Enforcement Regulation* and must specify in a bylaw which violations will be dealt with under this system.⁶³ Local governments can use a screening officer as a first point of review if a bylaw notice is disputed. This officer reviews the notice prior to the dispute adjudication process and can cancel the notice, refer it to adjudication, or make a compliance agreement with the affected person.⁶⁴

If the screening officer does not cancel a dispute notice or make a compliance agreement, or if there is no screening officer, the bylaw dispute is heard by a third-party adjudicator. These dispute adjudicators are appointed by the province, must have the prescribed qualifications, and must not be an employee of a local government or hold an elected office in a local government.⁶⁵ The process is intended to be less formal than the court system.⁶⁶

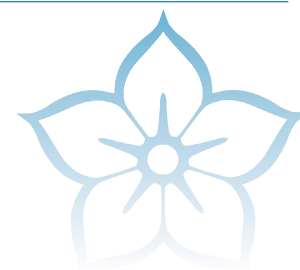
⁶³ *Bylaw Notice Enforcement Regulation*, B.C. Reg. 153/2015, Schedule 1.

⁶⁴ *Local Government Bylaw Notice Enforcement Act*, S.B.C. 2003, c. 60, ss. 2(2)(a), 4, and 10.

⁶⁵ The prescribed qualifications for an adjudicator include: has not been convicted of an offence in the previous 10 years; is not named in a bylaw notice or ticket in relation to a penalty that is outstanding and overdue; has at least one year's experience as an adjudicator of disputes; and has post-secondary training in adjudication. See *Bylaw Notice Enforcement Regulation*, B.C. Reg. 153/2015, s. 6 and *Local Government Bylaw Notice Enforcement Act*, S.B.C. 2003, c. 60, s. 15.

⁶⁶ *Local Government Bylaw Notice Enforcement Act*, S.B.C. 2003, c. 60, Part 3. See also Ministry of Community, Sport and Cultural Development, "Bylaw Enforcement" <http://www.cscd.gov.bc.ca/lgd/governance/bylaw_enforcement.htm>.

APPEALS OF ENFORCEMENT DECISIONS



APPEALS OF ENFORCEMENT DECISIONS

Other Administrative Review or Appeal Processes

Every local government we consulted with as we developed this guide had some type of review or appeal process for bylaw enforcement decisions. For many of these local governments, however, the appeal process was informal and not written in bylaw or policy. For example, we reviewed a sample of 26 noise bylaws from local governments in British Columbia. Only one of the 26 noise bylaws we reviewed included an appeal process in the bylaw.

Where a complete administrative appeal process does not exist in legislation, local governments should establish a review or appeal process for enforcement decisions that are not dealt with through the courts. Local governments can do this by stating in their regulatory bylaws:

- what decisions can be reviewed or appealed
- who has authority to review decisions made under the bylaw
- how a person can request a review or appeal
- the possible outcomes of a review or appeal

The details of an appeal process can be further specified in a policy and include applicable timelines, processes for submitting evidence and the process for conducting a review or appeal.

Enforcement decisions, as noted above, may significantly affect interests and rights. Informal appeal processes, especially those that are unwritten are hard for the public to access and equally hard for local government staff to understand and apply consistently. Including appeal provisions in bylaws and developing a written appeal policy promotes consistency and procedural fairness.

Best Practices: Establishing Review and Appeal Processes

Local governments describe in their bylaws:

- what decisions can be reviewed or appealed
- who has authority to review or hear an appeal of those decisions
- how a person can request a review or appeal
- the possible outcomes of a review or appeal

Local governments develop and implement a policy that describes how reviews or appeals will be conducted.

Implementing a Fair Appeal Process

In all cases, even where a framework for appeals is set out in legislation, local governments have a responsibility to ensure that those processes are implemented in a way that is reasonable and fair. This section describes the steps local governments can take to create an appeal process that is consistent with the principles of procedural and administrative fairness.

The following example, from a complaint we investigated, is a continuation of “Call First Next Time” (see “Notice Prior to Enforcement” in the Taking Enforcement Measures section of this guide). This example shows that an appeal process will not be fair if its outcome appears to be a foregone conclusion.

APPEALS OF ENFORCEMENT DECISIONS

An Appeal in Name Only

Nara contacted us after she received bylaw notices from her city that levied fines of \$1,000 for contravening a noise bylaw. Nara paid \$25 to attend an adjudication hearing to dispute the bylaw notices. Nara said the hearing lasted only a few minutes and the adjudicator simply announced that he had determined the infraction had occurred, and that she was required to pay the full penalty plus the adjudication fee. Nara said she was not given an opportunity to present her case or dispute the information from the city. We investigated.

The city informed us that it participates with eight other municipalities in providing a bylaw adjudication system which allows local governments to manage most bylaw violations at the local level rather than through the provincial court system.

The city did not have any documentation or information to demonstrate that Nara had an adequate opportunity to present her case. In response to our investigation, the city agreed to review Nara's situation. As a result of that review, the city refunded the \$1,000 fine and the \$25 adjudication fee, and wrote Nara a sincere apology.

Opportunity to Be Heard

As Nara's case demonstrates, an appeal process should be structured to allow a person a meaningful opportunity to be heard. This is particularly important for people who have not received any prior notice of the enforcement measures taken against them as the appeal may be their first opportunity to make their case.

With the wide range of bylaw enforcement decisions local governments make on a daily basis, appeal processes can allow a person to be heard with varying degrees of formality. For example, an appeal process for a straightforward matter with minimal impact on an individual may be conducted entirely by email.

For complex cases or cases with a significant impact on a person's rights, procedural fairness may require a hearing in person, by telephone or electronically instead of, or in addition to, written submissions.

A local government must determine what type of appeal process to apply to different bylaw infractions in a principled way. Most importantly, the person who is subject to an enforcement decision must have an adequate opportunity to be heard when disputing the decision. The process by which the local government will hear from an individual appealing a decision should be clearly set out in either the bylaw or written policy.

An Unbiased Decision-Maker

As Nara's experience above shows, a fair appeal process requires an unbiased decision-maker who approaches the appeal in good faith and with an open mind. The decision-maker should not have an interest in the outcome of the decision and should not have pre-judged the issue. For example, the person who hears the appeal should not be the same person who made the original decision. In some cases, council has a role in the appeal process and may be the final decision-maker in a dispute. To avoid the risk of bias or pre-judgement in these cases, council should not be involved in earlier steps in the bylaw enforcement process. This role of council should also be clearly set out in bylaw or policy (see The Role of Council section of this guide for more information).

APPEALS OF ENFORCEMENT DECISIONS

Adequate and Appropriate Reasons

A fair appeal process also requires the decision-maker to provide adequate and appropriate reasons. These reasons should directly and completely address the applicant's concerns, demonstrate that the decision-maker has considered the evidence presented, and clearly set out how and why the appeal decision was reached. These reasons should be clear and understandable to the person who is appealing the decision. The following example, from a complaint we investigated, illustrates that providing notice, a chance to be heard, and adequate reasons helps to ensure a fair enforcement process.

A Decision Explained

Neale disputed a parking ticket a city bylaw enforcement officer issued to him. He alleged that the procedure used by the city to dispute parking tickets was unfair.

We learned that a photograph of Neale's vehicle and the meter was taken at the time the ticket was issued and was available for him to review. The photograph was part of the evidence package available to the city's screening officer who reviewed disputed parking tickets as well as to the adjudicator if the dispute resulted in a hearing.

After the city's screening officer determined that there was nothing obscuring the view of the meter and there was no mistake in the identity of the vehicle, Neale received a letter informing him that the ticket would stand as issued. He was told in the letter the amount that was due and the date at which an adjudication hearing would be scheduled if the ticket was left unpaid. Neale chose to attend the hearing.

At the hearing, Neale had an opportunity to be heard and the adjudicator provided reasons that directly addressed concerns Neale had raised about the factual evidence for his parking ticket.

We told Neale that our investigation did not find anything that would suggest the procedures of city staff or the adjudicator were unreasonable in considering the matter.

Best Practices: Implementing a Fair Appeal Process

Local government staff or adjudicators hearing appeals of enforcement decisions:

- provide the person disputing the bylaw enforcement decision with a meaningful opportunity to be heard that is appropriate to the nature of the bylaw violation
 - are unbiased and have an open mind
 - provide adequate and appropriate reasons for their decisions
-

Public Information about Reviews and Appeals

Accessibility is a key component of a fair review or appeal process. When we spoke with local governments as we were developing this guide, we learned local governments do not always make information about review or appeal processes publicly available. For example, 16 of the 26 local governments whose noise bylaws we reviewed did not have any publicly accessible information about how to seek a review of or appeal a noise bylaw enforcement decision.

When information about appeals is accessible, people affected by bylaw enforcement decisions know how to seek a review of or appeal a decision in a timely way. Review or appeal processes should, at a minimum, be described on the local government's website.

Best Practice: Public Information about Reviews and Appeals

Local governments make information about bylaw enforcement reviews and appeals easily accessible to the public by posting it on the local government's website.



APPEALS OF ENFORCEMENT DECISIONS

RESPONDING TO AN OMBUDSPERSON INVESTIGATION



RESPONDING TO AN OMBUDSPERSON INVESTIGATION

Most people contact the Office of the Ombudsperson as a last resort, after they have unsuccessfully tried to resolve their concerns with local government staff. This section describes the process we follow when we investigate a complaint and provides some suggestions for local governments on how to respond to our investigations.

Our Process

When we receive a complaint about any authority under our jurisdiction, we first assess whether there is a matter for us to investigate. This involves determining whether a person may have been treated unfairly with respect to an act, omission, decision or procedure used by the authority in question.⁶⁷ In evaluating the substance of any complaint, and throughout the investigation process, we reference the *Code of Administrative Justice*, which explains the grounds on which the Ombudsperson can make a finding of unfairness.⁶⁸

In our initial assessment, we:

- speak with the complainant
- review relevant documentation, bylaws, policies and information provided by the complainant
- look at similar previous complaints
- consider whether the complainant has tried to resolve the concern with local government staff first and, if he or she has not, we may suggest the person do that

After examining all the relevant information, we then decide whether to investigate the complaint.⁶⁹

If we decide to investigate, our investigations include the following steps:

- notifying the local government of our investigation, verbally or in writing⁷⁰
- requesting information from the local government and other relevant sources, such as documentation of how the local government responded to a complainant's concerns, copies of applicable bylaws and policies, and copies of correspondence between government staff and the complainant⁷¹
- assessing the information provided by the local government and, if necessary, requesting additional information or clarification of the information already provided
- if appropriate, consulting with the local government to reach a fair resolution of the complaint⁷²

⁶⁷ *Ombudsperson Act*, R.S.B.C. 1996, c. 340, s. 10.

⁶⁸ *Ombudsperson Act*, R.S.B.C. 1996, c. 340, s. 23; Office of the Ombudsperson, *Code of Administrative Justice 2003*, Public Report No. 42, British Columbia Legislative Assembly, March 2003 <<https://www.bcombudsperson.ca/sites/default/files/Public%20Report%20No%20-%2042%20Code%20of%20Administrative%20Justice.pdf>>.

⁶⁹ *Ombudsperson Act*, R.S.B.C. 1996, c. 340, s. 13.

⁷⁰ *Ombudsperson Act*, R.S.B.C. 1996, c. 340, s. 14.

⁷¹ *Ombudsperson Act*, R.S.B.C. 1996, c. 340, s. 15.

⁷² *Ombudsperson Act*, R.S.B.C. 1996, c. 340, s. 14(2).

- notifying the complainant and local government in writing of the outcome of the investigation and providing reasons for our decision⁷³

We approach each investigation impartially, without prejudging the merits of the complaint, and keep an open mind in determining whether the local government acted fairly in the circumstances.

We recognize that not all local governments are familiar with our office and its role. During our investigations, we therefore invite local governments to ask questions about our process or to suggest appropriate resolutions of a complaint.

How Local Governments Can Respond

Local governments can facilitate our investigative process in several ways.

All of our investigations are guided by the facts of the particular complaint they address. Therefore, when we give notice to a local government that we are investigating a complaint, we identify the specific issue we will be examining. That helps staff to provide us with the pertinent documentation to show how and when they responded to the complainant or otherwise addressed the issue in question.

Local government staff are welcome to contact our office to ask questions about the investigation and to discuss any relevant background information about the complaint that might be useful to the investigator.

During an investigation, we will usually request specific documentation (e.g. correspondence) from the local government. When that happens, it is important that the local government provide the entire documents and not a summary of them or an excerpt. If the volume of the materials is such that it would take considerable staff resources to copy them all, our office will look for other options, such as copying the documents ourselves.

Our investigations are confidential, and any information or records the complainant or local government provides to us during the case will not be disclosed except to the extent necessary to further our investigation or to explain the outcome.⁷⁴

We also often ask local governments for copies of the bylaws or policies relevant to the investigation. As discussed earlier in this guide, bylaws and policies provide a framework for local government action. We then consider whether the local government action or inaction complained about is consistent with a bylaw or policy, and whether that bylaw or policy is reasonable and fair. This assessment is made easier if we are able to access the bylaw and policy on the local government's website.

If, after investigating, we have identified an apparent unfairness, we propose a possible settlement of a complaint to the local government. In making a settlement proposal, we are not advocating for the complainant or acting as a mediator. Rather, we are advocating for a settlement that is reasonable for all parties and consistent with the principles of administrative fairness.

We expect all local governments to consider our proposed settlements of complaints. If a local government is unwilling to do so, then we expect it to explain the reasons for its position and to propose an alternative settlement.

⁷³ *Ombudsperson Act*, R.S.B.C. 1996, c. 340, s. 22(1)(d).

⁷⁴ *Ombudsperson Act*, R.S.B.C. 1996, c. 340, s. 9.

RESPONDING TO AN OMBUDSPERSON INVESTIGATION

It is important to emphasize that if we have made a settlement proposal, it is because we have identified an apparent unfairness. If a settlement cannot be reached, the Ombudsperson may make findings and recommendations that may then be reported publicly.

Examples of settlements of complaints we have made involving local governments include:

- reimbursing fines, fees or penalties
- reconsidering an enforcement decision
- providing written or verbal reasons for a decision
- meeting with the complainant
- apologizing
- investigating a bylaw complaint or taking enforcement steps
- changing or developing a policy or practice
- amending a bylaw

Some of these settlements are illustrated in the examples used throughout this guide.

How an Ombudsperson Investigation Can Help

The majority of our investigations are focused on the impact of local government action on an individual. As a result of our work, we may confirm that a local government's processes are fair and have been reasonably followed. Or, we can identify ways for a local government to deal more fairly with the individual who has made a complaint. We can help resolve disputes between a local government and an individual where administrative fairness issues are at stake.

Through our investigations, we sometimes also identify broader systemic issues in bylaw enforcement and suggest ways that local governments can address them.

One key outcome of our work is to assist local governments in treating individuals fairly in all aspects of their operations.



BEST PRACTICES CHECKLISTS

1. Enforcement Policy: Guidelines for Exercising Discretion

An enforcement policy establishes broad guidelines for a fair and consistent enforcement process. It should cover most situations where staff will be making discretionary enforcement decisions.

A properly applied enforcement policy should achieve four goals:

- avoid arbitrary or inconsistent decisions
- ensure similar cases are treated in a similar way
- provide local government staff with guidance on, and limits to, exercising discretion
- provide the public with clarity and details on how and why enforcement decisions have been made

Is the bylaw enforcement policy written in plain language that is easily understood and applied?

☐

Does the policy describe clearly what it is intended to achieve?

☐

Is the policy flexible enough to cover a variety of circumstances where staff are exercising discretion?

☐

Does the policy avoid fettering staff discretion by requiring them to take the same steps in each case, regardless of the circumstances, or discouraging individual responsibility for decisions?

☐

Does the policy set out the relevant considerations that bylaw enforcement staff should take into account when exercising discretion?

☐

Does the policy describe its relationship to – and accurately reflect – governing legislation and bylaws?

☐

Is the policy communicated to bylaw enforcement staff?

☐

Is the policy easily available to the public, such as on a website?

☐

BEST PRACTICES CHECKLISTS



BEST PRACTICES CHECKLISTS

2. Bylaw Complaints Policy

Dealing with complaints is made easier when a local government has a written and publicly available policy explaining its process.

From a fairness perspective, a written policy offers three key benefits:

- consistency in staff responses to complaints
- public information about the process that is followed once a complaint is made
- a framework for evaluating the effectiveness of a response to a particular complaint

Does the policy outline how a person can make a complaint and what information must be included in that complaint? ☐

Does the policy state which staff will be responsible for receiving, recording and responding to complaints? ☐

Does the policy state whether the local government prioritizes complaints for response, and if the policy does say that, does it also explain how that prioritization works? ☐

Does the policy set out a process for recording each complaint and the outcome, and expected timelines for staff to respond to complainants? ☐

Does the policy list steps staff must follow to assess a complaint and to determine any necessary follow-up? ☐

Does the policy set out reasonable procedures for dealing with frivolous, repeat or multiple complaints? ☐

Does the policy set out a process for acknowledging a complaint and communicating the results to the complainant? ☐

Is the complaint process publicly available, such as on the local government's website? ☐

3. Investigation Plans

One way to approach complex cases in a consistent way is to develop an investigation plan.

Investigation plans can be customized by a local government to meet the needs of the community and to reflect the nature of the investigations that staff conduct. However, every investigation plan should include at least the following four key elements: a summary, a list of relevant bylaws, requirements for gathering evidence, and timelines for completing the work.

Does the investigation plan include a summary of the complaint or alleged infraction? ☐

Does the investigation plan reference the relevant bylaw and the test that must be met to confirm that a bylaw infraction has occurred? ☐

Does the investigation plan describe the evidence that must be gathered to meet that test, and where and how the evidence will be obtained? ☐

Does the investigation plan set out timelines for completing steps in the investigation? ☐

Does the investigation plan allow for the process to be adequately documented? ☐

BEST PRACTICES CHECKLISTS

BEST PRACTICES CHECKLISTS

4. Taking Enforcement Measures

A local government demonstrates its fairness in the methods its staff choose to enforce bylaws. The checklist below includes elements of procedural and administrative fairness that staff should review and consider every time they enforce a bylaw.

Does the local government have authority to take enforcement action? ☐

Are the responsible bylaw enforcement staff properly designated to enforce the bylaw? ☐

Have bylaw enforcement staff considered whether notice prior to enforcement is necessary, and if they have determined it is, have they provided that notice? ☐

If notice is given, is it in a form appropriate to the situation, does it provide reasonable time frames for compliance and does it describe potential consequences? ☐

Is the proposed enforcement measure proportionate to the nature of the violation? ☐

Would the circumstances of the individual make enforcement unjust in the circumstances? ☐

Is the proposed enforcement measure consistent with policy and practice? ☐

Has the decision-maker provided adequate and appropriate reasons for an enforcement decision? ☐

Has the person affected by an enforcement decision been provided with adequate information about how to appeal or seek review of the decision? ☐

5. Appeals of Enforcement Decisions

In accordance with principles of administrative fairness, a person should have an adequate opportunity to dispute a decision by an administrative body that affects his or her rights or interests.

In the bylaw enforcement context, a review or appeal process should allow a person who is the subject of enforcement measures to dispute the enforcement decision. A fair review or appeal process is especially important where there was no opportunity for a person to be heard before the enforcement decision was made.

Do regulatory bylaws state what decisions can be reviewed or appealed, who can review those decisions, what the review or appeal process is, and what the possible outcomes of a review or appeal are? ☐

Does the local government policy describe how a review or appeal process will be conducted? ☐

Do local government staff or adjudicators hearing appeals of bylaw enforcement decisions provide the person disputing the decision with a meaningful opportunity to be heard – one that is appropriate to the nature of the bylaw violation? ☐

Are local government staff or adjudicators hearing appeals of bylaw enforcement decisions unbiased, and do they approach the appeal with an open mind? ☐

Do local government staff or adjudicators hearing appeals of bylaw enforcement decisions provide adequate and appropriate reasons for their decisions? ☐

Does the local government make information about reviews or appeals available publicly, such as on its website? ☐



BEST PRACTICES CHECKLISTS

RESOURCES



RESOURCES

British Columbia Office of the Ombudsperson

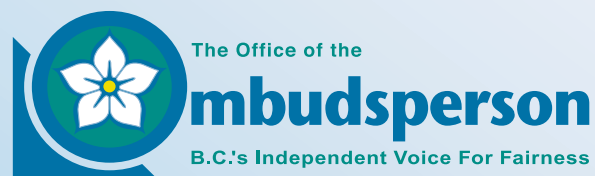
The following resources are available on our website,
<https://www.bcombudsperson.ca>:

1. *Open Meetings: Best Practices Guide for Local Governments* (2012).
2. *Code of Administrative Justice* 2003.
3. *Fairness in Local Government* (brochure).
4. *Developing an Internal Complaint Mechanism* (2001).

Other Resources

1. United Kingdom, Parliamentary and Health Service Ombudsman, *Principles of Good Administration*, revised 10 February 2009
http://www.ombudsman.org.uk/__data/assets/pdf_file/0013/1039/0188-Principles-of-Good-Administration-bookletweb.pdf.
2. Ombudsman of Western Australia, *Guidelines: Exercise of discretion in administrative decision-making*, revised October 2009.
<http://www.ombudsman.wa.gov.au/Publications/Documents/guidelines/Exercise-of-discretion-in-admin-decision-making.pdf>
3. City of Toronto, Office of the Ombudsman, *Defining Fairness*, October 2010.
http://ombudstoronto.ca/sites/default/files/FairnessHandFINALWEB_0.pdf





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Ministry of Agriculture Intentions Paper:
RURAL SLAUGHTER MODERNIZATION

September 4, 2020



Ministry of
Agriculture

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Introduction

British Columbia's provincial meat inspection program aims to provide a credible regulatory system that is effective in ensuring food safety and animal welfare, while also providing sufficient flexibility to enable a competitive slaughter industry, and slaughter capacity for livestock producers across B.C. Changes to the program will advance the Ministry's over-arching goals to strengthen our provincial food system and will be complimentary to the Buy BC, Grow BC and Feed BC initiatives.

Food safety at rural slaughter establishments is a high priority for the Province of British Columbia. Ministry of Agriculture and Ministry of Health consider food safety as critical for controlling foodborne illnesses in B.C., public confidence in the B.C. food system, and a sustainable food industry in B.C.

The Ministry of Agriculture, with the support of the Ministry of Health, wants to improve rural meat inspection to realize efficiencies, minimize risks, ensure opportunity, and simplify practices for producers and processors while maintaining consumer confidence in meat products produced in B.C.

Simply put, we want to ensure that British Columbia has a client responsive and resource efficient regulatory approach that works for everyone to ensure economic opportunities and enhance safety of meat products around the province.

Background

In British Columbia, regulatory frameworks have developed in the meat production and processing industries with attention to a variety of factors specific to the province like sparse populations spread over large distances, unique geography and weather patterns, and economic drivers such as the availability of agricultural land (see Appendix A: B.C. Graduated Slaughter Licensing System).

This intentions paper is part of the ongoing work to assess opportunities for improvement and positive change that will strengthen our provincial food system and ensure a strong and growing local meat industry in B.C. for many years to come.

Statistics

Livestock Farms in B.C.

- In 2016 there were 15,867 farms producing livestock and poultry in B.C.

Animal Type	# of Farms in B.C.	# of Animals in B.C.
Poultry	6,710	22,048,072
Cattle	5,126	659,441
Sheep & Lamb	1,693	59,249
Hog	904	88,862
Other (Goats, Bison, Deer, Rabbits)	1,434	26,873
Total	15,867	22,882,497

source: Statistics Canada Census of Agriculture

Demand for Meat Products

- 2018 provincial meat consumption

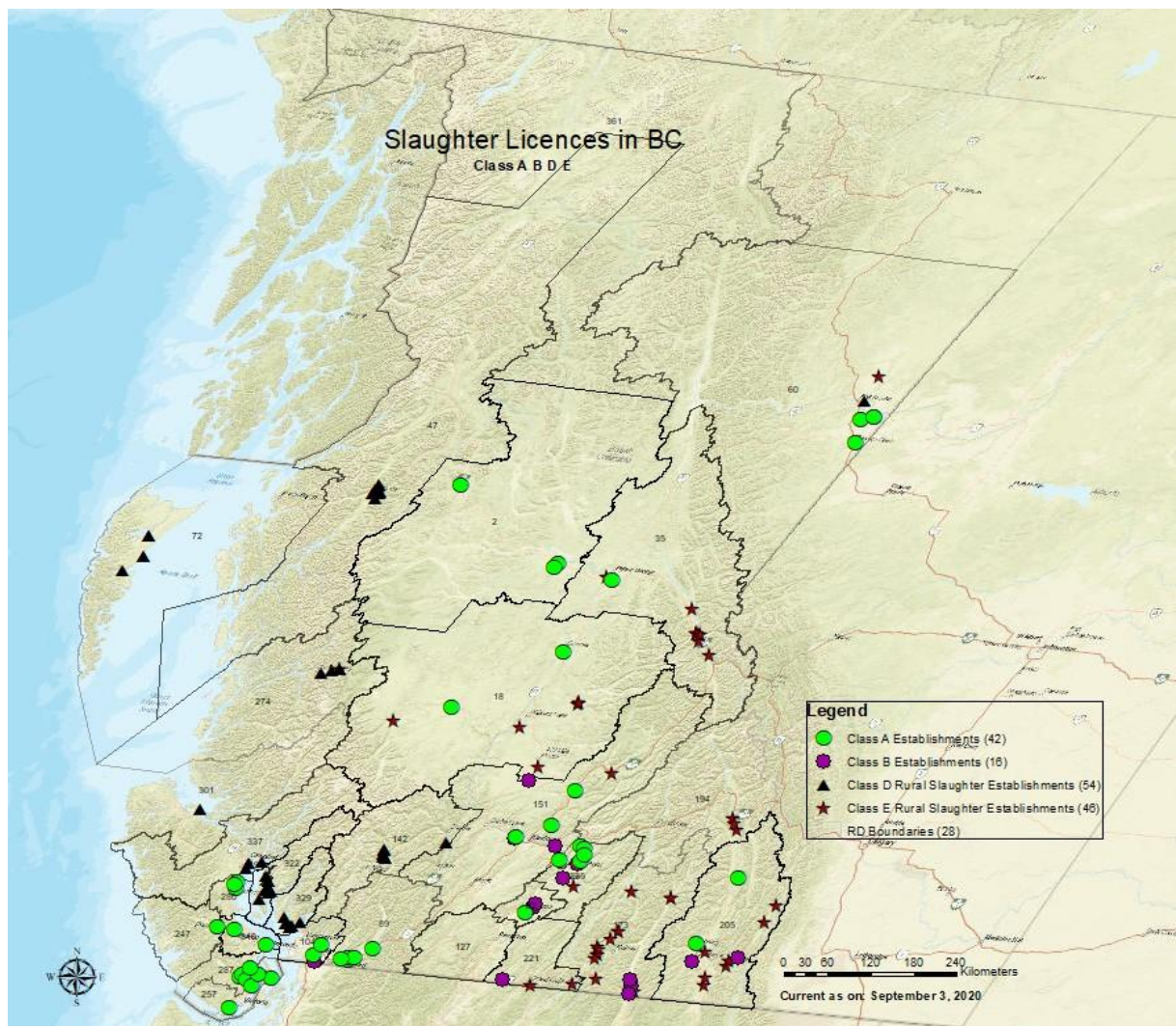
Meat Type	Provincial Consumption (kg)
Chicken, boneless weight	102,224,383
Beef	90,321,130
Pork	82,369,270
Turkey, boneless weight	16,903,955
Mutton and Lamb	4,751,112

source: Statistics Canada

Other Jurisdictions

British Columbia, along with Alberta, Saskatchewan, New Brunswick, and Newfoundland and Labrador are the only provinces in Canada where consumer sales of uninspected meat products are permitted. British Columbia's system of licensed and inspected Class A and B abattoirs along with uninspected Class D and E rural establishments is unique and has evolved to meet our unique circumstances.

Number of Licenced Slaughter Facilities in B.C. (map)



Recent Consultation

From 2016-2019 consultation initiatives focused on rural meat production and inspection, and gathered comprehensive input from:

- the general public including farmers, producers and processors;
- current and former Class D and E licensees;
- industry associations across the livestock sector;
- regional health authorities; and
- local governments.



Many of the concerns and opinions expressed about local slaughter to both the Ministry of Agriculture and the Select Standing Committee on Agriculture, Fish and Food (the “Committee”) were also articulated during town hall engagement sessions focused on the Agricultural Land Reserve in fall 2019.

On September 28, 2018, the Committee released a report “Local Meat Production and Inspection in British Columbia.” The report made 21 recommendations, all of which were accepted by the Province.

Progress on implementing the recommendations continues, including a significant change to allow Class E establishments within one-hour travel time of a licensed Class A or B facility, instead of the more restrictive two-hour limit that was in place before May 2019.

Ministry of Agriculture has also:

- delivered a series of food safety and animal welfare training workshops for rural producers;
- launched a comprehensive provincial slaughter capacity study that will serve as a baseline for future reviews of the B.C. Meat Inspection Program;
- highlighted local meat products as part of government’s Buy B.C. campaign; and
- provided funding through the federal-provincial Canadian Agricultural Partnership (CAP) program for food safety and traceability program development.

On June 11, 2020, the Province designated three new areas for Class D rural slaughter licensing: Alberni-Clayoquot Regional District, Electoral Area D in Regional District of Central Kootenay, and Electoral Area H in Regional District of Fraser-Fort George.

One of the dominant themes of recent consultation is that administration of all provincial slaughter should be consolidated under the Ministry of Agriculture. On August 19, 2020, the Ministry announced that responsibility for administration of rural slaughter (Class D and E licences), which is overseen by regional health authorities currently, will be returning to the Ministry of Agriculture effective December 1, 2020.

Opportunities

1. Public Health & Safety



Food safety at rural slaughter establishments is a priority for the Provincial Government. We heard repeatedly from farmers, producers and those involved in production and the sale of B.C. meat who all want the food safety system to deliver high levels of food safety for consumers.

Updated Risk Assessment

Ministry of Agriculture will undertake a risk assessment project to support development options for rural meat production. The work will update an assessment from 2009 and will inform all aspects of food safety policy to lower risk and improve efforts to prevent food-borne illnesses such as those related to salmonella in poultry.

Updated Training

Other opportunities include developing updated training materials to improve guidance on slaughter practice, animal welfare and food safety. This improved training would provide provincially consistent and effective learning opportunities for rural producers.

Updated Rural Code of Practice

In addition to training, an updated rural code of practice with a requirement for standard operating procedures in rural facilities would build on current practices to establish higher standards and provide improved clarity about requirements for administrators and operators.

Oversight

More comprehensive, more frequent and more consistent oversight of food safety plans, standard operating procedures, record-keeping by rural operators and operational practices by Ministry of Agriculture inspectors with experience and training in slaughter practice, animal welfare and food safety will also contribute to improved public health outcomes.

Increased Frequency of Rural Inspections


Ministry of Agriculture's resumption of responsibility for rural slaughter administration comes with a commitment to increasing the frequency of government inspector visits to rural abattoirs. Public reporting on inspections and compliance results will support consumer confidence that controls are in place for ensuring adherence to regulations.

Increased inspection frequency by Ministry of Agriculture inspectors will improve food safety and animal welfare outcomes, while offering protection for small-scale producers and the industry from unsafe practices and criticism, and potential negative impacts to communities of a food-borne illness event.

Education Before Enforcement

The Ministry acknowledges that rural operators play a vital role in feeding their regions, and have a vested interest in providing only the safest meat to their customers. Every effort will be made to work with operators to inform them about implementing an updated rural code of practice with an emphasis on ensuring compliance.

2. Innovation



The Ministry of Agriculture is reviewing the entire slaughter licensing framework for opportunities to innovate and improve standards and simplify administration in a way that maintains all the high standards of food safety and animal welfare expected by B.C. consumers.

Alternatives to Traditional Inspection

To support rural slaughter and improve oversight, Ministry of Agriculture is exploring opportunities to expand the use of agri-technologies, such as virtual inspections, as alternatives to the traditional model of having an inspector present during slaughter.

The Ministry is investigating technical, policy and legal aspects of ideas like remote ante-mortem inspection, delayed “cold” post-mortem inspection, and how third parties can be engaged to efficiently provide cost-effective inspection in remote communities. We are also developing a new approach to encourage mobile slaughter businesses.

Regulatory Changes

Consideration will be given to aspects of rural slaughter regulation such as: volume of production; available markets for local meat products (farmgate vs. commercial retail and restaurants), and the geographic scope of where producers can sell their product. It is important to balance risk with other administrative changes to increase frequency of inspection oversight, ensure compliance with new improved operating standards, and improve training and education for operators.

Innovation is important not only for consideration of high-level frameworks but also for fundamental details such as re-defining regulatory terminology in a way that makes sense to all users of the system. For example, rather than Class A, B, D and E labels more intuitive licence type labels could help the public understand the service a licence holder can provide. Different types of licences might also be considered.

3. Regulatory Efficiency

Realizing Efficiencies

Review of government roles and responsibilities indicates that single agency administration by Ministry of Agriculture for all provincial slaughter will improve efficiency, reduce stakeholder confusion and improve oversight. Ministry of Agriculture is also exploring the opportunity of working with FrontCounter BC to improve the licensing application process and promote better accessibility across the province.

Transferring administration of rural slaughter to Ministry of Agriculture also supports health authorities who may be unable to accommodate the demands of an increasing number of rural slaughter licences, especially during a global pandemic when their priority is addressing front line public health challenges.

Collaboration

The transfer of responsibility for slaughter administration to Ministry of Agriculture will require ongoing collaboration with health authorities on food safety matters related to the food premises where meat products are processed and sold to the public. Improving collaboration between Ministry of Agriculture and health authorities will remain as important as ever to both partners and their shared interests in maintaining high standards for public health.

Animals raised for food must be treated humanely. Legislation is in place to require compliance with food safety and animal protection standards. Improved training as a component of the licensing requirements for rural operators and increased inspection oversight by Ministry of Agriculture inspectors along with ongoing training and education opportunities could further support good practices already being followed.



4. Strengthening our Provincial Food Supply

Local food supply security is an important matter for British Columbians that has been highlighted by the COVID-19 pandemic and resulting impacts to the entire agriculture sector.



Increased Access to Local Meat

Local producers depend on their reputation to maintain the viability of their business. Consumer demand has increased for local meat due to meat supply chain disruptions and the increased awareness of the importance of a resilient local food system. With increased demand for local supply, retailers will also seek sufficient reliable local supply where it is available. Increased inspection and compliance monitoring for rural operators to confirm that they are continuing to uphold standards will support food supply security and sustain high public confidence in the local meat supply.

Developing a resilient and diverse food supply chain for British Columbia can help to mitigate large scale production disruption. A change to rural slaughter administration at this time must highlight local food supply security, support for recovery of the agriculture sector, and consideration of evolving public health issues, including freeing up health resources needed to focus on front-line efforts.

This Intentions Paper is the latest step the B.C. Government is taking to create opportunities for livestock producers in rural parts of the province, and contributes to larger efforts to increase overall food production and security. The B.C. Government is strengthening our provincial food system and supporting economic activity through programs and policies like Grow BC, which connects farmers to the resources they need to farm, and Feed BC which results in more B.C. grown and processed foods served in public institutions like hospitals. The B.C. Government is also making it easier for consumers to identify products with a Buy BC label so they can enjoy trusted, local foods while supporting our communities and economy. To learn more about the programs and resources available to help farmers, fishers and food processors in B.C. please visit <https://www2.gov.bc.ca/gov/content/industry/agriculture-seafood/programs> or contact the Ministry of Agriculture at 1-888-221-7141.

Providing Comment on Rural Slaughter Modernization

The Ministry of Agriculture will develop and finalize approaches suggested in this intentions paper and begin regulatory and policy change by late fall 2020.

Following review of comments and submissions, the Ministry of Agriculture will complete an action plan for implementation. Those interested are invited to submit comments by email to bcmeatinspection@gov.bc.ca, or in writing to:

Ministry of Agriculture
c/o B.C. Meat Inspection program
PO Box 9120 Stn Prov Gov't
Victoria B.C. V8W 9B4

Comments should be made on or before October 19, 2020.

All submissions will be reviewed for inclusion in a summary report. Comments received will be treated with confidentiality and collected under section 26(c) of the *Freedom of Information and Protection of Privacy Act* (FOIPPA). Please note that comments you provide and information that identifies you as the source of those comments may be publicly available if a Freedom of Information request is made under FOIPPA. If you have questions about the collection of this information, please contact the Food Safety and Inspection Branch Policy and Project Analyst at 778 974-3349, or at the address provided above.



Appendix A: Graduated Slaughter Licensing System

Licence Type	Activities Permitted	Sales Permitted	Geographic Scope	# of Animal Units	AGRI Oversight	Health Authority Oversight
Class A	Slaughter and cut-and-wrap	Yes, retail and direct to consumer	All of B.C.	Unlimited	Pre and post slaughter inspection of each animal	<ul style="list-style-type: none"> • Cut-and-wrap (processing) • Retail sales • Water testing
Class B	Slaughter only	Yes, retail and direct to consumer	All of B.C.	Unlimited	Pre and post slaughter inspection of each animal	Water testing
Class D	Slaughter only (own animals and other producers' animals)	Yes, retail and direct to consumer	Licences restricted to prescribed regional districts in the rural area of B.C. Sales restricted within the regional district where meat is produced	1 - 25	N/A (NOTE Dec 1, 2020: slaughter administration to AGRI)	<ul style="list-style-type: none"> • Periodic site assessments and audit of operational slaughter records. • Cut and wrap (processing) • Retail sales • Water testing
Class E	Slaughter only (own animals only)	Direct to consumer only (farmgate and farm market)	Sales restricted within the regional district where meat is produced	1 - 10	N/A (NOTE Dec 1, 2020: slaughter administration to AGRI)	<ul style="list-style-type: none"> • Periodic site assessments and audit of operational slaughter records. • Cut and wrap (processing) • Retail sales • Water testing
Personal use - No licence required	Slaughter only	None	For producer only	Unlimited	N/A	N/A

Note: "Animal unit" means a combined animal weight, when measured alive, of 455 kg (1 000 lbs).



Appendix B: Designated Regional Districts in Schedule 2 under the Meat Inspection Regulation

1. Central Coast Regional District
2. Kitimat-Stikine Regional District
3. Mount Waddington Regional District
4. qathet Regional District
5. North Coast Regional District
6. Squamish-Lillooet Regional District
7. Strathcona Regional District, other than the land located on Vancouver Island
8. Sunshine Coast Regional District
9. Northern Rockies Regional Municipality
10. Stikine Region
11. Alberni-Clayoquot Regional District
12. Regional District of Fraser-Fort George (Electoral Area 'H' only)
13. Regional District of Central Kootenay (Electoral Area 'D' only)

**Agriculture Land Commission Update
October 5, 2020**

Provided by Kim Grout, Chief Executive Officer, Agricultural Land Commission

ALC Application Fees

As of September 30th, 2020, ALC Application fees will be split evenly between the local government and the ALC. The remittance of fees for applications submitted to local governments prior to September 30th, 2020, needs to comply with the legislation in affect at the time the application was received by the local government. The ALC has developed an Application Fee Table (attached) to help clarify the submission and remittance of fees to local governments and the ALC based on the date the application is submitted to the local government.

Exclusion Applications

As of September 30, 2020, the provision for a landowner to make an exclusion application will be removed and only a local or first nations government, or a prescribed body may make an application. Note that landowners will still be able to make applications for all other application types. I've attached two helpful documents, an Exclusion Application Guide for local governments and a series of FAQs we compiled after hosting out policy lab.

Manufactured Home Extension

The Ministry of Agriculture has extended the deadline to receive all required authorizations for a manufactured home for family to July 31, 2021 (OIC attached).

Statutory Right of Way Notification

As of September 30, 2020, registration of statutory rights of way on ALR lands will require notification to the ALC (further details attached).

Director Ali Grieve, Electoral Area 'A'		Grants-In-Aid 2020		
Balance Remaining from 2019			437.00	
2020 Requisition			41,576.00	
Less Board Fee 2020			(1,651.00)	
Total Funds Available			\$ 40,362.00	

RESOLUTION	DATE	RECIPIENT	DESCRIPTION	AMOUNT
26-20	15-Jan	Okanagan Nation Alliance	Columbia Fish in Schools Program 757F	1,000.00
54-20	24-Jan	Beaver Valley May Days Society	Beaver Valley May Days Events	4,000.00
		Beaver Valley May Days Society	Return of Funds, event cancellation	(4,000.00)
54-20	24-Jan	BV Recreation	Seniors Dinner	1,600.00
54-20	24-Jan	LCCDTS/Sustainable Agriculture Committee	Trails Incredible Farmers Market	700.00
89-20	12-Feb	Beaver Valley Cross Country Ski Club	Routine Expenses	2,000.00
119-20	27-Feb	Beaver Valley Thrift Shop	Window Replacement	1,000.00
119-20	27-Feb	Kidney Walk, Kootenay West	Event Costs	100.00
119-20	27-Feb	Village of Fruitvale	Candy Cane Lane Event	1,500.00
			Remembrance Day Programs & Refreshments	500.00
119-20	27-Feb	Village of Fruitvale	Refreshments	500.00
119-20	27-Feb	West Kootenay Rebels U14B Girls Fastball	Expenses	500.00
119-20	27-Feb	Zone 6 BC Seniors Games	Athlete Training & Participation	500.00
134-20	11-Mar	JL Crowe Senior Boys Basketball	Provincial Championship Transportation	500.00
163-20	31-Mar	Beaver Valley Blooming Society	Plantings, Supplies for Community Areas	2,000.00
163-20	31-Mar	Beaver Valley Dynamic Aging Society	Sips & Sparkle	2,000.00
163-20	31-Mar	JL Crowe Secondary School	RDKB Area A Director's Memorial Award	750.00
185-20	16-Apr	United Way of Trail & District	Local Food Banks	2,500.00
217-20	30-Apr	Village of Fruitvale	Harvest Central Community Garden	1,500.00
308-20	25-Jun	Beaver Valley X-Country Ski Club	Renovating Sno-Cat Garage & Sno-Cat Tracks	1,500.00
306-20	17-Sep	Beaver Valley Curling Club	COVID-19 Expenses	5,000.00
Total				\$ 25,150.00
Balance Remaining				\$ 15,212.00

Electoral Area 'B' /Lower Columbia-Old Glory		Grants-In-Aid 2020
Balance Remaining from 2019		511.41
2020 Requisition		30,693.00
Less Board Fee 2020		(1,075.00)
Total Funds Available		\$ 30,129.41

RESOLUTION	DATE	RECIPIENT	DESCRIPTION	AMOUNT
26-20	15-Jan	Okanagan Nation Alliance	Columbia Fish in Schools Program 757F	1,500.00
54-20	24-Jan	LCCDTS/Sustainable Agriculture Committee	Trails Incredible Farmers Market	700.00
			3D Portable Model of Cambridge	
54-20	24-Jan	Rossland Society for Environmental Action	Wetland/Violin Lake Area	1,000.00
119-20	27-Feb	Kidney Walk, Kootenay West	Event Costs	400.00
119-20	27-Feb	West Kootenay Rebels U14B Girls Fastball Team	Expenses	500.00
119-20	27-Feb	Zone 6 BC Seniors Games	Athlete Training & Participation	750.00
134-20	11-Mar	JL Crowe Senior Boys Basketball	Provincial Championship Transportation	500.00
134-20	11-Mar	West Kootenay Smoke N Steel Auto Club	Event Expenses	800.00
163-20	31-Mar	JL Crowe Secondary School	RDKB Area A Directors Memorial Reward	750.00
163-20	31-Mar	U14B West Kootenay Rebels	Equipment & Uniforms	1,000.00
185-20	16-Apr	Kate's Kitchen-The Salvation Army Trail	Hampers & Daily Lunches	1,000.00
185-20	16-Apr	United Way of Trail & District	Rossland & Trail Food Bank	1,500.00
229-20	13-May	Kootenay Columbia Leaning Centre	High School Graduate Bursary	750.00
229-20	13-May	West Kootenay Recreational Dirt Bike & ATV Society	Purchase of Grooming Equipment	3,750.00
252-20	28-May	Oasis Recreation Society	Storage Shed	672.37
254-20	28-May	Rotary Club of Rossland	GIA 254-20 Cloth Face Masks	2,700.00
359-20	23-Jul	Rivervale Recreation	Rivervale Park Awning	2,500.00
Total				\$ 20,772.37
Balance Remaining				\$ 9,357.04

Electoral Area 'C'/Christina Lake		Grants-In-Aid 2020
Balance Remaining from 2019		1,941.25
2020 Requisition		72,704.00
Less Board Fee 2020		(2,549.00)
Total Funds Available		\$ 72,096.25

RESOLUTION	DATE	RECIPIENT	DESCRIPTION	AMOUNT
26-20	15-Jan	Okanagan Nation Alliance	Columbia Fish in Schools Program 757F	1,000.00
54-20	24-Jan	Christina Lake Community Association	Christina Lake Community Hall Rental Funding	1,500.00
54-20	24-Jan	Little Lakers Learning Centre Society	Day Care Expenses	3,500.00
86-20	12-Feb	Boundary 4-H Multi Club	Club Activities	500.00
119-20	27-Feb	Grand Forks ATV	Stewart & Gilpin Area Trail	10,000.00
134-20	11-Mar	Christina Lake Stewardship Society	Aquatic Invasive Species Billboard	2,436.00
185-20	16-Apr	Grand Forks Farmers Market	BC Farmers Market Nutrition Coupon Program	2,000.00
217-20	30-Apr	Boundary Community Food Bank	Funds Towards Food Budget	2,000.00
217-20	30-Apr	Christina Lake Arts & Artisans Society	Off Season Workshops & Classes Prep	2,000.00
229-20	13-May	Boundary Country Regional Chamber of Commerce	Regional Business Advocacy, Communications & Recovery Efforts	2,000.00
308-20	25-Jun	Christina Lake Tourism Society	Supporting Student Hours	2,482.00
308-20	25-Jun	Joan Hiram (Cops for Kids)	Refreshments & Donation for RCMP Cops for Kids Bicycle Tour	1,000.00
359-20	23-Jul	Christina Lake Boat Access Society	Annual Dump Day	400.00
383-20	27-Aug	Christina Lake Arts & Artisans Society	Offset Lost Revenue Due to Covid	3,500.00
Total				\$ 34,318.00
Balance Remaining				\$ 37,778.25

Electoral Area 'D'/Rural Grand Forks		Grants-In-Aid 2020
Balance Remaining from 2019		34,144.50
2020 Requisition		38,342.00
Less Board Fee 2020		(1,342.00)
Total Funds Available		\$ 71,144.50

RESOLUTION	DATE	RECIPIENT	DESCRIPTION	AMOUNT
26-20	15-Jan	City of Grand Forks	Family Day 2020 Event	2,000.00
26-20	15-Jan	Okanagan Nation Alliance	Columbia Fish in Schools Program 757F	1,000.00
54-20	24-Jan	Grand Forks Community Christmas Dinner	Groceries	1,000.00
54-20	24-Jan	Grand Forks Figure Skating Club	Year-End Expenses	1,000.00
54-20	24-Jan	Kettle Valley Food Coop	Commercial Refrigeration/Freezer Units	5,000.00
86-20	12-Feb	Boundary 4-H Multi Club	Club Activities	500.00
86-20	12-Feb	Grand Forks Art Gallery Society	Replacement Computer Workstations	5,000.00
119-20	27-Feb	Boundary Girls Fastpitch	Ongoing costs	250.00
119-20	27-Feb	Zone 6 BC Seniors Games	Athlete Training & Participation	300.00
134-20	11-Mar	Grand Forks ATV	Trails Reconstruction	5,000.00
185-20	16-Apr	Boundary Museum Society	Strategic Planning Project	5,000.00
185-20	16-Apr	Grand Forks Farmers Market	BC Farmers Market Nutrition Coupon Program	5,000.00
217-20	30-Apr	Boundary Community Food Bank	Funds Towards Food Budget	2,000.00
229-20	13-May	Boundary Country Regional Chamber of Commerce	Regional Business Advocacy, Communications & Recovery Efforts	2,900.00
359-20	23-Jul	Boundary Historical Society	Phoenix Pioneer Cemetery	2,000.00
359-20	23-Jul	Kettle Valley Food Coop	Local Food Producer Profiles	1,500.00
Total				\$ 39,450.00
Balance Remaining				\$ 31,694.50

Electoral Area 'E'/West Boundary		Grants-In-Aid 2020
Balance Remaining from 2019		52,580.63
2020 Requisition		86,425.00
Less Board Fee 2020		(3,025.00)
Total Funds Available		\$ 135,980.63

RESOLUTION #	DATE	RECIPIENT	DESCRIPTION	AMOUNT
26-20	15-Jan	Big White Mountain Community Development Association	Winter Wellness Program	1,850.00
26-20	15-Jan	Boundary Metis Community Association	Snowy Tribal Trails 2020 Celebration Feast	1,200.00
26-20	15-Jan	Greenwood Community Association	Christmas Day Dinner	300.00
26-20	15-Jan	Greenwood Public Library	Meeting Space Rental	200.00
26-20	15-Jan	Trails to the Boundary Society	General Administration	1,000.00
26-20	15-Jan	Trails to the Boundary Society	West Boundary Connect Website	2,295.74
26-20	15-Jan	West Boundary Community Services Co-operative Association	Start-Up Office Expenses	2,000.00
26-20	15-Jan	West Boundary Community Services Co-operative Association	Riverside Centre Start-Up Legal Costs	2,332.34
54-20	24-Jan	Rock Creek Community Medical Society	Canada Day Community BBQ	599.48
54-20	24-Jan	Rock Creek Community Medical Society	Meeting Room Rentals	200.00
86-20	12-Feb	Village of Midway	Spreader for Road Rescue Vehicle Extrication	5,000.00
134-20	11-Mar	West Boundary Community Services Co-Op Association	Start-up Legal Costs	537.60
134-20	11-Mar	West Boundary Community Services Co-Op Association	Destination BC Tourism Training	805.35
134-20	11-Mar	West Boundary Community Services Co-Op Association	Destination BC Visitor Centre Training	1,502.00
163-20	31-Mar	Boundary Woodlot Association	Emergency Preparedness Fair	1,037.04
163-20	31-Mar	Kettle River Lions Club	Food for Emergency Preparedness Fair	552.00
163-20	31-Mar	West Boundary Community Services Co-Op Association	Development of Riverside Centre Website	5,000.00
163-20	31-Mar	West Boundary Sustainable Foods & Resources Society	Catering for Emergency Preparedness Fair	284.00
185-20	16-Apr	Rock Creek Community Medical Society	Medical Centre Washer/Dryer	1,642.02
217-20	30-Apr	Trails to the Boundary Society	Riverside Centre Office Furniture	2,500.00
217-20	30-Apr	Trails to the Boundary Society	West Boundary Connect Website Costs	2,000.00
229-20	13-May	Big White Mountain Community Development Association	Additional Bookkeeping Expenditures	2,500.00
229-20	13-May	Big White Mountain Community Development Association	Insurance Expenditure Funding	2,875.00
252-20	28-May	West Boundary Community Services Co-operative Association	Directors & Officers Insurance for the Board	558.00
252-20	28-May	West Boundary Community Services Co-operative Association	Property Insurance for Riverside Centre	4,520.00
252-20	28-May	West Boundary Community Services Co-operative Association	Office Furniture	655.87
273-20	10-Jun	Trails to the Boundary Society	2020 Admin & Quick Books	862.00
383-20	27-Aug	West Boundary Community Services Coop	Start Up Costs for Visitors Info Booth	1,500.00
383-20	27-Aug	West Boundary Community Services Coop	Blinds for Boardroom at Riverside Centre	1,057.70
Total				\$ 47,366.14
Balance Remaining				\$ 88,614.49

<p align="center">Regional District of Kootenay Boundary Status Report - Gas Tax Agreement October 7, 2020</p>

Revenue:

Area A	\$ 1,297,865.68
Area B	\$ 966,361.64
Area C	\$ 943,860.54
Area D	\$ 2,177,929.01
Area E	\$ 1,441,226.43

TOTAL AVAILABLE FOR PROJECTS

\$ 6,827,243.30**Expenditures:**

Area A	\$ 709,155.48
Area B	\$ 723,137.75
Area C	\$ 591,210.17
Area D	\$ 837,360.54
Area E	\$ 994,367.47

TOTAL SPENT OR COMMITTED

\$ 3,855,231.41**TOTAL REMAINING****\$ 2,972,011.89**

Earmarked Funding (All Areas)

\$ 105,000.00

TOTAL UNCOMMITTED REMAINING**\$ 2,867,011.89**

**Regional District of Kootenay Boundary
Status Report - Gas Tax Agreement
October 7, 2020**

**ELECTORAL AREA 'A'**

	Description	Status	Allocation	
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Revenue:

Per Capital Allocation of Gas Tax Grant:

Allocation 2007-2017	Received	\$	934,426.18
Allocation to Dec 31, 2018	Received		91,749.50
Allocation to Dec 31, 2019	Received		181,719.75
Allocation to Dec 31, 2020	Estimated		89,970.25

TOTAL AVAILABLE FOR PROJECTS

\$ 1,297,865.68**Expenditures:**

Approved Projects:

2009	Columbia Gardens Water Upgrade	Completed	\$	250,000.00
2011	South Columbia SAR Hall	Completed		2,665.60
281-13	BV Family Park - Solar Hot Water	Completed		16,684.00
451-13	Beaver Valley Arena - Lighting	Completed		69,000.00
26-14	LWMP Stage II Planning Process	Completed		805.88
	Completed Projects Approved Prior to 2015		\$	339,155.48
17-15	Beaver Creek Park - Band Shell/Arbour	Funded		100,000.00
61-17	Fruitvale Elementary Playground -PAC LEAP Project	Completed		20,000.00
126-17	RDKB BVPART (Electrical Upgrade BV Family Park)	Funded		5,327.25
	RDKB BVPART (Electrical Upgrade BV Family Park)	Pending or Committed		4,672.75
153-17	Village of Fruitvale (Fruitvale RV Park)	Completed		70,000.00
		Pending or Committed		150,000.00
73-18	Village of Fruitvale (Construction of Replica Train Static	Completed		15,000.00
166-19	Champion Lakes Golf & Country Club (New Metal Roof	Funded		3,750.00
158-20	Beaver Valley Golf & Recreation Society (Lighting Upgr	Pending or Committed		1,250.00
	Beaver Valley Golf & Recreation Society (Lighting Upgr			

TOTAL SPENT OR COMMITTED

\$ 709,155.48

TOTAL REMAINING

\$ 588,710.20

Earmarked Funding:

(Applications not yet received and/or Board approved)

Sept-19	Village of Fruitvale Middle School Re-development	Ltr of Support	\$	100,000.00
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TOTAL UNCOMMITTED REMAINING

\$ 488,710.20

Regional District of Kootenay Boundary
Status Report - Gas Tax Agreement
October 7, 2020

ELECTORAL AREA 'B' / LOWER COLUMBIA/OLD GLORY



	Description	Status	Allocation	
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Revenue:

Per Capital Allocation of Gas Tax Grant:				
	Allocation 2007-2017	Received	\$	689,217.40
	Allocation to Dec 31, 2018	Received		69,964.45
	Allocation to Dec 31, 2019	Received		138,572.12
	Allocation to Dec 31, 2020	Estimated		68,607.67
	TOTAL AVAILABLE FOR PROJECTS		\$	966,361.64

Expenditures:

Approved Projects:				
	Completed Projects Approved Prior to 2015		\$	365,590.67
251-15	Castlegar Nordic Ski Club (Paulson Cross Country Ski Trail Upgrade)	Completed		10,000.00
252-15	Black Jack Cross Country Ski Club Society (Snow Cat)	Completed		10,000.00
253-15	Rivervale Water & Streetlighting Utility (LED Streetlights)	Completed		14,417.00
254-15	Rivervale Oasis Sewer Utility (Flow Meters)	Completed		90,000.00
190-16	Rivervale Oasis Sewer Utility - RDKB (Wemco Booster Pumps)	Completed		-
221-16	Area 'B' Recreation - RDKB (Rivervale Shed)	Completed		8,632.00
152-17	Rossland Historical Museum and Archive Association (Rossland Museum Upgrades)	Completed		25,000.00
296-17	Visions for Small Schools Society (Broadband Installation)	Completed		13,381.80
111-18	Birchbank Golf Club (Upgrade Irrigation Satellite Controller)	Completed		50,000.00
102-19	Silver City Trap Club (Electrical System Upgrades)	Completed		20,886.28
165-19	Silver City Trap Club (Used Tractor)	Completed		20,330.00
600-19	Casino Waterworks District (Water System Upgrades)	Completed		70,000.00
601-19	Silver City Trap Club (Develop Wheel Chair Access)	Completed		24,900.00
	TOTAL SPENT OR COMMITTED		\$	723,137.75
	TOTAL REMAINING		\$	243,223.89

Status Report - Gas Tax Agreement
Electoral Area 'C' / Christina Lake

72-18	RDKB Kettle River Watershed Authority (Drought Management Plan) (\$11,303.33 is Approx Amount; Actual Allocation To Be Determined)	Funded	9,739.66
	RDKB Kettle River Watershed Authority (Drought Management Plan) (\$11,303.33 is Approx Amount; Actual Allocation To Be Determined)	Pending or Committed	1,563.67
231-19	RDKB CL PARTS (Pickle Ball Courts)	Funded	78,488.18
	RDKB CL PARTS (Pickle Ball Courts)	Pending or Committed	21,511.82
TOTAL SPENT OR COMMITTED			\$ 591,210.17
TOTAL REMAINING			\$ 352,650.37

Status Report - Gas Tax Agreement Electoral Area 'D' / Grand Forks Rural		
	RDKB Kettle River Watershed Authority (Drought Management Plan) (\$11,303.33 is Approx Amount; Actual Allocation To Be Determined)	Pending or Committed1,563.67
112-18	Grand Forks Community Trails Society (North Fork Trans Canada Trail Surface Installation)	Funded37,500.00
	Grand Forks Community Trails Society (North Fork Trans Canada Trail Surface Installation)	Pending or Committed12,500.00
258-18	Boundary Museum Society (Black Hawk Livery Addition (40' x 60') Phase 1)	Completed60,000.00
298-18	RDKB Grand Forks Curling Rink (Facility Condition Assessment)	Funded4,450.00
	RDKB Grand Forks Curling Rink (Facility Condition Assessment)	Pending or Committed4,550.00
361-19	RDKB - Boundary Transit (2018 Leasing Transit Vehicles)	Completed9,965.00
361-19	RDKB - Boundary Transit (2019 Leasing Transit Vehicles)	Completed10,086.00
362-19	Boundary Area Disc Athletic Sports Society (Signage & Baskets)	Funded9,381.00
	Boundary Area Disc Athletic Sports Society (Signage & Baskets)	Pending or Committed3,127.00
TOTAL SPENT OR COMMITTED		\$ 837,360.54
TOTAL REMAINING		\$ 1,340,568.47

Status Report - Gas Tax Agreements Electoral Area 'E' / West Boundary			
166-17	Beaverdell Community Club & Recreation Commission (Bleachers Beaverdell Ball Park)	Funded	7,718.82
	Beaverdell Community Club & Recreation Commission (Bleachers Beaverdell Ball Park)	Pending or Committed	1,853.04
198-17	Westbridge Recreation Society (Replace Kitchen Westbridge Hall)	Completed	20,699.41
468-17	RDKB (Boundary Trails Master Plan)	Funded	20,000.00
	RDKB (Boundary Trails Master Plan)	Pending or Committed	-
72-18	RDKB Kettle River Watershed Authority (Drought Management Plan) (\$11,303.33 is Approx Amount; Actual Allocation To Be Determined)	Funded	9,739.66
	RDKB Kettle River Watershed Authority (Drought Management Plan) (\$11,303.33 is Approx Amount; Actual Allocation To Be Determined)	Pending or Committed	1,563.68
152-18	Westbridge Recreation Society (Door Upgrades/ LED Conversion/Curtains & Tracking System)	Completed	7,023.06
154-18	Bridesville Community Club (Hall Addition)	Completed	70,000.00
296-18	Rock Creek & Boundary Fair Association (Assembly Hall Upgrades)	Completed	20,000.00
297-18	Kettle River Museum (Bunkhouse Upgrades)	Completed	20,000.00
467-18	King of Kings New Testament Church (H/E Commercial Dishwasher)	Completed	6,608.51
566-18	Westbridge Recreation Society (Construction of New Building)	Completed	40,849.73
47-19	Kettle Valley Golf Club (Clubhouse Window Replacement)	Completed	7,945.95
271-19	West Boundary Community Services Co-Operative (Rock Creek Community Hub)	Completed	100,000.00
423-19, 225-20	Kettle Wildlife Association (Safety upgrades & Increased Capacity)	Funded	7,514.33
	Kettle Wildlife Association (Safety upgrades & Increased Capacity)	Pending or Committed	4,076.75
159-20	Westbridge Recreation Society (Construction of New Building Increase)	Completed	4,289.64
182-20	Rock Creek & Boundary Fair Association (Construction of multi-purpose structure)	Completed	21,414.17
TOTAL SPENT OR COMMITTED			\$ 994,367.47
TOTAL REMAINING			\$ 446,858.96
Earmarked Funding:			
62-19	Westbridge Recreation Society	Resolution of Support	\$ 5,000.00
TOTAL UNCOMMITTED REMAINING			\$ 441,858.96