

Bylaw No. 2793, 2018

Regional District of Okanagan-Similkameen

Chief Administrative Officer Delegation Bylaw

Consolidated for convenience purposes.
Includes all amendments to the text up to:
June 16, 2022

Summary of Amendments

Bylaw No.	Adopted	Amendment	Purpose
2793.01	December 19, 2019	Replace sections 3.45, 3.46, 3.47, and 3.48	To provide for delegation of additional development permits
2793.02	June 16, 2022	Add new sections 3.49, 3.50 (and re-number subsequent subsections)	To provide new criteria, guidelines and processing procedures related to the delegation of development variance permits

REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

BYLAW 2793, 2018

A Bylaw of the Regional District of Okanagan Similkameen for the establishment of Officers and delegation of authority.

WHEREAS S. 234 of the *Local Government Act* provides that a board may, by bylaw, create the position of chief administrative officer;

AND WHEREAS S. 235 of the *Local Government Act* and other provincial statutes provide for certain duties, functions and powers of a chief administrative officer that are independent of the board;

AND WHEREAS S. 229 b) of the *Local Government Act* further provides that a board may delegate other powers, duties, and functions within local government jurisdiction to a chief administrative officer;

AND WHEREAS the *Local Government Act* provides that a Board may delegate its powers, duties and functions only by bylaw

NOW THEREFORE the Regional District of Okanagan Similkameen, duly assembled, enacts as follows:

PART I - PURPOSE AND TITLE

- 1.1 The purpose of this bylaw is to establish the position of the Chief Administrative Officer of the Regional District pursuant to the Local Government Act or any successor legislation and to confirm the power of delegation to the Chief Administrative Officer granted, inter alia, pursuant to the Local Government Act.
- 1.2 This bylaw shall be known as the 'Chief Administrative Officer Delegation Bylaw' or the "CAO Delegation Bylaw".

PART II - DEFINITIONS

- 2.1 **"Administration"** means the general operations of the Regional District, including all personnel, financial and other related resources, as permitted by the Local Government Act and any successor legislation.
- 2.2 **"Administrative Directive"** means procedures that are approved by the Chief Administrative Officer, focused on the internal workings of the Regional District and that primarily impact and address employees and contractors of the Regional District.
- 2.3 **"Board"** means the Board of Directors of the Regional District of Okanagan Similkameen.

- 2.4 **"CAO"** means the person appointed by the Board under Part 6, Division 8, S. 234 as, collectively, Chief Administrative Officer; S. 236 as Corporate Administration Officer; and, S. 237 as Financial Administration Officer for the Regional District of Okanagan Similkameen, or his designate.
- 2.5 **"Chair"** means the Director elected by the Board of Directors as the head and chief executive officer of the Regional District.
- 2.6 **"Contract"** means any agreement establishing legal rights and obligations between the Regional District and one or more other parties, whether or not involving receipt or payment of money, and includes an amendment to an agreement.
- 2.7 **"Emergency Program Act"** means RSBC 1996, Chapter 111 as amended from time to time.
- 2.8 **"Employee"** does not include the auditor or counsel engaged by the Board, or their employees.
- 2.9 **"Local Government Act"** means the *Local Government Act*, RSBC 2015, Chapter 1, as amended from time to time.
- 2.10 **"Policy"** means policies that are approved by the Board by bylaw or resolution to provide strategic direction on programs and services delivered by the Regional District and primarily impact and address residents of the Regional District; and, provide an official position on plans to govern the people of the Regional District and are within the Board's jurisdiction under legislation.
- 2.11 **"Regional District"** means the Regional District of Okanagan Similkameen.

PART III - CHIEF ADMINISTRATIVE OFFICER

- 3.1 The position of CAO is hereby established.
- 3.2 The Board shall, by resolution, appoint an individual to the position of CAO and establish the terms and conditions of the CAO's employment. If a vacancy occurs in the position the Board may, by resolution, appoint a person to be an interim CAO and in such case all the provisions of this bylaw that apply to the CAO apply equally to the interim CAO.
- 3.3 The Regional District will indemnify the CAO, provided that the CAO acts in the course and scope of his or her employment and acts in good faith to comply with an applicable resolution, bylaw, statute, regulation or enactment.
- 3.4 The remuneration and other terms of engagement of the CAO shall be set out in an agreement between the CAO and the Regional District that is satisfactory to the Board and not inconsistent with any provision of the Local Government Act or this bylaw, which the Chair shall execute on behalf of the Regional District.
- 3.5 The CAO shall have all the powers, duties and functions given to the CAO under the Local Government Act or any other statute. Without limiting the generality of the foregoing, the CAO is the principal link between Administration and the Board.

Operational Matters

The CAO or his designate shall:

- 3.6 Establish the organizational structure of the Regional District; including the merging, dividing and elimination of departments and establishing a managerial hierarchy.
- 3.7 Advise, inform and make recommendations to the Board about:
 - 3.7.1 the operations of the Regional District;
 - 3.7.2 the financial condition of the Regional District; and,
 - 3.7.3 Board Policies, procedures and programs as may be necessary or desirable to carry out the powers, duties and functions of the Regional District.
- 3.8 Direct, supervise and review the proposals of all departments of the Regional District prior to submission to the Board.
- 3.9 Appoint an employee of the Regional District as Acting CAO to act during absences of the CAO and to exercise all the powers, duties and functions of the CAO as required under the Local Government Act, this bylaw or any other Act.
- 3.10 Act as Coordinator of the Emergency Management Organization established under the Emergency Program Act, and shall be responsible to the Board for the overall management of the Emergency Response Plan.
- 3.11 Establish and implement all Administrative Directives, for all matters within the powers of the CAO.
- 3.12 Conduct audits, investigations and studies of the Administration, as deemed necessary, subject to the right of the Board to direct audits, investigations and studies.
- 3.13 Provide corporate leadership in ensuring that all Board Policies and programs of the Regional District are efficiently coordinated, are delivered in a responsive and effective manner and reflect the overall strategic priorities of the Regional District as defined by the Board.
- 3.14 Instruct legal counsel on any matters involving any potential legal and administrative proceedings involving the Regional District, and without limiting the foregoing
 - 3.14.1 provide legal services to the Board, committees and departments of the Regional District;
 - 3.14.2 appear in all legal and administrative proceedings including commencing, defending and intervening in them to define, enforce and defend the Regional District as may be required by the Board to protect its legal rights.
- 3.15 Sign Land Title documents to release obsolete charges from land titles.
- 3.16 Sign Land Title Office covenants under Section 219 and Statutory Rights of Way and easements under Section 218 of the Land Title Act.

- 3.17 Carry out inspections, remedies, enforcement or actions pursuant to the Local Government Act, where that Act or any other enactment or a bylaw authorizes or requires anything to be inspected, remedied, enforced or done by the Regional District.
- 3.18 Make determinations and issue orders pursuant to the Local Government Act or any other statute, enactment or bylaw which the Regional District is authorized to enforce, including without limitation, matters related to dangerous or unsightly property.
- 3.19 Approve parkland dedication requirements for subdivisions that do not create additional parcels.

Corporate Matters

The CAO or his designate shall:

- 3.20 Ensure that accurate minutes of the meetings of the Board and Board committees are prepared and that the minutes, bylaws and other records of the business of the Board and committees are maintained and kept safe.
- 3.21 Along with the person presiding at the meeting, sign all minutes of the Board and Board committee meetings.
- 3.22 Along with the Chair, sign all bylaws.
- 3.23 Keep the corporate seal and have it affixed to documents as required.
- 3.24 Accept service of all notices and documents on behalf of the Regional District that are permitted to be given to, served on, filed with or otherwise provided to the Board or Regional District.
- 3.25 Provide certified copies of bylaws, decisions and documents as required or requested.
- 3.26 Administer oaths and take affirmations, declarations and affidavits required to be taken under this or any other Act relating to regional districts.

Financial Matters

The CAO or his designate shall:

- 3.27 Along with the Chair or any other person authorized by the Board, sign cheques and other negotiable instruments.
- 3.28 Acting alone, sign all orders, contracts, agreements, documents and certificates that may be required pursuant to any agreement, contract bylaw, statute or enactment.
- 3.29 Authorize the CAO's signature and the signatures of any other employees to whom the Board or the CAO delegates signing authority, to be lithographed or otherwise reproduced.
- 3.30 Prepare and submit to the Board estimates of revenue and expenditures and capital programs annually, or as required by the Board.
- 3.31 Monitor and control expenditures within the budgets approved by the Board.

- 3.32 Advise the Board and make recommendations about the financial condition of the Regional District and the Policies and programs as may be necessary or desirable to carry out the powers, duties and functions of the Regional District.
- 3.33 Ensure that revenues of the Regional District are collected and controlled and receipts are issued in the manner directed by the Board.
- 3.34 Ensure all money belonging to or held by the Regional District is deposited in a bank, credit union or loan corporation.
- 3.35 Ensure the accounts for authorized expenditures referred to in the Local Government Act are paid.
- 3.36 Ensure accurate records and accounts are kept of the financial affairs of the Regional District, including items on which a Regional District's debt limit is based and the things included in the definition of debt for the Regional District.
- 3.37 Ensure that actual revenues and expenditures of the Regional District compared with the estimates in the budget approved by the Board are reported to the Board as often as the Board directs.
- 3.38 Ensure money invested by the Regional District is invested in accordance with the Local Government Act.
- 3.39 Open and close accounts that hold the Regional District's money
- 3.40 Pay any amounts which the Regional District is legally required to pay pursuant to an Order or Judgment of a Court, Board or other tribunal of competent jurisdiction relating to an action, claim or demand against the Regional District; and
- 3.41 Approve the settlement of all actions, claims or demands by or against the Regional District, including prejudgment interest and court costs up to a maximum of \$50,000.
- 3.42 Expend monies, in cases where a local state of emergency has been declared, that are not an approved budget and subsequently report to the Board on the implication of these expenditures.

Contracts and Agreements

The CAO or his designate shall:

- 3.43 If by bylaw or resolution the Board does or authorizes or directs to be done any act or thing that would otherwise be within the authority of the CAO, whether on the Board's own initiative or at the request of the CAO, then the CAO's authority in respect of that act or thing is limited in accordance with the language of the bylaw or resolution.
- 3.44 Every act or thing done by the CAO or by any person exercising any CAO power, duty or function under delegation from the CAO, must be done in compliance with the requirements of all applicable statutory and regulatory provisions, the common law and equity, and Board Policies, and in accordance with the provisions of any interprovincial or international trade agreement that is binding on the Regional District.
- 3.45 shall be delegated authority to issue, amend and cancel the following types of

development permits under Section 490 of the *Local Government Act*.¹

- .1 Environmentally Sensitive Development Permit (ESDP);
- .2 Gallagher Lake Commercial Development Permit (GLCDP);
- .3 Hillside Development Permit (HDP);
- .4 Industrial Development Permit (IDP);
- .5 Multiple Family Development Permit (MFDP);
- .6 Naramata Village Centre Development Permit (NVDP);
- .7 Okanagan Falls Commercial Development Permit (OFCDP);
- .8 Okanagan Falls Town Centre Development Permit (OFTCDP);
- .9 Protection of Farming Development Permit (PFDP);
- .10 Watercourse Development Permit (WDP).

3.46 *deleted*.²

3.47 *deleted*.³

3.48 *deleted*.⁴

3.49 be delegated authority to issue a development variance permit under Section 498.1 of the *Local Government Act* if, in the opinion of the Chief Administrative Officer (CAO), or their delegate, the development to be authorized by the variance would, relative to development in accordance with the bylaw, be minor and would have no significant negative impact on the use of immediately adjacent or nearby properties. In making this determination the Chief Administrative Officer (CAO), or their delegate, may have regard to the:

- i) degree or scope of the variance relative to the regulation from which a variance is sought;
- ii) proximity of the building or structure to neighbouring properties; and
- iii) character of development in the vicinity of the subject property.⁵

3.50 in deciding whether to issue a development variance permit delegated under subsection 3.49, consider the following guidelines:

- i) if the proposed variance is consistent with the general purpose and intent of the zone;
- ii) if the proposed variance addresses a physical or legal constraint associated with the site (e.g. unusual parcel shape, topographical feature, statutory right-of-way, etc.);
- iii) if strict compliance with the zoning regulation would be unreasonable or un-necessary; and
- iv) if the proposed variance would unduly impact the character of the streetscape or surrounding neighbourhood.⁶

¹ Bylaw No. 2793.01

² Bylaw No. 2793.01

³ Bylaw No. 2793.01

⁴ Bylaw No. 2793.01

⁵ Bylaw No. 2793.02

⁶ Bylaw No. 2793.02

- 3.51 Require security in relation to development permits approved by the CAO, to include requirements and conditions or set standards, to impose conditions respecting the sequence and timing of construction; and to authorize extensions of the time specified in a development permit within which construction must substantially start.
- 3.52 Retain the services of any individual or corporation for purposes related to the operations of the Regional District and enter into all agreements and contracts and complete all necessary documents required for the provision of such services, provided the expenditure does not exceed the amount approved by the Board in its annual budget or contradict the spending limits in the purchasing policy.
- 3.53 Approve and enter into agreements with and make payments or grants, or both, to persons, organizations or governments for the provision of services in the development or implementation of emergency plans or programs including mutual aid plans and programs.
- 3.54 Approve and enter into agreements with external agencies, including municipalities for the provision of goods and services in accordance with rates determined in the approved financial plan or adopted Fees and Charges bylaw.
- 3.55 Approve and enter into all agreements and contracts necessary to provide insurance coverage for the Regional District.
- 3.56 Negotiate on behalf of the Regional District the terms and conditions of development agreements, subject to the conditions of the subdivision or development permit approval, with third parties desirous of developing lands within the Regional District, and execute such development agreements for and on behalf of the Regional District.
- 3.57 Negotiate and execute on behalf of the Regional District all encroachment, easement and right-of-way agreements whereby the Regional District grants to third parties an interest in Regional District lands by way of a right-of-way easement or encroachment right provided that the CAO shall not be authorized in conjunction with the power to authorize the expenditure of any Regional District funds to accommodate such right-of-way, easement or encroachment right. The CAO shall impose a charge in relation to the grant and administration of the right-of-way, easement or encroachment right and the CAO shall ensure that such administrative fee is collected from the third party benefiting from such right-of-way, easement or encroachment right prior to the execution of such Agreement.
- 3.58 Provided funds are included in an approved budget, negotiate and execute on behalf of the Regional District all encroachment, easement, licenses of occupation and right-of-way agreements whereby the Regional District obtains from a third party an interest in lands by way of an encroachment, easement, license of occupation or right-of-way.
- 3.59 Enter into all agreements, contracts and letters of requirement pursuant to the Works and Services Bylaw related to the development and subdivision of land within the Regional District pursuant to the planning provisions of the Local Government Act and complete any and all documents required for such a development or subdivision.
- 3.60 Approve and enter into all documents, consents, approvals, acknowledgments, and certificates required for or incidental to any agreement, contract, settlement, tender

or investment.

- 3.61 Approve and enter into all agreements and contracts involving the lease of land and/or buildings at current fair market value where the Regional District is lessee or lessor, provided that the term shall not exceed five (5) years, exclusive of renewals.
- 3.62 Make application for and enter into provincial, federal and other grant funding agreements.

Legislative Matters

The CAO or his designate shall:

- 3.63 Attend all meetings of the Board and committees of the Board and meetings of such boards, authorities and other bodies as are required by the Board.
- 3.64 Prepare and submit to the Board such reports and recommendations as may be required by the Board or the Board committees.
- 3.65 Ensure the names of the Board present at the Board meetings and members of the Board committee meetings are recorded.

Personnel Matters

The CAO or his designate shall:

- 3.66 Supervise, evaluate, direct, hire, fire, discipline, demote, promote and transfer all employees of the Regional District.

PART IV-ACCOUNTABILITY

- 4.1 The CAO is accountable to the Board for the exercise of all powers, duties and functions.
- 4.2 The matters delegated to the CAO by this Bylaw are in addition to any other delegations made by the Board to the CAO and the CAO shall exercise and carry out such other powers, duties and functions as may be required by the Board, from time to time.

PART V- DELEGATION

- 5.1 The CAO is authorized to delegate and to authorize further delegations to any employee or their delegate, from time to time, of any of the CAO's powers, duties or functions.
- 5.2 Where an employee has been delegated any of the CAO's powers, duties, functions, pursuant to S. 5.1 the said employee shall have no authority to further delegate to another person any power, duty, or function that has been delegated.

PART VI - CONFLICT

- 6.1 The provisions of this bylaw shall prevail in any case where there is a conflict between this bylaw and any previous bylaw or resolution of the Board.
- 6.2 If any provision of this bylaw is declared invalid by a court, all other provisions remain valid.

PART VII - REPEAL OF BYLAWS

The following bylaws are hereby repealed:

- 7.1 Bylaw 2341, 2005, being a bylaw of the Regional District to delegate personnel responsibilities to the CAO.
- 7.2 Bylaw 2493, 2009, being a bylaw of the Regional District establishing the position of Chief Administrative Officer and the delegation of powers thereto, and all amendments thereto.
- 7.3 Bylaw No. 2509, 2010, being a bylaw of the Regional District for the delegation of Local Government Authority, and all amendments thereto.

READ A FIRST, SECOND AND THIRD TIME this 4th day of January, 2018.

ADOPTED this 4th day of January, 2018

Chair

Corporate Officer