

## RESORT MUNICIPALITY OF WHISTLER

### LAND USE PROCEDURES AND FEES BYLAW NO. 2019, 2012

A bylaw to define procedures under which an owner of land may apply for a bylaw amendment or permit, to impose fees for such applications, to specify distances for the purpose of notification, and to delegate the Council's authority to issue certain permits and respond to certain referrals.

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

WHEREAS a local government may, by bylaw, impose application fees for an application to initiate changes to an official community plan or zoning bylaw, the issuance of a permit under Part 26, and an amendment to a land use contract; and

WHEREAS a local government may by bylaw specify a distance from affected land for the purpose of notifying owners and tenants in occupation of proposed bylaw amendments and permit applications; and

WHEREAS the Council may, by bylaw, delegate its powers, duties and functions to an officer or employee of the municipality;

The Council of the Resort Municipality of Whistler, in open meeting assembled, enacts as follows:

#### Short Title

1. This Bylaw may be cited as "Land Use Procedures and Fees Bylaw No. 2019, 2012".

#### Interpretation

2. In this Bylaw:
  - a. "Blackcomb Land Use Contract" means the land use contract authorized by "Resort Municipality of Whistler Land Use Contract Approval Bylaw No. 107, 1978", registered in the Vancouver Land Title Office under No. G2520, as amended from time to time.
  - b. "General Manager" means the General Manager of Resort Experience and includes any person holding such position whether or not the title is changed, the duly appointed deputy of the General Manager, any person duly appointed to act in the position of General Manager, and any person the General Manager may in writing designate to perform that function in his/her absence or while he/she is otherwise unable to act."
  - c. "Qualified Environmental Professional (QEP)" means an applied scientist or technologist, acting alone or together with another qualified environmental professional to prepare a site investigation report or an assessment report if:
    - i. the individual is registered and in good standing in British Columbia with a recognized professional organization, acting under that association's code of ethics and subject to disciplinary action by that association;
    - ii. the individual's area of expertise is recognized in the environmental report's term of reference as one that is acceptable for the purpose of providing all or

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part of a report in respect of the particular development proposal that is being assessed; and

- iii. the individual is acting within that individual's area of expertise.
3. If any section or phrase of this Bylaw is for any reason held to be invalid by a decision of any court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this Bylaw.

### Applications

4. An owner of land, or a person authorized by the owner for that purpose as evidenced by a written authorization forming part of the application, may apply for the following in the form prescribed for that purpose by the General Manager, and must provide the information required by the form:
  - a. An amendment to the Official Community Plan.
  - b. An amendment to the zoning bylaw.
  - c. A development permit.
  - d. A development variance permit.
  - e. A temporary use permit.
  - f. An amendment to a land use contract.
  - g. An exemption from a bylaw establishing a flood construction level or floodplain setback.
  - h. Modification of a Section 219 Covenant.

In the case of an application for an amendment or permit in respect of land that is common property in a strata plan, the strata corporation may make the application.

5. The General Manager may prescribe application forms for the purposes of this Bylaw, and in so doing may prescribe different forms for different categories of applications based on the nature or complexity of the application.
6. A reapplication for an amendment to a bylaw or land use contract or for a permit or exemption that has been refused may not be made within 6 months of the date on which the applicant was notified of the refusal unless Council specifies a lesser or greater period of time by resolution.

### Development Approval Information

7. In the case of an application for a development permit in an area designated in the Official Community Plan as a development permit area for the protection of wetland and riparian ecosystems or the protection of other ecosystems, the applicant must provide the following:
  - a. A Site Investigation Report prepared by a QEP. This report must contain the following information:
    - i. A survey of the boundaries of the parcel of land, overlain on an orthophoto, that delineates the location on the land of all of the following ecosystems as such ecosystems are described in the Official Community Plan: wetland, riparian, forested floodplain, old growth and mature forest, early succession forest, high mountain and avalanche track, and in addition, delineate on the land any area that is within 30 metres of the high water mark of a stream and

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any area that is within 100 metres of a wetland with an area greater than 10 hectares whether or not the stream or wetland is located on the land.

- ii. If land is designated in the Official Community Plan as a development permit area for the protection of wetland and riparian ecosystems and the protection of other ecosystems, a single report must be provided addressing the requirements for both development permit areas.
- b. If the QEP certifies in the Site Investigation Report that there are no occurrences on the land of any of the ecosystems as described in the Official Community Plan, areas within 30 metres of the high water mark of a stream or areas within 100 metres of a wetland with an area greater than 10 hectares, then there are no further information requirements and a development permit is not required. Otherwise, the applicant must provide the following:
- i. An Assessment Report prepared by a QEP. This report must contain the following information:
    - a) Location Map
    - b) Inventory Map (at appropriate scale) identifying and delineating the following:
      - Dimensioned parcel boundaries
      - 1 metre contour intervals, or as appropriate for the size of development
      - Existing rights-of-way, easements, conservation covenanted areas
      - Existing buildings, structures, utilities, roads
      - All streams
      - The location on the land of all of the following ecosystems as such ecosystems are described in the Official Community Plan: wetland, riparian, forested floodplain, old growth and mature forest, early succession forest, high mountain and avalanche track, and in addition, any area that is within 30 metres of the high water mark of a stream and any area that is within 100 metres of a wetland with an area greater than 10 hectares whether or not the stream or wetland is located on the land.
  - ii. In the case of an application pertaining to a wetland or riparian ecosystem, the report may be based on the assessment methods prescribed under the Riparian Areas Regulation, but must also address the impact of the proposed activity or development on wildlife other than fish.
  - iii. In the case of an application pertaining to the protection of other ecosystems, the report must identify the location on the land any forested floodplain, old growth and mature forest, early succession forest, high mountain or avalanche track ecosystem, as such ecosystems are described in the Official Community Plan, and must address the anticipated impact of the proposed activity or development separately in relation to each identified ecosystem type.
  - iv. The report must make recommendations as to how the proposed activity or development may be accommodated on the land in accordance with the

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guidelines specified for the development permit area in the Official Community Plan, and must, in the case of activities or development permitted by the zoning bylaw that cannot be accommodated without a permanent impact to a wetland or riparian ecosystem, identify on the land a location or locations for the provision of replacement and enhancement habitat at a ratio of 2:1 to habitat encroached upon as determined by the QEP, and provide plans and specifications for the work and a cost estimate to be used by the Resort Municipality in establishing conditions for the provision of development permit security.

- c. The QEP who prepares the report(s) must certify that he or she is qualified to carry out the work, that the requirements of this Bylaw were followed, and that he or she is registered in good standing in British Columbia with an appropriate professional organization constituted under an Act, acting under that association's code of ethics and subject to disciplinary action by that association.
  - d. The municipality may engage appropriate third parties to review the report(s) and may require that reasonable costs for such review be borne by the applicant.
  - e. Reports provided under this section may be used in support of a development permit application for up to five years from the date on which the report is certified by the QEP.
8. In the case of an application for a development permit in an area designated in the Official Community Plan as a development permit area for aquifer protection, a development permit is not required if the applicant provides a declaration, signed by the owner of the lands, that the existing and proposed activities on the land do not involve the use, storage, processing, manufacturing or sale of chemicals, substances, or compounds, whether in solid, liquid or gaseous form, that could migrate into the ground and affect the groundwater aquifer. If such declaration cannot be provided, the applicant must provide a report by a Professional Engineer certifying and detailing the spill containment and aquifer protection methods to be incorporated such that the proposed activity or development may be accommodated on the land in accordance with the guidelines specified for the development permit area in the Official Community Plan and not result in contamination of any aquifer or groundwater.

### Notification

9. The distance specified for the purpose of notification in relation to an application to amend a bylaw or land use contract is 100 metres, measured from the boundaries of any parcel to which the application pertains.
- 10.
- a. In the case of a proposal to issue a development variance permit, the owners and tenants in occupation of the parcel in respect of which the application is made and all parcels of land abutting the parcel that is the subject of the application must be notified, and for this purpose "abutting" means sharing a boundary with, or separated by a highway from and having any portion directly opposite, the parcel that is the subject of the application, and in the case of an application for a permit in respect of a building strata lot or the common property in a strata plan, the entire strata plan is deemed to be the subject of the application and the owners and tenants in occupation of each strata lot in the strata plan must be notified.
  - b. In the case of a proposal to issue a temporary use permit in respect of a parcel created by subdivision plan or bare land strata plan, the owners and tenants in

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- occupation of that parcel and all parcels sharing a boundary with, or separated by a highway from and having any portion directly opposite, that parcel must be notified.
- c. In the case of a proposal to issue a temporary use permit in respect of a building strata lot, the owners and tenants in occupation of that strata lot, and all strata lots sharing with that strata lot a strata lot boundary at least 1 metre long, whether in the same strata plan or an adjacent strata plan and whether in the same horizontal plane as that strata lot or above or below it, must be notified.
  - d. In the case of a proposal to issue a temporary use permit in respect of the common property in a strata plan, each of the strata lots in that strata plan is deemed to be subject to the permit and the owners and tenants in occupation of each of the strata lots in that strata plan, and all strata lots in any other strata plan that share with any lot in that strata plan a strata lot boundary at least 1 metre long, must be notified
  - e. In the case of a proposal to issue a temporary use permit in respect of a highway or similar public area, the owners and tenants in occupation of any lot, including common property in a strata plan, sharing a boundary at least one metre long with that portion of the highway or public area on which a building or structure other than a fence is proposed to be located, whether the lot or common property is in the same horizontal plane as the portion of highway or public area or above it, must be notified.
  - f. The notification requirements in this section are subject to s. 892(7) of the Local Government Act.)
11. In circumstances requiring the delivery of notice of an application to owners and tenants in occupation of land affected by an application, and in the case of an application for a development permit, the applicant must within 7 days of making the application post an information sign on the land that is the subject of the application, and notify the General Manager that the sign has been posted.
  12. The notification sign must conform generally to specifications issued by the General Manager for such signs and must state:
    - a. the type of application and application number;
    - b. the applicant's name;
    - c. the legal description and civic address of the affected property;
    - d. a brief description of the proposal including all proposed uses, floor areas and building heights in metric units, and number of dwelling units;
    - e. the text indicating the phone number of the contact department for more details.
  13. The applicant must keep the notification sign posted and in good repair until the application has been approved or refused by the Council or its delegate.
  14. Notification signs must be placed in a conspicuous location, be clearly legible from adjoining highways, and not be obstructed by vegetation or structures on the land.
  15. A notification sign is not required if the General Manager determines that the development that is the subject of the application is so minor as to have minimal impact on adjoining lands.

### Permits

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16. The General Manager may prescribe the form of development permits, development variance permits and temporary use permits.

**Application fees**

17. Applications under this Bylaw must be accompanied by the fees set out in Schedule A, plus any fee prescribed by the Province of British Columbia for the filing of applicable notices in the Land Title Office.
18. If the application is withdrawn before any required public notice is given under the *Local Government Act* the applicant shall be entitled to a refund of 25 % of the application fee and if the application is withdrawn prior to the filing of notice in the Land Title Office, the applicant shall also be entitled to a refund of the filing fee.

**Delegation**

19. The Council delegates to the General Manager the authority to:
  - a. issue development permits in respect of an area designated in the Official Community Plan as a development permit area for Whistler Village, Whistler Creek, Community Commercial and Multi-Family Residential development to the extent described in Schedule B, other than development permits within the Whistler Village Development Permit Area that authorize the alteration of more than one elevation of any building or the exterior alteration of more than one commercial occupancy.
  - b. issue development permits in an area designated in the Official Community Plan as a development permit area for Intensive Residential development.
  - c. issue development permits in an area designated in the Official Community Plan as a development permit area for protection of wetland and riparian ecosystems, or the protection of other ecosystems.
  - d. issue development permits in an area designated in the Official Community Plan as a development permit area for aquifer protection.
  - e. approve any Development Plan and to give Development Approval required under the Blackcomb Land Use Contract as described in Schedule D.
  - f. respond on behalf of the Resort Municipality to referrals by the Province of British Columbia in respect of applications for Crown land tenure and applications for water licenses, provided that in so responding the General Manager considers the matters set out in Schedule C.
  - g. respond on behalf of the Resort Municipality to referrals by the Squamish Lillooet Regional District in respect of matters arising under Part 26 of the Local Government Act, except for Official Community Plan and Zoning Bylaw amendments.
20. The Council delegates to the Building Official the authority to approve, in the form of a building permit, any Development Plan and to give Development Approval required under the Blackcomb Land Use Contract, if the approval authorizes only interior building improvements including gross floor area additions that are within the confines of the existing building envelope and that are within the maximum remaining development potential for the building established by Council Policy 19-G.
21. In exercising powers under Section 19(d), the General Manager may require that the applicant implement any measures identified in a report provided under Section 8 of this Bylaw as necessary to preserve and protect aquifers and groundwater from contamination, including the registration of a s. 219 covenant obliging the owner of

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- the land to comply with such measures on an ongoing basis, as a condition of issuing the permit.
22. The Council delegates to the General Manager of Infrastructure Services the authority to execute on behalf of the Resort Municipality any covenant granted for the purpose described in Section 21.
  23. The General Manager may, in lieu of determining any particular permit application, make a recommendation to the Council that a decision on the issuance of the permit be made by the Council, and in such cases the Council and not the General Manager shall make the decision and the provisions of this Bylaw dealing with reconsideration shall not apply.
  24. The General Manager must refer permit applications to the Advisory Design Panel in circumstances where the bylaw that establishes the Advisory Design Panel requires such referral.
  25. For certainty, the delegation to the General Manager of the power to issue development permits within the scope of this Bylaw includes all the powers of Council in relation to such permits, including the power to vary or supplement a bylaw and the power to impose conditions and requirements and set standards on the issuance of a permit.
  26. Council delegates to the General Manager the authority to sign and issue permits within the scope of this Bylaw and to amend those permits and to cancel permits if an owner fails to comply with a term or condition of the permit.
  27. Council authorizes the Mayor and Corporate Officer to sign covenants and other documents related to the amendment of the official community plan or the zoning bylaw, the issuance of a permit, the amendment of a land use contract, or the granting of an exemption pursuant to this Bylaw.

### Permit security

28. The General Manager may require security for the purposes of s. 925(2.1) of the *Local Government Act*, and in doing so must consider the following guidelines:
  - a. in the case of a condition in a permit respecting landscaping, the cost to the Resort Municipality of entering on the land, installing the landscaping, and inspecting and maintaining the landscaping for such period of time as would be required to ensure its survival in perpetuity;
  - b. in the case of an unsafe condition that might result from a contravention of a permit condition, the nature of the permit condition, the nature of the unsafe condition, and the cost to the Resort Municipality of entering on the land, undertaking work to correct the unsafe condition, including the cost of repairing any damage to land and improvements that may have been caused by the unsafe condition or that may have occurred in connection with the repair work; and
  - c. in the case of damage to the natural environment that might result from a contravention of a permit condition, the nature of the permit condition, the nature of the damage, and the cost to the Resort Municipality of entering on the land, correcting the damage to the environment, and restoring or enhancing the natural environment to compensate for the damage that has been caused by the contravention of the permit condition.

**Reconsideration**

29. The General Manager must send a notice of his decision in writing to the registered owner of the property who made the application or to the agent who made the application on the owner's behalf.
30. The notice will be deemed to have been received by the owner, or his agent, eight days after the notice is mailed at any post office box in Whistler.
31. The registered owner of property who applied for a permit, or on whose behalf an application was submitted, is entitled to have the decision of the General Manager reconsidered by Council in accordance with this Bylaw.
32. That owner must apply for the reconsideration by delivering to the Corporate Officer, and providing a copy to the General Manager, within 30 days after the decision of the General Manager is deemed to be received by the owner or his agent, a reconsideration application in writing, which must set out all of the following:
  - a. the date of the decision of the General Manager and the nature of the decision;
  - b. reasons why the owner wishes the decision to be reconsidered by Council;
  - c. the decision the owner requests be made by Council, with brief reasons in support of the requested decision; and
  - d. a copy of any materials the owner considers to be relevant to the reconsideration by Council.
33. Reconsiderations must occur at a regular meeting of Council held at least two weeks after the date on which the reconsideration application is delivered to the Corporate Officer.
34. The Corporate Officer may give notice of each reconsideration by Council in accordance with any notice requirements applicable to the original application that are set out in this Bylaw or the *Local Government Act*.
35. Before each reconsideration by Council, each Council member is entitled to receive a copy of the materials that were considered by the General Manager in making the decision that is to be reconsidered, plus a copy of any additional materials submitted by the owner, by the General Manager and by other persons.
36. The owner is entitled to receive a copy of all documents that Council will consider, including any additional materials submitted to Council by the General Manager and by other persons.
37. In reconsidering a decision, the Council may consider the material that was considered by the General Manager in making the decision and any further materials delivered by the owner or by the General Manager or by other interested persons. Council may also view the subject land and obtain other information about the land and the proposed development.
38. At a reconsideration of a decision, the owner and any other person who is interested in the decision are entitled to be heard by Council, either directly or through an agent.
39. At a reconsideration, the General Manager may address Council or respond to its questions.

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40. No person shall be permitted to address Council for more than 15 minutes with respect to the matter, unless Council otherwise permits.
41. Council may adjourn a reconsideration of a decision.
42. After having reconsidered a decision, Council may either confirm the decision of the General Manager or may vary the decision or set aside the decision and substitute the decision of Council.
43. The owner who applied for reconsideration is entitled to receive a written notice of Council's decision, which notice will be deemed sufficiently sent to the owner if mailed at a post office box in Whistler.
44. If a matter has been reconsidered and decided by Council pursuant to this Bylaw, a person may apply again to the General Manager for a permit for the same or substantially the same development, but subject to the limit stated in Section 6.

**Repeal**

45. The following bylaws are repealed:
  - a. Resort Municipality of Whistler Land Use Procedures and Fees Bylaw No. 1821, 2007

GIVEN FIRST, SECOND AND THIRD readings this 18<sup>th</sup> day of December, 2012.

ADOPTED by the Council this 7<sup>th</sup> day of May, 2013.

Signed Original on File

\_\_\_\_\_  
Nancy Wilhelm-Morden,  
Mayor

Signed Original on File

\_\_\_\_\_  
Shannon Story,  
Corporate Officer

I HEREBY CERTIFY that this is a true copy of "Land Use Procedures and Fees Bylaw No. 2019, 2012"

\_\_\_\_\_  
Shannon Story,  
Corporate Officer

**SCHEDULE A**

**APPLICATION FEES**

1. amendment to the Official Community Plan	\$1,500.00
2. amendment to a zoning bylaw	\$1,500.00
3. development permit (delegated)	\$300.00
4. development permit (not delegated)	\$750.00
5. development variance permit	\$450.00
6. temporary use permit (not delegated)	\$750.00
7. temporary use permit (delegated)	\$300.00
8. amendment to a land use contract	\$1,500.00
9. exemption from a bylaw establishing a floor construction level or floodplain setback	\$450.00
10. covenant modification	\$300.00

In addition to the above noted application fees, the following rates will be applied to all applications to cover the Municipality's direct costs of processing, reporting, analysis, and inspection related to the application.

professional staff	\$60.00/hr.
clerical staff time	\$30.00/hr.
title search	\$20.00
legal services	At cost
newspaper Advertising	At cost
third party consulting	At cost
hand delivered notification	\$40.00/hr

**SCHEDULE B**

**DELEGATED DEVELOPMENT PERMIT CRITERIA**

Development permits authorizing:

- exterior repainting of an entire building, or an entire part of a building;
- landscape changes or new landscaping, including both installation of planting materials and installation of permanent planters, guardrails, rock stacking and other hard landscaping;
- changes to exterior building materials or roofing materials;
- exterior lighting alterations or installation of additional exterior lighting, whether the lighting is to be attached to a building or placed elsewhere on the property;
- exterior building repairs;
- new exterior windows or doors, in existing or new locations;
- placement of exterior communications equipment, chimneys, HVAC equipment, and other appurtenances;
- new buildings or structures with floor areas up to 20 m<sup>2</sup>;
- additions to buildings or structures, whether fully or partially enclosed or fully open to the outside except for a roof covering, where the total interior floor area is increased by 20 m<sup>2</sup> or less;
- new buildings or structures for storage of refuse and recycling facilities conforming to the Resort Municipality Garbage Disposal Bylaw No. 1445, 1999;
- comprehensive sign plans, amendments to a comprehensive sign plan and issuance of a development permit for the signs where a sign permit is not required.
- interior renovations that enclose storefront windows with display walls and cabinets that impede views into a store.

## SCHEDULE C

### CROWN REFERRAL RESPONSE GUIDELINES

- Whether the application is, in the opinion of the General Manager, consistent with the Municipality's vision, values, priorities and directions, as understood by the General Manager.
- Whether the application is, in the opinion of the General Manager, consistent with the Municipality's commitment to sustainability
- Whether the application is, in the opinion of the General Manager, consistent with current bylaws and municipal policies, including the Official Community Plan, Zoning and Parking Bylaw, Whistler Local Resource Use Plan, Forest Recreation Plan, and the Whistler Environmental Strategy.
- Whether the application is, in the opinion of the General Manager, consistent with current regional land use plans, including any Sea-to-Sky Land Resource Management Plan.
- Whether the application is, in the opinion of the General Manager, consistent with the Sea-to-Sky Backcountry Recreation Sharing Accord.
- Whether the application, in the opinion of the General Manager, affects areas of significant environmental, scenic, social or cultural land use concerns.
- Whether the application, in the opinion of the General Manager, protects and maintains environmental integrity, and uses land and resources within their capacity to sustain use and maintain biological diversity.
- Whether the application has, in the opinion of the General Manager, significant impact on wildlife habitat and populations.
- Whether the application, in the opinion of the General Manager, affects existing fish habitat capability.
- Whether the application, in the opinion of the General Manager, exhibits high standards of quality and appearance, and whether, in the opinion of the General Manager, building materials, colours and façade treatment are consistent with the mountain character, and service and back-of-house areas are suitably screened.
- Where, in the opinion of the General Manager, there is any possibility of clean-up or remediation being required after the use ceases, and whether security for that purpose will be provided to the Province
- Whether the application, in the opinion of the General Manager, reflects social carrying capacity
- Whether the application, in the opinion of the General Manager, preserves public use and access to and over Crown land or whether, in the opinion of the General Manager, closure or reduction of public use and access is acceptable or whether an alternate public use opportunity should be provided elsewhere.
- Whether the application, in the opinion of the General Manager, addresses ongoing maintenance of existing trails and facilities.
- Whether, in the opinion of the General Manager, a commercial recreation application contributes to a balanced mix of viable commercial and public recreational experiences in the Whistler area.
- Whether, in the opinion of the General Manager, a commercial recreation application is compatible with the operational needs of existing tenured commercial recreation businesses.

**SCHEDULE D**

**DELEGATED BLACKCOMB LAND USE CONTRACT DEVELOPMENT PLAN CRITERIA**

Development Plans and Development Approvals that are consistent with the gross floor area restrictions established by Council Policy G-19 and authorize:

- Exterior repainting of an entire building, or an entire part of a building;
- Landscape changes or new landscaping, including both installation of planting materials and installation of permanent planters, guardrails, rock stacking and other hard landscaping;
- Changes to exterior building materials or roofing materials;
- Exterior lighting alterations or installations of additional exterior lighting, whether the lighting is to be attached to a building or placed elsewhere on the property;
- Exterior building repairs;
- New exterior windows or doors, in existing or new locations;
- Placement of exterior communications equipment, chimneys, HVAC equipment, and other appurtenances;
- New buildings or structures with floor areas up to 20 m<sup>2</sup>;
- Additions to buildings or structures beyond the existing building envelope, whether fully or partially enclosed or fully open to the outside except for a roof covering, where the total interior floor area is increased by 20 m<sup>2</sup> or less;
- New buildings or structures for storage and refuse and recycling facilities conforming to the Resort Municipality of Whistler Garbage Disposal Bylaw No. 1445, 1999;
- Approval of comprehensive sign plans and amendments to a comprehensive sign plan.