VANCOUVER INTERNATIONAL AIRPORT AUTHORITY

LAND DEVELOPMENT AND CONSTRUCTION BY-LAW

PART I
INTERPRETATION

Application

1.1 This Land Development and Construction By-law is enacted by the Airport Authority to establish a process for the granting of permits relating to the use of land and Construction of Structures on the Airport Lands and to establish the roles of certain departments and employees of the Authority. This By-law applies to the Airport Lands.

Definitions

1.2 In this By-law:

"**Airport Authority"** means the Vancouver International Airport Authority;

"**Airport Authority Department"** means any subdivision of the Airport Authority determined by the Board of Directors;

"**Airport Authority Group"** means a department, group or employee of the Airport Authority having responsibility relating to the Construction of a Structure on behalf of the Airport Authority;

"**Airport Lands"** means those lands, water, air space, buildings and structures leased to the Airport Authority by Her Majesty the Queen in right of Canada pursuant to the terms of the Ground Lease;

"**Airport Master Plan"** means a master plan prepared by the Airport Authority pursuant to Section 7.01 of the Ground Lease, as such master plan may be amended from time to time;

"Applicable Codes and Standards" means the standards applicable to the construction of a structure that are in force at the date of the issue of the Facility Alteration Permit, or where one has been issued, on the date of issue of the Development Permit, which may include but which are not limited to the following:

a) the National Building Code of Canada, the National Fire Code of Canada, such environmental standards and other codes, regulations, practices and standards appearing on any list of applicable codes, regulations, practices and standards which may be issued from time to time by The Executive Committee, and,

b) any code, regulation, practice or standard determined to be applicable to any particular structure by the Vice President, Engineering.

or as otherwise determined from time to time by the Vice President, Engineering.

"**Applicant"** means the Third Party or the Airport Authority Group applying for or receiving a Development Permit, a Facility Permit or an Occupancy/Use Permit and includes an agent representing the Applicant by written authorization;

"**Approved Environmental Consultant"** means a person whose name appears on a list published from time to time by The Executive Committee of persons who are approved to perform environmental reviews or assessments as contemplated by this By-law and the Development Rules;

"**Approved Land Use Plan"** means the land use plan in place for the Airport Authority pursuant to Sub-sections 7.02.01 and 7.02.02 of the Ground Lease;

"**Authority Having Jurisdiction"** means the Airport Authority;

"**Construct"** includes design, build, erect, install, repair, alter, add, enlarge, move, locate, relocate, reconstruct, demolish, remove, renovate, excavate and shore and all other functions and practices normally carried out in the course of Construction;

"**Construction"** includes the process of designing, building, erecting, installing, repairing, altering, adding, enlarging, moving, locating, relocating, reconstructing, demolishing, removing, renovating, excavating and shoring a Structure and all other functions and practices normally carried out in the course of any of these activities;

"**Development Permit**" means the written Development Permit issued in accordance with this By-law and the Development Rules

"**Development Rules"** means those rules established and amended from time to time by The Executive Committee pursuant to Section 2.1 of this By-law;

"Environment Department" means the department of the Airport Authority responsible for environmental matters;

"**Environmental Standards"** means the standards published by The Executive Committee from time to time to be used in construction and operations on Airport Lands.

"**Equipment"** means any machinery or mechanical fixture installed in or attached to a Structure and all furniture, temporary works, apparatus and devices;

"**Facility Permit"** means a permit issued by the Permit Section in accordance with this By-law and the Development Rules, and includes the permit referred to in any lease of premises on the Airport Lands which refers to a facility alteration permit;

"**Fee Schedule"** means the Airport Authority Land Development and Construction Fee Schedule established pursuant to Section 2.2 of this By-law;

"**Ground Lease"** means the lease from the Minister of Transport to the Airport Authority dated June 30, 1992, as it may be amended from time to time;

"**Guidelines"** means such Guidelines for the construction of projects on Airport Lands as may be published by the Permit Section from time to time;

"**Independent Professional"** means a Registered Professional whose name appears on a list published from time to time by The Executive Committee of persons who are approved to perform the independent reviews contemplated by this By-law and the Development Rules;

"**Letter of Compliance"** means a letter addressed to the Airport Authority signed by an approved Independent Professional in a format specified by the Airport Authority in the Development Rules;

"**Occupancy/Use Permit"** means a permit issued in accordance with this By-law and the Development Rules and includes an Interim and Partial Occupancy/Use Permit;

"Permit Section" means the operating unit of the Airport Authority designated by The Executive Committee to administer matters related to the issuance of a Facility Permit;

"**Person"** means a natural person, the heirs, executors, or administrators of a natural person, a firm, corporation, municipal or quasi-municipal corporation, school board, hospital board or other government or government agency and includes an Airport Authority Group and the Airport Authority;

"**Registered Professional"** means a Person who is:

i) registered or licensed to practice as an architect under the *Architects Act*, R.S.B.C. 1996, c.17; or

ii) registered or licensed to practice as a professional engineer under the *Engineers and Geoscientists Act*, R.S.B.C. 1996, c.116;

"**Structure"** means an improvement, permanent or temporary, resting in, on, or under or over land or water, including runways, roads, pipelines, underground services, buildings and their component parts and features, free-standing sign structures and Equipment;

"The Executive Committee" means the committee of the Airport Authority chaired by the President and composed of all Vice Presidents of the Airport Authority and such other persons as the President may direct;

"**Third Party"** means a Person involved in the Construction of a Structure, other than an employee or officer of or other person acting on behalf of the Airport Authority.

"Vice President Engineering" means the person appointed by the Board of Directors as the officer of the Airport Authority holding responsibility for the issue of permits under this By-law holding whatever title the Board directs, including Senior Vice President;

"Vice President Environment" means the person appointed by the Board of Directors as the officer of the Airport Authority holding responsibility for the direction of the Environment Department holding whatever title the Board directs.

PART 2
REQUIREMENTS GOVERNING CONSTRUCTION AND DEVELOPMENT

2.1 The Executive Committee is hereby authorized to create a set of written rules, to be known as Vancouver International Airport Authority Development Rules, relating to the Construction of Structures on the Airport Lands which are in addition to and which will supplement the requirements of this By-law and which may contain such requirements and restrictions and may be amended from time to time as The Executive Committee may in its discretion think fit.

2.2 The Executive Committee is hereby authorized to establish and from time to time amend a schedule of fees and other amounts to be known as the Airport Authority Land Development and Construction Fee Schedule to be paid by Applicants applying for Development Permits, Facility Permits, and Occupancy/Use Permits.

2.3 Except as provided in Section 2.5 of this By-law no Third Party will Construct a Structure without:

(a) having a valid written lease, agreement to lease or license from the Airport Authority which authorizes the Third Party to Construct a Structure;

(b) when required under Part Five of this By-Law, obtaining a Development Permit in accordance with the Development Rules;

(c) obtaining a Facility Permit in accordance with the Development Rules;

(d) paying the fees and other amounts set out in the Fee Schedule;

(e) complying with this By-law, the Development Rules, the Airport Master Plan, the Approved Land Use Plan and the Applicable Codes and Standards; and

(f) complying with all applicable laws, regulations and guidelines passed, issued or created by all governmental authorities having jurisdiction.

(g) obtaining an Occupancy/Use Permit pursuant to Part Seven of this By-Law before using or occupying the structure.

2.4 Except as provided in Section 2.5, no Airport Authority Group will authorize or participate in the Construction of a Structure without:

(a) when required under Part Five of this By-Law , obtaining a Development Permit in accordance with the Development Rules;

(b) obtaining a Facility Permit in accordance with the Development Rules;

(c) complying with this By-law, the Development Rules, the Airport Master Plan, the Approved Land Use Plan and all Applicable Codes and Standards; and

(d) complying with all applicable laws, regulations and guidelines passed, issued or created by all governmental authorities having jurisdiction.

(e) obtaining an Occupancy/Use Permit pursuant to Part Seven before using or occupying the structure.

2.5 Notwithstanding Sections 2.3 and 2.4, The Executive Committee may, in the Development Rules or otherwise, exempt any Person or class of Persons from obtaining a Development Permit, a Facility Permit or an Occupancy/Use Permit for Construction or occupation of any particular Structure or class of Structures and may authorize any Airport Authority Department or official to waive the requirement to obtain a Development Permit, Facility Permit or Occupancy/Use Permit for the Construction or occupation of any Structure or modify the process of obtaining a Development Permit, Facility Permit or Occupancy/Use Permit.

2.6 Without prejudice to the requirements of any lease or other agreement with the Airport Authority, no Third Party and no Airport Authority Group shall make or permit any significant change to the use of any premises forming part of the Airport Lands without first giving a detailed notice of any such proposed change of use to the Permit Section and receiving an approval to such change of use from the Permit Section. In determining whether to issue an approval, the Permit Section may require the Third Party or Airport Authority Group to comply with all of the provisions of this By-law and the Development Rules, or such portion of this By-law and the Development Rules as the Permit Section in its discretion determines, as if such change of use constituted the Construction of a Structure.

PART 3
THE PERMIT SECTION

Administration of By-law

3.1 The Permit Section shall:

(a) administer this By-law and the Development Rules;

(b) keep records of all documentation relating to the application for and issuance of Development Permits, Facility Permits, and Occupancy/Use Permits; and

(c) collect fees and other amounts as set out in the Fee Schedule.

PART 4
AUTHORITY HAVING JURISDICTION

Designation

4.1 For Construction of Structures on the Airport Lands, wherever one of the Applicable Codes and Standards refers to an authority having jurisdiction, the Airport Authority shall be the applicable authority having jurisdiction. The Vice President, Engineering shall make all decisions required of the authority having jurisdiction and may designate from time to time certain persons or departments of the Airport Authority to make any such decision. A person, department, or official so designated by the Vice President, Engineering shall have the full capacity and authority to perform and shall perform the functions of the authority having jurisdiction in the applicable code, practice, regulation or standard.

PART 5
DEVELOPMENT PERMIT

Application

5.1 The Vice President Engineering or the Vice President Environment may in their unfettered discretion require that an Applicant apply for a Development Permit in such manner and form as may be specified by the Permit Section from time to time. This discretion may not be delegated.

5.2 Effect of a Development Permit

5.2 The issue of a Development Permit only entitles the Applicant to apply for a Facility Permit and does not create any obligation to issue a Facility Permit, or authorize the Construction of any Structure or bind the Airport Authority to enter into a lease or other contract.

Issuance of a Development Permit

5.3 Upon receipt of an application for a Development Permit the Permit Section shall review the application to determine if there is sufficient information available. It shall forward the application to the Environment Department and may in its discretion forward the application to other Airport Authority Departments or affected parties for comment. If the Permit Section is satisfied that the Construction of the Structure does not violate the requirements of this By-law, the Development Rules, the Airport Master Plan, the Approved Land Use Plan, or the Applicable Codes and Standards, and it does not receive an objection from an Airport Authority Department or affected party, it shall issue a Development Permit.

5.4 If in the opinion of the Permit Section certain conditions to the issue of a Development Permit are required, the Permit Section may issue a Development Permit subject to those conditions.

Refusal to Issue a Development Permit

5.5 The Permit Section shall refuse to issue a Development Permit if in its opinion the Applicant does not meet the requirements set out in Section 5.2 or if it receives objection to the Construction of the Structure from an Airport Authority Department or affected party. If the Permit Section does not grant a Development Permit, the Permit Section shall, upon request, give written reasons to the Applicant for such decision.

PART 6
FACILITY PERMITS

Application

6.1 An Applicant applying for a Facility Permit shall make such application to the Permit Section, in such manner and form as may be specified by the Permit Section from time to time.

Proof of Sublease

6.2 The Permit Section shall not issue a Facility Permit to a Third Party unless it has received evidence of a license or a sub-lease or an agreement to sub-lease between the Applicant and the Airport Authority for the parcel or premises to which the Facility Permit application relates.

6.3 Upon receipt of an application for a Facility Permit, the Permit Section shall review the application to determine if there is sufficient information available. It shall forward the application to the Environment Department and may at its discretion forward the application to other Airport Authority Departments or affected parties for comment.

Issuance of Facility Permit

6.4 Subject to Section 6.6, upon receipt of an application for a Facility Permit which complies with the requirements of this By-law and the Development Rules and does not violate the Airport Master Plan, the Approved Land Use Plan or the Applicable Codes and Standards, and if it does not receive an objection from an Airport Authority Department or affected party, and if all applicable fees and all other amounts have been paid, the Permit Section shall issue a Facility Permit to the Applicant.

6.5 The Permit Section may, in its discretion, issue a Facility Permit limited in scope to the matters therein described. If in the opinion of the Permit Section certain conditions to the issuance of a Facility Permit are required, the Permit Section may issue a Facility Permit subject to those conditions.

Refusal to Issue a Facility Permit

6.6 The Permit Section shall refuse to issue a Facility Permit in the following circumstances:

(a) where in the opinion of the Permit Section the Applicant's documentation is incomplete;

(b) where in the opinion of the Permit Section the Applicant's work will contravene the requirements of this By-law and the Development Rules, the Airport Master Plan, the Approved Land Use Plan or the Applicable Codes and Standards;

(c) where the Permit Section has been notified of a violation of this By-law, the Development Rules, or any of the Applicable Codes and Standards with regard to the Construction of another Structure for which a Facility Permit is required, which has not been remedied by the Applicant;

(d) where the Applicant has not provided evidence of insurance coverage satisfactory to the Permit Section;

(e) where the applicable fees and other amounts have not been paid to the Permit Section; or

(f) where the Permit Section has received an objection from an Airport Authority Department.

Development Cost Charges

6.7 The Executive Committee may, in the Development Rules or in a separate resolution subsequent to its adoption of the Development Rules, create a system of development cost charges pursuant to which Third Parties applying for Facility Permits may be charged an additional fee as determined by the Permit Section to contribute to the cost of any utilities, services or other amenities provided to such Applicant's Structure.

PART 7
OCCUPANCY/USE PERMIT

7.1 No Third Party and no officer or employee of the Airport Authority shall allow any Person to occupy or use any part of the Airport Lands which is the subject of an application for a Facility Permit until an Occupancy/Use Permit has been issued by the Permit Section in accordance with the Development Rules, except in the case of a Structure which was validly occupied at the time the Application was made. The word "use" in this paragraph does not refer to the carrying out of any Construction which was authorized by a Facility Permit. Each sub-lease or license, or renewal thereof, of a portion of the Airport Lands entered into after the date of this By-law shall make it a default under such sub-lease or license to use or occupy any part of the premises demised by such sub-lease or license without obtaining an Occupancy/Use Permit from the Permit Section.

7.2 Before issuing an Occupancy/Use Permit, the Permit Section shall obtain a Letter of Compliance from an Independent Professional which certifies that the Structure substantially complies with all Applicable Codes and Standards.

PART 8
MISCELLANEOUS

Duty of Care

8.1 Neither this By-law nor the Development Rules create a duty of care by the Airport Authority, or any of its directors, officers, employees or agents in respect of:

(a) the issuance, waiver or refusal of a Development Permit, a Facility Permit, or an Occupancy/Use Permit;

(b) the review of any plans and supporting documents; or

(c) the failure to enforce any of the Applicable Codes and Standards, the provisions of this By-law or the Development Rules.

Cause of Action

8.2 Neither a failure to administer or enforce, nor incomplete or inadequate administration or enforcement of the Applicable Codes and Standards, the provisions of this By-law, or the Development Rules nor any error, omission or other neglect in relation to the issuance of a Development Permit, a Facility Permit, or an Occupancy/Use Permit, or approval under this By-law, nor any review of the plans and supporting documents will give rise to a cause of action in favour of any Person, including any Applicant, against the Airport Authority, or any of its directors, officers, employees or agents.

Warranty or Representation

8.3 Neither the issuance or waiver of a Development Permit, a Facility Permit or an Occupancy/Use Permit nor the review of plans and supporting documents will in any way constitute a representation, warranty or statement that the Applicable Codes and Standards, the Airport Master Plan, the Approved Land Use Plan, this By-law or the Development Rules have been complied with and no Person may rely on any of the above listed matters as establishing compliance with the Applicable Codes and Standards, the Airport Master Plan, the Approved Land Use Plan, this By-law or the Development Rules, sole responsibility for which shall rest with the Applicant.

Applicant's Responsibility

8.4 It will be the sole responsibility of the Applicant to carry out the Construction of a Structure in accordance with the requirements of the Applicable Codes and Standards, the Airport Master Plan, the Approved Land Use Plan, this By-law and the Development Rules, and neither the issuance of a Development Permit, a Facility Permit, an Occupancy/Use Permit or waiver under this By-law or the Development Rules, nor the review of plans and supporting documents, will relieve the Applicant from this responsibility.

8.5 It is the sole responsibility of the Applicant to ensure that the Construction of the Structure is in compliance with the Airport Master Plan, the Approved Land Use Plan, this By-law, the Development Rules and all Applicable Codes and Standards. The Permit Section shall not, in carrying out its duties under this By-law and the Development Rules, make any final determination whether the requirements of any of the above have been met.

Disputes with the Permit Section

8.6 An Applicant who disputes a decision made by the Permit Section in the performance of its functions hereunder may make a written submission to The Executive Committee setting out the relevant facts and the Applicant's position in respect of such dispute.

8.7 Notwithstanding any power or authority given to any Person by this By-law, The Executive Committee may, on receipt of submission from an Applicant pursuant to Section 8.6, make such determination and issue such direction to the Permit Section as The Executive Committee thinks fit and in such case the Permit Section shall follow such direction.

Severability

8.8 If any part of this By-law is for any reason declared invalid by a Court of competent jurisdiction, the decision will not affect the validity of the remaining portions of this By-law.