

PART 3 – DEVELOPMENT APPLICATIONS AND PROCESS

3.1 Development Applications *Bylaw 08/20*

- 3.1.1 A development authority must, within 20 days after the receipt of an application for a development permit, determine whether the application is complete. The application is deemed complete when it contains the documents and other information necessary to review the application.
- a) The time period may be extended by an agreement in writing between the applicant and the development authority.
- 3.1.2 If the development authority does not make a determination on completeness within the time required in 3.1.1 the application is deemed to be complete.
- 3.1.3 If the Development Authority determines the application is complete the development authority must issue to the applicant an acknowledgement that the application is complete.
- 3.1.4 If the development authority determines that the application is incomplete the development authority must issue to the applicant a notice that the application is incomplete and that any outstanding documents and information referred to in the notice must be submitted by a date set out in the notice or a later date agreed on between the applicant and the development authority in order for the application to be considered complete.
- a) If the applicant fails to submit all the outstanding information and documents on or before the date referred to in 3.1.4 the application is deemed to be refused. Section 3.10.8 does not apply in this circumstance.
- b) If the applicant submits all the outstanding information and documents within the time frame stipulated and the development authority determines the information is complete, the development authority must issue to the applicant an acknowledgement in the form and manner provided for in the land use bylaw that the application is complete.
- 3.1.5 Notwithstanding 3.1.3 and 3.1.4 b) the development authority may request additional information or documentation from the applicant that the development authority considers necessary to review the application.

3.2 Development Officer

3.2.1 The Development Officer:

- a) may meet with or provide written information and processing requirements, or both, to the public;
- b) shall review all applications for a development permit to determine if they are complete and made for the appropriate use;
- c) may refer an application to any Town department or branch, municipal, provincial, federal, or inter-jurisdictional department or any other agency or body;
- d) may refer an application for a use in areas where no area structure plan or area redevelopment plan is adopted, to adjacent municipalities and provincial and federal government, land and resource agencies within 1.5 km of the area proposed for development;
- e) shall, in the consideration of an application relating to a Municipal Historic Resource, consult the Standards & Guidelines for the Conservation of Historic Places in Canada (Parks Canada);
- f) shall consider and approve a development permit for a permitted use, which complies with this Bylaw:
 - i) without condition; or
 - ii) with such conditions necessary to ensure compliance;
- g) shall consider and may approve a development permit for a discretionary use which complies with this Bylaw:
 - i) without conditions;
 - ii) with such conditions necessary to ensure compliance; or
 - iii) with such conditions that are more restrictive than those in this Bylaw;
- h) may grant a variance or approve a development permit for a non-conforming building provided the Development Officer determines that the variance, in addition to Sections 1.6 and 3.13, considers the attainment of the municipal planning objectives that caused the use to become non-conforming;

- i) shall consider and may refuse a development permit for a discretionary use which otherwise complies or does not comply with this Bylaw;
- j) shall provide comment where applicable on applications to amend the text of this Bylaw or the Land Use Plan map;
- k) may enforce the provisions of this Bylaw;
- l) shall conduct other such duties as described elsewhere in the Bylaw, including public notification or the exercise of discretion and variance; and
- m) shall, with regards to an application that is consistent with a license, permit, approval or other authorization granted by the NRCB, ERCB, AERE, AEUB or AUC, approve the application to the extent that it complies with the license, permit, approval or other authorization

3.3 Conditions

- 3.3.1 The Development Officer may impose conditions to the approval of a permitted use only to ensure compliance with this Bylaw.
- 3.3.2 The Development Officer may impose such conditions as deemed appropriate for the approval of a discretionary use or where a variance has been granted.
- 3.3.3 The Development Officer may impose a condition, to the approval of any development permit, that the applicant enter into an agreement with the Town to do any or all of the following:
 - a) to construct or pay for the construction of a road required to give access to the development;
 - b) to construct or pay for the construction of:
 - i) a pedestrian walkway system to serve the development, or
 - ii) pedestrian walkways to connect the pedestrian walkway system serving the development with a pedestrian walkway system that serves or is proposed to serve an adjacent development, or both;
 - c) to install or pay for the installation of public utilities that are necessary to serve the development; *Bylaw 08/20*

- d) to construct or pay for the construction of:
 - i) on-site or other parking facilities, and
 - ii) loading and unloading facilities;
- e) to pay an off-site levy or redevelopment levy;
- f) to give a guaranteed security to ensure that the terms of the agreement under this section are carried out to the satisfaction of the Development Authority.

3.3.4 The Development Authority may require a guaranteed security to ensure the terms of a condition of approval are carried out.

3.4 Control of Development

3.4.1 Land, buildings, structures or signs in the Town may only be developed or used in conformity with the uses in its Land Use District and all the regulations in this Bylaw except for legal non-conforming buildings and uses or as approved by the Development Authority or the Subdivision and Development Appeal Board.

3.4.2 No person shall commence, cause or allow to be commenced, or carry on, or cause to allow to be carried on, any development unless a development permit has been issued under the provisions of this Bylaw.

3.4.3 No development or portion thereof shall be located on or over municipal lands, municipal road rights-of-way or municipal easements without the prior written consent of the Town, which consent the Town is not obligated to provide.

3.4.4 A person shall ascertain and comply with the requirements of any other federal, provincial or municipal enactment or any other law; and the conditions of any caveat, covenant, easement or other instrument affecting a building or land.

3.4.5 The Development Authority is not responsible for nor does the Development Authority have any obligation whatsoever to determine what other legislation may apply to a development, nor to monitor or enforce compliance with such legislation.

3.5 Development not requiring a Development Permit

The following developments and uses shall not require a development permit provided they conform to all provisions of this Bylaw.

- 3.5.1 Those uses or developments exempted by provincial or federal legislation.
- 3.5.2 The completion of a building which was lawfully under construction at the date of the adoption of this Bylaw, provided that the building is completed in accordance with the terms of any permit granted in respect of it and subject to the conditions to which such permit was granted.
- 3.5.3 Utility services underground or located in a registered right-of-way.
- 3.5.4 The temporary use of a building, in connection with a federal, provincial or municipal election, referendum or census.
- 3.5.5 Specific uses:
 - a) agriculture, not including feedlots, hog barns, poultry farms and fur farms;
 - b) foster home approved by the Province of Alberta.
- 3.5.6 Accessory buildings:
 - a) not exceeding 4.5 m in height and not exceeding a ground floor area of 10 m².
- 3.5.7 Accessory to residential uses:
 - a) minor development not exceeding 2.0 m in height, where there is an existing dwelling. This includes, but is not limited to a barbeque, composting bin, garbage enclosure, lawn sculpture, privacy screen or bird feeder;
 - b) pergola not exceeding 4.5 m in height;
 - c) satellite dish less than 1.22 m in diameter,
 - d) unenclosed steps, landings or stairs (at grade);
 - e) deck or patio less than 0.6m in height;

- f) gate, fence, or retaining wall that conforms to Section 4.9;
- g) non-permanent sun shelters over a deck or a patio;
- h) air conditioning unit;
- i) light standard or flagpole when located on a parcel containing a dwelling;
- j) decorative pond or water feature 0.6 m or less in depth;
- k) private play structures less than 4.5 m in height;
- l) home business minor subject to Section 5.12;
- m) family day home
- n) outdoor recreation amenities that are devoted to the use of residents living on the same lot, including but not limited to, an above ground pool, hot tub, backyard skating rink, putting green; or
- o) seasonal holiday decorations.

3.5.8 Demolition of a building or structure subject to Section 4.5.

3.5.9 Internal alterations, external maintenance, or repair to any building provided that the use, intensity, height, or gross floor area of the building does not change.

3.5.10 A change of tenancy within an existing premise in a commercial or industrial Land Use District where:

- a) the Development Officer is satisfied that the existing development permit is valid and the approval conditions are being fulfilled; and
- b) there is no change to the approved use; and
- c) the existing parking contained on the parcel can accommodate any additional parking required.

3.5.11 Clock towers, monuments, sculptures or federal, provincial or municipal flags and their support structures, as well as other similar aesthetic enhancements.

3.5.12 A WECS, micro where mounted to a roof or attached to an accessory building in accordance with the following provisions:

- a) one (1) WECS, micro facility per lot;
- b) the total height shall not project 3.0 m beyond the top of the roofline of building or exceed the maximum height regulation of the applicable land use district; and
- c) no nuisance shall extend beyond the property boundary.

3.5.13 Site grading in accordance with an executed development agreement.

3.5.14 Solar collector panels, subject to the following:

- a) solar collector shall be located on the wall or roof of a building;
- b) within all residential districts:
 - i) a solar collector mounted on a roof with a pitch of less than 4:12 must not extend beyond the outermost edge of the roof but may project a maximum of 0.5m from the surface of the roof when the solar collector is located 5.0m or less from a side lot line, measured directly from any point along the side property line; and
 - ii) in all other cases, 1.3m from the surface of the roof;
 - iii) a solar collector mounted on a roof with a pitch of 4:12 or greater may project a maximum of 1.3m from the surface of the roof and must not extend beyond the outermost edge of the roof.
- c) in all commercial, industrial and institutional districts:
 - i) a solar collector mounted on a roof with a pitch of less than a 4:12 may project a maximum of 2.0m from the surface of the roof and must be located at least 1.0m from the edge of the roof; and
 - ii) solar collector mounted on a roof with a pitch of 4:12 or greater may project a maximum of 1.3m from the surface of the roof and must not extend beyond the outermost edge of the roof.
- d) Solar collectors that are mounted on a wall:

- i) shall be located a minimum of 2.4m above grade; and
- ii) may project a maximum of 0.6m from the surface of that wall.

3.5.15 Storage Containers (sea cans):

- a) used for temporary storage of materials, household products during the process of residential renovating or moving, for a maximum time period of sixty (60) days;

3.5.16 Temporary/transient sales, which are, located on a lot within a commercial District where there is a principal building and use. This includes but is not limited to Christmas tree sales, outdoor craft sales or windshield repair but does not include a farmers market.

3.6 DEVELOPMENT PERMIT APPLICATION REQUIREMENTS

3.6.1 The Development Authority shall determine the number of paper or electronic copies or both for a complete submission for an application for development permit.

3.6.2 An application for a development permit shall be made on the prescribed application form and be completed to the satisfaction of the Development Authority, and include the following information:

- a) signature of the owner or where applicable, the agent authorized by the owner;
- b) a copy of the Certificate of Title for the subject lands dated from within thirty (30) days of the application date, copies of any caveats or restrictive covenants registered by the Town, and any other documents, satisfactory to the Development Authority, verifying that the applicant has a legal interest in the lands;
- c) the fee according to the Fees and Charges Bylaw of the Town;
- d) for a principal building, a detailed site plan prepared by an Alberta Land Surveyor; for an accessory building, a detailed site plan to an appropriate scale. A site plan shall include:
 - i) legal description of the subject property;
 - ii) identification of all abutting roads, highways and road rights-of-way, and any existing or future access to the proposed development;

- iii) identification of all water bodies, water courses, drainage courses and flood hazard areas on or abutting the lot or site;
 - iv) identification and location of all easements and rights-of-way on- site or abutting the lot or site;
 - v) location and dimensions of existing and proposed development including front, rear and side setbacks;
 - vi) location of existing and proposed utilities;
 - vii) proposed on-site parking and loading facilities including location and dimensions of all aisles, the dimensions and number of all parking spaces, curbing and location of any lighting;
 - viii) location of proposed landscaping;
 - ix) location and access to garbage enclosures;
 - x) location and material of sidewalks, patios, steps, porches, decks, playgrounds, amenity and open space areas, and other similar features;
 - xi) location of any abandoned, suspended or active oil or gas wells;
 - xii) north arrow, scale and date of drawing; and
 - xiii) a schedule showing the area of the lot or site, building area, density, number of units, parking and loading spaces, existing and proposed site grades, and a calculation of site coverage, height and number of stories and floor area ratio.
- e) for sites 8.1 ha or greater, the site plan may focus on the area of development proposed on the lot or site, if all the required information can be shown in the focus area;
 - f) in the case of a multiple unit residential project, a detailed plan showing the proposed unit locations and amenity areas within the overall development area;
 - g) in the case of a development of a lot or site with multiple uses, a master site plan and preliminary engineering plan for the entire site to the satisfaction of the Development Authority;

- h) scaled floor plans showing all occupancies and uses, cross section, foundation plan, elevations, perspective of the proposed development including a description of the exterior finishing materials;
- i) information from the Alberta Energy Regulator indicating that an abandoned oil and gas well site search was conducted for any proposed dwelling or building greater than 47m²;
- j) a traffic impact analysis stamped by a professional engineer or a registered professional technologist accredited by APEGA, for a development that regularly generates more than 100 trips in the peak afternoon or evening;
- k) any additional information as may be required by the Development Authority to assess or evaluate the proposed development. The Development Authority may require any or all of the following to be prepared by an accredited professional licensed to practice in Alberta:
 - i) site plan;
 - ii) Real Property Report to verify the location and dimensions of existing development that is the subject of the development permit application, or to confirm the location and dimensions of other existing development;
 - iii) geotechnical report;
 - iv) parking assessment;
 - v) biophysical assessment;
 - vi) groundwater report;
 - vii) flood hazard mapping study;
 - viii) reclamation plan;
 - ix) landscape plan;
 - x) topographical survey;
 - xi) site grading or drainage plan;
 - xii) site servicing plan;
 - xiii) erosion or sediment control plan; and
 - xiv) any other report, study, plan or information.

3.6.3 An application for a development permit shall not be considered complete until such time as the information required by the Development Authority under Section 3.6 has been provided to the satisfaction of the Development Authority. However, the Development Authority may consider the application, if in its opinion a decision can be made without some of the required information.

3.7 Applications the Development Authority shall not accept

3.7.1 The Development Authority shall not accept a development permit application when the proposed development is for a use that is neither a permitted use, nor a discretionary use, in the applicable Land Use District, or as otherwise stated within this Bylaw.

3.8 Deemed Refusal of a Development Permit

3.8.1 An application for a development permit shall, at the option of the applicant, be deemed to be refused when the decision of the Development Authority is not made within forty (40) days of receipt of a complete application; unless the applicant has entered into an agreement with the Development Authority to extend the forty (40) day period.

3.9 Notification of Development Permit Approval

3.9.1 On the date on which the written decision was issued the Development Authority shall send a notice of the decision by regular mail, or by email if an email address is provided, to the applicant with a copy to the owner and shall post notice of the decision for public view in the Town office. Where an applicant picks up a copy of the decision, mailing of the notice shall not be required. *Bylaw 08/20*

3.9.2 In addition to Section 3.9.1. on the date on which the written decision was issued after approving a discretionary use, the Development Authority shall provide notification of the decision, which shall include the legal description, civic address, nature of the approved development and right of appeal, by sending a notice by regular mail to adjacent landowners as identified on the Town's Assessment roll. *Bylaw 08/20*

3.9.3 On the date on which a variance was granted, the Development Authority shall provide notification of the decision, which shall include the legal description, civic address, nature of the variance and right of appeal, by sending a notice by regular mail to adjacent landowners as identified on the Town's Assessment roll. *Bylaw 08/20*

3.9.4 Where, in the opinion of the Development Authority, additional lots may be affected by a discretionary use or by granting a variance, additional landowners, individuals, or groups may be notified.

3.10 Validity, Expiry, Revocation and Resubmission Interval of Development Permits

- 3.10.1 Where a development permit has been issued by the Development Authority, it shall not be valid unless and until the conditions of the permit have been fulfilled and no notice of appeal has been served on the Subdivision and Development Appeal Board within the appeal period.
- 3.10.2 Where the Subdivision and Development Appeal Board has approved a development permit, the permit shall not be valid until the decision of the Board is issued in writing.
- 3.10.3 If the Subdivision and Development Appeal Board is served with notice of an application for leave to appeal its decision, such notice shall suspend the development permit, except where approval has been granted for a permitted use or, where a license, permit, approval or other authorization is granted by NRCB, ERCB, AER, AEUB or AUC to the extent that the application complies with the license, permit, approval or other authorization granted. The final determination of an appeal, except for those applications approved as a permitted use, by the NRCB, ERCB, AER, AEUB, or AUC shall validate, amend or revoke, as the case may be, a suspended development permit.
- 3.10.4 A development permit expires when, in the opinion of the Development Authority and taking into account the circumstances of the development, the development has not substantially commenced within one (1) year from the date of its issuance or within such extended period that may be granted by the Development Authority. Development is considered to have commenced when the applicant or owner has altered the parcel to further construction of the proposed development.
- 3.10.5 Where a request to extend the approval period has been received prior to permit expiry, the Development Authority may grant one (1) extension of the effective period and the extension period shall not be longer than twelve (12) months.
- 3.10.6 When a permit expires, a new application shall be required. Such application shall be dealt with as a first application and there shall be no obligation to approve it on the basis that a previous permit had been issued.

- 3.10.7 If a use is discontinued for a continuous period of six (6) months, any subsequent use of the land or building shall comply with this Bylaw and require a new development permit.
- 3.10.8 When the Development Authority has refused an application for a development permit, another application for the same or substantially the same development shall not be considered by the Development Authority within one (1) year of the date of the refusal unless the development conforms to this Bylaw.
- 3.10.9 The Development Authority may suspend or revoke a development permit when:
- a) the development permit was issued on the basis of incorrect information or misrepresentation by the applicant, owner or authorized agent; or
 - b) the development permit was issued in error; or
 - c) requested by an applicant.

3.11 Temporary Approvals

- 3.11.1 Where, in the opinion of the Development Authority, a proposed use is of a temporary or discretionary nature, it may issue a temporary development permit valid for a specific period of time, not to exceed one (1) year.
- 3.11.2 Where a development is approved for a limited period, the Development Authority:
- a) shall require the cessation of use and removal of a temporary development at the expiration of the time period stated in the development permit; and
 - b) shall impose a condition that the Town is not liable for any costs involved in the cessation or removal of the development at the expiration of the time period stated in the permit.
- 3.11.3 The Development Authority may require the applicant to enter into an agreement with the Town guaranteeing the removal of the temporary development when the intended use is changed or discontinued. This agreement may require the applicant to post security, guaranteeing the removal of the development, to the satisfaction of the Development Authority. Where buildings are planned, the

Development Authority may require a security of \$5000 or up to 25% of the estimated value of the development, whichever is greater.

3.11.4 When a permit for a temporary use expires a new application shall be required. There shall be no obligation to approve it on the basis that a previous permit had been issued.

3.12 Discretion Exercised by the Development Authority

3.12.1 The Development Authority may approve a permitted use or discretionary use that does not comply with this Bylaw subject to conditions that will make it otherwise comply.

3.12.2 The Development Authority may approve a discretionary use provided that the Development Authority determines that the proposed development:

- a) is consistent with an applicable Statutory Plan, and policies adopted by the Town;
- b) is compatible with the general purpose of the Land Use District;
- c) will not cause traffic impacts (in terms of daily and peak hour trip generation) and parking impacts unsuitable for the area;
- d) is serviceable with a road and adequate capacity for drainage, water, sewage and other utilities;
- e) is compatible with surrounding areas in terms of land use, scale of development, and potential effects on the stability or rehabilitation of the area;
- f) is appropriate having regard for geotechnical considerations such as water table location, potential for flooding and slope stability;
- g) will not cause a negative effect on community services and facilities such as schools, parks, fire protection, and health;
- h) any potential adverse effect can be adequately mitigated;
- i) is consistent with municipal land, right-of-way or easement requirements; and
- j) the proposed development does not create a nuisance.

3.12.3 In determining the significance of a nuisance, the Development Authority may consider:

- a) the expected magnitude and consequence of the effect or nuisance;
- b) the expected extent, frequency, and duration of exposure to the effect or nuisance;
- c) the use and sensitivity of adjacent or nearby sites relative to the effect or nuisance;
- d) adherence to relevant environmental legislation or widely recognized performance standards; and
- e) the reliability and record of the proposed methods, equipment and techniques in controlling or mitigating detrimental effects or nuisances.

3.12.4 The Development Authority may be guided in the exercise of discretion through reference to reports, studies or information prepared by an accredited professional that justify alternatives to Bylaw requirements or mitigation.

3.12.5 The Development Authority may consider, but not be bound by, any known concerns and opinions of affected residents, landowners, and adjacent municipalities.

3.12.6 The Development Authority may approve a discretionary use with or without conditions, with or without changes in the development, or with or without the imposition of regulations that are more restrictive than those in the Land Use District, the General Regulations found in Part 4 of this Bylaw, or the Specific Use Regulations found in Part 5 of this Bylaw.

3.13 Variances

3.13.1. The Development Authority may grant a variance and approve a development permit for a permitted use or discretionary use, with or without conditions, which does not comply with the regulations of this Bylaw, provided that the Development Authority determines that:

- a) the proposed development is consistent with the general purpose or character of the Land Use District;

- b) the proposed development conforms with the uses prescribed by this Bylaw for that lot or building;
- c) the proposed development is appropriate to the size of the lot;
- d) the proposed development would not unduly interfere with the amenities of the neighbourhood or would not materially interfere with or affect the use, enjoyment or value of adjacent parcels of land;
- e) there are physical factors unique to the land which would result in practical difficulties for the proposed development to comply with the provisions of this Bylaw; and
- f) there are mechanisms to mitigate the effect on adjacent lots.

3.13.2 The Development Authority may consider, but not be bound by, any known concerns and opinions of affected residents and landowners.

3.13.3 The Development Authority may grant a variance and approve a development permit for a non-conforming building, provided that the Development Authority determines, in addition to the provisions of Section 3.13.1, that the variance considers the attainment of municipal planning objectives that caused the building to be made non-conforming.

3.13.4 Despite Section 3.13.1, the Development Authority shall not grant a variance:

- b) greater than 10% to the applicable maximum building height regulation in a Land Use District;
- c) to a setback from a pipeline right-of-way;
- d) to floor area ratio; or
- e) to density.

3.13.5 Despite Section 3.13.1, the Development Authority shall not grant a variance beyond that which is specifically provided for elsewhere in the Bylaw or in the Municipal Government Act.

3.13.6 The Development Authority may be guided when considering a variance through reference to reports, studies or information prepared by an accredited professional.

3.13.7 When a development requires a variance as a result of a prior land acquisition by a municipal, provincial or federal agency or public utility, the Development Authority shall take into account the setback and lot area requirements that existed prior to the acquisition when considering the variance.

3.14 Appeals

3.14.1 If the Development Authority:

- a) does not make a decision within forty (40) days of a complete application or within any time extension;
- b) refuses to issue a development permit to a person;
- c) issues a development permit subject to conditions; or
- d) issues a stop order;
 - i) the person applying for the permit or affected by the stop order may then appeal to the Subdivision and Development Appeal Board.

3.14.2 In addition to an applicant, any person affected by an order, decision or development permit made or issued by the Development Officer may appeal the decision to the Subdivision and Development Appeal Board. However, no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of this Bylaw were relaxed, varied, or misinterpreted.

3.14.3 An appeal by an applicant or a person affected by a stop order is commenced by filing a notice of the appeal, with reasons, to the Subdivision and Development Appeal Board within twenty-one (21) days of receipt of the notification of the decision of the development permit or the stop order, or when the forty (40) day period or any time extension under Section 3.14.1 a) above expires. *Bylaw 08/20*

3.14.4 An appeal by any other affected person shall be made within twenty-one (21) days of the date on which the notice of the issuance of the permit was given in accordance with this Bylaw. *Bylaw 08/20*

3.14.6 The Subdivision and Development Appeal Board shall consider and make decisions on appeals pursuant to the Municipal Government Act.