



**ADMINISTRATION**



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## SECTION 1 PURPOSE AND APPLICATION

### 1.1 TITLE

This bylaw may be cited as the “Town of Fort Macleod Land Use Bylaw.”

### 1.2 REPEAL OF FORMER BYLAW

Town of Fort Macleod Bylaw No. 1882 and any amendments thereto are hereby repealed.

### 1.3 PURPOSE

The purpose of this bylaw is to:

- (1) divide the municipality into districts;
- (2) prescribe and regulate the use(s) for each district, and the intent and purpose for which land and buildings may be used;
- (3) establish a method for making decisions on applications for development permits and issuing development permits for a development;
- (4) provide the manner in which notice of the issuance of a development permit is to be given; and
- (5) implement the Town of Fort Macleod Municipal Development Plan and other statutory plans of the municipality, as may be developed.

### 1.4 EFFECTIVE DATE

This bylaw shall come into effect upon third and final reading thereof.

### 1.5 SEVERABILITY

If any provision of this bylaw is held to be invalid by a decision of a court of competent jurisdiction, that decision will not affect the validity of the remaining portions.

### 1.6 COMPLIANCE WITH THE LAND USE BYLAW

- (1) No development, other than those designated in Section 4.2 (Development Not Requiring a Permit), shall be undertaken within the Town unless a development application has been approved and a development permit has been issued; and
- (2) notwithstanding sub-section (1), while a development permit may not be required pursuant to Section 4.2, development shall comply with all regulations of this bylaw.

## **1.7 COMPLIANCE WITH OTHER LEGISLATION**

Compliance with the requirements of this bylaw does not exempt any person undertaking a development from complying with all applicable municipal, provincial or federal legislation, and respecting any easements, covenants, agreements or other contracts affecting the land or the development.

## **1.8 RULES OF INTERPRETATION**

Unless otherwise required by the context, words used in the present tense include the future tense; words used in the singular include the plural; and the word person includes a corporation as well as an individual. The *Alberta Interpretation Act, Chapter I-8, RSA 2000* as may be amended from time to time, shall be used in the interpretation of this bylaw. Words have the same meaning whether they are capitalized or not. The following shall also apply, regarding the potential for perceived conflicts:

- (1) the written regulations of this bylaw take precedence over any graphic or diagram if there is a perceived conflict;
- (2) the Land Use Districts Map takes precedence over any graphic or diagram in the district regulations if there is a perceived conflict; and
- (3) all references to engineering requirements shall be prepared by an engineer registered with The Association of Professional Engineers and Geoscientists of Alberta (APEGA).

## **1.9 MEASUREMENTS AND STANDARDS**

All units of measure contained within this bylaw are expressed in metric form, with equivalent imperial measure given in parenthesis for information purposes only. Should there be a discrepancy between the metric and imperial units, the metric version shall prevail.

## **1.10 FORMS, NOTICES AND FEES**

For the purposes of administering the provisions of this bylaw, Council may authorize by separate resolution or bylaw as may be applicable, the preparation and use of such fee schedules, forms or notices as in its discretion it may deem necessary. Any such fee schedules, forms or notices are deemed to have the full force and effect of this bylaw in execution of the purpose for which they are designed, authorized and issued. Forms, notices and fees are included in Appendix A. Additional requirements of forms, notices and fees include:

- (1) refund of application fees requires approval of Town Council;
- (2) in any case, where the required fee is not listed in the fee schedule, such fee shall be determined by the Development Officer or other such Approving Authority as assigned by Council, and shall be consistent with those fees listed in the schedule for similar developments; and
- (3) if development is commenced without a valid development permit, an additional fee in the amount prescribed under the current fee schedule, shall be payable upon application for the development permit.

## **1.11 APPENDICES**

Any appendices attached hereto are for information purposes only and may be amended from time to time as they do not form part of the Town of Fort Macleod Land Use Bylaw.

## **SECTION 2    APPROVING AUTHORITIES**

### **2.1    DEVELOPMENT AUTHORITY**

The Development Authority is established in accordance with Subdivision and Development Authority Bylaw (Appendix C) and any amendments thereto, and consists of:

- (1) the Development Officer as a Designated Officer authorized by Council in accordance with sections 210 of the *Municipal Government Act, Revised Statutes of Alberta 2000, Chapter M-26, as amended (MGA)*, while carrying out municipal functions or duties under the Subdivision and Development Authority Bylaw (Appendix C), this bylaw, where applicable by resolution of Council, or as prescribed in the *MGA*;
- (2) the Municipal Planning Commission while exercising development powers or duties under this bylaw, the Subdivision and Development Authority Bylaw (Appendix C), where applicable by resolution of Council, or as prescribed in the *MGA*;
- (3) Council in Direct Control Districts, unless authority has been specifically delegated by bylaw to the Municipal Planning Commission or another Designated Officer; and
- (4) in the absence of the Development Officer, the following are authorized to act in the capacity of Development Officer:
  - (a) Municipal Planning Commission;
  - (b) Chief Administrative Officer; or
  - (c) a designate(s) in accordance with the *MGA*.

### **2.2    SUBDIVISION AUTHORITY**

- (1) The Subdivision Authority is authorized to make decisions on applications for subdivisions and may exercise only such powers and duties as are specified:
  - (a) in the Subdivision and Development Authority Bylaw (Appendix C);
  - (b) in this bylaw; or
  - (c) by resolution of Council.
- (2) The Subdivision Authority may delegate, through any of the methods described in subsection (1) above, to any individual, municipal staff, or a regional services commission, any of its required functions or duties in the processing of subdivision applications. In respect of this:
  - (a) the delegation of duties by the Subdivision Authority may include the authorized entity being responsible for determining the completeness of a submitted subdivision application; and
  - (b) the Subdivision Authority delegate is authorized to carry out the application process with subdivision applicants as described in the Subdivision Application Rules and Procedures section of the bylaw, including the task of sending all required notifications to applicants as stipulated.

## **2.3 DUTIES AND RESPONSIBILITIES OF THE DEVELOPMENT AUTHORITY**

### **2.3.1 Development Officer**

The Development Officer is a Designated Officer and authorized person in accordance with sections 210 of the *MGA*, and Subdivision and Development Authority Bylaw (Appendix C) as may be amended from time to time, and:

- (1) the office of the Development Officer is hereby established and Council shall, by resolution, appoint one or more Development Officers;
- (2) the Development Officer:
  - (a) shall receive all development applications and shall review each application to ensure that it is complete in accordance with the requirements of this bylaw;
  - (b) shall collect the fees payable for each development permit application in accordance with the scale of fees which has been established by resolution of Council;
  - (c) may require a development permit applicant to supply information other than prescribed in this bylaw if such information is deemed to be necessary for consideration of the development application;
  - (d) shall not accept a development application until it is in a complete and final form and the Development Officer is satisfied that all requirements have been met;
  - (e) except as provided in sub-sections (g) and (h), shall consider and decide upon applications for development permits for:
    - (i) permitted uses that comply with this bylaw;
    - (ii) permitted uses that request variance(s) as prescribed in Section 4.9;
    - (iii) permitted uses on existing registered lots where the Municipal Planning Commission granted a variance to the minimum lot width, length and/or area requirements as a part of the subdivision approval;
    - (iv) discretionary uses: A;
    - (v) landscaping;
    - (vi) fences, walls or other types of enclosures; and
    - (vii) demolition;
  - (f) may, as a condition of issuing a Development Permit, require the applicant to provide security in the form of a certified cheque, irrevocable Letter of Credit or other security acceptable to the Development Officer, to ensure the terms and conditions attached to the Development Permit are carried out;
  - (g) shall refer with appropriate recommendations, to the Municipal Planning Commission or any other Municipal Committee as deemed necessary, all development permit applications involving:
    - (i) discretionary uses: B;
    - (ii) developments which could be potentially detrimental to traffic movement;
    - (iii) those matters requiring the specific approval or recommendation of the Municipal Planning Commission pursuant to this bylaw or the Municipal Planning Commission Bylaw;

- (iv) any other matter which, in the opinion of the Development Officer, does not comply with the intent or provisions of this bylaw, and should be reviewed by the Municipal Planning Commission or any other Municipal Committee;
- (h) shall refer all development permit applications in a Direct Control District to Council for a decision, unless Council has specifically delegated approving authority to the Development Officer, another Designated Officer or the Municipal Planning Commission;
- (i) shall keep and maintain, for the inspection of the general public during office hours, a copy of this bylaw including all amendments, and shall ensure that copies of the same are available to the general public for a fee which has been established by resolution of Council;
- (j) shall keep on file, and make available for inspection by the general public during office hours, a register of all completed applications for development permits, including the decisions thereon; and
- (k) shall perform any other powers and duties as are specified in this bylaw, the Municipal Planning Commission Bylaw, the *MGA*, or by resolution of Council.

### **2.3.2 Municipal Planning Commission**

- (1) The Municipal Planning Commission may exercise only such powers and duties as are specified in this bylaw, the Subdivision Development Authority Bylaw as may be amended from time to time, the *MGA*, or by resolution of Council;
- (2) the Municipal Planning Commission shall be responsible for:
  - (a) considering and deciding upon development permit applications referred to it by the Development Officer;
  - (b) providing recommendations on planning and development matters referred to it by the Development Officer or Council;
  - (c) considering and deciding upon requests for time extensions on development permit applications referred to it by the Development Officer;
  - (d) considering and deciding upon applications for subdivision approval;
  - (e) requiring, when deemed necessary by the Commission, the applicant to provide security in the form of a certified cheque, irrevocable Letter of Credit or other security acceptable to the Commission; and
  - (f) any other powers and duties as are specified in this bylaw, the Subdivision and Development Authority bylaw, the *MGA*, or by resolution of Council.

### **2.3.3 Council**

- (1) Council shall be responsible for considering and deciding upon requests for time extensions on subdivision approvals in accordance with section 657 of the *MGA*.
- (2) Council shall be responsible for considering and deciding upon subdivision and development applications in Direct Control Districts, unless authority has been specifically delegated by bylaw or resolution to the Municipal Planning Commission, Development Officer, or another designated officer.

#### **2.3.4 Subdivision and Development Appeal Board**

- (1) The powers, duties and responsibilities of the Subdivision and Development Appeal Board with respect to this bylaw are those established in Subdivision and Development Appeal Board Bylaw and any amendments thereto.
- (2) The Subdivision and Development Appeal Board shall consider and decide upon all appeals concerning subdivision and development decisions and stop orders which have been properly lodged in accordance with this bylaw and the *MGA*.

### **SECTION 3 DEVELOPMENT IN GENERAL**

#### **3.1 ESTABLISHMENT OF DISTRICTS**

- (1) In accordance with section 640 of the *MGA*, all land within the Town of Fort Macleod is herein divided into land use districts.
- (2) The boundaries of the districts are delineated on the Land Use Districts Map contained in Schedule 1 of this bylaw.
- (3) With the exception of particular direct control districts, the defined uses of land or buildings in each district are classified as follows:
  - (a) permitted uses in each district, or
  - (b) discretionary uses in each district.
- (4) Where a perceived error exists on the Land Use Districts Map relating to the assigning of a Land Use District to a specific lot or portion of the Town, corrective action regarding the perceived error shall be decided upon by resolution of Council or if Council has designated such decision making authority to a Designated Officer, by the Designated Officer.
- (5) A land use not listed as a permitted or discretionary use of a land use district, and the use has not been deemed a similar use by the Municipal Planning Commission, the use is considered prohibited and shall be refused.

#### **3.2 USE OF LAND**

A person who develops land or buildings in the Town shall comply with all requirements of this bylaw including all conditions attached to a development permit if one is required, and all other applicable federal, provincial, and municipal requirements.

#### **3.3 SUITABILITY OF SITES**

- (1) Notwithstanding that a use of land may be permitted or discretionary or considered similar in nature to a permitted or discretionary use in a land use district, the Subdivision Authority or Development Authority, as applicable, may refuse to approve a subdivision or issue a development permit if the Subdivision Authority or Development Authority is made aware of or if in their opinion, the site of the proposed building or use:
  - (a) does not have safe legal and physical access to a maintained road in accordance with this bylaw, other municipal requirements or those of Alberta Transportation if within 300 m (984.3 ft) of a provincial highway or 800 m (2624.6 ft) from the centre point of an intersection to a controlled highway and a public road;



- (b) creates a situation where vehicular and non-vehicular traffic safety is negatively impacted;
- (c) has a high water table or soil conditions which make the site unsuitable for foundations and/or sewage disposal systems in accordance with the provincial regulations;
- (d) is situated on an unstable slope;
- (e) consists of unconsolidated material unsuitable for building;
- (f) does not comply with the requirements of the Regional Plan, *Matters Related to Subdivision and Development Regulation* or any other applicable statutory plans;
- (g) is situated over an active or abandoned oil or gas well or pipeline;
- (h) is unsafe due to contamination by previous land uses;
- (i) does not meet the minimum setback requirements from a sour gas well or bulk ammonia storage facility;
- (j) does not have adequate water and/or sewer provisions;
- (k) cannot adequately contain or convey storm water runoff;
- (l) cannot be protected from fire due to current municipal fire fighting capabilities;
- (m) does not meet the industry recommended development guidelines in proximity to railway operations;
- (n) does not meet lot size and/or setback requirements or any other applicable standards or requirements of this bylaw, unless variance has been granted in accordance with Administration Section 4.9; and
- (o) is subject to an easement, caveat, restrictive covenant or other registered encumbrance which makes it impossible to build on the site.

### **3.4 DWELLING UNITS ON A LOT**

No person shall construct or locate, or cause to be constructed or located, more than one dwelling unit on a lot except when permitted by the land use district or unless authorized by the Development Authority through the issuance of a development permit.

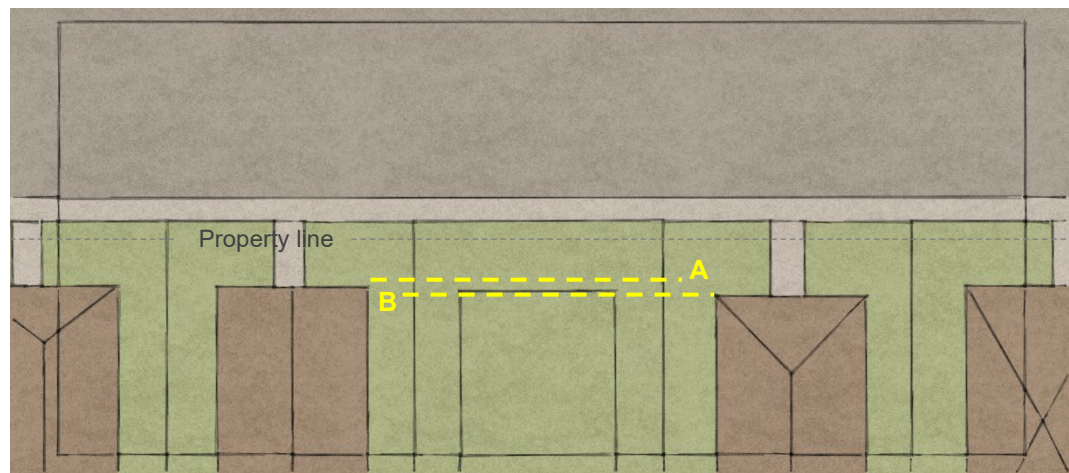
### **3.5 REMOVAL, REPLACEMENT AND PLACEMENT OF BUILDINGS**

- (1) Any application for replacing or placing a building on a site is subject to all conditions and regulations specified under the appropriate district, and in addition, the Development Authority may require:
  - (a) recent colour photographs of the structure;
  - (b) written confirmation by a licensed professional that the building meets the requirements of the *Safety Codes Act* or, if it does not, the manner in which the building will be brought up to these standards within the time limit established by the Development Authority;
  - (c) the applicant to pay for the costs of an inspection by an authorized municipal official prior to moving the building;

- (2) the standards that the building must meet shall be established by the Development Authority at the time of the approval of the development application and shall form part of the conditions of the development permit; and
- (3) all renovations to a building, that has been moved to and placed on a site, shall be completed within twelve (12) months of the date of the development permit. A final inspection to verify compliance with any condition outlined in the development permit shall be conducted by an authorized municipal official.

### 3.6 SETBACKS IN ESTABLISHED AREAS

- (1) In established residential or commercial districts where a dwelling or commercial building is to be erected on a vacant lot or is to replace an existing dwelling or commercial building, the setback shall be similar to the setback prescribed by existing adjacent dwellings or commercial buildings located on the same side of the street (as illustrated in Figure 3.6.1), to the satisfaction of the Development Authority, but may only exceed the minimum setback stipulated in the associated land use district if authorized by the Development Authority in accordance with Administration Section 4.9;



**Figure 3.6.1:** The setback area for future development is defined by the difference between existing adjacent setbacks A and B.

- (2) notwithstanding the above, if one or both of the existing adjacent dwellings or commercial buildings is outside of the parameters of what would be authorized under Section 4.9, the minimum setback from the street may be determined by the average of the setbacks of the remaining dwellings or commercial buildings located on the same side of the street; and
- (3) the rear yard, side yard and secondary front yard setbacks shall be as prescribed in this bylaw or as authorized in accordance with variances that may be granted by the Development Authority in accordance with Section 4.9.

### 3.7 NON-CONFORMING LOT SIZES

- (1) Development on an existing registered lot that does not conform with the minimum requirements for lot length, width or area specified in the applicable land use district as per this bylaw, may be permitted at the discretion of the Development Authority; and

- (2) the Development Officer is authorized to approve development on existing registered lots that do not conform to the requirements for lot length, width or area specified in the applicable land use district as per this bylaw, if a variance was issued as a part of the subdivision of the lot.

### **3.8 DEVELOPMENT AGREEMENTS**

- (1) As prescribed in Section 4.8(1) of this bylaw and pursuant to section 650(1) of the *MGA*, the Development Authority, as a condition of issuing a development permit, may require the applicant to enter into an agreement 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, other than telecommunications systems or works, that are necessary to serve the development;
  - (d) to construct or pay for the construction of:
    - (i) off-street or other parking facilities; and
    - (ii) loading and unloading facilities;
  - (e) to pay an off-site levy or redevelopment levy; and
  - (f) to give security to ensure that the terms of the agreement under this section are carried out.
- (2) The Subdivision Authority may require, with respect to a subdivision that as a condition of issuing an approval for a subdivision, the applicant enter into an agreement with the municipality, pursuant to section 655(1)(b) of the *MGA*.
- (3) An agreement referred to in this section may require the applicant for a development permit or subdivision approval to oversize improvements in accordance with section 651 of the *MGA*.
- (4) A municipality may register a caveat under the *Land Titles Act* with respect to an agreement under this section against the certificate of title for the land that is the subject of the development, or for the parcel of land that is the subject of the subdivision.
- (5) If a municipality registers a caveat under this section, the municipality must discharge the caveat when the agreement has been complied with.
- (6) As a condition of subdivision approval, all agreements may be registered concurrently by caveat onto individual lots being created.
- (7) The Developer shall be responsible for and within thirty (30) days of the presentation of an account, pay to the Town all legal and engineering costs, fees, expenses and disbursements incurred by the Town through its solicitors and engineers for all services rendered in connection with the preparation, fulfillment, execution and enforcement of the agreement.

### **3.9 SIMILAR USES**

- (1) Upon receipt of a complete application for a development permit for a use that is not specifically listed in any land use district, but which may be similar in character and purpose to other uses of land and structures in the land use district in which such use is proposed, the Development Officer may classify the use as either similar to a permitted use or similar to a discretionary use.
- (2) Where a use has been classified similar to a permitted use, the Development Officer may process the application accordingly as a permitted use or refer the application to the Municipal Planning Commission for a decision. The notice of the decision shall be subject to Section 4.11 (Notice of Decision).
- (3) Where a use has been classified similar to a permitted use and requests exceeding the powers outlined in Section 4.9(3), the Development Officer shall:
  - (a) refer the application to the Municipal Planning Commission for a decision; and
  - (b) notify adjacent landowners and other persons likely to be affected in accordance with Section 4.10 (Notification of Adjacent Landowners and Persons Likely Affected).
- (4) Where a use has been classified similar to a discretionary use the Development Officer shall:
  - (a) refer the application to the Municipal Planning Commission for a decision; and
  - (b) notify adjacent landowners and other persons likely to be affected in accordance with Section 4.10 (Notification of Adjacent Landowners and Persons Likely Affected).
- (5) Upon referral of an application by the Development Officer for a use that may be similar in character and purpose to a permitted or discretionary use, the Municipal Planning Commission:
  - (a) shall rule whether or not the proposed use is similar to a use in the land use district in which it is proposed;
  - (b) if the proposed use is deemed similar to a use in the land use district in which it is proposed, the application shall be reviewed as a discretionary use application;
  - (c) if the proposed use is not deemed similar to a use in the land use district in which it is proposed, the development permit shall be refused.

### **3.10 TEMPORARY USES**

The Development Authority may issue a development permit for a period not to exceed one year or any other period of time as deemed appropriate by the Development Authority for uses that are determined to be temporary in nature. The proposed temporary use must be either a permitted, discretionary, or deemed similar use in conformance with the applicable land use district and the development permit shall be subject to the following:

- (1) the applicant or developer is liable for any costs involved in the cessation or removal of any development at the expiration of the permitted period;
- (2) the Development Authority may require the applicant to submit an irrevocable Letter of Credit, certified cheque, or other form of security acceptable to the Development Authority guaranteeing the cessation or removal of the temporary use; and
- (3) any other conditions as deemed necessary.

### **3.11 NON-CONFORMING USES AND BUILDINGS**

Pursuant to section 643 of the *MGA*:

- (1) If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.
- (2) A non-conforming use of land or a building may be continued but if that use is discontinued for a period of 6 consecutive months or more, any future use of the land or building must conform with the land use bylaw then in effect.
- (3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to it or in it.
- (4) A non-conforming use of part of a lot may not be extended or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed on the lot while the non-conforming use continues.
- (5) A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except:
  - (a) to make it a conforming building,
  - (b) for routine maintenance of the building, if the development authority considers it necessary, or
  - (c) in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.
- (6) If a non-conforming building is damaged or destroyed to the extent of more than 75 percent of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the land use bylaw.
- (7) The land use or the use of a building is not affected by a change of ownership or tenancy of the land or building.

## **SECTION 4 DEVELOPMENT PERMIT RULES AND PROCEDURES**

### **4.1 DEVELOPMENT PERMITS REQUIRED**

- (1) Except as otherwise provided for in Section 4.2, no person shall commence a development unless they have been issued a development permit in respect of the development in accordance with any terms and/or conditions of a development permit pursuant to this bylaw; and
- (2) in addition to meeting the requirements of this bylaw, it is the responsibility of the applicant to ascertain, obtain and comply with all other approvals and licenses that may be required by other federal, provincial or municipal regulatory departments or agencies.

## 4.2 DEVELOPMENT NOT REQUIRING A PERMIT

- (1) If a variance to any measurable standard in this bylaw is required, this section does not apply and a development permit is required;
- (2) this section does not apply to the Provincial Historic Area, where a development permit is required for any and all activities listed under Schedule 6 Sections 2.4 and 2.5, and for any and all instances outlined in sub-section (4) below;
- (3) the following developments shall not require a development permit:
  - (a) any use or development exempted under section 618(1)(2.1) of the *MGA*;
  - (b) any use or development exempted by the Lieutenant Governor in Council pursuant to section 618(4) of the *MGA*;
  - (c) telecommunication antenna systems that are regulated by Innovation, Science and Economic Development (ISED) Canada, subject to the Telecommunication Antenna Siting Protocol in Appendix A;
  - (d) the completion of a building which was lawfully under construction at the date this bylaw came into force provided that the building is completed in accordance with the terms and conditions of any development permit granted;
  - (e) the completion of a building that did not require a development permit under the previous Land Use Bylaw and which was lawfully under construction provided the building is completed within 12 months from the date of this bylaw coming into force; and
  - (f) any approval provided in conjunction with a special event permit excepting where the special event proposes permanent buildings, uses, or structures.
- (4) the following shall not require a development permit provided that the proposed development complies with the applicable provisions of this bylaw:
  - (a) an accessory building or structure up to 9.29 m<sup>2</sup> (100 ft<sup>2</sup>) in area that is not placed on a permanent foundation;
  - (b) interior or exterior maintenance, repair, interior renovations of or additions to any building, provided that such work does not include structural alterations, create another dwelling unit, or result in a change of use or intensity of the building;
  - (c) the temporary use of all or part of a building for a polling station, returning officer's headquarters, campaign office or any other use directly related to a federal, provincial, municipal or school election, or a referendum, plebiscite or census;
  - (d) the construction and maintenance of gates, fences, walls or other means of enclosure that meet the requirements of this bylaw;
  - (e) the landscaping of a parcel that shall not have proposed grades which would adversely impact the site or adjacent property and which is not a requirement of another development permit;
  - (f) temporary buildings used in the construction or alteration of a building for which a permit has been issued under this bylaw, provided the temporary building is not used as a dwelling and provided the building(s) is removed within one (1) month of completion of construction of the building for which the permit has been issued;

- (g) the placement of no more than one shipping container used in the construction or alteration of a building for which a permit has been issued under this bylaw, provided the shipping container is not used as a dwelling and provided the shipping container is removed immediately upon completion of construction of the building for which the permit has been issued;
- (h) the placement of shipping containers within the Agriculture and Industrial districts that are on a parcel of land greater than 10 acres in compliance with the district, Schedule 5 Section 16 and located outside the gateway overlay boundary described in Schedule 6 Section 3;
- (i) the construction, maintenance and repair of public works, services and utilities carried by or on behalf of federal, provincial or municipal public authorities on land which is publically owned or controlled;
- (j) the construction of a balcony, patio, deck or landing that meets the requirements of this bylaw;
- (k) the installation of temporary outdoor swimming pools and above ground hot tubs in the rear yard;
- (l) the operation of a Home Occupation 1;
- (m) any sign that does not require a permit as per Schedule 7 of this bylaw;
- (n) satellite dishes 3 feet or less in diameter except within the Provincial Historic Area Overlay;
- (o) a driveway as defined by Schedule 3 Section 12.3;
- (p) Agriculture within the Agriculture-Residential Transitional: AG-RT, Agriculture-Business Transitional: AG-BT, Airport: AP, and River Valley Lands: RVL districts and any undeveloped lands designated Industrial; and
- (q) grading, excavating, stripping and/or stockpiling of land, when such operations are performed in accordance with a valid Development Agreement, but where a valid Development Agreement does not exist, an application for a Development Permit must be made.

#### **4.3 DEVELOPMENT PERMIT APPLICATIONS**

- (1) All development permit applications shall be made only by the landowner(s) of the land on which the development is proposed or a person who is not the landowner only if written consent is provided by the landowner(s), submitted to the Development Officer and shall include the following information, unless otherwise indicated by the Development Officer in accordance with sub-section (2):
  - (a) a completed application form with the required fee;
  - (b) a description of the proposed development, including a statement of the intended use of all land, buildings, and finishes to be used;
  - (c) a site plan showing:
    - (i) north arrow and accurate orientation of all proposed development;
    - (ii) the scale of the plan, to the satisfaction of the Development Authority;
    - (iii) the area and dimensions of the property to be developed;



- (iv) the presence or absence of any and all abandoned wells; and if, abandoned wells are present, a professionally prepared plot plan showing the actual well location(s) in relation to property lines and existing and/or proposed buildings;
  - (v) the locations and external dimensions, including the height of all existing buildings on the site and any buildings to be erected;
  - (vi) a floor plan and elevation plans of the building(s) to be constructed; and
  - (vii) all front, side and rear yard setback areas with dimensions;
- (d) in the cases where the proposed development is for commercial, industrial, institutional or multiple residential dwelling developments on one or more lots the following additional information is required:
  - (i) schedule of densities which will result;
  - (ii) parking and loading provisions;
  - (iii) access to and from the site;
  - (iv) location of fencing, storage areas and garbage receptacles;
  - (v) landscaping and site improvement proposals;
  - (vi) the location of all existing buildings, roads, water bodies and other physical features of the land and all adjacent properties;
  - (vii) the location of existing sidewalks and curbs;
  - (viii) the proposed lot grade and on-site drainage information; and
  - (iv) an estimate of the water consumption.
- (e) in cases where architectural controls are in place and applicable to the parcel or unit in question, a copy of the architectural controls approval;
- (f) a current copy of the Certificate of Title showing ownerships and encumbrances; and
- (g) any other information deemed necessary by the Development Authority to adequately process the application.
- (2) the Development Officer may accept an application and make a decision thereon without all of the above information if, at the discretion of the Development Authority, the nature of the development is such that a decision on the application for the proposed development would not:
  - (a) unduly interfere with the amenities of the neighbourhood; or
  - (b) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land; and

the proposed development conforms with the use prescribed for that land or building in this bylaw.

#### **4.4 DETERMINATION OF COMPLETE DEVELOPMENT PERMIT APPLICATION**

- (1) A Development Officer shall, within 20 days after the receipt of an application in accordance with Section 4.3 for a development permit, determine whether the application is complete.



- (2) An application is complete if, in the opinion of the Development Officer, the application contains the documents and other information necessary to review the application.
- (3) The time period referred to in sub-section (1) may be extended by an agreement in writing between the applicant and the Development Officer.
- (4) If the Development Officer does not make a determination referred to in sub-section (1) within the time required under sub-section (1) or (3), the application is deemed to be complete.
- (5) If a Development Officer determines that the application is complete, the Development Officer shall issue to the applicant a written Notice of Completeness acknowledging that the application is complete, delivered by hand, mail or electronic means.
- (6) If the Development Officer determines that the application is incomplete, the Development Officer shall issue to the applicant a written notice indicating that the application is incomplete and specifying the outstanding documents and information to be provided, including but not limited to those required by Section 4.3(1). A submittal deadline for the outstanding documents and information shall be set out in the notice. A later date may be agreed on between the applicant and the Development Officer in writing to extend the deadline.
- (7) When the Development Officer determines that the information and documents required to be submitted under sub-section (6) are complete, the Development Officer shall issue to the applicant a written Notice of Completeness acknowledging that the application is complete, delivered by hand, mail or electronic means.
- (8) If the required documents and information under sub-section (6) have not been submitted to the Development Officer within the timeframe prescribed in the notice issued under sub-section (6), the Development Officer shall return the application to the applicant accompanied by a written Notice of Refusal stating the application is deemed refused and the reasons for refusal.
- (9) Despite issuance of a Notice of Completeness under sub-section (5) or (7), the Development Authority in the course of reviewing the application may request additional information or documentation from the applicant that the Development Authority considers necessary to review the application.

#### **4.5 PERMITTED USE APPLICATIONS**

Upon receipt of a completed development permit application for a permitted use that conforms with this bylaw, the Development Officer:

- (1) considers whether a notice should be sent to those listed in 4.10(2)(3);
- (2) shall approve a development permit with or without conditions, including the provision of a Development Agreement pursuant to the *MGA*; or
- (3) may refer the application to the Municipal Planning Commission for a decision.

All applications requesting variances shall be processed in accordance with Section 4.9 (Variances).

#### **4.6 DISCRETIONARY USE APPLICATIONS**

- (1) Upon receipt of a completed development permit application for a discretionary use: A that conforms with this bylaw, the Development Officer:
  - (a) shall notify adjacent landowners and other persons likely to be affected in accordance with Section 4.10;
  - (b) shall approve a development permit with or without conditions, including the provision of a Development Agreement pursuant to the *MGA*; or
  - (c) may refer the application to the Municipal Planning Commission for a decision.
- (2) Upon receipt of a completed development permit application for a discretionary use: B, a permitted or Discretionary: A use that requests variances in excess of the provisions of Section 4.9, or a use on a lot within the Direct Control land use district, the Development Officer shall:
  - (a) refer the application to the Municipal Planning Commission or Council in the case of a Direct Control district for a decision; and
  - (b) notify adjacent landowners and other persons likely to be affected in accordance with Section 4.10;
- (3) after consideration of any responses received as a result of the notifications to adjacent landowners and persons likely to be affected, the compatibility and suitability of the proposed use, and any other matters, the Development Authority may:
  - (a) approve a development permit with or without conditions; or
  - (b) refuse a development permit application, stating reasons.

#### **4.7 APPLICATIONS IN DIRECT CONTROL DISTRICTS**

- (1) Upon receipt of a completed application for a development permit in a Direct Control District, the Development Officer shall:
  - (a) refer the application to Council for a decision, except where the decision making authority has been delegated to the Municipal Planning Commission or the Development Officer; and
  - (b) notify adjacent landowners and other persons likely to be affected in accordance with Section 4.10(3);
- (2) after considering any response to notifications issued under Section 4.10(3), Council or the delegated decision making authority may:
  - (a) approve a development permit with or without conditions, stating reasons; or
  - (b) refuse to approve the development permit, stating reasons;
- (3) in accordance with section 641(4)(a) of the *MGA*, there is no appeal to the Subdivision and Development Appeal Board for a decision on an application for a development permit in a Direct Control District.

#### **4.8 DEVELOPMENT PERMIT CONDITIONS**

The Development Authority may place any of the following conditions on a development permit for a permitted or discretionary use:

- (1) require the applicant to enter into a deferred servicing agreement or development agreement pursuant to the *MGA*, as prescribed in Section 3.8;
- (2) the provision of security in the form of a certified cheque, irrevocable Letter of Credit or other security acceptable to the Development Authority to ensure the terms of the permit approval are carried out;
- (3) geotechnical investigation results prepared and sealed by a member in good standing of the Association of Professional Engineers and Geoscientists of Alberta (APEGA) ensuring that the site is suitable in terms of topography, soil characteristics, flooding, subsidence, slope stability, erosion and sanitary sewerage servicing;
- (4) alteration of a structure or building size or location to ensure any setback requirements of this bylaw or the *Matters Related to Subdivision and Development Regulation* can be met;
- (5) time periods stipulating completion of development;
- (6) easements and/or encroachment agreements required as a result of the development;
- (7) the application of an increased setback to any minimum required setback if determined to be necessary where an adjacent use may be considered to be otherwise negatively impacted, and the increased setback would serve to improve the suitability of the proposed use at the subject location, with consideration for the local context;
- (8) to repair or reinstate, or pay for the repair or reinstatement to original condition, of any street furniture, curbing, sidewalk, boulevard landscaping and tree planting that may be damaged or destroyed or otherwise harmed by development or/and building operations upon the site;
- (9) the submission of an Environmental Impact Assessment;
- (10) provision of vehicular and pedestrian access and public utilities, other than telecommunications systems or works;
- (11) obtain any other approval, permit, authorization, consent or license that may be required to develop or service the affected land;
- (12) requirement for a lot or construction stakeout conducted by an approved surveyor or agent;
- (13) any measure required to ensure compliance with applicable federal, provincial and/or municipal legislation and approvals; and
- (14) any other conditions necessary to ensure compliance with this bylaw and any other statutory plans brought into force by the Town of Fort Macleod.

#### **4.9 VARIANCES**

- (1) In accordance with section 640(6) of the *MGA*, the Development Authority may decide on a development permit application even though the proposed development does not comply with this bylaw if, in the opinion of the Development Authority:
  - (a) the proposed development would not:
    - (i) unduly interfere with the amenities of the neighbourhood; or

- (ii) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land; and
  - (b) the proposed development conforms with the use prescribed for that land or building in this bylaw.
- (2) Upon receipt of a completed application for a development permit for a Permitted or Discretionary A use that requests an unlimited variance to any setback and any other measurable standards of this bylaw for existing building, the Development Officer may grant the variance and issue the development permit with or without conditions if, in the opinion of the Development Officer, the variance would meet the requirements of the MGA as outlined in Section 4.9(1)(a) and (b).
- (3) Development Officer Variance Powers
- Upon receipt of a completed development permit application for a Permitted or Discretionary: A use that requests a variance of:
- (a) up to 25 percent of one of the yard setbacks, or
  - (b) a combined 25 percent of multiple yard setbacks, or
  - (c) up to 10 percent for a measurable standard other than a setback, or
  - (d) either (a) or (b) with (c), the Development Officer may:
    - (i) grant the variance and issue the development permit with or without conditions; or
    - (ii) refer the development application involving the request for a variance to the Municipal Planning Commission for a decision.
- (4) Municipal Planning Commission Variance Powers
- Upon receipt of a completed application for a development permit for a permitted or discretionary use that requests a variance exceeding the provisions of sub-section (2), the Development Officer shall:
- (a) refer the application to the Municipal Planning Commission for a decision, if, in the opinion of the Municipal Planning Commission, the variance would meet the requirements of the MGA as outlined in sub-section (1); and
  - (b) notify adjacent landowners and persons likely affected in accordance with Section 4.10.

#### **4.10 NOTICE OF ADJACENT LANDOWNERS AND PERSONS LIKELY AFFECTED**

- (1) Where notification of adjacent landowners and persons likely affected is required as set forth in section 640 of the MGA and Administration Sections 4.5(1), 4.6(1)(a) and (2)(b), and 4.9(4)(b) of this bylaw, the Development Officer shall, at least 5 days, excluding weekends and holidays, preceding the date of consideration by the Development Authority:
- (a) provide notice of the application to the applicant in writing by mail or email;
  - (b) provide notice of the application for discretionary uses and applications requesting variances to adjacent landowners and persons likely to be affected by undertaking any combination of the following:
    - (i) placing a notice on the Town's website;

- (ii) placing a notice on any other form of digital media that is accessible by adjacent landowners and persons likely affected;
  - (iii) placing a notice on the property in a location where the notice is visible and readable from public right-of-way; and, if deemed necessary;
  - (iv) mailing the notice; and/or
  - (v) placing an advertisement in a newspaper circulating within the Town;
- (2) notification shall be provided to the Municipal District of Willow Creek if the development permit application is directly adjacent to the Town boundary or as required by an Intermunicipal Development Plan;
- (3) notification shall be provided to any other persons, government departments or referral agencies that are deemed by the Development Authority to be affected;
- (4) in all cases, the notification shall:
  - (a) describe the nature and location of the use;
  - (b) state the time and place where the Development Authority will meet to consider the application and indicate how and when written or oral submission on the application will be received and considered;
  - (c) specify the location at which the development permit application can be inspected;
  - (d) in the instance of mailing of the notice, be deemed received 7 days from mailing the notice, in accordance with the *Alberta Interpretation Act, Chapter I-8, RSA 2000* as may be amended from time to time; and
  - (e) in the instance of the notice being placed in a newspaper, be deemed received on the date of publication of the newspaper.

#### **4.11 NOTICE OF DECISION**

- (1) Upon the decision on a development permit application for a permitted use that complies with this bylaw, the Development Officer shall mail, email or hand deliver a written notice of decision to the applicant;
- (2) upon the decision of all other development permit applications, the Development Officer shall:
  - (a) mail, email or hand deliver a written notice of decision to the applicant; and
  - (b) consistent with the method(s) of notice that were followed when notice of receipt of the application was undertaken in accordance with Section 4.10, provide a copy of the decision to those originally notified of the development permit application, those that made written or oral submissions, and any other person, government department or agency that, in the opinion of the Development Officer, is likely to be affected; and
- (3) regarding notices of decision, the dates upon which the notices are deemed received shall be the same as prescribed in Administration Section 4.10(4)(e).

#### **4.12 COMMENCEMENT OF DEVELOPMENT**

Despite the issuance of a development permit, no development is authorized to commence until the appeal period has expired in compliance with the following:

- (1) Permitted uses:
  - (a) for development permits issued for permitted uses that comply with this bylaw, development shall not commence until 21 days from the date of the written notice of decision is given as per section 686(1) of the *MGA*;
  - (b) for development permits issued for permitted uses that contain variance requests, development shall not commence until 21 days from the date of the written notice of decision is given as per section 686(1) of the *MGA*;
- (2) development permits issued for discretionary uses, shall not commence until 21 days from the date of the written notice of decision is given as per section 686(1) of the *MGA*;
- (3) notwithstanding sub-sections (1) and (2), if an optional *Voluntary Waiver of Claims* form (found in Appendix A) is completed by the applicant, development may commence immediately after the permit has been issued; and
- (4) for development permits issued that have been appealed, no development shall commence until the appeal is decided upon.

#### **4.13 VALIDITY OF DEVELOPMENT PERMIT**

- (1) Unless a development permit is suspended or cancelled, the development must be commenced or carried out with reasonable diligence in the opinion of the Development Authority within 12 months from the date of issuance of the permit, otherwise the permit is void, notwithstanding an extension approved by the Development Authority prior to the 12 month period concluding;
- (2) an application to extend the validity of a development permit may be made at any time prior to the expiration of the approved permit;
- (3) An extension of a development permit may be granted in accordance with the following:
  - (a) where a Discretionary B use development permit has expired in accordance with Section 4.13(1), the MPC may extend the validity of the permit up to 12 months from the date of its expiry. All subsequent requests for extension are at the discretion of the Municipal Planning Commission; or
  - (b) where a Permitted use and Discretionary A development permit has expired in accordance with Section 4.13(1), the Development Officer may extend the validity of the permit up to 12 months from the date of its expiry. All subsequent requests for extension are at the discretion of the Development Officer.
- (4) when any use has been discontinued for a period of 24 months or more, any development permit that may have been issued is no longer valid and the use may not be recommenced until a new application for a development permit has been made and a new development permit issued.

#### **4.14 TRANSFER OF DEVELOPMENT PERMIT**

Except for Home Occupation permits, a valid development permit is transferable when the use remains unchanged and the development is affected only by a change in ownership, tenancy or occupancy.

#### **4.15 FAILURE TO MAKE A DECISION**

In accordance with section 684 of the *MGA*, an application for a development permit is, at the option of the applicant, deemed refused if a decision has not been made by the Development Authority within 40 days of an application being deemed complete under Section 4.4(5)(7), unless the applicant has entered into an agreement with the Development Authority to extend the 40-day period.

#### **4.16 REAPPLICATION FOR A DEVELOPMENT PERMIT**

- (1) If an application for a development permit is refused by the Development Authority, another application for development on the same lot for the same or similar use may not be made for 6 months from the date of refusal; or
- (2) if an application was refused solely because it did not comply with the standards of this bylaw, the Development Officer may accept another application on the same lot for the same or similar use before the time period referred to in sub-section (1) is up, provided the application has been modified to comply with this bylaw.

#### **4.17 SUSPENSION OR CANCELLATION OF A PERMIT**

- (1) If, after a development permit has been issued, the Development Authority finds:
  - (a) the application for the development permit contained a misinterpretation; or
  - (b) facts concerning the application on the development that were not disclosed and which should have been disclosed at the time the application was considered, have subsequently become known; or
  - (c) the permit was issued in error; or
  - (d) the applicant's development has deviated from what was approved;the Development Authority may suspend or cancel the development permit by notice in writing to the permit holder;
- (2) upon receipt of the written notification of suspension or cancellation of the permit, the permit holder must cease all development and activities to which the development permit relates;
- (3) a person whose development permit has been suspended or cancelled under this section may appeal within 21 days of the written decision, to the Subdivision and Development Appeal Board; and
- (4) if a development permit is suspended or cancelled, the Subdivision and Development Appeal Board shall review the application if an appeal is filed by the applicant, and either:
  - (a) reinstate the development permit;
  - (b) cancel the development permit if the Development Authority would not have issued the permit if all the facts had been known at the time of application; or

- (c) reinstate the development permit and may impose such other conditions considered necessary to ensure this bylaw and any other statutory plan is complied with.

#### **4.18 APPEALS**

- (1) Any person applying for a development permit or any other person affected by an order, decision, or development permit made or issued by the Development Authority, may appeal to the Subdivision and Development Appeal Board in accordance with sections 683 to 687 of the *MGA* inclusive of any other part of the *MGA* referenced in these sections;
- (2) notwithstanding sub-section (1) and in accordance with section 685(4) of the *MGA*, there is no avenue for an appeal if the application was made on lands zoned as Direct Control, if the decision was made by Council. If the decision was made by the Municipal Planning Commission or Development Officer as a delegated authority of Council, the appeal is limited to whether the Development Authority followed the directions of Council, as per section 641 of the *MGA*; and
- (3) in accordance with the *Municipal Government Act*, any landowner who applied for subdivision and was refused an approval or had conditions attached to the approval, may appeal the decision to the Subdivision and Development Appeal Board, or the Land and Property Rights Tribunal (where the *Matters Related to Subdivision and Development Regulation* requires it). Adjacent or affected landowners have no right to appeal under the *MGA*.

### **SECTION 5 ENFORCEMENT**

#### **5.1 DESIGNATED OFFICERS**

In accordance with section 210 of the *MGA*, an officer designated to carry out enforcement of the *MGA*, the *Matters Related to Subdivision and Development Regulation*, a development permit or subdivision approval, or this bylaw is herein referred to as an Officer, and includes:

- (1) the Development Officer or another designated officer in Administration Section 2.1(4); and
- (2) a Bylaw Enforcement Officer in accordance with the *MGA*; and
- (3) a Community Peace Officer in accordance with the *Alberta Peace Officer Act*; and
- (4) a Police Officer in accordance with the *Alberta Police Act*.

#### **5.2 NOTICE OF VIOLATION**

- (1) Where the Development Authority finds that a development or use of land or buildings is not in accordance with the *MGA*, the *Matters Related to Subdivision and Development Regulation*, a development permit or subdivision approval, or this bylaw, an Officer may issue a notice of violation to the landowner or the person in possession of the land or buildings or to the person responsible for the contravention; and
- (2) such notice shall state the following:
  - (a) the nature of the violation;
  - (b) any and all corrective measures required to comply; and
  - (c) the time period in which such corrective measures must be carried out.



### **5.3 STOP ORDERS**

- (1) As set forth in section 645 of the *MGA*, the Development Authority is authorized to issue a stop order, herein referred to as an order, if a development, land use or use of a building is not in accordance with those regulations listed in Administration Section 5.2(1); and
- (2) a person who receives notice pursuant to sub-section (1) may appeal the order, within 21 days after the date on which the order is made, to the Subdivision and Development Appeal Board as prescribed in the *MGA*.
- (3) Pursuant to the *MGA*, if a person fails or refuses to comply with an order directed to the person, an Officer may enter onto the land or building that is the subject of the order and take any action necessary to carry out the order;
- (4) if compliance with an order is not voluntarily effected, the Town may undertake legal action, including but not limited to, seeking injunctive relief from the Alberta Court of King's Bench pursuant to section 554 of the *MGA*; and
- (5) in accordance with the *MGA*, the Town may cause the costs and expenses incurred in carrying out the order to be added to the tax roll of the parcel of land that is the subject of the order.

### **5.4 PENALTIES AND RIGHTS OF ENTRY**

- (1) Any person who contravenes any provision of this bylaw is guilty of an offence in accordance with Part 13, Division 5 of the *MGA* and is liable to a fine of not more than \$10,000.00 or to imprisonment for not more than one year or to both fine and imprisonment;
- (2) in accordance with section 542 of the *MGA*, an Officer may, after giving reasonable notice to and obtaining consent from the owner or occupier of land on which this bylaw or the *MGA* authorizes anything to be inspected, remedied or enforced:
  - (a) enter on that land at a reasonable time and carry out inspection, enforcement or action authorized or required by the enactment or bylaw;
  - (b) request anything to be produced that would assist in carrying out Section 5.4(2)(a);
  - (c) make copies of anything related to Section 5.4(2)(a)(b); and
- (3) pursuant to section 543 of the *MGA*, if a person refuses to grant consent or refuses to provide anything to assist in the inspection, enforcement or action referred to in section 542 of the *MGA*, the municipality may obtain a court order.

## **SECTION 6 AMENDMENTS TO THIS BYLAW**

### **6.1 AMENDMENT OR REPEAL OF BYLAW**

- (1) A person may request an amendment to this bylaw, by applying in writing, furnishing reasons in support of the application and paying the prescribed fee (as established by resolution of Council);
- (2) all applications to amend this bylaw shall be submitted to the Development Officer and shall be accompanied by the following:
  - (a) an application fee prescribed by Council for each application;

- (b) an application form as found in Appendix A of this bylaw, which is completed to the satisfaction of the Development Officer;
  - (c) a current certificate of title of the land affected and/or other documents satisfactory to the Development Officer, which indicate the interest of the applicant in the said land;
  - (d) all drawings required to be submitted shall be drawn to the satisfaction of the Development Officer;
  - (e) any other material as deemed necessary by the Development Officer to allow Council to make a decision on the application; and
  - (f) a map that analyses the requirement of Schedule 5 Section 12.4 for all Natural Resource Extraction;
- (3) the Development Officer may refuse to accept an application for an amendment to this Land Use Bylaw if, in their opinion, the information supplied is not sufficient to undertake a proper evaluation of the proposed amendment;
- (4) once an application is accepted by the Development Officer, they shall forward the application to Council for a decision;
- (5) in reviewing an application to amend this bylaw, Council shall give consideration to the following:
  - (a) the consistency of the proposal to the Town's statutory and non-statutory plans, approved policies, and this bylaw;
  - (b) the proposal is located in an appropriate area of the community and is compatible with adjacent land uses;
  - (c) the proposal does not compromise the road capacity of the area, levels of service of the roads in the area, or vehicular and non-vehicular traffic safety, and is suitably and efficiently serviced by an off-site road network;
  - (d) the proposal can be adequately serviced with municipal utilities; and
  - (e) any other matter as deemed necessary by Council taking into consideration the nature of the application as well as any statutory or non-statutory plan, scheme, concept, or approved policy affecting the site;
- (6) all proposed amendments to this bylaw shall be decided upon by Council in accordance with the *MGA*;
- (7) public hearing and notification requirements shall be in accordance with section 692 of the *MGA*;
- (8) where an application for an amendment to this bylaw has been refused by Council, another application that is the same or similar shall not be accepted for a period of 6 months following the date of the decision of refusal; and
- (9) where an application for an amendment to this bylaw has been refused by Council, another application that has been significantly changed may be accepted prior to the 6-month waiting period prescribed in sub-section (8), to the discretion of Council.

## **6.2 LAND USE DISTRICT REDESIGNATION**

In addition to the general requirements for amendment or repeal of this bylaw as set forth in Section 6.1, an application made specifically for redesignation from one land use district to another shall be accompanied by the following:

- (1) a completed application form (found in Appendix A) and fee paid in full;
- (2) an explanation of the application describing:
  - (a) proposed land use designation and future use(s);
  - (b) consistency with applicable statutory plans or rationale for why the proposal may be inconsistent with applicable statutory plans;
  - (c) development potential/suitability of the site including identification of any constraints and/or hazards to development;
  - (d) availability of infrastructure to service the site including adequate water, sewer, and storm water capacities;
  - (e) adequate vehicular and, when applicable, non-vehicular access, and potential impacts to public roads and options available to address any impacts that would create issues relating to road capacities, levels of service and vehicular/non-vehicular traffic safety;
  - (f) conceptual subdivision design, if applicable;
  - (g) geotechnical report prepared by an engineer demonstrating soil suitability if deemed necessary by the Development Authority;
  - (h) an evaluation of surface drainage which may include adjacent properties if deemed necessary by the Development Authority; and
  - (i) any other information deemed necessary by the Development Authority to properly evaluate the application;
- (3) an Area Structure Plan, or Conceptual Design Scheme may be required in conjunction with an application if:
  - (a) proposing to redesignate lands from Agriculture-Residential Transitional: AG-RT or Agriculture-Business Transitional: AG-BT to any other land use district;
  - (b) multiple parcels of land are involved;
  - (c) more than two lots could be created;
  - (d) several fragmented parcels are adjacent to the parcel that is the subject of the proposed redesignation;
  - (e) internal public roads would be required;
  - (f) municipal services would need to be extended; or
  - (g) it is required by the Development Authority.

## **SECTION 7     SUBDIVISION**

### **7.1     SUBDIVISION IN GENERAL**

- (1) Where the development of land requires the subdivision of land, no development permit shall be issued until the application for subdivision has been approved in accordance with the *MGA*;
- (2) where the development of a building requires the subdivision of condominium units, no development permit shall be issued until the application for subdivision has been approved in accordance with the *MGA* and the *Condominium Property Act, RSA 2000, Chapter C-22* as may be amended from time to time;
- (3) minimum dimensional standards for lots and all other requirements in this bylaw shall be as specified in the applicable land use district in Schedule 2;
- (4) an application for subdivision may be subject to the same requirements of Section 6.2 (Land Use District) and Section 3.3 (Suitability of Sites), in addition to any other requirements considered necessary in order to make a decision on the application, as determined by the Subdivision Approving Authority;
- (5) all applications for subdivision shall be required to meet the standards set out in Schedule 3 (General Standards of Development) and Schedule 4 (Design Standards of Development); and
- (6) notwithstanding sub-section (2), subdivision of land within the Residential Manufactured Home Community: R-MC land use district shall not be permitted unless accompanied by an adopted Conceptual Design Scheme or Area Structure Plan.

### **7.2     SUBDIVISION APPLICATIONS**

- (1) An applicant applying for subdivision shall provide the required material and information as requested by the Subdivision Authority or its designate. A completed application shall consist of:
  - (a) an official application, in the manner and form prescribed, clearly and legibly completed with all the required information and signatures provided as requested on the form;
  - (b) the applicable fees paid;
  - (c) an up-to-date and current copy of the Certificate of Title to the subject land;
  - (d) a surveyor's sketch or tentative subdivision plan with dimensions, structures, location of private sewage disposal system, professionally prepared;
  - (e) provincial abandoned gas well information;
  - (f) for vacant parcels, a soils analysis which indicates the ability of the proposed parcel to be privately serviced;
  - (g) any such other information as may be required at the discretion of the Subdivision Authority in order to accurately evaluate the application and determine compliance with the Land Use Bylaw or other government regulations. This may include but is not limited to the provision of geotechnical information, soil analysis reports, water reports, soil or slope stability analysis, drainage information, contours and

elevations of the land, engineering studies or reports, wetland reports, environmental impact assessments, utility and servicing information, and/or the preparation of a conceptual design scheme or an area structure plan may be required from the applicant prior to a decision being rendered on a subdivision application to determine the suitability of the land for the proposed use; and

- (h) the consent to authorize the Subdivision Authority or its designate to carry out a site inspection on the subject land as authorized in accordance with the *MGA* must also be provided on the submitted application form unless determined not to be needed by the Subdivision Authority;
- (2) in accordance with the *MGA*, the Subdivision Authority or those authorized to act on its behalf, shall provide notification to a subdivision applicant within the 20-day prescribed time period, on whether a submitted application is deemed complete, or if it is determined to be deficient what information is required to be submitted by a specified time period, by sending notification in the following manner:
- (a) for an application deemed complete, the applicant shall be notified in writing as part of the formal subdivision application circulation referral letter;
  - (b) for an application determined to be incomplete, written notification shall be given to the applicant which may be in the form of a letter sent by regular mail to the applicant, or sent by electronic means, or both, or by any other method as may be agreed to between the applicant and Subdivision Authority;
  - (c) in respect of sub-section (2)(b) for a subdivision application determined to be incomplete, the applicant will be advised in writing as part of the Notice of Incompleteness what the outstanding or required information items are that must be submitted by the time specified in the notice;
- (3) notwithstanding sub-section (2), the applicant and Subdivision Authority may agree and sign a time extension agreement in writing in accordance with section 653.1(3) of the *MGA* to extend the 20-day decision time period to determine whether the subdivision application and support information submitted is complete;
- (4) a determination made by the Subdivision Authority that an application is complete for processing does not preclude the ability for the Subdivision Authority to request other information or studies to be submitted by the applicant during the review and processing period, prior to a decision being rendered, or as condition of subdivision approval.

### **7.3 INCOMPLETE SUBDIVISION APPLICATIONS**

- (1) The Subdivision Authority may refuse to accept and process a subdivision application where the information required under Section 7.2 and/or as described in a Notification of Incompleteness has not been submitted, is determined to be deficient, is still incomplete, or in the opinion of the Subdivision Authority the quality of the material supplied is inadequate to properly evaluate the application;
- (2) if the Subdivision Authority makes a determination that the application is refused due to incompleteness, the applicant shall be notified in writing with reasons in the manner as described in Section 7.2(2);
- (3) the notification provided for in Section 7.2(2)(b) shall include for the applicant the required information on the filing of an appeal and to which appeal board body the appeal lies, either the local appeal board or provincial Land and Property Rights Tribunal, in accordance with the parameters of the *MGA*.

## **SECTION 8     STATUTORY AND NON-STATUTORY PLANS**

### **8.1     APPLICABILITY**

Where the policies, rules, procedures or standards indicated in a statutory plan varies, supplements, reduces, replaces or qualifies the requirements of this bylaw, the plan shall take precedence. At the discretion of the Development Authority, the preparation of and/or adherence to the contents of a non-statutory plan may be required.

### **8.2     TYPES OF PLANS**

- (1) Statutory plans, as indicated in 616(dd) of the *MGA*, include an:
  - (a) Intermunicipal Development Plan (IDP);
  - (b) Municipal Development Plan (MDP);
  - (c) Area Structure Plan (ASP); and
  - (d) Area Redevelopment Plan (ARP).
- (2) Non-statutory plans are developed in the context of the relevant statutory plans and may consist of any other plan or planning document recognized and/or required by the Development Authority, including but not limited to an:
  - (a) Conceptual Design Scheme; and
  - (b) any other plan or planning document as determined by Council.

### **8.3     PLAN REQUIREMENTS**

Statutory and non-statutory plans shall, as a minimum, provide the information required as per Administration Section 6.2(2), including:

- (1) proposed land use designation(s) and future use(s);
- (2) consistency with applicable statutory plans or rationale for why the proposal may be inconsistent with applicable statutory plans;
- (3) development potential/suitability of the site including identification of any constraints and/or hazards to development;
- (4) availability of infrastructure to service the site including adequate water, sewer, and storm water capacities;
- (5) potential impacts to public roads and options available to address any impacts that would create issues relating to road capacities, levels of service and vehicular/non-vehicular traffic safety;
- (6) conceptual subdivision design, if applicable;
- (7) geotechnical report prepared by an engineer demonstrating soil suitability if deemed necessary by the Development Authority;
- (8) an evaluation of surface drainage which may include adjacent properties if deemed necessary by the Development Authority; and

- (9) feedback regarding the proposed plan from existing adjacent and/or area landowners through the use of public consultation techniques as determined by the Development Authority on a case-by-case basis, including but not limited to the mailing of plan details to adjacent and/or area landowners and the holding of open houses and workshops.
- (10) Any other information deemed necessary by the Development Authority to properly evaluate the application.

#### **AREA STRUCTURE PLANS:**

- (11) If the preparation of an ASP is required as per Administration Section 6.2(3), the developer shall prepare the plan in the context of the MDP, this bylaw, and any other applicable statutory and/or non-statutory plan, and shall ensure the plan meets the requirements of *MGA* Section 633 by including information regarding the:
  - (a) sequence of development proposed for the area;
  - (b) land uses proposed for the area, either generally or with respect to specific parts of the area;
  - (c) density of population proposed for the area either generally or with respect to specific parts of the area;
  - (d) general location of major transportation routes and public utilities; and
  - (e) may contain any other matters Council considers necessary including but not limited to compatibility with surrounding uses and impact on the same.
- (12) The level of detail required for sub-section (11)(a-e) shall be determined by the Development Authority and may take into account a variety of considerations relating to the proposed development site, including the site(s):
  - (a) physical size and location;
  - (b) ability to be serviced;
  - (c) adjacent land uses;
  - (d) access to transportation rights-of-way;
  - (e) scale and complexity; and
  - (f) any other factors deemed relevant by the Development Authority.

#### **NON-STATUTORY PLANS:**

- (13) If the preparation of a Conceptual Design Scheme or any other type of non-statutory plan is required as per Administration Section 6.2(3), the developer shall prepare the plan in the context of the MDP, this bylaw, and any other applicable statutory and/or non-statutory plan;
- (14) in addition to the minimum requirements of a statutory or non-statutory plan as prescribed in sub-section (1-10), non-statutory plans should provide, if applicable, the following information regarding the proposed development:
  - (a) design, orientation and massing of building(s);
  - (b) proposed layout of lots, streets and blocks;

- (c) integration into surrounding development;
- (d) preservation of natural areas such as but not limited to waterbodies and waterways;
- (e) any other matters deemed necessary by the Development Authority.