

## Part 3: Administrative

### **3.1 Establishment and Appointment of the Subdivision Authority**

1. The City's Subdivision Authority is the Manager of Planning and Engineering, with powers and duties set out in the Municipal Government Act, and may delegate in writing any or all of these powers and duties to a designated officer.

### **3.2 Duties with Respect to Subdivision Applications**

1. The Subdivision Officer must not approve an application for subdivision of land unless:
  - a. the land that is proposed to be subdivided is, in the opinion of the subdivision authority, suitable for the purpose that is intended, considering the relevant considerations outlined in the Subdivision and Planning Regulations,
  - b. the proposed subdivision conforms to the provisions of the Intermunicipal Development Plan, the Municipal Development Plan and, if applicable, the Area Structure Plan,
  - c. the proposed subdivision conforms to the lot size and area requirements of the Land Use Bylaw, unless the permitted discretion of the subdivision authority is used,
  - d. the land that is proposed to be subdivided is classified to an appropriate Land Use classification,
  - e. the proposed subdivision conforms to the requirements of Provincial Land Use Policies, the Act, the Subdivision and Development Regulation, and any other relative planning legislation, and
  - f. all outstanding property taxes and local improvements on the land have been paid to the City or arrangements satisfactory to the City have been made pursuant to the Act.

### **3.3 Establishment and Appointment of the Development Authority**

1. The office of the Development Authority is established by City of Wetaskiwin Bylaw 1352-96 and such office shall be filled by a person or persons appointed in writing by the Chief Administrative Officer as a Development Officer.

### **3.4 Duties with Respect to Development Permit Applications**

1. The Development Officer shall receive all applications for development and:
  - a. shall ensure that a record of applications is maintained, and is made available for viewing to any interested person during normal City Hall office hours;
  - b. shall review each development application to ascertain whether it is complete in accordance with the information requirements of this bylaw, and shall, if the application complies with such requirements, enter the application in the record of applications;
  - c. shall review each development application to ascertain its appropriate development class, and may require the applicant to apply for a permit for a different class;
  - d. shall approve, without conditions, or with such conditions as required to ensure compliance, an application for development of a permitted use provided the development complies with the regulations of this bylaw, or shall refuse an application for development of a permitted use if the development does not comply with the regulations of this bylaw, unless the Development Officer uses their discretion pursuant to Section 3.5 of this bylaw;
  - e. may relax a regulation in a Land Use Class District or other Section of this bylaw in accordance with the regulations contained in that Land Use Classification or Section, or may relax regulations in accordance with Section 3.5, and in such case, the development application shall be deemed a Discretionary Use;
  - f. may refuse or approve, with or without conditions, with or without changes in the design of the development, or with or without the imposition of regulations more restrictive than those required by the specific land use district or General Regulations of this bylaw, an application for development of a discretionary use, having regard to the regulations of this bylaw and the provisions of any applicable Statutory Plan;
  - g. shall refer an application for a development in a Direct Control District to City Council for decision whereby City Council may direct the Development Officer to issue a development permit with or without conditions or refuse the application as submitted; and

- h. shall give notice of his decision on applications for development permits as follows:
  - i. where an application has been approved, public notification shall be given in accordance with Part 4, Section 4.6 of this bylaw and notice to the applicant shall be given in writing by hand delivery or by regular mail; and
  - ii. where an application has been refused, notice in writing shall be given to the applicant, either hand delivered or by regular mail, and such notice shall state the reason for refusal; and
  - iii. shall in the case of a development permit for a temporary use specify the length of time that Permit remains in effect.

### **3.5 Variance to Regulations**

- 1. A Development Officer shall not issue a permit for a use that is not listed in the district regulations as permitted uses or discretionary uses of a particular land use district.
- 2. Except as restricted in Sentence 3.5 (1) a Development Officer may approve, with or without conditions, an application for development that does not comply with this bylaw where:
  - a. the proposed development would not, in his opinion:
    - i. unduly interfere with the amenities of the neighbourhood; or
    - ii. materially interfere with or affect the use, enjoyment or value of neighbouring properties.
  - b. the proposed development would, in the Development Officer's opinion, conform with the use prescribed for that land or building in this bylaw; and
  - c. the Development Officer may approve, with or without conditions, an enlargement, alteration or addition to a legal non-conforming building if the non-conforming building complies with the uses prescribed for that land in this bylaw and the proposed development would not, in his opinion:
    - i. unduly interfere with the amenities of the neighbourhood; or
    - ii. materially interfere with or affect the use, enjoyment or value of neighbouring properties.

3. A Subdivision Officer may approve, with or without conditions, an application for subdivision that does not comply with the minimum lot dimensions outlined in the District Regulations Bylaw where:
  - a. the proposed subdivision would not unduly interfere with the amenities of the neighbourhood;
  - b. materially interfere with or affect to use, enjoyment, or value of neighbouring parcels of land; and
  - c. it can be proven by the applicant, to the Subdivision Officer, that the proposed lot can accommodate development of the site.

### **3.6 Limitation of Variance**

1. In approving an application for a development permit pursuant to Section 3.5, the Development Officer and the Subdivision and Development Appeal Board, shall adhere to the following:
  - a. a variance shall be considered only in cases of unnecessary hardship or practical difficulties particular to the use, character, or situation of land or a building, which are not generally common to other land in the same Land Use Classification;
  - b. a variance may be considered to front yard and rear yard setbacks for buildings, provided the variance does not get reduced to less than the setbacks of approved or legal-nonconforming buildings on adjacent properties;
  - c. a variance may be considered to minimum side yard setbacks to allow cantilevered projections of up to 0.3m in floor area and up to 1.5m in width, extending beyond the minimum setback line provided the construction materials and cladding type of the facing wall meets, or exceeds, the appropriate building and fire codes and the opposite on the property side yard is not increased beyond the minimum setback requirement;
  - d. a variance may be considered to maximum building height to allow an increase of up to 10% provided the roof style does not include gable ends facing side yards, the building style is suited to other buildings in the neighbourhood and the minimum sideyard setbacks are increased by the varied distance;
  - e. a variance may be considered to the maximum site coverage for residential properties to allow an increase of up to 3% in the

maximum site coverage to allow the construction of a principal building provided the building does not exceed one storey in building height, there is no more than one (1) accessory building on the site, at least 35% of the site is covered with soft landscaping and provided that no other variances have been granted or are required for the site.

2. In approving an application for a subdivision that does not meet the minimum lot size requirements specified in the Land Use District Regulations, the Subdivision Officer and the Subdivision and Development Appeal Board, shall adhere to the following:
  - a. the proposed variance has been circulated to appropriate City review committees for comments;
  - b. the variance does not exceed 10% of the required regulation;
  - c. the minimum lot area requirement for the subject lot has been met; and
  - d. the lot can handle the minimum building footprint area without reducing setback requirements outlined in Part 9.

### **3.7 Maintenance and Inspection of Bylaw**

1. The Development Officer shall:
  - a. make available to the public, during normal office hours, copies of this bylaw and all subsequent amendments thereto; and
  - b. charge the specified fee for supplying to the public copies of this bylaw.

### **3.8 Development Not Requiring a Development Permit**

1. The following uses and developments are those which do not require a development permit, provided that such developments comply with the regulations of this bylaw, where applicable:
  - a. those uses and developments exempted by Sections 618 or 619 of the Act;
  - b. those uses exempted by the Planning Exemption Regulation;
  - c. ~~a single storey accessory building not greater than 9.3sq.m in floor area, or exceeding 2.5m in building height;~~

- d. interior alterations and maintenance to a residential building, provided that such alterations and maintenance do not result in an increase in the number of dwellings, within the building or on the site, nor in a change of the use class or the introduction of another use class;
- e. interior alterations and maintenance to a non-residential building, including mechanical or electrical work, provided that neither the use class nor the intensity of use class is changed, nor that another use class is added;
- f. the use of a building, or part thereof, as a temporary polling station, Returning Officer's headquarters, candidate's campaign office and any other official temporary use in connection with a federal, provincial or municipal election, referendum or census;
- g. a temporary structure, the sole purpose of which is incidental to the erection, alteration or marketing of a building for which a development permit has been granted under this bylaw, provided the temporary structure is removed within thirty (30) days of substantial completion as determined by the Development Officer;
- h. the erection of towers and poles, television and other communication aerials, masts or towers where:
  - i. such structures comply with the Airport Protection Overlay; and
  - ii. such structures are to be used for cellular telephone or personal communication services signal transmission.
- i. the parking or storage, or both, of any uninhabited recreational and un-serviced vehicle in a residential Land Use Classification, where such parking or storage fully complies with the regulations of this bylaw;
- j. the construction and maintenance of a Public Utility Service development;
- k. landscaping, where the existing grade and natural surface drainage pattern is not materially altered, except where landscaping forms part of a development which requires a development permit;
- l. minor structures not exceeding 2.0m in height which are ancillary to residential uses, such as a barbecue, dog house, lawn sculpture or bird feeder;

- m. ~~the construction of an uncovered deck which is located entirely within a rear yard, and which has a height above finish grade of less than 0.6m and a deck floor area not exceeding 20sq.m and which is accessory to a residential structure;~~
- n. ~~the construction of an uncovered porch which has a height above finish grade of less than 1.0m, and a porch area not exceeding 2.0sq.m in floor area and which is provides access to a residential structure;~~
- o. hardsurfacing of any yard area on a residential lot for the purpose of providing vehicular access from a public roadway to an attached or detached garage or carport provided that the hardsurfacing does not exceed 7.5m in width; and
- p. signs as exempted under Section 7.6 of this bylaw
- q. Intermodal containers less than 6.1 m in length when located in the M1 or M2 districts

### **3.9 Development Permits Required**

1. Other than development listed in Section 3.8, all development requires a development permit.
- ~~2. All development that would require a development permit also requires a demolition permit.~~
3. No person shall commence, or direct a person to commence, a development without first obtaining a development permit and meeting the conditions of the development permit prior to commencement of the development.
4. No person shall commence, or direct a person to proceed with, a change in use class or add a use class without first obtaining a development permit to use land or buildings for that particular use class and meeting the conditions of the development permit that must be completed prior to use of the land or buildings.

### **3.10 Development Agreements Required**

1. If deemed required by the Development Officer, as condition of a development permit, the property owner will be required to enter into and comply with a Development Agreement with the City pursuant to Section 650 of the Act.
2. If deemed required by the Subdivision Officer, as condition of a subdivision approval, the property owner will be required to enter into and comply with a development agreement with the City pursuant to Section 655 of the Act.
3. Development Agreements may also incorporate:
  - a. statements regarding the collection of off-site levies pursuant to Section 648 of the Act; and/or
  - b. statements regarding oversizing of municipal improvements to provide excess capacity pursuant to Section 651 of the Act.
4. The City has the right to register caveats on the Land Title of the subject lands to protect the interests of the City in regards to the development agreements.

### **3.11 Development Permit Fees and Related Development & Subdivision Fees**

1. The schedule of fees for:



- a. Development Permit Applications;
- b. Damage Deposits;
- c. Damage Deposit Transfer Fees;
- d. Grading Compliance Deposits;
- e. Discretionary Use Notification;
- f. Development Agreement Preparation;
- g. Compliance Certificates Applications;
- h. Land Use Bylaw Amendment Applications;
- i. Statutory Plan Amendment Applications;
- j. Subdivision Application and Endorsement;
- k. Encroachment Agreements;
- l. Subdivision and Development Appeals;

shall be established and may be modified by resolution of City Council.

2. Every application for a development permit shall:
  - a. be accompanied by the appropriate development permit application fee and,
  - b. if a discretionary use or use approved using the discretion of the Development Officer the discretionary use notification fee.
3. Where development agreements are required, the Development Agreement Preparation Fee shall be paid upon signing of the agreement.
4. The Development Permit Application Fee is an application fee and is non-refundable regardless of decision.
5. Fees for Compliance Certificate Applications, Land Use Bylaw Amendment Applications, Statutory Plan Amendment Applications and for Encroachment Agreements shall be paid at time of application.

6. Off-site Levies due regarding properties shall be paid to the City prior to commencement of development on the lands, or as outlined in a development agreement.

### **3.12 Development Agreement Authority**

1. Development Agreements pursuant to development permits, may be endorsed by the Chief Administrative Officer provided:
  - a. the developer is solely responsible for all costs related to the installation of Municipal Improvements where the cost does not exceed \$500,000; and
  - b. there are no oversizing costs to be incurred and due by parties other than the developer.
2. All other development agreements pursuant to development permits must be approved by resolution of City Council.
3. Development Agreements regarding Subdivision Approval or Condominium Plan Approval must be endorsed in accordance with the City's Subdivision Agreement Policy.

### **3.13 Bylaw Amendments**

1. A person may apply, in writing, to the Development Officer to have an amendment of this Land Use Bylaw considered, furnishing reasons in support of the application, paying the associated fees and requesting that the Development Officer submit the application to the Council.
2. City Council may, at any time, initiate an amendment to this Land Use Bylaw by directing the Development Officer to initiate an application
3. A Development Officer may initiate an amendment to this Land Use Bylaw by preparing a draft bylaw and presenting the draft to City Council.
4. If an application for a proposed amendment to this Land Use Bylaw has been rejected by the Council within the previous twelve (12) months, the Development Officer shall advise the applicant that the amendment shall not be accepted and applicant shall be advised, in writing, that they must wait at least one (1) year from the time the original bylaw was rejected before reapplication will be considered.
5. All applications for amendment to this Land Use Bylaw shall be accompanied by the following, namely:
  - a. a copy of the certificate of title for the land affected;

- b. a statement of the reason/s for the request to amend the Land Use Bylaw;
- c. an accurately dimensioned and scaled map of the property under application and its relationship to surrounding land uses;
- d. such fee as established by resolution of the Council;
- e. where the applicant is an agent acting on behalf of the owner, written authorization from the registered owner; and
- f. any other information which is deemed to be necessary by the Council.

### **3.14 Validity and Procedures for Amendment**

- 1. This bylaw and any amendment thereto shall be enacted to ensure conformity with all Statutory Plans as adopted and any amendments thereto.
- 2. If it appears to a Development Officer that the proposed amendment does not comply with any Statutory Plan, he shall advise the applicant in writing that the Statutory Plan(s) must be amended before the amendment to this bylaw may proceed to second reading of the amendment
- 3. Before second reading of an amending bylaw, Council must hold a public hearing with respect to the proposed bylaw in accordance with Section 230 of the Act and the City's Public Hearing Policy after giving notice of the Public Hearing in accordance with Section 606 and 692 of the Act.
- 4. The validity of this bylaw and its amendments thereto are governed by Sections 536 to 538 of the Act.
- 5. The amending bylaw must include a statement identifying when the bylaw comes into effect. If the effective date of an amending bylaw regarding the change in Land Use Classification is related to the date of subdivision registration and the subdivision application expires or becomes invalid, then the amending bylaw is also deemed invalid.

### **3.15 Review and Processing of Amendments**

- 1. The Development Officer shall:

- a. examine the proposed amendment;
- b. prepare a written report on the proposed amendment; and
- c. advise the applicant in writing that:
  - d. they are prepared to recommend the amendment to the Council without further investigation; or
  - e. they are not prepared to recommend the amendment; or
  - f. he requires further investigation to make a recommendation; or
  - g. they are prepared to recommend an alternative amendment.
2. Upon receiving the advice of the Development Officer, the applicant shall advise the Development Officer in writing if:
  - a. they wish to amend the amendment; or
  - b. they do not wish to proceed to City Council with the proposed amendment, in which case the application is considered abandoned.
3. If the applicant does not respond to the Development Officer's notification, the application shall be cancelled after one (1) year from the date of the notice of the Development Officer.
4. If requested by the applicant, the Development Officer shall submit the proposed amendment to Council, accompanied by the report of the Development Officer.
5. The Development Officer, using discretion, may present for the consideration of Council any proposed amendment to this bylaw, and the proposed amendment shall be accompanied by the report and recommendations of the Development Officer.

### **3.16 Land Use Bylaw Compliance Certificate and Certificate Fees**

1. The applicant for a Compliance Certificate shall provide to the Development Officer a Real Property Report for the site prepared by a registered Alberta Land Surveyor and pay the associated fee.
2. The applicant shall pay all costs associated with the preparation of the Real Property Report.
3. In determining whether a Compliance Certificate can be issued for a site, the Development Officer shall rely on the Real Property Report provided

by the applicant. The Development Officer shall not undertake independent site inspections.

4. The Development Officer may issue a Compliance Certificate when, in his opinion, the building(s) located on a site, and shown on the Real Property Report, are located in accordance with the setback regulations of this bylaw and the setbacks specified in any development permit, which may have been issued for the site. The Compliance Certificate shall only cover those buildings and structures, or parts thereof, shown on the Real Property Report submitted by the applicant.
5. The Development Officer may refuse to issue a Compliance Certificate when, in their opinion, do not have sufficient information from the applicant to determine if a building(s) located on a site is (are) located in accordance with the yard regulations of this bylaw and/or the yards specified in any development permit which may have been issued for the site.
6. The Development Officer and the City shall not be liable for any damages arising from the use of a compliance certificate containing errors where the errors are the result of incorrect or incomplete information on the Real Property Report.