

PART 2 – ADMINISTRATION, PROCEDURES AND ENFORCEMENT

Administration

2.1 Development Authority

¹2.1.1 The Development Authority is established by Bylaw pursuant to Section 624(1) of the MGA.

²2.1.2 The Development Authority may include one or more of the following:

- (a) ³Designated Officer as designated by the Chief Administrative Officer;
- (b) Variance Review Committee; and/or
- (c) Chief Administrative Officer.

2.1.3 The Development Authority shall exercise development power and duties on behalf of the City.

2.1.4 Except as otherwise specified in this Bylaw, the Subdivision and Development Appeal Board shall perform such duties as are specified in this Bylaw, in the Subdivision and Development Appeal Board Bylaw and in the MGA.

2.2 General Interpretation

2.2.1 Any enactment referred to in this Bylaw refers to an enactment of the MGA, or the *Alberta Safety Codes Act*, as amended, revised, consolidated or replaced from time to time. Any Bylaw referred to in this Bylaw refers to an enactment of Council, as amended, revised, consolidated or replaced from time to time.

2.3 Rules of Interpretation

2.3.1 Compliance with the provisions of this Bylaw shall be interpreted and applied as follows:

- (a) The word 'SHALL' means the provision is mandatory and therefore must be complied with, without discretion, except where a variance has been granted pursuant to the MGA or this Bylaw;
- (b) The word 'SHOULD' provides direction to strive toward the specified action, but is not mandatory. When the provision is directed to the developer, the onus is on the applicant to justify why the desired action or result is not proposed and/or will not be achieved;

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- (c) The word 'ENCOURAGE' means to promote or support;
- (d) The word 'MAY' is a discretionary term, providing notification that the provision in question can be enforced if the City or the Development Authority chooses to do so, and is usually dependent on the particular circumstances of the specific development, parcel and application;
- (e) A 'PERMITTED USE' means the one or more uses of land or buildings that are permitted in a particular Land Use District, with or without conditions that may be applied upon approval of the proposed use or development. All permitted uses require the issuance of a Development Permit, unless identified as not requiring a Development Permit in Section 3.2;
- (f) A 'DISCRETIONARY USE' means the one or more uses of land or buildings that may be permitted in a particular Land Use District at the discretion of the Development Authority, with or without conditions. All discretionary uses require the issuance of a Development Permit, unless identified as not requiring a Development Permit in Section 3.2;
- (g) The word 'EXEMPT' means development that does not require a Development Permit if it meets all requirements of this Bylaw;
- (h) Words used in the present tense also include the other tenses;
- (i) Words used in the singular also include the plural;
- (j) Words used in the masculine gender also include the feminine gender and the neuter;
- (k) The words 'use', 'used', 'occupy' or 'occupied', when applied to any land or building, include anything done to or arranged, designed or intended for the land or building;
- (l) Where a regulation includes two or more conditions, provisions or events connected by a conjunction, the following shall apply:
 - i. 'And' means all the connected items shall apply in combination;
 - ii. 'Or' means that the connected items may apply singly or in combination;
and
 - iii. 'Either-or' means the items shall apply singly but not in combination.

- (m) ¹Metric values used in this Bylaw shall take precedence over all Imperial measures. Imperial measures, shown in brackets, may be approximate and are for convenience only;
- (n) In the case of any conflict between a number written in numerals and a number written in letters, the number written in numbers shall prevail; and/or
- (o) In the case of any conflict between the text of this Bylaw and any maps or drawings used to illustrate any aspect of this Bylaw, the text shall prevail.

2.4 Establishment of Land Use Districts

- ²2.4.1 Land Use Districts and the associated District provisions are established for the City in accordance with Parts 5 through 9, and 13 of this Bylaw.
- 2.4.3 Provisions in Part 4 – General Regulations for all Land Use Districts, Part 11 – Parking and Loading and Part 12 – Signs, comprising all general and specific development regulations, shall also govern any permitted or discretionary use in any Land Use District.

2.5 Establishment of Overlays

- 2.5.1 Overlays in Part 10 provide a means to alter or specify provisions for permitted and discretionary uses in otherwise appropriate Land Use Districts in order to achieve local planning objectives in specially designated areas throughout the City or as provided in the City's Statutory Plans.
- 2.5.2 Overlays shall only be applied where specified in this Bylaw or through an amendment to this Bylaw, which shall include:
 - (a) The name of any applicable Statutory Plan and its boundaries;
 - (b) A map of the location or neighbourhood affected by the Overlay at an appropriate scale, which may indicate the designation, location and boundaries of each underlying Land Use District; and
 - (c) Every regulation specified or changed by the Overlay.
- ³2.5.3 An Overlay may be used to alter development regulations pertaining to permitted or discretionary uses.
- 2.5.4 An Overlay shall not be used:

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- (a) In conjunction with a Direct Control District or provision;
- (b) Where the proposed regulations or changes to the regulations of an underlying Land Use District:
 - i. Are significant enough to be inconsistent with the general purpose of the Land Use District and the designation of another Land Use District would be more appropriate;
 - ii. Are not merely related to local planning objectives but would have sufficient general application to warrant an amendment to the text of the underlying Land Use District itself; or
 - iii. Are intended to provide such detailed or site specific discretionary control over the design and siting of development that the use of a Direct Control District would be more appropriate.
- (c) To alter the following Parts and Sections of this Bylaw:
 - i. Part 1 – Title, Purpose and Jurisdiction;
 - ii. Part 2 – Administration, Procedures and Enforcement;
 - iii. Part 3 – Development Applications and Process, except that Section 3.4 Requirements for a Development Permit Application and Section 3.5 Notification and Community Consultation for Proposed Development may be altered to the satisfaction of the Development Authority to address specific features of proposed developments;
 - iv. ¹Part 14 – Definitions; and
 - v. Appendix A: Land Use Map.

2.5.5 The permitted uses specified in the underlying Land Use District are permitted and the discretionary uses specified in the underlying Land Use District are discretionary, subject to the regulations concerning land use as specified in the Overlay.

2.5.6 The regulations provided in an Overlay shall be substituted for the specified regulations of the underlying Land Use District. Where there is a conflict between the provisions of the Overlay and those of the underlying Land Use District, the provisions of the Overlay shall prevail.

2.5.7 An Overlay may change or specify regulations and application requirements, and may specify the conditions under which such changed or specified regulations would apply.

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2.6 Land Use Map Boundaries

2.6.1 The Land Use District and Overlay boundaries on the Land Use Map (Appendix A: Land Use Map) shall be interpreted as follows:

- (a) Where a boundary is shown as following a public roadway, railway, pipeline, power line or utility right-of-way or easement, it shall be deemed to follow the centre line unless otherwise indicated;
- (b) Where a boundary is shown as approximately following the City boundary, it shall be deemed to follow the City boundary;
- (c) Where a boundary is shown as approximately following the edge or shoreline of any river, lake, creek or other water body, it shall be deemed to follow the edge or shoreline. In the event of a change in the location of the edge or shoreline, the boundary shall move with it;
- (d) Where a boundary is shown as approximately following a parcel line or a site line, it shall be deemed to follow the parcel line or site line;
- (e) Where Land Use Districts have been established in accordance with a proposed subdivision of land, the Land Use District shall be understood to conform to the Certificate of Title or the Plan of Survey when registered in the Alberta Land Titles Office. Upon registration, the Land Use District boundary shall be adjusted in accordance with the Plan of Survey or descriptive plan;
- (f) When abutting lands are governed by different Land Use Districts, the centre of a roadway shall be the Land Use District boundary, unless the Land Use District boundary is shown clearly following the edge of the roadway;
- (g) Where a boundary is shown as approximately following a topographic contour line or a top of bank line, it shall be deemed to follow such line and in the event of a change in the topographic contour or top of bank line, the boundary shall be deemed as moving with it;
- (h) ¹Where features on the ground area are at variance with those shown on the Land Use Map (Appendix A: Land Use Map) or in other circumstances not mentioned above, the Development Authority shall interpret the Land Use District or Overlay boundary; and/or
- (i) For circumstances not covered above, the location of the boundary shall be determined by the Development Authority by any dimensions set out in this Bylaw and by measurement of the Land Use Map (Appendix A: Land Use Map).

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- 2.6.2 Where the application of the interpretations above does not determine the exact location of a boundary and when the undetermined boundary in effect divides or splits a registered parcel of Land, the Development Authority shall determine the exact location of a boundary in doubt or in dispute in a manner consistent with the provisions of this Bylaw and to the degree of detail as to measurements and directions as the circumstance requires.
- 2.6.3 After the Development Authority has determined the exact location of a boundary, the location of that portion of the boundary shall not be altered, except by an amendment to this Bylaw.

2.7 Public Roadway Boundaries

- 2.7.1 Notwithstanding any other provision in this Bylaw, no Land Use District shall be deemed to apply to any public roadway and any public roadway may be designed, constructed, widened, altered redesigned and maintained in such a manner as may be determined by the City.
- 2.7.2 When a public roadway loses its designation through a Road Closure Bylaw, the roadway lands shall have the same Land Use Designation as the most restrictive Land Use District applicable to abutting lands, except when, immediately following the road closure the closed roadway is consolidate with an adjoining parcel, in which case the adjoining parcel's Land Use Designation shall apply to the affected portions of the closed public roadway.

Procedures

2.8 Bylaw Amendment Applications

- 2.8.1 Any amendment may be made to this Bylaw pursuant to the MGA.
- 2.8.2 Any person may apply to amend this Bylaw by making an application for a redesignation or a textual amendment and submitting it to the Development Authority for processing and referral to Council.
- 2.8.3 Council may, on its own initiative and in accordance with the MGA, initiate an amendment to this Bylaw affecting any parcel of Land without the property owner's consent.
- 2.8.4 Application for a Land Use Bylaw Amendment shall be made to the Development Authority on the prescribed form which shall be signed by the applicant or the applicant's agent, authorized in writing. The correctness of the information supplied on an application shall, when required by the Development Authority, be verified by a Statutory Declaration.

- 2.8.5 The following information and documentation shall be submitted with the application and appropriate fees:
- (a) A statement of the reason for the request to amend the Bylaw;
 - (b) If the application involves the redistricting of land to a different Land Use District:
 - i. A copy of the Certificate of Title for the lands affected, or any other documentation satisfactory to the Development Authority, verifying that the applicant has a legal interest in the land; and
 - ii. A properly dimensioned map indicating the affected property and its relationship to existing land uses on adjacent properties.
- 2.8.6 In addition to the information required in Subsection 2.8.5 above, the Development Authority may require other information to properly evaluate the application, including but not limited to:
- (a) In the case of a redistricting, conceptual drawings of the proposed development, including a site plan and elevation drawings of the proposed development;
 - (b) A statement describing how the Municipal Development Plan or any other applicable Statutory Plan or non-Statutory Plan affecting the application and this Bylaw have been considered; and
 - (c) Any technical studies as may be required by the Development Authority as well as an Outline Plan, Neighbourhood Design Concept and/or design forum where considered necessary.
- 2.8.7 Fees payable for Bylaw Amendment applications shall be established in the City of Fort Saskatchewan Fees and Charges Bylaw.

2.9 Bylaw Amendment Review

- 2.9.1 Upon receipt of an amendment application, the Development Authority;
- (a) May refer the application to any City Department or external agency for review and comment; and
 - (b) Shall refer the application to Council for consideration for first reading.
- 2.9.2 The Development Authority or Council may require, prior to considering a proposed amendment to this Bylaw, that a land owner prepare an Area Structure Plan or Area Redevelopment Plan in accordance with the MGA or an Outline Plan in accordance with the Municipal Development Plan. These plans, when required, shall address all those

issues considered necessary for the proper consideration of a development within the area covered by the applicable Plan.

- ¹2.9.3 Council may, after due consideration of an application, give first reading to the proposed Bylaw Amendment. Once first reading is given, the Development Authority shall set a date for a public hearing to be held prior to second reading.
- 2.9.4 Proposed Bylaw Amendments shall be advertised and brought to public hearing as established by Sections 230, 606 and 692 of the MGA, as amended.
- 2.9.5 Council may, after considering any presentations made at the public hearing, and considering any Intermunicipal Development Plan, Municipal Development Plan, Area Structure Plan, Area Redevelopment Plan or Outline Plan affecting the application and the provisions of this Bylaw, as well as any other relevant information or documents before Council:
- (a) Approve the proposed Bylaw Amendment as submitted;
 - (b) Make any changes it considers necessary to the proposed Bylaw Amendment and then approve it or refuse it during consideration for second and third reading;
 - (c) Defer the proposed Bylaw Amendment for more information or further review and change, and then reschedule the application for further consideration; and
 - (d) In the case of a Direct Control Bylaw Amendment, defer further readings of a proposed Bylaw Amendment pending a Development Permit application.
- 2.9.6 If Council refuses an application for a Bylaw Amendment, the City may not accept another application on the same land for the same or similar purpose for six months after the initial date of refusal.

2.10 Applications in Progress

- ²³2.10.1 An application for a Subdivision or Development Permit which is deemed complete on or after the coming into force of the Bylaw shall be evaluated under the provisions of this Bylaw.
- ⁴⁵2.10.2 An application for a Subdivision or Development Permit which is deemed complete prior to the coming into force of this Bylaw may be evaluated under the provisions of the preceding Bylaw.

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2.10.3 An application for redistricting (whether or not deemed complete) that has not been given third reading by Council prior to the coming into force of this Bylaw shall be considered by Council pursuant to this Bylaw and any other relevant planning consideration.

2.11 Lawfully Non-Conforming Buildings and Uses

2.11.1 If a Development Permit has been issued on or before the effective date of this Bylaw or an amendment hereto, and the Bylaw would make the development for which the Development Permit was issued a non-conforming use or non-conforming building, the Development Permit shall continue in effect in spite of the Bylaw or amendment coming into force.

2.11.2 A non-conforming use of land or a building may be continued, but if it is discontinued for a period of six consecutive months or more, any future use of the land or building shall conform to this Bylaw.

2.11.3 A non-conforming building may continue to be used, but shall not be enlarged, added to, rebuilt or structurally altered except:

- (a) To make it a conforming building;
- (b) For routine maintenance of the building; or
- (c) In those instances where the Development Authority approves minor variances to allow such alteration.

2.11.4 A non-conforming use of part of a parcel shall not be extended or transferred in whole or in part to any other part of the parcel and no additional buildings shall be constructed on the parcel while the non-conforming use continues.

2.11.5 If a non-conforming building is damaged or destroyed to the extent of more than 75% of the value of the building above its foundation, the building shall not be repaired or rebuilt except in accordance with this Bylaw.

2.11.6 The conformity of a land use or the use of a building shall not be affected by a change in ownership or tenancy of the land or building.

¹2.11.7 Notwithstanding subsection 2.11.3, the Development Authority may approve as a discretionary use in any district, an enlargement, alteration or addition to a legal non-conforming building if the non-conforming building complies with the uses prescribed for that district in this Bylaw and the proposed development would not, in the opinion of the Development Authority:

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- (a) unduly interfere with the amenities of the neighbourhood; or
- (b) materially interfere with or affect the use, enjoyment or value of neighbouring properties.

2.12 Bylaw Enforcement

2.12.1 As per Section 542(1) of the MGA, if this bylaw authorizes or requires anything to be inspected, remedied, enforced or done by the City, a designated officer of the City may, after giving reasonable notice to the owner or occupier of land or the structure to be entered to carry out the inspection, remedy, enforcement or action,

- (a) Enter on that land or structure at any reasonable time, and carry out the inspection, enforcement or action authorized or required by this bylaw;
- (b) Request anything to be produced to assist in the inspection, remedy, enforcement or action; and
- (c) Make copies of anything related to the inspection, remedy, enforcement or action.

2.12.2 The designated officer shall display or produce on request identification showing that the person is authorized to make the entry.

2.12.3 In an emergency, including a situation in which there is imminent danger to the public safety or serious harm to property, or in extraordinary circumstances, the designated officer need not give reasonable notice or enter at a reasonable hour and may do the things in subsection (1)(a) and (c) without the consent of the owner or occupant.

2.12.4 A person is guilty of an offence when allowing or commencing any development:

- (a) That contravenes or does not comply with the provisions of this Bylaw;
- (b) That requires a Development Permit which has not been issued;
- (c) That is contrary to a Development Permit that has been issued, or a subdivision approval that has been given or a condition of a Permit or approval; and
- (d) That contravenes a Stop Order.

2.13 Stop Order

2.13.1 If the Development Authority finds that a development, land use or use of a building or structure is not in accordance with the MGA, this Bylaw, a Development Permit or subdivision approval, the Development Authority may issue a Stop Order pursuant to Section 645 of the MGA to the owner, the person in possession of the land or building,

or other person responsible for the contravention, or any or all of them, requiring them within the time set out in the Stop Order to:

- (a) Stop the development or use of the land, building or structure in whole or in part as directed by the Stop Order;
- (b) Demolish, remove or replace the development; or
- (c) Carry out any other actions required by the Stop Order so that the development or use of the land, building or structure complies with the MGA or regulations, this Bylaw, a Development Permit, or a subdivision approval.

2.13.2 If a person fails or refuses to comply with a Stop Order, the City may, in accordance with the MGA, enter upon the land or into the building and take such action as is necessary to carry out the Order.

2.13.3 The City may register a caveat with respect to a Stop Order in the Alberta Land Titles Office.

2.13.4 The City may obtain an injunction from an Alberta Court to enforce this Bylaw.

2.13.5 If the City takes action to carry out a Stop Order, the City may seek a Council resolution to cause the costs and expenses incurred in doing so to be placed on the tax roll of the respective property.

2.13.6 After reasonable notice to the owner or occupant of land or a building or structure in accordance with Section 542 of the MGA, a Designated Officer of the City or his delegate may enter the property at reasonable times to ascertain if the requirements of this Bylaw are being met.

2.14 Violation Tags

2.14.1 A Municipal Enforcement Officer is hereby authorized and empowered to issue a violation tag to any person who the Municipal Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.

2.14.2 A violation tag may be issued to such person:

- (a) Either personally; or
- (b) By mailing a copy to such person at his last known post office address.

2.14.3 A violation tag in the prescribed form shall state:

- (a) The name of the person to whom the tag is issued;
- (b) The offence;

- (c) The specified penalty established by the City of Fort Saskatchewan Fees and Charges Bylaw for this offence;
- (d) That the penalty shall be paid within 30 days of the issuance of the violation tag; and
- (e) Any other information as may be required by the City Manager.

2.14.4 Where a violation tag is issued pursuant to this Bylaw, the person to whom the tag is issued may, in lieu of being prosecuted for the offence, pay to the City the penalty specified in the tag within the time period indicated on the tag.

2.15 Violation Tickets

2.15.1 If a violation tag has been issued and if the specified penalty has not been paid within the prescribed time, then a Municipal Enforcement Officer is hereby authorized and empowered to issue a violation ticket pursuant to *the Provincial Offences Procedures Act*.

2.15.2 Notwithstanding Section 2.16 Voluntary Payment, a Municipal Enforcement Officer is hereby authorized and empowered to immediately issue a violation ticket pursuant to the *Provincial Offences Procedures Act* to any person who the Municipal Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.

2.15.3 If a violation ticket is issued in respect of an offence, the violation ticket may:

- (a) Specify the fine amount established by the City of Fort Saskatchewan's Fees and Charges Bylaw, as amended, revised, consolidated or replaced from time to time for the offence; or
- (b) Require a person to appear in Court without the alternative of making a voluntary payment.

2.16 Voluntary Payment

2.16.1 A person who commits an offence may;

- (a) If a violation ticket is issued in respect of the offence; and
- (b) if the violation ticket specifies the fine amount established by the City of Fort Saskatchewan Fees and Charges Bylaw for the offence;

make a voluntary payment by submitting to a Clerk of the Provincial Court, on or before the initial appearance date indicated on the violation ticket, the specified fine set out on the violation ticket.

2.17 Obstruction

2.17.1 A person shall not obstruct or hinder any person in the exercise or performance of the person's power pursuant to this Bylaw.

¹2.18 Compliance Certificates

2.18.1 The registered owner, or a person with a legal or equitable interest in a site, may apply to the Development Authority for a Compliance Certificate.

²2.18.2 The applicant for a Compliance Certificate shall submit no less than two original Real Property Reports, stamped and signed by a registered Alberta Land Surveyor, for the site; and a copy of a Certificate of Title, no more than 90 days old.

2.18.3 The Development Authority may issue a Compliance Certificate when, in the opinion of the Development Authority, the buildings as shown on the Real Property Report provided by the applicant are located on the site in accordance with the regulations of this Bylaw or the yard or building setbacks specified in any development permit which may have been issued; and the Development Authority is satisfied the use of the land is in accordance with the Land Use Bylaw.

2.18.4 The Compliance Certificate shall only cover those buildings, or parts thereof, shown on the Real Property Report as provided by the applicant.

2.18.5 The Development Authority may refuse to issue a Compliance Certificate when, in the opinion of the Development Authority, there is insufficient information from the applicant to determine if buildings as shown are located in accordance with the yard and building setback regulations of this Bylaw or the yard or building setbacks specified in any development permit which may have been issued for the site.

2.18.6 A Compliance Certificate is not a development permit.

2.18.7 The Development Authority may refuse to process an application for a Compliance Certificate if, in the opinion of the Development Authority, processing the Compliance Certificate application may negatively affect the interests of the City. Should the Development Authority not process an application for Compliance Certificate, all fees shall be returned to the applicant.

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