

# SECTION TWO

# Development Process

# 2

*This section outlines requirements, procedures and responsibilities related to the Town’s Development Permit Process.*

## Requirements

### 2.1 CONTROL OF DEVELOPMENT

- a) Except as provided in ‘Development Not Requiring a Development Permit’ (s.2.2), no person shall commence any development unless a Development Permit has been issued.
- b) All development shall proceed in accordance with the terms and conditions of the Development Permit.

### 2.2 DEVELOPMENT NOT REQUIRING A DEVELOPMENT PERMIT

A Development Permit is not required for the following development, provided it complies with all applicable provisions of the Bylaw, and does not require a Variance:

**Table 2 – Development Not Requiring a Development Permit**

Development	Permit Not Required
Accessory Building/Structure	The placement or construction of a single Accessory Building/Structure with a footprint less than 10.25 m <sup>2</sup> and a maximum height less than 3.05 m.
Uncovered Deck	Where the walking surface is less than 0.3 metres in height.
Decorations	Seasonal or holiday decorations.
Driveways	So long as it does not impact existing grades and does not exceed the width of a garage or carport at the end of the driveway.
Fences and Gates	Less than 2.0 metre in height in a rear or side yard and/or 1.0 metre in a front yard.
Poles	Less than 4.5 metres in height.
Government Services	The installation, maintenance of and repair of public works, roads, highways, facilities and/or utilities carried out by or on behalf of federal, provincial, or local authorities.
Home-Based Office	In compliance with Section 4.7.
Landscaping	Where the proposed grades will not adversely affect the subject or an adjacent parcel.

Development	Permit Not Required
Maintenance	Routine maintenance to any building or structure, provided that such work: a) complies with the requirements of the Alberta Building Code, b) does not constitute structural alterations, and c) does not change the use or intensity of the use of the building or structure.
Occupancy within a Shopping Centre	The occupancy of a Permitted Use of a vacant space within an existing and approved Shopping Centre.
Oil/Gas Development	Pursuant to Section 618 of the Act, the installation of a well or battery within the meaning of the <i>Oil and Gas Conservation Act</i> , a pipeline or installation of a structure incidental to the operation of a pipeline.
Outdoor Fire Pit	The construction or installation of a fire pit, that complies with 'Drayton Valley/Brazeau Fire Services Bylaw 2013/08/P', as amended.
Retaining walls	Less than 1.0 metres in height. If a fence is placed on top of a retaining wall, the height of the retaining wall factors into the total height of the fence.
Satellite Dishes	Less than 1.0 metres in diameter directly attached to a roof, side wall or Balcony.
Signs	As specified 'Signs Not Requiring a Development Permit' (s.3.49).
Solar Panels (Roof Top)	In compliance with the Alberta Building Code and Section 4.14.
Temporary Accommodation	The occupation of a motor home, travel trailer, or recreational vehicle on private property for a period of less than five days.
Temporary building	The sole purpose of which is incidental to the erection or alteration of a building, for which a Development Permit has been issued under this bylaw.

## 2.3 NON-CONFORMING BUILDINGS AND USES

- a) Development rendered legally non-conforming as a result of the passage of this Bylaw shall be permitted to remain in accordance with the provisions of the MGA,
- b) A non-conforming use of land or a non-conforming use of a building may be continued but if that use is discontinued for a period of six (6) consecutive months or more, any future use of the land or building shall conform with the provisions of the Land Use Bylaw then in effect,
- c) 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 shall not be repaired or rebuilt except in accordance with the Bylaw,
- d) The use of land or the use of a building is not affected by reason only of a change of ownership, tenancy, or occupancy of the land or building,
- e) The Development Authority may issue a Variance permitting a non-conforming building to be enlarged, added-to or rebuilt where:
  - i. The proposed development is consistent with the purpose and intent of the applicable Land Use District,
  - ii. The proposed development will not result in any additional non-compliance with the requirements of this Bylaw, and
  - iii. There is, in the opinion of the Development Authority, no significant change to the land use or an increase in the intensity of use, and
- f) The Development Authority may consider a Variance under Section 2.3(e) in any District if the non-conforming use complies with the uses authorized in the applicable District and it complies with the Variance criteria for a permitted or discretionary use as set out in in this Bylaw.

## 2.4 DEVELOPMENT PERMIT APPLICATIONS

A Development Permit application shall be made using the appropriate application form available at the Town office and on the Town’s website and shall include the following:

- a) An application fee as set within the “Fee Schedule, as amended,
- b) Current copy of the Certificate of Title (within 30 days of submission) for the affected lands,
- c) Current copies of any restrictive covenants or easements (within 30 days of submission),
- d) A copy of the Site Plan showing:
  - i. legal description of the site with north arrow and scale,
  - ii. site area and dimensions of the front, rear and side yards if any,
  - iii. site drainage including any watercourses, finished lot grades, road grades and slopes greater than 15%,
  - iv. locations and distances of on-site existing or proposed water and sewer connections, septic tanks (including drainage area), disposal fields, water wells, culverts and crossings,
  - v. existing and proposed access and egress to and from the site,
  - vi. where applicable, the identification of trees to be cut down or removed,
  - vii. the height, dimensions and setbacks of all existing and proposed buildings and structures,
  - viii. any rights-of-way and setbacks, and
- e) When required by the Development Authority:
  - i. building floor plans, elevation drawings and a description of exterior finishing materials,
  - ii. a Fire Safety Plan in accordance with the *Alberta Fire Code*,
  - iii. a real property report drawn by an Alberta Land Surveyor, if there is any doubt as to the boundaries of the parcel,
  - iv. engineering and other reports to prove the safety and suitability of the site for the purpose intended, including a declaration that the site is free from contamination,
  - v. a Traffic Impact Assessment, and
  - vi. Any supporting studies, plans or other information deemed necessary, and
- f) Any other additional information required for a Specific Use or Activity, as outlined in **Section 4 – Specific Uses and Activities**.

# Receive and Review

## 2.5 RECEIVED APPLICATIONS

A Development Permit application shall not be deemed to have been received by the Town until such time as the ‘Development Permit Applications’ (s.2.4) requirements have been met to the satisfaction of the Development Authority.

## 2.6 DETERMINATION OF COMPLETENESS

- a) The Development Authority shall determine the completeness of a received application within twenty (20) days of receipt,

- b) In reviewing an application for completeness, the Development Authority may:
  - i. Determine that the application is complete and provide an 'Acknowledgment of Completeness' to the applicant, or
  - ii. Determine that the application is incomplete and provide a 'Notice of Incompleteness' to request outstanding information from the applicant, along with a time period within which the outstanding information is required, and
- c) An 'Acknowledgement of Completeness' or 'Notice of Incompleteness' shall be provided to the applicant via email.

## **2.7 REVIEW PERIOD**

- a) The Development Authority must make a decision on a Development Permit Application within forty (40) days,
- b) The review period commences once the 'Acknowledgement of Completeness' is provided to the applicant, and
- c) Notwithstanding a), time to make a decision on a Development Permit Application may be extended within a written 'Time Extension Agreement' (s.2.8).

## **2.8 TIME EXTENSION AGREEMENT**

- a) The Development Authority may request up to a three (3) month extension of the review period of a Development Permit application from the applicant,
- b) The Development Authority may grant up to a three (3) month extension of the review period of a Development Permit Application at the request of the applicant, and
- c) A 'Time Extension Agreements' shall be agreed to by both parties in writing.

## **2.9 REVIEWING DEVELOPMENT PERMIT APPLICATIONS**

- a) In reviewing a Development Permit Application the Development Authority shall have regard to:
  - i. The purpose and intent of the applicable District,
  - ii. The purpose and intent of any applicable Statutory Plan adopted by the Town,
  - iii. The purpose and intent of any other plan and pertinent policy adopted by the Town, and
  - iv. The circumstances and merits of the application, and
- b) Notwithstanding the provisions of the Bylaw, the Development Authority may impose more stringent development regulations or standards on a Development Permit for a Discretionary Use in order to ensure that the Development is compatible with and complementary to surrounding land use and other planning considerations.

## 2.10 PUBLIC CONSULTATION REQUIREMENTS

The Development Authority shall provide the following notice(s) of a Development Permit Application:

**Table 3 – Public Consultation Requirements**

Approval of a:	Type of Public Consultation Required				
	Notice sent to surrounding landowners prior to decision	Notice published on Town website prior to decision	MPC meeting required	Notice sent to surrounding landowners after decision	Notice published on Town website after decision
Permitted Use	No	No	No	No	No
Permitted Use w. Variance < 10%	No	No	No	No	No
Permitted Use w. Variance 10% - 30%	Yes	Yes	No	Yes	Yes
Permitted Use w. Variance 31% +	Yes	Yes	Yes	Yes	Yes
Discretionary Use	Yes	Yes	Yes	Yes	Yes
Discretionary Use w. Variance < 10%	Yes	Yes	Yes	Yes	Yes
Discretionary Use w. Variance 10% - 30%	Yes	Yes	Yes	Yes	Yes
Discretionary Use w. Variance 31% +	Yes	Yes	Yes	Yes	Yes

## Decisions

### 2.11 DECISIONS ON DEVELOPMENT PERMIT APPLICATIONS

The Development Authority, in making a decision on a Development Permit Application for:

#### A Permitted Use

- i. Shall approve the application for a Permitted Use, with or without conditions, if the proposed development conforms with the Bylaw, or
- ii. May approve the application for a Permitted Use, with or without conditions, if the proposed development does not conform with the Bylaw, subject to the approval of any required Variances,

#### Discretionary Use:

- iii. May approve the application for a Discretionary Use, with or without conditions, if the proposed development conforms with the Bylaw,
- iv. May approve the application for a Discretionary Use, with or without conditions, if the proposed development does not conform with the Bylaw, subject to the approval of any required Variances, or
- v. May refuse the application for a Discretionary Use even though it meets the requirements of the Bylaw, and

#### A Discretionary Use in a Direct Control District:

- vi. May consider and approve the application for a discretionary use in a Direct Control District providing it meets the direction set out by Council, where Council has delegated the decision to the Development Authority.

## 2.12 NOTICE OF DECISION

### Notice to Applicant:

- a) All decisions on Development Permit applications shall be given in writing to the applicant the same day the decision is made,
- b) If the Development Permit application is refused, or conditionally approved, the 'Notice of Decision' shall contain the conditions imposed or the reasons for the refusal or as part of the approval,

### Public Notice:

- c) Approved Development Permit applications, except for permitted uses and permitted uses with a variance of less than 10%, shall be posted on the Town's website. This notice shall include:
  - i. The location and use of the Parcel,
  - ii. The date the Development Permit was issued, and
  - iii. Notice that an appeal may be made by a person affected by the decision by serving written notice of the appeal to the SDAB within twenty-one (21) days of the date of the decision on the application or the date of the deemed refusal.

## 2.13 APPROVAL OF A SIMILAR USE

- a) The Development Authority may approve a Development Permit, with or without conditions, for a use that is neither Permitted nor Discretionary in the District in which the development is to be located, provided that:
  - i. The proposed use is a similar use,
  - ii. The proposed use is not defined elsewhere in this Bylaw, and
  - iii. All public notices of the Development Permit approval specifically reference that the use was approved as a similar use.

## 2.14 VARIANCES

- a) Unless a specific provision of this Bylaw provides otherwise, the Development Authority may issue a Variance as a condition of a Development Permit,
- b) Variances may be issued where:
  - i. The proposed development, with Variance, would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring properties, and
  - ii. The need for the Variance is specific to the parcel, building or sign to which it applies, not shared by a significant number of other properties in Town, or
  - iii. The Variance is a result of an error that is minor in nature in the siting of a building or structure for which a Development Permit has been approved, and the rectifying of the error would create unnecessary hardship to the registered owner, or
  - iv. The Variance is deemed by the Development Authority to be preferable to complying with the Bylaw, and
- c) Applicants requesting a variance shall provide a supporting rationale in support of the variance,
- d) In the event that a Variance is granted, the Development Authority shall specify the nature of the approved Variance in the Development Permit approval.

## 2.15 DEEMED REFUSALS

An application for a Development Permit shall be deemed to be refused in the following circumstances:

- a) Outstanding information requested as part of the 'Determination of Completeness' (s.2.6) is not submitted by the Applicant within the time period identified by the Development Authority, or
- b) The Development Authority does not make a decision on a Development Permit within the 40 day 'Review Period' (s.2.7), or
- c) The Development Authority does not make a decision on a Development Permit within the alternative review period stated within a written 'Time Extension Agreement' (s.2.8).

## 2.16 EFFECTIVE DATE

- a) A Development Permit for a Permitted Use where no Variance has been approved comes into effect on the date the Permit was issued.
- b) Barring an appeal to the SDAB, a Development Permit for a Discretionary Use or where a Variance has been approved, does not come into effect until twenty-one (21) days from the date on which public notice was issued.

## 2.17 DEVELOPMENT PERMIT EXTENSIONS

- a) The Development Authority may grant one (1) twelve (12) month time extensions on any approved Development Permit, and
- b) Time extensions are not permitted on approvals from the SDAB.

# Conditions

## 2.18 CONTINUATION OF CONTROLS

A condition attached to a development permit issued under a former Land Use Bylaw continues under this Bylaw.

## 2.19 CONDITIONS ATTACHED TO DEVELOPMENT PERMITS

- a) The Development Authority, in imposing conditions on a Development Permit may:
  - i. For a Permitted Use, impose conditions only to ensure compliance with this Bylaw, or
  - ii. For a Discretionary Use, impose conditions as deemed appropriate, so long as they serve a legitimate planning objective and do not sub-delegate the Development Authority's discretionary powers.
- b) Conditions may include that the applicant:
  - i. pay an off-site levy or redevelopment levy imposed by bylaw,
  - ii. register an Encroachment Agreement,
  - iii. enter into a Development Agreement,
  - iv. fence a site during construction,
  - v. repair municipal improvements that may be damaged as a result of the development,
  - vi. grade, landscape or pave a parcel,
  - vii. register a restrictive covenant concerning architectural controls and/or landscaping, and/or
  - viii. enter into an agreement to remediate the site when the use comes to an end.

- c) In addition to the foregoing, conditions may include but are not limited to any conditions that the Development Authority may deem appropriate to ensure compatibility with neighbouring development, including:
  - i. limiting hours of operation, and/or
  - ii. requiring the mitigation of noise or other nuisances.

## **2.20 ENCROACHMENT AGREEMENTS**

If an applicant applies for a Development Permit for a building or structure that encroaches on property owned or controlled by the Town, the Development Authority may as a condition of approval require the applicant to enter into an Encroachment Agreement with the Town.

## **2.21 DEVELOPMENT AGREEMENTS**

As a condition of approval, the Development Authority may require the applicant to enter into a 'Development Agreement' with the Town, in accordance with the provisions of the MGA, and may require the applicant to:

- a) Construct, install or pay for any improvements and utilities that are needed to serve the development or provide access to it, or
- b) Pay a Security or Levy an Offsite Levy or redevelopment levy, or
- c) Repair or reinstate to original or improved condition any street furniture, curbing, sidewalk, boulevard landscaping or trees, which may be damaged, destroyed or otherwise harmed by development or building operations upon the site, and/or
- d) Attend to all other matters the Development Authority considers appropriate.

## **2.22 DEVELOPMENT AGREEMENT CAVEATS**

To ensure compliance with a Development Agreement, the Town may register a caveat in respect of the Development Agreement against the title to a property being developed which shall be discharged upon the terms of the Development Agreement being met. This requirement does not apply to development under any Federal, Provincial or local authority.

## **2.23 SECURITIES**

- a) To ensure compliance with a Development Agreement the Town may require the applicant to provide an Irrevocable Letter of Credit, or any other acceptable form of security, to the Town to guarantee performance of obligations imposed in the Development Agreement,
- b) The amount required as security shall be based on the estimated cost of construction of on-site and off-site infrastructure unless provided otherwise in the Development Agreement, and
- c) Cost estimates are subject to review and verification by the Development Authority, and quoted costs shall be valid for the required work.
- d) The Town is permitted to draw upon Securities in the event that the required works are not completed, in accordance with the conditions a Development Agreement.

# **Appeals**

## **2.24 APPEALING A DEVELOPMENT PERMIT DECISION**

Pursuant to the 'SDAB Bylaw 2018/03/D and SDAB Amending Bylaw 2019/05/D,' as amended, and the MGA, any person affected by an order, decision or Development Permit made or issued by a Development Authority, including the applicant, may appeal the decision to the SDAB.



## 2.25 APPEAL PROCESS

The Process followed by the SDAB is articulated within the 'SDAB Bylaw 2018/03/D and SDAB Amending Bylaw 2019/05/D, as amended, and the MGA.

## 2.26 SDAB DECISIONS

- a) If the decision to approve a Development Permit application is reversed by the SDAB:
  - i. The Development Permit shall be null and void, and
  - ii. The Development Authority shall be directed to issue a 'Notice of Refusal' in accordance with the SDAB decision, and
- b) If the decision to approve a Development Permit application is varied by the SDAB, the Development Authority shall be directed to issue a Development Permit in accordance with the terms of the decision of the SDAB.

# Completion and Cancellation

## 2.27 COMPLETION OF DEVELOPMENT

- a) A Development shall be completed to the satisfaction of the Development Authority within twelve (12) months of the Development Permit approval or as otherwise identified in the conditions of approval.
- b) A Development Permit shall lapse after twelve (12) months from the date of issuance unless development has commenced on the site, or as otherwise identified in the conditions of approval, and

## 2.28 SUSPENSION OR CANCELLATION OF A DEVELOPMENT PERMIT

- a) The Development Authority may cancel, suspend, or modify a Development Permit by written notice to the holder of the permit when, after a Development Permit has been issued, the Development Authority becomes aware of one the following circumstances:
  - i. The application contained a misrepresentation, or
  - ii. Facts concerning the application or the development were not disclosed which should have been disclosed at the time the application was considered, or
  - iii. Any condition under which the development permit was issued has been contravened, or
  - iv. The Development Permit was issued in error, or
  - v. Development has not commenced within 12 months of the effective date,
  - vi. The applicant has requested cancellation of the permit in writing, or
  - vii. The approved use or development is discontinued or abandoned for two (2) or more consecutive years, and
- b) An applicant whose Development Permit is cancelled, suspended, or modified may appeal to the SDAB.

## 2.29 RE-APPLICATION INTERVAL

Pursuant to MGA, when an application for a development permit or change of land use designation has been refused, the Development Authority may refuse to accept another application on the same property and for the same or similar use of the land by the same or any other applicant for six months after the date of previous refusal, unless the circumstances have changed sufficiently to warrant otherwise.