

# SECTION ONE

## Purpose

# 1

*This section introduces readers to the Land Use Bylaw, establishes jurisdiction, enforcement and amendment regulations, and introduces the people and groups with the authority to exercise development powers in Town.*

## Jurisdiction

### 1.1 TITLE

This Bylaw is entitled 'Town of Drayton Valley Land Use Bylaw No. 2020/12/D', hereinafter referred to as the "Bylaw".

### 1.2 PURPOSE (amended by Bylaw 2023-04-D)

- a.) The purpose of this Bylaw is to provide direction for the orderly, economical, and beneficial development, use of land and patterns of human settlement for the residents of Drayton Valley, and regulate and control development or, where necessary, prohibit development without infringing on the rights of individuals for any public interest except to the extent that is necessary for the overall greater public interest.
- b.) This Bylaw:
  - i. Implements the policies of the Town's Municipal Development Plan and other Statutory Plans,
  - ii. Divides the Town into land use districts,
  - iii. Outlines Permitted and Discretionary Uses for each land use district,
  - iv. Prescribes the subdivision and development regulations for each land use district, generally and specifically,
  - v. Outlines the number of dwelling units permitted on a parcel of land,
  - vi. Establishes criteria for the Development Authority to make decisions on applications for Development Permits, including the issuing of Development Permits,
  - vii. Establishes criteria for the Subdivision Authority to make decisions on applications for subdivision, including the issuing of subdivision approval,
  - viii. Sets out the method to appeal a decision made by the Development Authority and Subdivision Authority in regard to this Bylaw,
  - ix. identifies the manner that the notice of the issuance of a development permit is given and to whom, and,
  - x. Describes the procedure to make amendments to this Bylaw.

- c) This Bylaw must be consistent with the applicable requirements of the regulations under the Gaming, Liquor and Cannabis Act respecting the location of premises described in a cannabis licence and distances between those premises and other premises.
- d) This Bylaw does not have the authority to regulate residential tenancy that has the effect of distinguishing between any individuals based on whether they are related or unrelated to each other.
- e) This Bylaw shall be applied in a manner that is consistent with the Town’s adopted Statutory Plans, such as the Town’s Municipal Development Plan, the Subdivision and Development Regulation, and provincial land use policies.

### 1.3 CONSISTENCY

#### **Municipal Government Act**

- a) The Bylaw is consistent with the Municipal Government Act (MGA), as amended, and the MGA takes precedence in a case of dispute on the meanings of all words or clauses,

#### **Alberta Land Stewardship Act**

- b) The Bylaw is consistent with the Alberta Land Stewardship Act (ALSA), as amended,

#### **Alberta Interpretation Act**

- c) Timelines outlined within the Bylaw shall be complied with pursuant to the Alberta Interpretation Act, as amended,

#### **Alberta Building Code**

- d) In the case where this bylaw conflicts with the Alberta Building Code, the Alberta Building Code shall prevail,

#### **Alberta Land Titles**

- e) All measurements in this bylaw are metric, in accordance with Alberta Land Titles procedures, and where an imperial measurement is also given it is for convenience only and has no legal status, and

#### **Municipal Development Plan**

- f) The Bylaw is consistent with the ‘Town of Drayton Valley Municipal Development Plan (MDP) Bylaw No. 2012/27/D, as amended.

### 1.4 COMPLIANCE WITH OTHER LEGISLATION (amended by Bylaw 2023-04-D)

- a) A person applying for, or in possession of, a subdivision approval or development permit is not relieved from the responsibility of determining and complying with, or carrying out development in accordance with:
  - i. Statutory Plans,
  - ii. Other Municipal Bylaws,
  - iii. Municipal Government Act, RSA 2000 c. M-26,
  - iv. Alberta Safety Codes Act, RSA 2000, and related regulations,
  - v. Environmental Protection and Enhancement Act, R.S.A. 2000, c. E-12,
  - vi. Natural Resources and Conservation Board Act, RSA 2000, c. N-3,
  - vii. The Town’s Minimum Design Standards and Infrastructure Master Plans as they pertain to transportation, water, sanitary and stormwater management,
  - viii. Any other applicable federal, provincial, or other municipal legislation, and
  - ix. The conditions of any caveat, restrictive covenant, easement, or other instrument affecting a building or land.

- b) Nothing in this Bylaw affects the duty or obligation of a person:
  - i. To obtain any other permit, license or other authorization required by any act or regulation, or under any other Bylaw, or
  - ii. To comply with the conditions of any easement, covenant, or agreement affecting the building or land.

## **1.5 EFFECTIVE DATE & TRANSITION** (amended by Bylaw 2023-04-D)

- a) Land Use Bylaw 2007/24/D, Development Authority Bylaw 95-16, Subdivision Authority Bylaw 95-14, Municipal Planning Commission Bylaw 2006/14/D and all amendments thereto, are repealed upon this Bylaw passing and commencing into full force and effect,
- b) The 'Town of Drayton Valley Land Use Bylaw No. 2020/12/D', is passed and comes into full force and effect when it receives third reading and is signed pursuant to the MGA,
- c) All amendments to the Bylaw, any land use Redesignations, or Development Permit applications received on or after the effective date of the Bylaw shall be processed and considered upon the provisions outlined herein, and
- d) All applications received in a complete form prior to the effective date of this Bylaw shall be processed based on 'Land Use Bylaw No. 2007/24/D' unless the Applicant requests that the application be processed based on the regulations of this Bylaw.

## **1.6 FEES AND CHARGES**

All fees and charges under and pursuant to the Bylaw, are established within the "Fee Schedule", as amended.

## **1.7 INTERPRETATION** (amended by Bylaw 2023-04-D)

- a) Words used in the singular include the plural and words used in the present tense include the other tenses and derivative forms,
- b) Words, phrases and terms not defined in the Glossary may be given their definition in the MGA, as amended, or common dictionary definitions,
- c) Compliance with the policies in this Bylaw shall be interpreted and applied as follows:
  - i. "shall" means mandatory compliance except where a Variance has been granted pursuant to the MGA or the Bylaw,
  - ii. "should" means compliance in principle but is subject to the discretion of the Development Authority where compliance is impracticable or undesirable because of relevant planning principles or circumstances unique to a specific application,
  - iii. "may" means discretionary compliance or a choice in applying policy,
- d) Where a regulation involves two (2) or more conditions or provisions connected by a conjunction:
  - i. "and" means all the connected items shall apply in combination,
  - ii. "or" indicates that the connected items may apply singly or in combination,
  - iii. "and/or" indicates the items shall apply singly or in combination, at the discretion of the Development Authority,
- e) In the case of any conflict between the text of the Bylaw and any maps or drawings used to illustrate any aspect of the Bylaw, the text shall govern.

- f) Words, phrases, and terms not defined in this Bylaw may be given their definition in the MGA, the Alberta Safety Codes Act, or the Interpretation Act. Other words shall be defined by their usual and customary meaning, or as outlined in Section 6 Glossary.
- g) Measurements listed shall adhere and comply to the stated metric measurements. Any measurement greater than the exact regulation prescribed in this Bylaw shall be considered more than the requirement and shall not be rounded down.
- h) The following notations may be used in place of whole words within this Bylaw:
  - i. “m” shall mean metre(s), and
  - ii. “m2 “shall mean square metre(s).
- i) Drawings and graphic illustrations used in this Bylaw are for context and to aid in interpreting and understanding the intent of regulations and provisions. If there is conflict or inconsistency between a drawing or graphic illustration and the text of this Bylaw, the text shall prevail.

### 1.8 BOUNDARIES (amended by Bylaw 2023-04-D)

- a) The boundaries of the Land Use District maps, shall be interpreted as follows:
  - i. When the boundary of a district follows a public roadway or a public right-of-way it follows the centre line, unless otherwise indicated,
  - ii. When the boundary of a district abuts a provincial or federal property, railway right-of-way, pipeline, or utility right-of-way it follows the boundary line,
  - iii. When the boundary of a district is shown as approximately following the Town boundary, it follows the municipal or Town boundary,
  - iv. When the boundary of a district is shown as approximately following the edge of any waterbody, including rivers, lakes, creek, streams, etc., it follows the edge or shoreline,
  - v. When a boundary of a district is shown as approximately following a lot or parcel line, it follows the lot or parcel line, and
  - vi. Where a land use district boundary is not located in conformity to the preceding provisions and in effect divides or splits a registered parcel of land, the disposition of such boundary shall be determined by dimensions indicated on the Land Use District Map or by measurements directly from that Map.
- b) If the application of the above interpretations does not result in the exact location of a district boundary, the Development Authority shall determine the exact location of the boundary in doubt or in dispute in a manner consistent with the regulations and provisions of this Bylaw, to the degree of detail that the circumstance requires.
- c) After the Development Authority has determined the exact location of a district boundary, that portion of the location of the boundary shall not be altered, except through an amendment to this Bylaw.

- d) The Development Authority shall maintain a record of all district boundary decisions.

### 1.9 APPLICATION AND SEVERABILITY OF THIS BYLAW (amended by Bylaw 2023-04-D)

- a) Except as permitted in this Bylaw, no person shall commence a development unless a Development Permit for that development has been issued and the appeal period has expired.
- b) Each provision of the Bylaw is independent of all other provisions, and 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 provisions and portions of this Bylaw.

### 1.10 LAND USE DISTRICT GROUPS

- a) For the purposes of the Bylaw, Land Use Districts may be referred to collectively:
  - i. **‘Residential Districts’**, which include: R-ACG, R-GEN, R-SML, R-MLT, R-HID, R-MAN
  - ii. **‘Commercial Districts’**, which include: C-GEN, C-DWT, C-NHD, C-HWY
  - iii. **‘Industrial Districts’**, which include: I-LHT, I-HVY, and
  - iv. **‘Special Districts’**, which include: S-COM, S-PRK, S-NOS, S-URB,
- b) More information on Districts can be found in **Section 5 – Land Use Districts**.

## Bylaw Authorities

### 1.11 DEVELOPMENT AUTHORITY (amended by Bylaw 2023-04-D)

- a) The Development Authority is hereby established in accordance with Section 623 of the MGA.
- b) The Development Authority for Town of Drayton Valley is the Chief Administrative Officer, or their Designate Officer(s) as defined in Section 6 Glossary of this Bylaw and shall exercise the powers, duties, and functions of the Development Authority as specified in this Bylaw.
- c) Council for the Town of Drayton Valley shall act as the Development Authority for decisions regarding Direct Control (DC) Districts or on Discretionary Use Development Permit applications referred to it by the Development Authority.
- d) Council may by resolution of Council delegate Development Permit approving authority for Direct Control (DC) Districts to the Development Authority.

### 1.12 SUBDIVISION AUTHORITY (amended by Bylaw 2023-04-D)

- a) The Subdivision Authority is hereby established in accordance with Section 623 of the MGA.
- b) The Subdivision Authority for Town of Drayton Valley is the Chief Administrative Officer, or their Designate Officer(s) as defined in Section 6 Glossary of this Bylaw and shall exercise the powers, duties, and functions of the Subdivision Authority as specified in this Bylaw.

**1.13 DUTIES OF THE DEVELOPMENT AUTHORITY AND SUBDIVISION AUTHORITY** (amended by Bylaw 2023-04-D)

- a) The Development Authority shall:
- i. Assist and advise the Council and the public with respect to the requirements of this Bylaw and other pertinent legislation to the best of their ability,
  - ii. Receive and process all Development Permit applications,
  - iii. Keep and maintain for the inspection of the public during office hours and on the Town’s website a copy of this Bylaw and any adopted statutory plans and all subsequent amendments, and ensure that copies of the same are available to the public at a reasonable charge set by Council, amended from time to time,
  - iv. Keep on file in their office and make available for inspection by the public during office hours a register of all development permit applications, including the decisions made on those applications, according to the records retention requirements as established by Council and amended from time to time,
  - v. Issue decisions on all Development Permit applications and state terms and conditions, as authorized by the Bylaw or the MGA,
  - vi. Refer Development Permit applications in a Direct Control (DC) District to Council, excepting where Council has passed a resolution to permit the Development Authority to act on its behalf,
  - vii. Accept applications for amendment to this Bylaw and present same to Council for consideration with adequate supporting material and a staff recommendation within sixty (60) days of receipt of the application.
  - viii. The Development Authority may refer a Development Permit application, in whole or in part, to any outside agency or local authority they deem necessary for comment,
  - ix. Provide a written Time Extension Agreement, in alignment with this Bylaw,
  - x. Allow a Variance, provided it complies with the requirements of the Alberta Building Code, and the ‘Requirements of Other Authorities’,
  - xi. Refer a decision of a Development Permit to Council to act as the ‘Development Authority’,
  - xii. Refuse a Development Permit application and provide the Applicant with notice stating the decision of refusal and the reasoning for it,
  - xiii. Prior to considering an application to amend this Bylaw or approve a Development Permit, require an Outline Plan or Concept Plan to be prepared by the applicant that aligns with one of Town’s Area Structure Plans or Area Redevelopment Plans for an application in an existing developed area, and

- xiv. Issue letters certifying whether a current or proposed use of a building or property complies with this Bylaw.
- b) The Subdivision Authority shall:
  - i. Assist and advise the Council and the public with respect to the requirements of this Bylaw and other pertinent legislation to the best of their ability related to the subdivision process and requirements,
  - ii. Keep and maintain for the inspection of the public during office hours and on the Town's website a copy of this Bylaw and any registered subdivision plans and ensure that copies of the same are available to the public at a reasonable charge set by Council, amended from time to time,
  - iii. Keep on file in their office and make available for inspection by the public during office hours a register of all subdivision applications including the decisions on these applications, for a minimum period of ten years,
  - iv. Refer for comments any application which meet the requirements of this Bylaw to any agency or person when deemed appropriate or as required under the Subdivision and Development Regulation, and
  - v. Consider and decide upon all applications considered pursuant to the MGA and approve such applications with or without conditions.

#### **1.14 SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

- a) The Subdivision and Development Appeal Board (SDAB) is established pursuant to the 'SDAB Bylaw No. 2018/03/D and SDAB Amending Bylaw No. 2019/05/D', as amended,
- b) The SDAB shall perform such duties as specified in this Bylaw and the 'SDAB Bylaw No. 2018/03/D and SDAB Amending Bylaw No. 2019/05/D', as amended.

## **Bylaw Enforcement**

#### **1.15 CONTRAVENTION**

- a) Any person who contravenes, causes or permits a contravention of the Bylaw commits an offence,
- b) It is an offence for any person to commence or continue development when:
  - i. A Development Permit is required but has not been issued,
  - ii. A Development Permit has expired,
  - iii. A Development Permit has been revoked or suspended, or when
  - iv. A condition of a Development Permit has been contravened, and
- c) It is an offence for a person to prevent or obstruct a designated officer from carrying out any official duty under this Bylaw or the MGA.

#### **1.16 ENFORCING THE BYLAW**

- a) The Development Authority or a Designated Officer may enforce the provisions of the Bylaw, or the conditions of a Development Permit pursuant to the MGA and the *Provincial Offences Procedure Act* (POPA), as amended,
- b) Enforcement may be by violation ticket pursuant to POPA, notice of violation or any other authorized action to ensure compliance,
- c) The enforcement powers granted to the Development Authority under the Bylaw are in addition to any enforcement powers that the Town or any of its Designated Officers may have under POPA, and
- d) The Development Authority may exercise all such powers concurrently.

### **1.17 STOP ORDER**

- a) Pursuant to Section 645 of the MGA where an offense under the Bylaw occurs, the Development Authority may by written notice, order the owner or the person in possession of the land or buildings, or the person responsible for the contravention to:
  - i. Stop the development or use of the land or buildings in whole or in part as directed by the notice, or
  - ii. Demolish, remove or replace the development, or
  - iii. Carry out any other actions required by the notice so that the development or use complies with the Bylaw, and
- b) A person who receives a stop order may appeal to the Subdivision and Development Appeal Board (SDAB) in accordance with the MGA,
- c) If a Stop Order isn't complied with or appealed to the SDAB by the stated deadline, the Town may elect to take further action.

### **1.18 STOP ORDER CAVEATS**

- a) The Town may register a caveat under the *Land Titles Act* against the certificate of title for the land that is the subject to a stop order, and
- b) The Town must discharge the caveat when the stop order has been complied with.

### **1.19 ENTRY AND INSPECTION**

- a) Pursuant to Section 542 of the MGA, a Designated Officer may, after giving twenty-four (24) hours notice to the owner or occupier of land or the structure to be entered:
  - i. Enter on that land or structure at any reasonable time, and carry out any inspection, enforcement or action required to assess or enforce compliance with this Bylaw,
  - ii. Request anything to be produced to assist in the inspection, remedy, enforcement or action, and
  - iii. Make copies of anything related to the inspection, remedy, enforcement or action,
- b) The Development Authority shall be a Designated Officer for the purposes of Section 542 of the MGA.

### **1.20 SPECIFIED PENALTIES**

- a) Contravention of this bylaw is an offence and is subject to a fine of not more than \$10,000,
- b) Pursuant to POPA the following fine amounts are established for use on notices of violation and violation tickets:



**Table 1 – Minimum Specified Penalties**

Offence	First Offence	Second Offence	Third Offence
Failure to obtain a Development Permit	Double Applicable Permit Fee(s)	Triple Applicable Permit Fee(s)	Quadruple Applicable Permit Fee(s)
Failure to comply with Development Permit Conditions	\$500	\$750	\$1,250
Failure to comply with District Regulations	\$1,000	\$1,500	\$2,000
Failure to comply with any other condition of the Bylaw	\$1,000	\$1,500	\$1,500

- c) Noted fines for additional offences are for when the offence has occurred within a twelve (12) month period of the previous offence,
- d) Payment of a fine does not release the offender from the requirement to comply with the requirements of this Bylaw.

**1.21 SIGN MAINTENANCE & REMOVAL** (amended by Bylaw 2023-06-D)

- a) Signs not maintained to the satisfaction of the Development Authority may be required to be renovated or removed, such as:
  - i. When a sign is physically damaged or illegible, or
  - ii. When a sign is no longer relevant to the Permitted Use of the Building or the Building is vacant,
- b) Non-compliance may result in the removal of a sign and any cost associated with its removal shall be charged to the owner of the sign, and
- c) Any sign removed shall be stored for thirty (30) days; if not claimed, the sign will be disposed of at the discretion of the Town.

## Bylaw Amendments

**1.22 AMENDMENT**

- a) Any person may apply to have the Bylaw amended,
- b) An application to change the district of any parcel may be initiated only by the owner of that parcel, tenant or agent (with the owner’s consent), or by the municipality,
- c) Council may, on its own initiative and in accordance with the MGA, initiate an amendment to the Bylaw, having referred the proposed Amending Bylaw to the Development Authority prior to first reading, and
- d) Any amendment to the Bylaw shall be made pursuant to the MGA.

**1.23 APPLICATION TO AMEND THE BYLAW**

A person making an application to amend the Bylaw shall do so 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) A certificate of title of the land affected or other documents satisfactory to the development authority, including the applicant’s interest in the said land,
- c) Any drawings specified by the development authority, such drawings to be on standard material and fully dimensioned, accurately figured, explicit, and complete, and

- d) Where required, a document authorizing the right of entry by a designated officer of Council to such lands or buildings as may be required for investigation of the proposed amendment.

#### **1.24 AMENDING DUTIES OF THE DEVELOPMENT AUTHORITY**

Upon receipt of a completed application requesting an amendment to the Bylaw, the Development Authority shall:

- a) Prepare an Amending Bylaw for Council,
- b) Prepare a background report, including plans and other relevant material, and submit same to Council for their review, and
- c) Provide a minimum of two (2) weeks' notice of any public hearing to all Adjacent Registered Owners.

#### **1.25 DECISIONS ON BYLAW AMENDMENTS**

Council may, in reviewing a proposed amendment to the Bylaw:

- a) Approve the proposed Amending Bylaw as it is, or
- b) Make any changes it considers necessary to the proposed Amending Bylaw and proceed to approve it without further advertisement or hearing, or
- c) Refer the proposed Amending Bylaw back to administration for more information or further review and changes, then reschedule the application for further consideration, or
- d) Refuse the proposed Bylaw Amendment as it is.

#### **1.26 RECONSIDERATION**

If a proposed Amending Bylaw has been refused by Council, the same application shall not be resubmitted for at least six (6) months after the date of refusal, unless, in the opinion of the Development Authority, the reasons for refusal have been adequately addressed or the circumstances of the application have changed significantly.