

**PART 3                      DEVELOPMENT PERMITS, RULES AND PROCEDURES**

**SECTION 3-1              CONTROL OF DEVELOPMENT**

No development other than that designated in Section 3-3 shall be undertaken within Whitecourt unless an application for it has been approved and a development permit has been issued.

**SECTION 3-2              PERMIT FEES**

All fees and charges under and pursuant to this Bylaw with respect to development permits shall be as established by Council Resolution.

**SECTION 3-3              WHERE A PERMIT IS NOT REQUIRED**

1. Except as provided in Subsection 2, no person shall commence any development unless they have been issued a development permit in respect thereof.
2. The following developments shall not require a development permit:
  - a) the erection or construction of gates, fences, walls or other means of enclosure (other than on corner lots or where abutting on a road used by vehicular traffic) less than 0.9m in height in front yards and less than 1.8m in side and rear yards, and the maintenance, improvement and other alterations of any gates, fences, or walls or other means of enclosure;
  - b) a temporary building, not to be used for residential purposes, the sole purpose of which is incidental to the erection or alteration of a building, for which a permit has been issued under this Bylaw;
  - c) the maintenance and repair of public works, services and utilities carried out by or on behalf of federal, provincial and municipal public authorities on land which is publicly owned or controlled;
  - d) the erection of an on-site sign offering any single family dwelling or single family dwelling site for development, for sale, for lease or for rent providing the sign does not exceed 0.6m<sup>2</sup> in size;
  - e) the erection of an on-site sign offering a multiple dwelling site, a commercial site, an industrial site for development, for sale, for lease or for rent providing the sign does not exceed 1.5m<sup>2</sup> in size;
  - f) hard-surfacing of any yard area on a residential lot for the purposes of providing vehicular access from a public roadway to an on-site parking stall, provided that such hard-surfacing does not exceed 7.5m in width, and does not drain onto abutting properties;
  - g) the erection of towers, flag poles and other poles not exceeding 4.5m in height provided that the structure is not located in a front yard or on a building or structure;
  - h) the construction of a pre-manufactured accessory building less than 10.0m<sup>2</sup> in area, or a ground level deck less than 15.0m<sup>2</sup>, providing that the side and rear setbacks are maintained;
  - i) a permitted commercial use relocating to an existing building within the same commercial land use District;
  - j) landscaping where the proposed grades will not adversely affect the subject of abutting properties, except where landscaping forms part of a development, which requires a development permit, or
  - k) home offices, provided they meet the requirements of Section 7-9.

**SECTION 3-4 CONFORMING AND NON-CONFORMING USES AND BUILDINGS**

1. 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.
2. The non-conforming use of part of a building may be extended throughout the building, whether or not it is a non-conforming building but shall not be enlarged or added to and no structural alterations shall be made thereto or therein.
3. A non-conforming use of part of a lot shall not be extended or transferred in whole or in part to any other part of the lot and no additional buildings shall be erected upon the lot while the non-conforming use continues.
4. A non-conforming building may continue to be used but the building shall not be enlarged, added to, rebuilt or structurally altered except:
  - a) as may be necessary to make it a conforming building, or
  - b) as the Development Authority considers necessary for the routine maintenance of the building.
5. Pursuant to the Act, when
  - a) on or before the day on which this Bylaw or any Bylaw for the amendment thereof comes into force, a development permit has been issued;
  - b) the enactment of the Bylaw would render the development in respect of which the permit was issued a non-conforming use of non-conforming building, and
  - c) the development permit continues in effect, notwithstanding the enactment of the Bylaw referred to in Subsection 5(b) immediately proceeding.
6. 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 conformance with the Land Use Bylaw.
7. 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.
8. Any building which:
  - a) encroaches into the front, rear or side yard, or any or all of them, to a maximum of 10% of the setbacks required by this or any previous Bylaw, or one half of 1.0m, whichever is the lesser distance, or
  - b) conforms to any site plan or development permit "approved" by the Development Authority, and
  - c) does not encroach into the abutting lands, and
  - d) shall hereafter be deemed to conform to the setback requirements of this, or any previous Bylaw.

**SECTION 3-5 APPLICATION FOR DEVELOPMENT PERMIT**

1. An application for a development permit shall be made to the Development Authority in writing on the application Form A as prescribed within the schedules forming part of this Bylaw, and shall:
  - a) be signed by the registered owner or their agent where a person other than the owner is authorized by the owner to make application;

- b) state the proposed use or occupancy of all parts of the land and buildings, and such other information as may be required by the Development Authority, and
- c) at the discretion of the Development Authority, include site plans at a scale satisfactory to the Development Authority, showing any or all of the following:
  - i) front, side and rear yards;
  - ii) outlines of the roof overhangs on all buildings;
  - iii) north point;
  - iv) legal description of property;
  - v) location of existing and proposed municipal and private Local improvements, principal building and other structures including accessory building, garages, carports, fences, driveways, paved areas, and major landscaped areas including buffering and screening areas where provided;
  - vi) the grades of the abutting streets, lanes and sewers servicing the property;
  - vii) the exterior elevations showing height, horizontal dimensions and finishing materials of all buildings, existing and proposed;
  - viii) the lowest finished floor elevation in either the basement or main floor in the principal and accessory buildings where applicable;
  - ix) on a vacant parcel in a residential District, the suggested location for a future driveway and garage or carport, if the application itself does not include such building as part of the proposal;
  - x) any other pertinent information or tests required by the Development Authority respecting the site of abutting lands;
  - xi) storm drainage plan;
  - xii) easements;
  - xiii) existing and proposed utility rights-of-way, and
  - xiv) location of all lighting and light standards, catch basins, utility poles, hydrants and utility fixtures.

2. A fee as established by resolution of Council shall accompany each application for a development permit.

### **SECTION 3-6 DEVELOPMENT AUTHORITY DISCRETION**

#### **1. Permitted Use Applications**

Upon receipt of a completed application for a development permit for a permitted use, the Development Officer shall approve, with or without conditions, an application for a permitted use where the proposed development conforms to this Bylaw, and

- a) may require a letter of guarantee or an irrevocable letter of credit from the applicant to secure performance of any of the conditions of a development permit;
- b) may require as a condition of issuing a development permit, that the applicant enter into an agreement with Council to construct or pay for the construction of public roadways, pedestrian walkways, parking and loading facilities, utilities, landscaping and any off-site levy or redevelopment levy imposed by Bylaw. To ensure compliance with the conditions in the agreement, the Town may register a caveat against the said lands in favor of the Town, or
- c) where, in the opinion of the Development Officer, the proposed use is of a temporary nature, a temporary development permit may be issued.

## 2. Discretionary Use Applications

Upon receipt of a completed application for a development permit for a discretionary use, the Development Officer shall:

- a) review the application and refer the application with recommendations to the Municipal Planning Commission for decision, and
- b) the Municipal Planning Commission shall approve, with or without conditions, or refuse the application, giving reasons for the refusal, or
- c) the Municipal Planning Commission may, prior to making a decision, refer any application of permitted or discretionary uses to any municipal department or agencies for comment, and
- d) where the Municipal Planning Commission is of the opinion that the proposed use is of a temporary nature, the Commission may issue a temporary development permit, and
- e) the Municipal Planning Commission may refuse or approve with conditions any development if, in the opinion of the Commission, the proposed development will detract from the character or appearance of the general development in the area, or
- f) where any use is proposed which is not specifically shown in any District, but is, in the opinion of the Municipal Planning Commission, similar in character, intent and purpose to other uses of land and buildings permitted by the Bylaw in the District in which such use is proposed, the Commission may rule that the proposed use is a discretionary use in the District in which such use is proposed, or
- g) the Municipal Planning Commission may require as a condition of development, prior to the issuance of a development permit, that:
  - i) the applicant provide a letter of guarantee or an irrevocable letter of credit in order to secure performance of any of the conditions of a development permit, or
  - ii) that the applicant enter into an agreement with Council to construct or pay for the construction of public roadways, pedestrian walkways, parking and loading facilities, utilities, landscaping, and off-site levy or redevelopment levy imposed by Bylaw. To ensure compliance with the conditions in the agreement the Town may be protected by caveat registered in favor of the Town.

## 3. Variances

- a) Notwithstanding Subsections 1 and 2, the Development Officer may approve a variance to an approved permitted use development that does not comply with this Bylaw if, in their opinion the proposed development would not:
  - i) unduly interfere with the amenities of the neighbourhood, or
  - ii) materially interfere with or affect the use, enjoyment or value of neighbouring properties, and
  - iii) involve the variance of any setback or regulation by more than 20%, or
  - iv) involve the variance of floor area as stipulated in the applicable land use District, and the proposed development conforms with the use prescribed for that land or building in this Bylaw.
- b) Notwithstanding Subsections 1 and 2, the Municipal Planning Commission may approve or conditionally approve an application for a permitted or discretionary development that does not comply with this Bylaw if, in their opinion the proposed development would not:
  - i) unduly interfere with the amenities of the neighbourhood, or
  - ii) materially interfere with or affect the use, enjoyment or value of neighbouring properties, and the proposed development conforms to the use prescribed for that land or building in this Bylaw.
- c) In approving an application for a permit under this Subsection, the Development Authority shall adhere to the following:

- i) a variance shall be considered only in cases of unnecessary hardship or practical difficulties particular to the use, character of situation of land or building which are not generally common to other land in the same District;
  - ii) with the exception of applications that are reviewed under the provisions of Subsection 2(f) (related to same or similar use clause), there shall be no variance from the regulations prescribing use;
  - iii) there shall be no variance from the regulations prescribing maximum height, floor area, or density, and
  - iv) where the issuance of a development permit for any use involves the exercise of any specified discretion of the Development Authority to relax a regulation of a District or any other regulation of this Bylaw, they shall not permit any variance from that regulation other than that contained in this Section, and the general purpose and intent of the appropriate District.
4. The Development Authority may impose such conditions on the approval of an application as, in their opinion, are necessary;
  - a) to uphold the intent and objectives of all statutory plans and the Land Use Bylaw, and
  - b) to ensure the orderly development of land within Whitecourt;
  - c) an applicant may be required to enter into a Development Agreement with Whitecourt to ensure that the use and development of land and buildings on a site complies with the approved comprehensive plan of development as a condition of approval of a development permit issued pursuant to the Direct Control District.
    - i) the Development Agreement shall run as a caveat or restrictive covenant against the title of the parcel and serve to restrict the development of land in accordance with the approved comprehensive plan of development, and
    - ii) the Development Agreement may also provide that the applicant post security in such form and amount as may be approved by Council to ensure performance with the terms of the agreement.
5. Direct Control Use Applications  
Upon receipt of a completed application for a development permit for a development in a Direct Control District, the Development Authority shall render a decision based on direction provided by Council.

### **SECTION 3-7 NOTICE OF PROPOSED DEVELOPMENT**

1. Prior to an application being considered for a discretionary use, or a use pursuant to Sections 3-6(2)(f) or (3)(c), or for a development in a Direct Control District, the Development Authority may require as a condition, prior to consideration of the application, one or more of the following:
  - a) cause a notice to be posted in a conspicuous place on the site of the proposed development not less than seven (7) days prior to the date of consideration of such an application;
  - b) cause a similar notice to be published once in a newspaper circulating in the municipal area, at the expense of the applicant, or
  - c) cause a similar notice to be sent by mail to all abutting landowners not less than seven (7) days prior to the date of consideration of the application.
2. When considering applications under Subsection 1 for which notices have been served, the Development Authority may afford an opportunity to any interested person to make representation on

the application and shall take into account any such representations made when giving final consideration to the said application.

3. The notice required pursuant to this Section shall state:
  - a) the proposed use of the building or site;
  - b) that an application respecting the proposed use will be considered by the Development Authority;
  - c) that any person who objects to the proposed use of the site may deliver to the Development Authority a written statement of their objections indicating:
    - i) their full name and address for service of any notice to be given to them in respect of the objection;
    - ii) the reasons for their objections to the proposed use;
    - iii) the date by which objections must be received by the Development Authority, and
    - iv) the date, time and place the application will be considered by the Development Authority.

### **SECTION 3-8 NOTICE OF DECISION**

1. All decisions on applications for a development permit shall be given in writing to the applicant.
2. If the Development Authority refuses an application, the notice of decision shall contain the reasons for the refusal.
3. When an application for a development permit is approved for a permitted use requiring a variance, a discretionary use, or a use pursuant to Section 3-6(3)(b):
  - a) a notice shall be published in a newspaper circulating in the municipal area;
  - b) a notice shall forthwith be posted on the site of the property for which the application has been made and the use approved, and
  - c) at the discretion of the Development Authority, any abutting property owners or occupants and any other parties deemed affected may also be notified.
4. A notice issued under Subsection 3 shall indicate:
  - a) the legal description and street address of the proposed development;
  - b) the date the development permit was issued;
  - c) the nature of the approval, and
  - d) the opportunities available to appeal the decision.

### **SECTION 3-9 EFFECTIVE DATE OF PERMIT**

1. A development permit shall come into effect:
  - a) in a Direct Control District, upon the date of its issue;
  - b) if an appeal is made, on the date that the appeal is finally determined, or
  - c) if it is issued by the Development Authority, fifteen (15) days after the date of the issue of the Notice of Decision by the Development Authority on the application for development permit.

**SECTION 3-10      VALIDITY OF DEVELOPMENT PERMITS**

1. A development permit is valid unless:
  - a) the development permit is suspended or cancelled;
  - b) the development is not commenced within twelve (12) months from the date of permit issue, or carried out with reasonable diligence (unless an extension to the period has been granted by the Development Authority or Council), or
  - c) the development is not commenced within such shorter period than shown in Subsection 3-10.b if the Development Authority has specified that the development permit is to remain in effect for less than twelve (12) months.

**SECTION 3-11      DEEMED REFUSALS**

In accordance with the Act, an application for development permit shall, at the option of the applicant, be deemed to be refused when the decision of the Development Authority is not made within forty (40) days, or any extension of that time period agreed to by the applicant, of the completed application being received by the Development Authority.

**SECTION 3-12      SUBSEQUENT APPLICATIONS**

1. If an application for a development permit is refused by the Development Authority or on an appeal from the Subdivision and Development Appeal Board, another application for development:
  - a) on the same lot, and
  - b) for the same or similar use, may not be made for at least six (6) months after the date of the refusal, subject to consideration by the Municipal Planning Commission under the provisions of Section 3-6(3)(c)(i), and
  - c) notwithstanding Subsections (a) and (b), an application may be submitted for a Permitted Use that complies with all applicable provisions of this Bylaw.

**SECTION 3-13      SUSPENSION OR CANCELLATION OF DEVELOPMENT PERMITS**

1. If, after a development permit has been issued, the Development Authority becomes aware that:
  - a) the application for the development permit contains a misrepresentation;
  - b) facts concerning the application or the development were not disclosed which should have been disclosed at the time the application was considered, or
  - c) the development permit was issued in error, or

The Development Authority may suspend or cancel the notice of decision or the development permit by notice, in writing, to the holder of it.

2. If a person fails to comply with a notice under the Act, the Development Authority or Council may suspend or cancel any existing development permit by notice, in writing, to the holder of the permit.
3. A person whose development permit is suspended or canceled under this Section may appeal to the Subdivision and Development Appeal Board.

**SECTION 3-14      TRANSFERS**

1. A development permit is transferable with the prior consent of:
  - a) the Development Authority, or
  - b) the Subdivision and Development Appeal Board, if the Board issued the permit.

**SECTION 3-15      DEVELOPER'S RESPONSIBILITY**

1. A person to whom a development permit has been issued shall obtain, where applicable, from the appropriate authority, permits relating to building, grades, sewers, water mains, electricity and highways, and all other permits required in connection with the proposed development.
2. The person to whom a development permit has been issued shall notify the Development Authority, upon completion of the development for which approval has been given and which has been authorized by the issuance of the development permit.
3. The Development Authority may require that further to Subsection 2(a), the applicant arrange with the Development Authority for an on-site inspection before commencing construction.
4. The applicant shall be financially responsible during construction for any damage by the applicant's servants, suppliers, agenda or contractors to any public or private property.
5. The applicant shall prevent soil or debris from being spilled on public streets, lanes, and sidewalks, and shall not place soil or any other materials on abutting properties without permission in writing from abutting property owners.
6. Subsections 4 and 5 may be enforced pursuant to Part 5. Any costs incurred as a result of neglect to public property may be collected where letters have been required pursuant to Sections 3-6(1)(a) and 2(g).
7. The Development Authority may require a Real Property Report relating to the building for which a permit is applied for.
8. No building or use shall be used or occupied and no change in the existing occupancy classification of a building shall be made until substantial completion as determined by the Development Authority has been undertaken.