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# TOWN OF BOW ISLAND

## LAND USE BYLAW NO. 2024:07

### PART 1

## ADMINISTRATION

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### GENERAL

#### SECTION 1 SHORT TITLE

- 1.1 This bylaw may be cited as the “Town of Bow Island Land Use Bylaw.”

#### SECTION 2 EFFECTIVE DATE

- 2.1 This bylaw shall come into effect upon third and final reading thereof.

#### SECTION 3 REPEAL OF FORMER BYLAW

- 3.1 Town of Bow Island Land Use Bylaw No. 2003-07 and amendments thereto are hereby repealed.

#### SECTION 4 PURPOSE

- 4.1 The purpose of this bylaw is to, amongst other things:
- (a) divide the municipality into districts;
  - (b) prescribe and regulate the use(s) for each district;
  - (c) regulate and control or prohibit the use and development of land and buildings;
  - (d) prescribe standards and criteria for development;
  - (e) establish a method for making decisions on applications for development permits and issuing development permits for a development; and
  - (f) provide the manner in which notice of the issuance of a development permit is to be given.
- 4.2 The further purpose is to conform with, address, and implement the policies of the various statutory plans of the Town of Bow Island, including the MDP, IDP and any area structure plans that may be developed.

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## **SECTION 5 SEVERABILITY AND COMPLIANCE WITH THE LAND USE BYLAW**

- 5.1 No development, other than those designated in Part 1 of this bylaw (Development Not Requiring a Development Permit), shall be undertaken within the Town unless a development application has been approved and a development permit has been issued.
- 5.2 Notwithstanding subsection 5.1, while a development permit may not be required pursuant to Part 3, development shall comply with all regulations of this bylaw.
- 5.3 If one or more provisions of this bylaw are for any reason declared to be invalid by a decision of a court of competent jurisdiction, it is intended that all remaining provisions are to remain in full force and effect.

## **SECTION 6 COMPLIANCE WITH OTHER LEGISLATION**

- 6.1 Compliance with the requirements of this bylaw does not exempt any person undertaking a development from complying with all applicable municipal, provincial or federal legislation, and respecting any easements, covenants, agreements or other contracts affecting the land or the development.
- 6.2 Nothing in this Bylaw affects the duty or obligation of a person to obtain a Safety Code permit as required in accordance with municipal and provincial legislation.

## **SECTION 7 RULES OF INTERPRETATION**

- 7.1 Unless otherwise required by the context, words used in the present tense include the future tense, words used in the singular include the plural, and the word person includes a corporation as well as an individual.
- 7.2 In this bylaw, unless the context otherwise requires, the expression “use” or “to use” shall include done or permitted by the owner or occupant of any land, building or structure, directly or indirectly, or by or through any trustee, tenant, servant or agent acting for or with the knowledge and consent of the owner or occupant for the purpose of making the use of the said land, building or structure.
- 7.3 The *Interpretation Act, Chapter I-8, RSA 2000 as amended*, shall be used in the interpretation of this bylaw. Words have the same meaning whether they are capitalized or not.
- 7.4 All applicable *Definitions* as applied in this bylaw shall be as outlined and as defined by Part 3.
- 7.5 All references to engineering requirements shall be prepared by an engineer registered with the Association of Professional Engineers, Geologists, and Geophysicists of Alberta (APEGGA).

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- 7.6 The written regulations of this bylaw take precedence over any graphic or diagram if there is a perceived conflict.
- 7.7 The Land Use Districts Map takes precedence over any graphic or diagram in the district regulations if there is a perceived conflict.
- 7.8 Where there is an uncertainty or dispute about the exact location of a boundary of any district as shown on the Land Use District Map the location shall be determined by the application of the following rules. Where a district boundary is shown approximately following:
- (a) the centre of a public roadway, it shall be deemed to follow the centre line thereof;
  - (b) the boundary of a lot, the lot boundary shall be deemed to be the boundary of the district;
  - (c) the Town limits, it shall be deemed to be following the Town limits boundary;
  - (d) a canal, pipeline, railway line, or utility easement, it shall be deemed to follow the centre line of the right-of-way thereof.
  - (e) 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 measurements directly from that map. This may be applied in situations where the Council specifically approved a split zoning (land use designation) to occur on a parcel of land.
  - (f) Where the application of the above rules do not accurately determine the exact location of a district, Council either on its own motion or upon written request being made to it by any person requesting the determination of the exact location of a district boundary, shall fix the portion of the district boundary in doubt or dispute in a manner consistent with the provisions of this bylaw and with the degree of detail as to measurements and directions as the circumstances may require.

## **SECTION 8 MEASUREMENTS AND STANDARDS**

- 8.1 All units of measure contained and applicable within this bylaw are metric (SI) standards. Imperial measurements and conversions are provided for information and convenience only. If a discrepancy exists, the metric standards apply.

## **SECTION 9 FORMS, FEES AND NOTICES**

- 9.1 Application forms, fees and notices are included in Appendices A & B.
- 9.2 For the purpose of administering the provisions of this bylaw, Council may authorize by separate resolution or bylaw as may be applicable, the preparation and use of such fee Parts, forms or notices as in its discretion it may deem necessary. Any such fee Parts,

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forms or notices are deemed to have the full force and effect of this bylaw in execution of the purpose for which they are designed, authorized and issued.

- 9.3 Refund of application fees requires approval of the Town Council unless otherwise authorized in the municipal fee schedule bylaw or subdelegated through the Subdivision and Development Authority bylaw.
- 9.4 In any case, where the required fee is not specifically listed in the fee Part, such fee shall be determined by the Development Officer or Municipal Planning Commission and shall be consistent with those fees listed in the Part for similar developments.
- 9.5 If development is commenced without a valid development permit, an additional fee in the amount as prescribed under the fee Part shall be payable upon application for the development permit.

## **SECTION 10 APPENDICES**

- 10.1 Appendices A, B and C attached hereto are provided for information and processing purposes only and may be amended from time to time as they do not form part of the Town of Bow Island Land Use Bylaw.

## **APPROVING AUTHORITIES AND RESPONSIBILITIES**

### **SECTION 11 DEVELOPMENT AUTHORITY**

- 11.1 The Development Authority is established in accordance with Town of Bow Island Bylaw No. 1113 or any subsequent updated bylaw (Appendix C).
- 11.2 The Development Authority refers to the Development Officer or the Municipal Planning Commission as outlined in the responsibilities, powers and duties as specified in the Municipal Subdivision and Development Authority Bylaw (which for the Town is currently adopted as the Bylaw to Establish a Municipal Planning Commission) and this bylaw.
- 11.3 In the absence of the Development Officer, the following are authorized to act in the capacity of Development Officer:
  - (a) Municipal Planning Commission,
  - (b) Chief Administrative Officer if not the appointed acting Development Officer, or
  - (c) a designate(s) in accordance with the *Municipal Government Act (MGA)*.
- 11.4 The Development Officer is an authorized person in accordance with Section 624 of the *MGA*.
- 11.5 The Development Authority shall perform such powers and duties as are specified:

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- (a) in the Town of Bow Island Development Authority and Subdivision Authority Bylaws;
  - (b) in this bylaw;
  - (c) in the *MGA*;
  - (d) where applicable, by resolution of Council.

11.6 Council shall be the Development Authority within any Direct Control District, unless specifically delegated by bylaw to the Municipal Planning Commission or the Designated Officer acting in the capacity of Development Officer, or another designate(s).

## **SECTION 12 DEVELOPMENT OFFICER – POWERS AND DUTIES**

12.1 The office of the Development Officer is hereby established and such office shall be filled by one or more persons as appointed by resolution of Council.

12.2 The Development Officer:

- (a) assist and advise the public with respect to the standards and requirements of the Land Use Bylaw and other pertinent land use legislation to the best of their ability;
- (b) shall receive and process all applications for development permits and determine whether a development permit application is complete;
- (c) shall maintain for the inspection of the public during office hours, a copy of this bylaw and all amendments thereto and ensure that copies of the same are available for public purchase;
- (d) shall also establish and maintain a register on file in which shall be recorded the application made for a development permit and the decision made on the application, and contain any such other information as the Municipal Planning Commission considers necessary;
- (e) shall consider and decide on applications for a development permit for:
  - (i) permitted uses that comply with this Land Use Bylaw;
  - (ii) permitted uses that request one variance of a measurable standard not to exceed 0.5 metres or 10 percent (10%) of the standard whichever is greater, in accordance with Sections 22 and 27;
  - (iii) permitted uses on existing registered lots where the Municipal Planning Commission granted a variance(s) to the minimum lot width, length and/or area requirements as part of a subdivision approval;
  - (iv) landscaping provided the standards of the bylaw are met;
  - (v) fences, walls or other types of enclosures, provided they do not require more than one variance not to exceed 0.5 metres or 10 percent (10%) of the standard; and
  - (vi) demolition;

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- (f) shall refer to the Municipal Planning Commission all development permit applications for which decision-making authority has not been assigned to the Development Officer including variances beyond the discretion of the Development Officer's authority;
  - (g) may refer any development application to the Municipal Planning Commission for a decision and may refer any other planning or development matter to the Municipal Planning Commission for its review, comment or advice;
  - (h) shall notify adjacent landowners and any persons who are likely to be affected by a proposed development in accordance with Section 28 of this bylaw;
  - (i) shall issue the written notice of decision and/or development permit on all development permit applications and any other notices, decisions or orders in accordance with this bylaw;;
  - (j) shall receive, review, and refer any applications to amend the Land Use bylaw to Council;
  - (k) may receive and consider and decide on requests for time extensions for development permits which the Development Officer has approved and shall refer to the Municipal Planning Commission those requests which the Municipal Planning Commission has approved;
  - (l) shall provide a regular report to the Municipal Planning Commission summarizing the applications made for a development permit and the decision made on the applications, and any other information as the Municipal Planning Commission considers necessary; and
  - (m) shall perform any other powers and duties as are specified in this bylaw, the Municipal Planning Commission Bylaw, the *MGA* or by resolution of Council;
  - (n) shall refer all development applications in a Direct Control District to Council for a decision unless Council has specifically delegated approval authority to the Development Officer or the Municipal Planning Commission.

## **SECTION 13 MUNICIPAL PLANNING COMMISSION**

- 13.1 The Municipal Planning Commission may exercise only such powers and duties as are specified in the *MGA*, the Development Authority Bylaw, the Subdivision Authority Bylaw, the Municipal Planning Commission Bylaw, this bylaw, or by resolution of Council.
- 13.2 The Municipal Planning Commission shall administer this bylaw with the assistance of the Development Officer and the Planning Advisor.
- 13.3 Pursuant to the Municipal Planning Commission Bylaw and this bylaw, the Municipal Planning Commission shall be responsible for:
  - (a) considering and deciding upon development permit applications for discretionary uses and those referred to it by the Development Officer;

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- (b) providing recommendations on planning and development matters referred to it by the Development Officer or Council;
  - (c) considering and deciding upon requests for time extensions on development permit applications referred to it by the Development Officer;
  - (d) review and decide upon condominium building certificates; and
  - (e) any other powers and duties as are specified in this bylaw, the Municipal Planning Commission Bylaw, the *MGA* or by resolution of Council.
- 13.4 The Municipal Planning Commission may exercise its discretion and approve variances of one or more measurable standards of this bylaw in accordance with Section 27.

#### **SECTION 14 SUBDIVISION AUTHORITY**

- 14.1 The Subdivision Authority shall be designated by Council as established in the Subdivision and Development Authority Bylaw who shall consider and decide upon subdivision applications.
- 14.2 The Subdivision Authority may delegate, through the municipality's Subdivision and Development Authority Bylaw, this bylaw, or by resolution of Council, or through subdelegating to the CAO, any of its required functions or duties in the processing of subdivision applications to any municipal staff, planning advisor, individual or contracted entity. In respect of this:
- (a) the delegation of duties by the Subdivision Authority may include the authorized entity being responsible for determining the completeness of a submitted subdivision application; and
  - (b) the Subdivision Authority delegate is authorized to carry out the application process with subdivision applicants as described in the Subdivision Application Procedures Section of the bylaw, including the task of sending all required notifications to applicants as stipulated and conducting site inspections.

#### **SECTION 15 PLANNING ADVISOR**

- 15.1 The office of Planning Advisor is hereby established at the discretion of Council and may be filled by a person, persons, agency or entity as appointed by resolution of Council or as by the Chief Administrative Officer if so delegated the authority.
- 15.2 Pursuant to the *MGA*, the Planning Advisor is hereby declared to be a subdivision authority as per the duties and authority as prescribed. The duties include that, the Planning Advisor:
- (a) shall determine application completeness and review all completed applications for subdivision;

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- (b) refer for comments any application which meets the requirements of the land use bylaw to any government department, agency or person when deemed appropriate or as required under the Subdivision and Development Regulation;
  - (c) review all subdivision applications to determine compliance with the MGA, Subdivision and Development Regulations, land use bylaw, statutory plans, provincial government legislation and ensure suitability based on servicing, access, land constraints, drainage, and environmental factors amongst other matters;
  - (d) refer, with a recommendation, to the Municipal Planning Commission all completed applications for subdivisions which meet the requirements of the Land Use Bylaw and any statutory plan;
  - (e) shall process and provide recommendations on condominium building certificates;
  - (f) be responsible for sending out all subdivision decision notices and advising the applicant on the subdivision approval finalization process;
  - (g) determine the completeness of approval conditions and prepare all final endorsement documentation; and
  - (h) compile and keep for the municipality's files a record of all subdivision applications including the decisions therein in perpetuity as a historical land record.

15.3 The Planning Advisor shall upon the direction of Council or the CAO:

- (a) assist and advise the Council and the public with respect to general planning standards, the Land Use Bylaw, planning law and practice in Alberta, and other pertinent legislation to the best of their ability;
- (b) assist and advise the Development Officer and the Municipal Planning Commission with respect to the requirements of the Land Use Bylaw and development standards either generally or in consideration of a particular development proposal or application.

## **SECTION 16 COUNCIL**

- 16.1 Council shall consider and decide upon applications for subdivision approval per Town of Bow Island Municipal Subdivision and Development Authority Bylaw (See Appendix C);
- 16.2 Council shall be responsible for considering and deciding upon requests for time extensions on subdivision approvals in accordance with Section 657 of the MGA.
- 16.3 Council shall be responsible for considering all proposed amendments, including land use redesignations, to this bylaw as outlined in Sections 42 through 44.
- 16.4 Council shall be responsible for considering development permit applications within any Direct Control District except where the decision making authority has been delegated to the Municipal Planning Commission or the Development Officer.



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## **SECTION 17 SUBDIVISION AND DEVELOPMENT APPEAL BOARD (SDAB)**

- 17.1 The Subdivision and Development Appeal Board is established by separate bylaw pursuant to the *MGA*, which may be in the form of an intermunicipal appeal board, and may exercise such powers and duties as are specified in this bylaw, the *MGA*, and the Subdivision and Development Appeal Board Bylaw.
- 17.2 If the decision of the Subdivision and Development Appeal Board approves a subdivision or development with or without conditions, the written decision issued by the Appeal Board serves as the official subdivision approval decision or the approved development permit and the Development Officer or Municipal Planning Commission will not issue a separate complementary approval or permit.
- 17.3 If the decision of the Development Officer or Municipal Planning Commission to approve a subdivision or development permit is overturned or reversed by the Appeal Board, the subdivision approval or the development permit so approved shall then be null and void.

## **DEVELOPMENT PERMIT RULES AND PROCEDURES**

### **SECTION 18 DEVELOPMENT PERMIT – WHEN REQUIRED**

- 18.1 Except as otherwise provided for in Part 2 (Development Not Requiring a Development Permit), all development shall be required to obtain a development permit.
- 18.2 In addition to meeting the requirements of this bylaw, it is the responsibility of the applicant to ascertain, obtain and comply with all other approvals and licenses that may be required by other federal, provincial or municipal regulatory departments or agencies. It is further required that copies of all other approvals and licenses be submitted to the Development Authority.

### **SECTION 19 DEVELOPMENT NOT REQUIRING A DEVELOPMENT PERMIT**

- 19.1 This Section does not negate the requirement of obtaining all required permits, as applicable, under the *Safety Codes Act* and any other Provincial or Federal statute.
- 19.2 This Section does not negate the requirement of obtaining a business license where required.
- 19.3 Developments not requiring a municipal development permit are listed in Part 2.
- 19.4 Signs not requiring a municipal development permit are listed in Part 7, Section 2.
- 19.5 If there is a question as to whether a development permit is required for a particular use, the matter shall be referred to the Municipal Planning Commission for a determination.

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## SECTION 20 DEVELOPMENT PERMIT APPLICATION

- 20.1 An application for a development permit shall be made to the Development Officer by submitting:
- (a) a completed development permit application, signed by the registered owner(s) or authorized by the owner pursuant to Section 20.2;
  - (b) the prescribed fee, as set by Council;
  - (c) a description of the existing and proposed use of the land, building(s) and/or structures and whether it is a new development, an alteration/addition, relocation or change of use and whether the use is temporary in nature;
  - (d) a legible site plan, print copy or digital format, acceptable to the Development Officer indicating:
    - (i) the lot boundaries with dimensions;
    - (ii) the location of all existing and proposed buildings and structures and registered easements or rights-of-way, dimensioned to property lines and drawn to a satisfactory scale;
    - (iii) floor plans, elevations, exterior views and Sections of proposed buildings;
    - (iv) existing and proposed parking and loading areas, driveways, access, abutting streets, avenues and lanes, and surface drainage patterns;
    - (v) where applicable, the location of existing wells, septic tanks, disposal fields, culverts and crossings;
    - (vi) any additional information as may be stipulated in the standards of development;
    - (vii) any such other information as may be required by the Development Officer or Municipal Planning Commission to evaluate an application including but not limited to: conceptual design schemes, landscaping plans, building plans, drainage plans, servicing and infrastructure plans, soil analysis, geotechnical reports and/or other reports regarding site suitability; Real Property Report; or a surveyors sketch;
  - (e) documentation from the Alberta Energy Regulator (AER) identifying the presence or absence of abandoned oil and gas wells as required by the Subdivision and Development Regulation; and
  - (f) a copy of the current Certificate of Title to the parcel subject of the development application, unless otherwise exempted by the Development Officer from providing such.
  - (g) When requested by the Development Officer, the site plan submitted must be professionally prepared (e.g., surveyor, geomatic survey technologist, draftsman, architect, planner, engineer, etc.). This shall be required for principal commercial, industrial and institutional buildings unless otherwise exempted by the Development Officer.

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- 20.2 An application for a development permit must be made by the registered owner(s) of the land on which the development is proposed. An application may be made by a person who is not the registered owner of the land:
- (a) if they are an agent authorized to act on the owner’s behalf (i.e., contractor, developer, surveyor, lawyer, engineer, leasee, etc.); or
  - (b) upon the provision of written consent of the owner(s).
  - (c) The Development Officer may request verification of written consent or a copy of the current title documenting ownership and copies of any registered encumbrance, lien or interest registered on title.

## **SECTION 21 DETERMINATION OF A COMPLETE DEVELOPMENT PERMIT APPLICATION**

- 21.1 The Development Authority shall, within 20 days after the receipt of a development permit application in accordance with Section 20, determine whether the application is complete.
- 21.2 The Development Authority may refuse to accept a development permit application where the information required by Section 20 (Development Permit Application) is incomplete or where, in their opinion, the quality of the material supplied is inadequate to properly evaluate the application.
- 21.3 An application is complete if, in the opinion of the Development Officer, the application contains the required documents and other information necessary to review the application.
- 21.4 The time period referred to in Section 21.1 may be extended by an agreement in writing between the applicant and the Development Officer.
- 21.5 If the Development Officer does not make a determination referred to in Section 21.7 within the time required under Section 21.1 or 21.4, the application is deemed to be complete.
- 21.6 The commencement of processing the development application by the Development Officer, and not asking additional information to be provided, is an acknowledgement to the applicant that the submitted information and application is deemed to be complete. Additionally:
- (a) if the application is submitted in person, the Development Officer may review the application submission with the applicant and if deemed complete, the Development Officer may relay the completeness determination to the applicant and fill-in the date of deemed completeness; or,
  - (b) if the Development Authority issues a permit within 20 days of the application being made, the application is deemed complete, and the permit Notice of Decision is the acknowledgment of such.

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21.7 If the Development Authority determines that the application is incomplete, the Development Officer shall issue to the applicant a written notice indicating that the application is incomplete, which specifies:

- (a) the outstanding documents and information to be provided, including but not limited to those required by Section 20, and
- (b) a submission deadline.

A later submission date may be agreed on by the applicant and the Development Authority in order for the application to be considered complete.

21.8 If the requested documents and information under Section 21.7 have not been submitted to the Development Officer within the timeframe prescribed in the notice issued under Section 21.7, the Development Officer shall return the application to the applicant accompanied by a written Notice of Refusal stating the application is deemed refused and the reasons for refusal.

21.9 Despite issuance of a Notice of Completeness under Section 21.6 or 21.8, the Development Authority in the course of reviewing the application may request additional information or documentation from the applicant that the Development Authority considers necessary to review the application.

## **SECTION 22 PERMITTED USE APPLICATIONS**

22.1 Upon receipt of a completed application for a development permit for a permitted use that conforms with this bylaw, the Development Officer:

- (a) shall approve a development permit with or without conditions, or
- (b) may refer the application to the Municipal Planning Commission for a decision.

22.2 Upon receipt of a completed application for a permitted use that requests a limited variance not to exceed 10 percent (10%) of one measurable standard of this bylaw, the Development Officer:

- (a) may grant the limited variance not to exceed 10 percent (10%) of one measurable standard of this bylaw and approve the development permit with or without conditions if, in the opinion of the Development Officer, the variance would not unduly interfere with the amenities of the neighbourhood or materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land; or
- (b) may refer the development application involving a request for a limited variance not to exceed 10 percent (10%) of one measurable standard of this bylaw to the Municipal Planning Commission for a decision; and
- (c) is not required to notify adjacent landowners or persons likely to be affected prior to issuance of a decision on a development permit granting one limited variance under this Section.

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- 22.3 Upon receipt of a completed application for a permitted use that requests more than one limited variance, a variance(s) exceeding 10 percent (10%) of any measurable standard of this bylaw or a variance of any other bylaw provision, the Development Officer shall refer the application to the Municipal Planning Commission for a decision pursuant to Section 27 (Applications Requesting Variance of Bylaw Provisions).
- 22.4 The Development Officer or the Municipal Planning Commission may place any of the following conditions on a development permit for a permitted use:
- (a) requirement for applicant to enter into a development agreement;
  - (b) payment of any applicable off-site levy or redevelopment levy;
  - (c) provide a geotechnical investigation to ensure that the site is suitable in terms of topography, soil characteristics, flooding, subsidence, mass wasting and erosion;
  - (d) require the alteration of a structure or building size or location to ensure any setback requirements of this Land Use Bylaw or the Subdivision and Development Regulation can be met;
  - (e) any measures to ensure compliance with the requirements of this Land Use Bylaw or any other statutory plan adopted by the Town of Bow Island;
  - (f) requirement for a lot and/or construction stakeout conducted by an approved surveyor or agent;
  - (g) provide easements, right-of-ways and/or encroachment agreements;
  - (h) provision of public utilities, other than telecommunications systems or works, including water and wastewater (sewer);
  - (i) provision of shallow utilities, including gas, electricity
  - (j) provision of legal and physical vehicular and pedestrian access;
  - (k) require repairs or reinstatement of original condition of any curbing, sidewalk, roads, street furniture, boulevard landscaping and tree planting which may be damaged or destroyed or otherwise altered by development or building operations upon the site, to the satisfaction of the Development Officer or the Municipal Planning Commission;
  - (l) provision of a lot grade plan or drainage plan;
  - (m) provide financial security to ensure the terms of the permit approval under this Section are carried out;
  - (n) specify time periods stipulating completion of development;
  - (o) the submission of an Environmental Impact Assessment;
  - (p) any measures to ensure compliance with applicable federal, provincial and/or other municipal legislation and approvals;

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- (q) obtain any other approval, permit, authorization, consent or license that may be required to develop and/or service the affected land.

## **SECTION 23 DISCRETIONARY USE APPLICATIONS**

- 23.1 Upon receipt of a completed application for a development permit for a discretionary use or a permitted use that requests more than one variance, a variance(s) exceeding 10 percent (10%) of any measurable standard of this bylaw, or a variance of any other bylaw provision, the Development Officer shall:
  - (a) refer the application to the Municipal Planning Commission for a decision pursuant to Section 27 (Applications Requesting Variance of Bylaw Provisions);
  - (b) notify adjacent landowners and other persons likely to be affected in accordance with Section 28 (Notification of Persons Likely Affected).
- 23.2 After consideration of any response to the notifications of adjacent landowners and other persons likely to be affected, including County of Forty-Mile, government departments and referral agencies as applicable, compatibility and suitability of the proposed use, and any other matters, the Municipal Planning Commission may:
  - (a) approve a development permit with or without conditions; or
  - (b) refuse to approve the development permit, stating reasons.
- 23.3 The Municipal Planning Commission may place any of the conditions stipulated in subsection 22.4 (Permitted Use Applications) on a development permit for a discretionary use in any Land Use District, in addition to any other conditions necessary to ensure the quality, suitability and compatibility of a development with other existing and approved uses in the area.

## **SECTION 24 DIRECT CONTROL DISTRICTS**

- 24.1 Upon receipt of a completed application for a development permit in a Direct Control District, the Development Officer shall:
  - (a) refer the application to Council for a decision, except where the decision-making authority has been delegated to the Municipal Planning Commission or the Development Officer as stated in the regulations of the Direct Control bylaw adopted; and
  - (b) notify adjacent landowners and other persons likely to be affected in accordance with Section 28 (Notification of Persons Likely Affected).
- 24.2 After considering any response to notifications issued under Section 28, Council or the delegated decision-making authority may:
  - (a) approve a development permit with or without conditions; or
  - (b) refuse to approve the development permit, stating reasons.

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- 24.3 In accordance with Section 641(4)(a) of the *MGA*, there is no appeal to the Subdivision and Development Appeal Board for a decision on an application for a development permit in a Direct Control District.

## **SECTION 25 SIMILAR USE**

- 25.1 Upon receipt of an application for a development permit for a use that is not specifically listed in any Land Use District, but which may be similar in character and purpose to other uses of land and structures in the Land Use District in which such use is proposed, the Development Officer may classify the use as either similar to a permitted use or similar to a discretionary use.
- 25.2 Where a use has been classified similar to a permitted use, the Development Officer may process the application accordingly as a permitted use or refer the application to the Municipal Planning Commission for a decision. The notice of the decision shall be subject to Section 29.
- 25.3 Where a use has been classified similar to a permitted use and requests more than one limited variance, a variance(s) exceeding 10 percent (10%) of any measurable standard of this bylaw, or a variance of any other bylaw provision, the Development Officer shall:
- (a) refer the application to the Municipal Planning Commission for a decision, and
  - (b) notify adjacent landowners and other persons likely to be affected in accordance with Section 28 (Notification of Persons Likely Affected).
- 25.4 Where a use has been classified similar to a discretionary use, the Development Officer shall:
- (a) refer the application to the Municipal Planning Commission for a decision, and
  - (b) notify adjacent landowners and other persons likely to be affected in accordance with Section 28 (Notification of Persons Likely Affected).
- 25.5 Upon referral of an application by the Development Officer for a use that may be similar in character and purpose to a permitted or discretionary use, the Municipal Planning Commission:
- (a) shall rule whether or not the proposed use is similar to a use in the Land Use District in which it is proposed;
  - (b) if the proposed use is deemed similar to a use in the Land Use District in which it is proposed, the application shall be reviewed as a discretionary use application;
  - (c) if the proposed use is not deemed similar to a use in the Land Use District in which it is proposed, the development permit shall be refused.

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## **SECTION 26    TEMPORARY USE**

- 26.1    Where, in the opinion of the Development Authority, a proposed use is of a temporary nature, it may approve a temporary development permit valid for a period of up to one year for a use, provided the use is listed as a permitted use, discretionary use or deemed similar to a permitted or discretionary use in the applicable Land Use District.
- 26.2    Temporary use applications shall be subject to the following conditions:
- (a)    the applicant or developer is liable for any costs involved in the cessation or removal of any development at the expiration of the permitted period;
  - (b)    the Municipal Planning Commission may require the applicant to submit an irrevocable letter of credit, performance bond or other acceptable form of security guaranteeing the cessation or removal of the temporary use; and
  - (c)    any other conditions deemed necessary.
- 26.3    A use deemed temporary in nature shall be processed in accordance with the corresponding Sections 22-25 of this bylaw. Notification of adjacent landowners and other persons likely to be affected, including County of Forty-Mile, government departments and referral agencies shall be in accordance with Section 28 of this bylaw.

## **SECTION 27    APPLICATIONS REQUESTING VARIANCE OF BYLAW PROVISIONS**

- 27.1    Upon receipt of an application for a development permit that does not comply with this bylaw but in respect of which the Municipal Planning Commission is requested to exercise discretion under Section 27.3, the Development Officer shall:
- (a)    refer the application to the Municipal Planning Commission for a decision; and
  - (b)    notify adjacent landowners and other persons likely to be affected, including County of Forty-Mile if applicable, government departments and any other referral agency in accordance with Section 28.
- 27.2    The Development Officer is authorized to exercise discretion for a permitted use where a limited variance to one applicable measurable standard not to exceed 10 percent (10%) is requested, in accordance with Section 22.2.
- 27.3    The Municipal Planning Commission is authorized to decide upon an application for a development permit notwithstanding that the proposed development does not comply with this bylaw if, in the opinion of the Municipal Planning Commission, the proposed development would not:
- (a)    unduly interfere with the amenities of the neighbourhood; or
  - (b)    materially interfere with or affect the use, enjoyment or value of neighbouring properties;
  - (c)    and the proposed development conforms with the use prescribed for that land or building within Part 4.



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## **SECTION 28 NOTIFICATION OF PERSONS LIKELY AFFECTED**

- 28.1 Where notification of adjacent landowners and other persons likely to be affected is required under Sections 23 to 27, or the Development Authority deems it necessary, the Development Officer shall:
- (a) mail (postal service or electronic) written notice of the application at least 12 days before the meeting of the Municipal Planning Commission to:
    - (i) adjacent landowners and other persons likely to be affected by the issuance of a development permit;
    - (ii) County of Forty-Mile if, in the opinion of the Development Officer or the Municipal Planning Commission, the proposed development could have an impact upon land uses in the County, is adjacent to the County boundary or is within any referral distance as specified within the Intermunicipal Development Plan; and
    - (iii) any other persons, government departments or referral agency that is deemed to be affected; or
  - (b) hand deliver written notice of the application at least seven days (1 week) before the meeting of the Municipal Planning Commission to the persons and agencies specified in the previous subsection; or
  - (c) publish a notice of the application in a newspaper circulating in the municipality or the Town newsletter at least seven days (1 week) before the meeting of the Municipal Planning Commission; or
  - (d) post a notice of the application in a conspicuous place on the property at least seven days (1 week) before the meeting of the Municipal Planning Commission; or
- any combination of the above.
- 28.2 In all cases, notification shall:
- (a) describe the nature and legal location of the proposed use or development;
  - (b) state the place and time where the Municipal Planning Commission will meet to consider the application, and state how and when written or oral submissions on the application will be received and considered;
  - (c) specify the location and time at which the application can be inspected; and
  - (d) if the development is for a discretionary use or an application requesting a variance by the Municipal Planning Commission, the notice shall include a statement that there is a right to an appeal process on a decision.
- 28.3 The Development Authority may refer any development permit application that is 7.6 m (25 ft) or over in height within one-half mile of the Airport district to Transport Canada, Navigation Canada for comments in order to ensure the safety of the development.

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## **SECTION 29 NOTICE OF DECISION**

- 29.1 Upon the decision on a development application for a permitted use that complies with the Land Use Bylaw, the Development Officer:
- (a) shall mail (postal service or electronic mail or both) or hand deliver a written notice of decision to the applicant; and
  - (b) may post/publish the notice of decision in a municipal newsletter or in a newspaper circulating in the municipality or on the municipality's website or social media site.
- 29.2 Upon the decision on all other development permit applications (e.g., discretionary use, use requiring a variance), the Development Officer shall:
- (a) mail (postal service or electronic mail or both) or hand deliver a written notice of decision to the applicant; and either
  - (b) mail (postal service or electronic mail or both) a copy of the notice of decision to those originally notified of the development permit application, those that made written submissions, and any other person, government department or agency that may, in the opinion of the Development Officer, likely be affected; or
  - (c) post/publish a notice of the decision in a newspaper or the municipal newsletter circulated within the municipality; or
  - (d) post/publish the notice of decision on the municipality's website or social media site; or
- any combination of methods (b) through (d).

## **SECTION 30 COMMENCEMENT OF DEVELOPMENT**

- 30.1 Despite the issuance of a development permit, no development is authorized to commence until the appeal period has expired in compliance with the following:
- (a) in the case of a permitted use, until at least 21 days after the date on which the applicant is notified of the decision in writing;
  - (b) in all other cases, until at least 21 days after the date on which the decision is made and the notice of the issuance of the permit is posted, or published in municipal newsletter, or posted on the municipality's website or social media site, or published in a newspaper or deemed received through direct mailing, in accordance with Section 686(1) of the *Municipal Government Act*.
- 30.2 If an appeal is made, no development is authorized pending the outcome of the appeal.
- 30.3 Any development occurring prior to the dates determined under Sections 30.1 and 30.2 is at the sole risk of the applicant.

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## **SECTION 31 DEVELOPMENT PERMIT VALIDITY**

- 31.1 Unless a development permit is suspended or cancelled, the development must be commenced and carried out with reasonable diligence in the opinion of the Development Officer or the Municipal Planning Commission within 12 months from the date of issuance of the permit, otherwise the permit is no longer valid.
- 31.2 An application to extend the validity of a development permit may be made at any time prior to the expiration of the approved permit in accordance with subsection 31.3, except for a permit for a temporary use which shall not be extended.
- 31.3 Upon receipt of a request to extend the validity of a development permit, the validity of a development permit may be extended for up to an additional period of 12 months from the date of its expiry:
- (a) by the Development Officer or the Municipal Planning Commission if the permit was issued by the Development Officer,
  - (b) by the Municipal Planning Commission if the permit was issued by the Municipal Planning Commission or approved on appeal by the Subdivision and Development Appeal Board.
- 31.4 When any use has been discontinued for a period of 12 months or more, any development permit that may have been issued is no longer valid and said use may not be recommenced until a new application for a development permit has been made and a new development permit issued. This Section does not apply to non-conforming uses which are regulated under Section 643 of the *MGA*.

## **SECTION 32 TRANSFERABILITY OF DEVELOPMENT PERMIT**

- 32.1 Any valid development permit is transferable for the land on which it was approved where the use remains unchanged, and the development is affected only by a change of ownership, tenancy, or occupancy. This provision does not apply to a home occupation permit which is non-transferable.

## **SECTION 33 OCCUPANCY PERMITS**

- 33.1 The Development Officer, the Municipal Planning Commission, or in a Direct Control District the Council, may require that the holder of a development permit obtain an occupancy permit before a building or use that was the subject of a development permit is occupied and/or the approved use initiated.

## **SECTION 34 FAILURE TO MAKE A DECISION – DEEMED REFUSAL**

- 34.1 In accordance with Section 684 of the *MGA*, an application for a development permit shall, at the option of the applicant, be deemed to be refused when the decision of the Development Officer or the Municipal Planning Commission, as the case may be, is not

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made within 40 days of receipt of the completed application, unless the applicant has entered into an agreement with the Development Officer or the Municipal Planning Commission to extend the 40-day decision period.

### **SECTION 35 REAPPLICATION FOR A DEVELOPMENT PERMIT**

- 35.1 If an application for a development permit is refused by the Development Officer, the Municipal Planning Commission, or on appeal the Subdivision and Development Appeal Board, the submission of another application for a development permit on the same parcel of land for the same or for a similar use of the land may not be accepted by the Development Officer for at least six months after the date of refusal.
- 35.2 If an application was refused solely because it did not comply with the standards of this bylaw or was refused as an incomplete application under Section 21, the Development Officer may accept another application on the same parcel of land for the same or similar use before the time period referred to in subsection 35.1 has lapsed, provided the application has been modified to comply with this bylaw.

### **SECTION 36 SUSPENSION OR CANCELLATION OF A PERMIT**

- 36.1 If, after a development permit has been issued, the Development Officer or the Municipal Planning Commission determines that:
- (a) the development permit was issued in error,
  - (b) the application contained a misrepresentation,
  - (c) facts were not disclosed which should have been at the time of consideration of the application for the development permit, or
  - (d) the applicant withdrew the application by way of written notice,
- the Development Officer or the Municipal Planning Commission may suspend or cancel the development permit by notice in writing to the holder of it stating the reasons for any suspension or cancellation.
- 36.2 Upon receipt of the written notification of suspension or cancellation, the applicant must cease all development and activities to which the development permit relates.
- 36.3 A person whose development permit is suspended or cancelled under this Section, and they did not voluntarily withdraw the application in writing, may appeal within 21 days of the date the notice of cancellation or suspension is received to the appropriate appeal board.
- 36.4 If a development permit is suspended or cancelled, the Subdivision and Development Appeal Board shall review the application if an appeal is filed by the applicant and either:
- (a) reinstate the development permit, or

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- (b) cancel the development permit if the Development Officer or the Municipal Planning Commission would not have issued the development permit if the facts subsequently disclosed had been known during the consideration of the application, or
  - (c) reinstate the development permit and may impose such other conditions as are considered necessary to ensure that this bylaw or any statutory plan is complied with.
- 36.5 If a permit holder voluntarily requests to withdraw a submitted application or an issued development permit such requests must be made in writing to the Development Officer. The Development Officer shall respond in a timely manner and acknowledge the cancellation of the application or permit in writing to the permit holder, and the applicant must immediately cease all development and activities to which the development permit relates. No other advertisement or notification of the cancellation is required.

## **SECTION 37 DEVELOPMENT AND SUBDIVISION APPEALS**

- 37.1 A decision of the Development Authority or the Subdivision Authority must state whether the appeal lies to the local Subdivision and Development Appeal Board or the provincial Land and Property Rights Tribunal (LPRT).
- 37.2 Any person applying for a development permit, or any other person affected by an order, decision or development permit made or issued by the Development Authority, or any development application deemed refused in accordance with Section 21, may appeal such an order or decision or deemed refusal to the Subdivision and Development Appeal Board in accordance with the procedures described in the *MGA*.
- 37.3 In accordance with the *Municipal Government Act* and the procedures outlined, any landowner who applied for subdivision and was refused an approval, or had conditions attached to the approval, or any subdivision application deemed refused in accordance with Section 46, may appeal the decision to the Subdivision and Development Appeal Board, or LPRT if the circumstances require it. Adjacent or affected landowners have no right to appeal under the *MGA*.
- 37.4 An appeal to the Subdivision and Development Appeal Board shall be commenced by serving a written notice of the appeal with reasons to the Subdivision and Development Appeal Board and shall be accompanied by the applicable fees.

## **CONTRAVENTION, ENFORCEMENT AND PENALTIES**

### **SECTION 38 NOTICE OF VIOLATION**

- 38.1 Where the Development Officer or Municipal Planning Commission finds that a development or use of land or buildings is not in accordance with the *MGA*, the Subdivision and Development Regulation, a development permit or subdivision approval, or this bylaw, the Development Officer may issue a notice of violation to

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the registered owner or the person in possession of the land or buildings or to the person responsible for the contravention.

- 38.2 Such notice shall state at a minimum the following:
- (a) nature of the violation,
  - (b) the legal description of the land subject to the violation,
  - (c) corrective measures required to comply, which may include ceasing operations, and
  - (d) time period within which such corrective measures must be performed.

### **SECTION 39 STOP ORDERS**

- 39.1 As set forth in the *MGA*, the Development Authority is authorized to issue an Order under Section 645 of the *MGA* if a development, land use or use of a building is not in accordance with the *MGA*, the Subdivision and Development Regulation, a development permit or subdivision approval, or the Land Use Bylaw.
- 39.2 A person who receives notice pursuant to subsection 39.1 may appeal the order to the Subdivision and Development Appeal Board in accordance with the *MGA*.
- 39.3 Any decision regarding an appeal filed with respect to subsection 39.2 shall be limited to whether a contravention of the *MGA*, the Subdivision and Development Regulation, a development permit or subdivision approval, or this bylaw, is found to have occurred, whether the Order was issued correctly, and if the timeline for corrective measures is deemed reasonable.

### **SECTION 40 ENFORCEMENT OF STOP ORDERS**

- 40.1 Pursuant to Section 646 of the *MGA*, if a person fails or refuses to comply with an order directed to the person under Section 645 or an order of a subdivision and development appeal board under Section 687, the designated officer may, in accordance with Section 542 of the *MGA*, enter on the land or building and take any action necessary to carry out the order.
- 40.2 The Town may register a caveat under the *Land Titles Act* in respect of an order referred to in subsection 40.1 against the certificate of title for the land that is the subject of an order.
- 40.3 If a caveat is registered under subsection 40.2, the Town must discharge the caveat when the order has been complied with.
- 40.4 If compliance with a stop order is not voluntarily effected, the Town may undertake legal action including, but not limited to, seeking injunctive relief from the Alberta Court of King's Bench pursuant to Section 554 of the *MGA*. In accordance with Section 553 of the

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*MGA*, the expenses and costs of carrying out an order under Section 646 of the *MGA* may be added to the tax roll of the parcel of land.

#### **SECTION 41 PENALTIES AND RIGHT OF ENTRY**

- 41.1 Any person who contravenes any provision of this bylaw is guilty of an offence in accordance with Part 13, Division 5, Offences and Penalties of the *MGA* and is liable to a fine of not more than \$10,000 or to imprisonment for not more than one year or to both fine and imprisonment.
- 41.2 In accordance with Section 542 of the *MGA*, a Development Officer may, after giving reasonable notice to and obtaining consent from the owner or occupier of land upon which this bylaw or *MGA* authorizes anything to be inspected, remedied or enforced or done by a municipality:
- (a) enter on that land at a reasonable time and carry out inspection, enforcement, or action authorized or required by the enactment or 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.
- 41.3 If a person refuses to grant consent or refuses to produce anything to assist in the inspection, remedy, enforcement or action referred to in Section 542 of the *MGA*, the municipality under the authority of Section 543 of the *MGA* may obtain a court order.

## **AMENDMENTS**

#### **SECTION 42 AMENDMENTS TO THE LAND USE BYLAW**

- 42.1 The Town or any person may initiate amendments to the Town of Bow Island Land Use Bylaw by submitting an application to the Development Officer.
- 42.2 All applications by the public for amendments shall include the applicable fee and be submitted using the form in Appendix A with written reasons provided in support of the application and any additional information, as deemed necessary by the Development Officer to process the application.
- (a) The Development Officer may refuse to accept an application if, in their opinion, the information supplied is not sufficient to make a proper evaluation of the proposed amendment.
  - (b) The Development Officer shall forward an application to Council for consideration when satisfied that sufficient information has been provided with the application.

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- (c) Where Council is of the opinion that the proposed bylaw amendment is applicable to and for the benefit of the greater municipality at large, the Council may direct that the fee be returned to the applicant.

42.3 Public hearing and notification requirements shall be in accordance with Section 692 of the *MGA*.

42.4 Where an application for an amendment to the Town of Bow Island Land Use Bylaw has been refused by Council, another application that is the same or similar in nature shall not be accepted until at least 12 months after the date of refusal.

42.5 Where an application refused has been significantly changed, or changed at the request of Council, Town Council may accept an application prior to the end of the 12-month period specified in subsection 42.5.

### **SECTION 43 LAND USE REDESIGNATION APPLICATION REQUIREMENTS**

43.1 A request for redesignation (rezoning) from one Land Use District to another shall be accompanied by:

- (a) a completed application form and the applicable fee;
- (b) a copy of the certificate of title for the lands, dated not more than 60 days prior to the date on which the application was made;
- (c) a narrative describing the:
  - (i) proposed designation and future uses(s);
  - (ii) consistency with the applicable statutory plans;
  - (iii) compatibility of the proposal with surrounding uses and zoning;
  - (iv) development potential/suitability of the site, including identification of any constraints and/or hazard areas (e.g., easements, soil conditions, topography, drainage, flood hazard area, steep slopes, etc.);
  - (v) availability of facilities and services (wastewater (sewage), domestic water, storm water, gas, electricity, fire and police protection, schools, etc.) to serve the subject property while maintaining adequate levels of service to existing development;
  - (vi) any potential impacts on public roads; and
  - (vii) any other information deemed necessary by the Development Officer or Council to properly evaluate the proposal;
- (d) conceptual lot design, if applicable;
- (e) an engineering or geotechnical report addressing the following, but not limited to:
  - (i) slope stability/soil compaction,
  - (ii) groundwater,
  - (iii) sewage (if in a municipal unserved area),



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- (iv) water table, and
  - (v) flood hazard analysis,
- if deemed necessary by the Development Officer or Council;

- (f) an evaluation of surface drainage which may include adjacent properties, if deemed necessary by the Development Officer or Council; and
- (g) any other information deemed necessary by the Development Officer or Council to properly evaluate the application.

43.2 An Area Structure Plan or Conceptual Design Scheme may be required in conjunction with a redesignation application when:

- (a) redesignating land from Urban Reserve (UR) to another district;
- (b) redesignating annexed land to a district other than Urban Reserve (UR) except where an existing approved Area Structure Plan or Conceptual Design Scheme defines land use designation(s) for the proposed development area, or unless determined otherwise by Council;
- (c) proposing multi-lot residential development resulting in the creation of more than four lots or which has the potential to cause capacity upgrades or expansion of infrastructure,
- (d) industrial development,
- (e) large-scale commercial development, or
- (f) as required by Council.

#### **SECTION 44 REDESIGNATION CRITERIA**

44.1 When redesignating (rezoning) land from one Land Use District to another, Council considerations may include the following:

- (a) compliance with applicable standards and provisions of the Town of Bow Island Land Use Bylaw;
- (b) consistency with the Municipal Development Plan, Intermunicipal Development Plan, and any other adopted statutory plans;
- (c) compatibility with adjacent land uses;
- (d) development potential/suitability of the site;
- (e) availability of municipal services and facilities, shallow utilities, etc., to serve the subject property and any potential impacts to levels of service to existing and future developments;
- (f) cumulative and financial impacts to the Town;
- (g) potential impacts on Town municipal roads and provincial highways;
- (h) setback distances contained in the Subdivision and Development Regulation;

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- (i) existing supply of similar suitably-designated land;
  - (j) public comment and any applicable review agency comments; and
  - (k) any other matters deemed pertinent.

## SUBDIVISION APPLICATION PROCEDURES

### SECTION 45 SUBDIVISION REQUIREMENTS

- 45.1 Any instrument that has the effect or may have the effect of subdividing a title or parcel of land that requires registration at the Land Titles office shall require subdivision approval from the Town of Bow Island Subdivision Authority, unless otherwise exempt by the *MGA*.
- 45.2 A subdivision approval is required for registration of a separation of title instrument or caveat that has the effect or may have the effect of subdividing a parcel of land
  - (a) if the parcel of land is described in a plan of subdivision that was registered in a land titles office before July 1, 1950; and
  - (b) if the parcel of land contains 2 or more lots one or more of which is less than 8.0 hectares in area.

### SECTION 46 SUBDIVISION APPLICATIONS

- 46.1 An applicant applying for subdivision shall provide the required material and information as requested by the Subdivision Authority or its designate. A completed application shall consist of:
  - (a) An official application, in the manner and form prescribed, clearly and legibly filled out with all the required information and signatures provided as requested on the form;
  - (b) The applicable fees paid;
  - (c) An up-to-date and current copy of the Certificate of Title to the subject land;
  - (d) A (clear and eligible) diagram, Surveyors sketch or tentative subdivision plan with dimensions and a north arrow, in the manner requested which may include the provision that it be professionally prepared as stipulated;
  - (e) Provincial abandoned gas well information;
  - (f) Any such other information as may be required at the discretion of the Subdivision Authority in order to accurately evaluate the application and determine compliance with the land use bylaw or other government regulations. This may include but is not limited to the provision of:
    - (i) geotechnical information,
    - (ii) soil analysis reports,

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- (iii) water reports,
  - (iv) soil or slope stability analysis,
  - (v) drainage information,
  - (vi) contours and elevations of the land,
  - (vii) engineering studies or reports,
  - (viii) wetland reports,
  - (ix) environmental impact assessments,
  - (x) utility and servicing information, and/or
  - (xi) the preparation of a conceptual design scheme or an area structure plan may be required from the applicant prior to a decision being rendered on a subdivision application to determine the suitability of the land for the proposed use.

- (g) The consent to authorize the Subdivision Authority or its designate to carry out a site inspection on the subject land as authorized in accordance with the *Municipal Government Act (MGA)* unless determined not to be needed by the Subdivision Authority.

46.2 In accordance with *MGA*, the Subdivision Authority or those authorized to act on its behalf, shall provide notification to a subdivision applicant within the 20-day prescribed time period, on whether a submitted application is deemed complete, or if it is determined to be deficient, what information is required to be submitted by a specified time period, by sending notification in the following manner:

- (a) For an application deemed complete, the applicant shall be notified in writing as part of the formal subdivision application circulation referral letter, or through electronic communication (email), or both.
- (b) For an application determined to be incomplete, written notification shall be given to the applicant which may be in the form of a letter sent by regular mail to the applicant, or sent by electronic means, or both, or by any other method as may be agreed to between the applicant and Subdivision Authority.
- (c) In respect of subsection 46.2(b) for a subdivision application determined to be incomplete, the applicant will be advised in writing as part of the Notice of Incompleteness what the outstanding or required information items that must be submitted by the time specified in the notice.

46.3 Notwithstanding Section 46.2, the applicant and Subdivision Authority may agree and sign a time extension agreement in writing in accordance with Section 653.1(3) of the *MGA* to extend the 20-day decision time period to determine whether the subdivision application and support information submitted is complete.

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- 46.4 A determination made by the Subdivision Authority that an application is complete for processing does not preclude the ability for the Subdivision Authority to request other information or studies to be submitted by the applicant during the review and processing period, prior to a decision being rendered, or as condition of subdivision approval.

#### **SECTION 47 INCOMPLETE SUBDIVISION APPLICATIONS**

- 47.1 The Subdivision Authority may refuse to accept and process a subdivision application where the information required under Section 46.1 and/or as described in a Notification of Incompleteness has not been submitted, is determined to be deficient, is still incomplete, or in the opinion of the Subdivision Authority the quality of the material supplied is inadequate to properly evaluate the application.
- 47.2 If the Subdivision Authority makes a determination that the application is refused due to incompleteness, the applicant shall be notified in writing with reasons in the manner as described in subsection 46.2(b).
- 47.3 The notification provided for in subsection (b) shall include for the applicant the required information on the filing of an appeal and to which appeal board body the appeal lies, either the local appeal board or provincial Municipal Government Board, in accordance with the parameters of the *MGA*.

#### **SECTION 48 SUBDIVISION APPLICATION NOTIFICATIONS**

- 48.1 On receipt of a complete application for subdivision approval, the Planning Advisor must refer a notice and copy of the application to
- (a) the Government departments, agencies, persons and local authorities required by the subdivision and development regulations; and
  - (b) owners of land located adjacent and contiguous to the land that is the subject of the application.
- 48.2 The notice under subsection 48.1 must describe the nature of the application, the method of obtaining further information about the application and the manner in which and time within which written submissions may be made to the Subdivision Authority.

#### **SECTION 49 SUBDIVISION DECISIONS**

- 49.1 The Subdivision Authority must make a decision on an application for subdivision within:
- (a) 21 days from the date of receipt of a completed application under subsection 45.2; or
  - (b) 60 days from the date of receipt of all other applications;
- unless an agreement to extend the time has been entered into with the Subdivision Authority.

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- 49.2 If an applicant refuses to enter into a time extension agreement, the application may be deemed to be refused if no decision is made within the time prescribed, and the applicant may file an appeal with the Appeal Board to render a decision.
- 49.3 A Subdivision Authority when considering an application under this Section,
- (a) must consider the written submissions of those persons and local authorities to whom an application for subdivision approval or notice of application was given in accordance with this Section but is not bound by the submissions unless required by the *Subdivision and Development Regulations*; and
  - (b) is not required to hold a hearing.
- 49.4 A Notice of Decision with Reasons must be provided to the applicant, and those Government departments, agencies, and local authorities originally notified.

## **SECTION 50 CONDITIONS OF SUBDIVISION APPROVAL**

- 50.1 The Subdivision Authority may impose conditions to ensure that the requirements of the MGA, the regulations, the statutory plans, and the bylaw are complied with.
- 50.2 The Subdivision Authority may impose a condition requiring the applicant to enter into a Development Agreement with the Town for:
- (a) construction of a public roadway required to give access to the development; or
  - (b) construction of a public pedestrian walkway; or
  - (c) the installation of utilities necessary to serve the development; or
  - (d) an off-site levy or redevelopment levy under the MGA; or
  - (e) to provide a financial security in a form acceptable to the Town to ensure the terms of the agreement are carried out.
- 50.3 The Development Agreement pursuant to subsection 50.2 may, at the option of the Town, be registered in the Land Titles Office in the form of a caveat against the certificate of title for the land that is the subject of the development agreement.
- 50.4 A caveat registered pursuant to subsection 50.3 shall be discharged by the Town when the requirements and conditions of the agreement have been met.

## **SECTION 51 SUBDIVISION ENDORSEMENT OF FINAL PLANS AND DOCUMENTS**

- 51.1 An applicant for subdivision approval must submit to the planning advisor or other Subdivision Authority designate the plan of subdivision or other instrument that effects the subdivision within one year of the latest of the following dates:
- (a) the date on which the subdivision approval is given to the application;
  - (b) if there is an appeal to the Appeal Board or the LPRT, the date of that board's decision or the date on which the appeal is discontinued;

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- (c) if there is an appeal to the Court of Appeal under the Act, the date on which the judgment of the Court is entered or the date on which the appeal is discontinued.

51.2 On being satisfied that a plan of subdivision or other instrument complies with a subdivision approval and that any conditions imposed have been met or will be met, the Planning Advisor or designate must endorse the plan or other instrument in accordance with the subdivision and development regulations.

## **SECTION 52 VALIDITY OF SUBDIVISION APPROVALS**

52.1 If the plan of subdivision or other instrument is not submitted to the Subdivision Authority within the time prescribed by Section 51.1 or any longer period authorized by the Council, the subdivision approval is void.

52.2 If the plan of subdivision or other instrument is not registered in Land Titles office within one year after the date on which it is endorsed pursuant to this Section or within the extended period prescribed under subsection 52.3, the subdivision approval of the plan or instrument and the endorsement are void and the plan or instrument may not be accepted by a Registrar for registration.

52.3 Town Council may, at its discretion, extend the periods referred to in subsection 51.1.

## **SECTION 53 APPEALS OF SUBDIVISION**

53.1 In accordance with Section 37 of the bylaw, an appeal of a subdivision decision may be filed with the appropriate appeal body within 21 days of the date of the Notice of Subdivision Decision.

53.2 Only the applicant, municipality, or government departments as stipulated in the MGA have the right to file an appeal. Adjacent or affected landowners have no right to appeal.

# **DEVELOPMENT IN GENERAL**

## **SECTION 54 LAND USE DISTRICTS**

54.1 The Town of Bow Island is divided into those Land Use Districts shown in Part 4 on the Land Use Districts Map.

54.2 The one or more uses of land or buildings that are:

- (a) permitted uses in each district, with or without conditions; or
  - (b) discretionary uses in each district, with or without conditions; or
  - (c) those specifically prohibited;
- are described in Part 4.

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- 54.3 A land use that is not listed as a permitted or discretionary use but which is reasonably similar in character and purpose to a permitted or discretionary use in that district may be deemed a similar use by the Development Authority in accordance with Section 25 (Similar Use).
- 54.4 A land use not listed as a permitted or discretionary use or not deemed a similar use, in a district is a prohibited use, even if not specifically described or listed, and shall be refused.

## **SECTION 55 SUITABILITY OF SITES**

- 55.1 Notwithstanding that a use of land may be permitted or discretionary or considered similar in nature to a permitted or discretionary use in a Land Use District, the Development Authority, as applicable, may refuse to approve a subdivision or issue a development permit if the Development Authority is made aware of or if in their opinion, the site of the proposed building or use is not safe or suitable based on the following:
- (a) does not have safe legal and physical access to a maintained road in accordance with the Land Use Bylaw, other municipal requirements or those of Alberta Transportation if within 300.0 m (984 ft) of a provincial highway or 800.0 m (2,625 ft) from the centre point of an intersection of a controlled highway and a public road;
  - (b) has a high-water table or soil conditions which make the site unsuitable for foundations and/or sewage disposal systems in accordance with the provincial regulations;
  - (c) is situated on an unstable slope;
  - (d) consists of unconsolidated material unsuitable for building;
  - (e) does not comply with the requirements of the *Alberta Land Stewardship Act*, South Saskatchewan Regional Plan, Subdivision and Development Regulation or any other applicable statutory plans;
  - (f) is situated over an active or oil or gas well or pipeline;
  - (g) is unsafe due to contamination by previous land uses;
  - (h) does not meet the minimum setback requirements from bulk fuel and chemical storage facility;
  - (i) does not have adequate water and sewer provisions;
  - (j) does not meet the lot size and/or setback requirements or any other applicable standards or requirements of the Town of Bow Island Land Use Bylaw;
  - (k) does not meet the industry recommended development guidelines in proximity to railway operations;
  - (l) does not meet Transport Canada Aerodrome Standards and Recommended Practices in proximity to airport operations;

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(m) is subject to any easement, caveat, restrictive covenant or other registered encumbrance which makes it impossible to build on the site.

55.2 Nothing in this Section shall prevent the Development Officer or Municipal Planning Commission, as applicable, from issuing a development permit if the Development Authority is satisfied that there is no risk to persons or property or that these concerns will be met by appropriate engineering measures or other mitigating measures and approvals from provincial and/or federal agencies have been obtained, as applicable.

## **SECTION 56 NUMBER OF DWELLING UNITS ON A PARCEL**

56.1 No person shall construct, locate or cause to be constructed more than one dwelling unit a parcel:

- (a) except as provided for in the Land Use District for which the application is made (e.g., two-unit dwellings, multi-unit dwellings, secondary suite, or as permitted in the applicable Land Use District); or
- (b) the second dwelling unit is located on a parcel located within the Urban Reserve District and is to be occupied by a person who is engaged on a full-time basis for at least 6 months each year in an agricultural pursuit; or
- (c) forms part of a comprehensively planned condominium development; or
- (d) the second or additional dwelling unit is a mobile or manufactured home forming part of a park for mobile/manufactured home park; or
- (e) as otherwise provided for in this bylaw.

## **SECTION 57 NON-CONFORMING BUILDINGS AND USES**

57.1 A non-conforming building or use may only be continued in accordance with the conditions detailed in Section 643 of the *MGA*.

57.2 A non-conforming use of land or a building may be continued, but if that use is discontinued for a period of 6 consecutive months or more, any future use of the land or buildings shall conform with the provisions of this Bylaw.

57.3 A non-conforming use of part of a lot shall not be extended or transferred to other parts of the lot and no additional buildings shall be erected upon the lot while the non-conforming use continues.

57.4 A non-conforming use of part of a building may be extended throughout the building, whether the building is non-conforming or not; however, the building shall not be enlarged or structurally altered except:

- (a) as may be necessary to make it a conforming building; or



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- (b) as the Development Officer or the Municipal Planning Commission, as the case may be, considers necessary for the routine maintenance of the building; or
  - (c) as the Municipal Planning Commission approves minor alterations up to a maximum of 10% of the value of the building.

57.5 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.

57.6 The use of land or a building is not affected by a change of ownership, tenancy, or occupancy of the land or building.

## **SECTION 58 DEVELOPMENT ON NON-CONFORMING SIZED LOTS**

58.1 Development on an existing registered non-conforming sized lot that does not meet the minimum requirements for lot length, width or area specified in the applicable Land Use District in Part 4 may be permitted at the discretion of the Municipal Planning Commission.

58.2 The Development Officer is authorized to permit development on existing registered non-conforming sized lots for permitted uses where the Municipal Planning Commission issued a variance(s) to the minimum requirements for lot length, width and/or area as part of a subdivision approval.

## **SECTION 59 NON-CONFORMING VARIANCES**

59.1 The Municipal Planning Commission is authorized to exercise minor variance powers with respect to non-conforming buildings pursuant to Section 643(5)(c) of the *MGA*.

59.2 In respect of subsection 59.1, the Municipal Planning Commission minor variance powers may allow that the building may undergo structure alterations to address a safety issue if the building is currently habitable, windows and doors may be upgraded or changed, and a new porch, steps, landing or deck may be added to the building.

## **SECTION 60 DEVELOPMENT AGREEMENTS**

60.1 The Development Officer or Municipal Planning Commission may require, with respect to a development that as a condition of issuing a development permit, the applicant enter into an agreement with the municipality, pursuant to Section 650(1) of the *MGA*, to do any or all of the following:

- (a) to construct or pay for the construction of a road required to give access to the development;
- (b) to construct or pay for the construction of a pedestrian walkway system to serve the development and/or connect with existing or proposed pedestrian walkway systems that serve adjacent development;

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- (c) to install or pay for the installation of public utilities, other than telecommunication systems or works, that are necessary to serve the development;
  - (d) to construct or pay for the construction of off-street, or other parking facilities and/or loading and unloading facilities;
  - (e) to pay an off-site levy or redevelopment levy;
  - (f) to give financial security to ensure that the terms of the agreement under this Section are carried out.
- 60.2 The Subdivision Authority may require that as a condition of issuing an approval for a subdivision the applicant enter into an agreement with the municipality, pursuant to Section 655(1)(b) of the *MGA*.
- 60.3 An agreement referred to in this Section may require the applicant for a development permit or subdivision approval to oversize improvements in accordance with Section 651 of the *MGA*.
- 60.4 A municipality may register a caveat under the *Land Titles Act* with respect to an agreement under this Section against the certificate of title for the land that is the subject of the development, or for the parcel of land that is the subject of the subdivision.
- 60.5 If a municipality registers a caveat under this Section, the municipality must discharge the caveat when the terms, conditions and requirements of the agreement have been complied with.
- 60.6 As a condition of subdivision approval, all development agreements may be registered concurrently by caveat onto individual lots being created.

## OTHER LAND USE STANDARDS

Refer to **Part 5** and **Part 6** - for other **General Municipal Standards** and **Use Specific Standards** of Development.