





Request for Decision	
Meeting Date: December 3, 2019	
<b>Subject: Land Use Bylaw Amending Bylaw 2240</b>	
Recommendation:	That Council gives first reading to Bylaw No. 2240, which textually amends Land Use Bylaw 2070 by revising timelines and notification methods, and set a Public Hearing for Tuesday, January 7, 2020 at the regularly scheduled Council Meeting for the Town of Edson.
Background:	<p>The <i>Municipal Government Act</i> section 642(3) requires that a decision of a development authority on an application for a development permit must be in writing and given or sent to the applicant on the same day the written decision is given. Bylaw No. 2240 amends section 19(1) of Land Use Bylaw No. 2070 to align with the <i>Act</i> and the Town’s Public Notification Bylaw No. 2233.</p> <p>Bylaw No. 2240 proposes removing section 19(3) from the Land Use Bylaw to optimize human resources. All development permit approvals will continue to be available for inspection at the Planning counter during regular business hours. Section 19(4) has been modified to reflect the proposed deletion of section 19(3).</p> <p>The <i>Municipal Government Act</i> section 640(2)(d) requires that the Land Use Bylaw provide for how and to whom notice of the issuance of a development permit is to be given. The way notice is to be given is left to the discretion of the local Council so long as the notice is deemed reasonably effective in ensuring that potentially affected persons are made aware of the issuance of a development permit and for what type of development. Bylaw 2240 proposes that when a decision on a development permit is issued that a notice must be advertised on the Town’s website and may be advertised in the newspaper, sent by mail, or posted on the subject property. This proposed change aligns with the Town’s Public Notification Bylaw No. 2233 and will allow for permits to be released up to 11 days sooner than requiring the official public notice to be published in the newspaper.</p> <p>The <i>Municipal Government Act</i> sections 684 and 686 set out the timelines and processes for development appeals. Bylaw No. 2240 reflects the requirements of the MGA for a 21-day appeal period for development permit decisions.</p>
Legislation/Authority:	MGA ss. 640(2)(d), 642(3), 684, 686

Strategic Plan Alignment :	Public Engagement & Governance – This bylaw contributes towards ensuring that we are meeting legislative requirements, being efficient and responsible with resources, and cutting red tape where possible and appropriate.
Financial Implication:	Reduce costs associated with newspaper advertising and postage for direct mailouts.
Service Level/Staff Resource Implication:	Create a more uniform and streamlined process to allow for permits to be issued in a timelier manner.
Consultation:	None.
Alternative(s):	<ol style="list-style-type: none"> <li>1. Defeat first reading of Bylaw No. 2240 and have the Land Use Bylaw remain as it currently is.</li> <li>2. Council could provide other direction to Administration.</li> </ol>
Attachment(s):	MGA ss. 640(2)(d), 642(3), 684, 686 Land Use Bylaw ss. 19, 20, 27
APPROVALS:	
Originated By: (name and title)	Kari Florizone, Senior Planning Manager
Submitted By: (name and title)	Martino Verhaeghe, General Manager of Infrastructure and Planning
Chief Administrative Office or Designate:	Mike Derricott, CAO  



## TOWN OF EDSON BYLAW NO. 2240

A Bylaw of the Town of Edson in the Province of Alberta, pursuant to the provisions of the *Municipal Government Act*, being Chapter M-26 of the Statutes of Alberta 2000 and amendments thereto, to amend the Town of Edson Land Use Bylaw No. 2070.

**WHEREAS** it is deemed expedient to amend the Land Use Bylaw of the Town of Edson;

**NOW THEREFORE** the Municipal Council of the Town of Edson, in the Province of Alberta, duly assembled, enacts as follows:

1. That Land Use Bylaw No. 2070, being the Land Use Bylaw of the Town of Edson be amended as follows:
  - a) Replace Section 19(1) with the following:

“When a decision on a development permit application is issued for a development, the notice of decision must be:

    - (a) in writing;
    - (b) specify the date on which the decision was made; and
    - (c) provided to the Developer within twenty-four (24) hours of the decision being made.
      - (i) Notice will be provided by email, unless the Developer requests regular post mail service in writing, addressed to the person(s) specified on the application form as the applicant(s).
      - (ii) A notice sent by regular post mail will be post marked on the date the decision was made.”
  - b) Delete Section 19(3) in its entirety;
  - c) Replace Section 19(4) with:

“When a decision on a development permit application is issued for a development in a Direct Control District, Council or its Delegated Authority may direct the Development

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Officer to post a notice of decision conspicuously on a public notice board in the Town offices, at a minimum, during regular office hours for a period of 21 days.”

d) Replace Section 19(5) with:

“When a decision on a development permit is issued, the Development Officer:

- (a) must advertise a notice prominently on the Town of Edson’s official website;
- (b) may advertise a notice of the issuance of the development permit in a newspaper circulating in the municipal area;
- (c) may immediately mail a notice to all assessed property owners within 30.0m of the parcel with respect to which the application has been made; and
- (d) may post a notice conspicuously on the parcel with respect to which the application has been made.”

e) Replace the words “fifteenth (15<sup>th</sup>)” in Section 20(1) with:

“twenty-second (22<sup>nd</sup>)”

f) Replace the words “14 days” in Section 27(6) with:

“21 days”

2. This Bylaw shall take effect on third and final reading.

**READ** a first time this \_\_\_\_ day of \_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mayor Kevin Zahara

\_\_\_\_\_  
Michael Derricott, CAO

**TOWN OF EDSON BYLAW NO. 2240**

**READ** a second time this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor Kevin Zahara

\_\_\_\_\_  
Michael Derricott, CAO

**READ** a third time and finally passed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor Kevin Zahara

\_\_\_\_\_  
Michael Derricott, CAO

## 19. Notice of Decision

- (1) All decisions on applications for a development permit shall be given in writing to the Developer.
- (2) If an application is refused or conditionally approved by the Development Authority or Council, the notice of decision shall contain the reasons for the refusal or the conditions imposed as part of the approval.
- (3) When a decision on a development permit application is issued, except when it is for a development proposed in a Direct Control District, the Development Officer shall immediately post a notice conspicuously on a public notice board in the Town offices, at a minimum, during regular office hours.
- (4) When a decision on a development permit application is issued for a development in a Direct Control District, Council or its Delegated Authority may direct the Development Officer to post a notice of decision in accordance with Section 19(3).
- (5) When a decision on a development permit application is issued, the Development Officer may undertake any or all of the following:
  - (a) publish a notice in a newspaper circulating in the municipal area; and/or
  - (b) immediately mail a notice to all assessed property owners within 30.0m of the parcel with respect to which the application has been made and to those assessed property owners who, in the opinion of the Development Authority or Council, may be affected; and/or
  - (c) post a notice conspicuously on the parcel with respect to which the application has been made.
- (6) The notices issued pursuant to Sections 19(3), (4) or (5) shall indicate:
  - (a) the date that a notice of decision on the development permit application was issued;
  - (b) the location and use of the parcel in respect of which the application has been made and the decision of either the Development Authority or Council; and

*(Bylaw 2170)*

*Section 19(6) continued*

- (c) subject to Section 19(7), that an appeal may be made by a person affected by the decision by serving written notice of the appeal to the Subdivision and Development Appeal Board before the effective date of the development permit as determined pursuant to Section 20 of this Bylaw.
- (7) In accordance with Section 27(4) of this Bylaw, Section 19(6)(c) is not applicable in the case where the decision on a development permit application is made by Council pursuant to a Direct Control District.

**20. Effective Date of Permit**

The decision on a development permit application shall come into effect,

- (1) if it is made by the Development Authority, on the fifteenth (15<sup>th</sup>) day after the date of the issue of the Notice of Decision by the Development Authority on the application for a development permit, or
- (2) if it is issued by Council with respect to a development in a Direct Control District, upon the date of its issue, or
- (3) if an appeal is made, on the date that the appeal is finally determined.

**ANY DEVELOPMENT CARRIED OUT PRIOR TO THE EFFECTIVE DATE OF THE DEVELOPMENT PERMIT IS DONE SOLELY AT THE RISK OF THE DEVELOPER.**

**PART IV**  
**APPEAL AND AMENDMENT**  
**Sections 27-28**

**27. Appeals and Procedures**

- (1) An appeal may be made to the Subdivision and Development Appeal Board where a Development Authority
  - (a) refuses or fails to make a decision on a development permit application within 40-days of receipt of a completed application or prior to the expiry date of an agreement between the Developer and the Development Authority to extend the 40-day period herein described; or
  - (b) issues a development permit subject to conditions; or
  - (c) issues an order under PART V of this Bylaw.
- (2) A Developer applying for the permit or affected by an order under Section 27(1), or any other person affected by a development permit, an order or a decision issued/made by the Development Authority, may appeal to the Subdivision and Development Appeal Board.
- (3) No appeal lies in respect of the issuance of a development permit for a permitted use unless provisions of this Bylaw have been relaxed, varied or misinterpreted.
- (4) Any decisions made by Council with respect to a Direct Control District are not subject to appeal to the Subdivision and Development Appeal Board.
- (5) Any decisions made by a Delegated Authority with respect to a Direct Control District are subject to appeal to the Subdivision and Development Appeal Board, however, such an appeal is limited to whether the Delegated Authority followed the directions of Council.
- (6) An appeal shall only be made by serving a written notice of appeal to the Secretary of the Subdivision and Development Appeal Board within 14 days after:
  - (a) the date the development permit, order or decision issued/made by the Development Authority was publicized in accordance with Section 19; or
  - (b) the forty-day period or the time extension agreement period referred to in Section 27(1)(a) has expired.



Section 27 continued

(7) Each notice of appeal shall be accompanied by a fee as set by Resolution of Council.

(8) Public Hearing:

The Subdivision and Development Appeal Board shall hold a public hearing respecting an appeal within thirty-days of receipt of a notice of appeal.

(9) The Subdivision and Development Appeal Board shall give at least five days notice in writing of the public hearing to:

- (a) the appellant;
- (b) the Development Authority from whose order, decision or development permit the appeal is made;

(Bylaw 2170)

- (c) *(This subsection deleted by Bylaw 2170)*
- (d) those adjacent landowners in the Municipality who were notified under Section 19 of this Bylaw and any other person who in the opinion of the Subdivision and Development Appeal Board, is affected by the order, decision or development permit; and
- (e) such other persons as the Subdivision and Development Appeal Board specifies.

(10) The Subdivision and Development Appeal Board shall make available for public inspection before the commencement of the public hearing, all relevant documents and materials respecting the appeal including

- (a) the application for the development permit, its refusal and the appeal therefrom; or
- (b) the order of the Development Authority under PART V, of this Bylaw.

(11) Decision:

At the public hearing referred to in Section 27(8), the Subdivision and Development Appeal Board shall hear:

- (a) the appellant or any person acting on the appellants behalf;
- (b) the Development Authority from whose order, decision or development permit the appeal is made, or if a person is designated to act on behalf of the Development Authority, that person;

Section 27(11) continued

- (c) any other person who was served with notice of the hearing pursuant to Section 27(9) and who wishes to be heard, or a person acting on that person's behalf; and
  - (d) any other person who claims to be affected by the order, decision or permit and that the Subdivision and Development Appeal Board agrees to hear, or a person acting on that person's behalf.
- (12) In determining an appeal, the Subdivision and Development Appeal Board
- (a) shall comply with the Municipal Development Plan, any other statutory plan and, subject to clause (c) below, this Bylaw;
  - (b) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
  - (c) may make an order or decision or issue or confirm the issue of a development permit notwithstanding that the proposed development does not comply with this Bylaw if, in the opinion of the Subdivision and Development Appeal Board:
    - (i) the proposed development would not
      - a) unduly interfere with the amenities of the neighborhood, or
      - b) materially interfere with or affect the use, enjoyment or value of neighbouring properties, and
    - (ii) the proposed development conforms with the use prescribed for the land or building in this Bylaw.
- (13) The Subdivision and Development Appeal Board shall give its decision in writing together with reasons for the decision within fifteen (15) days of the conclusion of the hearing.

- (14) The Subdivision and Development Appeal Board may direct partial repayment if the Subdivision and Development Appeal Board upholds an appeal brought before it pursuant to this Section of the Bylaw, the Subdivision and Development Appeal Board may determine that up to one-half of the appeal fee levied in accordance with Section 27(7) be returned to the appellant.
  
- (15) A decision made under this part of the Bylaw is final and binding on all parties and all persons subject only to an appeal upon a question of jurisdiction or law pursuant to Section 688 of the Act. An application for leave to appeal to the Court of Appeal must be made to a judge of the Court of Appeal within thirty (30) days after the date of issue of the decision being sought to be appealed, and notice of the application must be given to
  - (a) the Subdivision and Development Appeal Board, and
  - (b) any other persons that the judge directs.

or a court shall not have regard to any policy approved by a council or by a person or body referred to in subsection (1)(b) unless the policy is set out in the list prepared and maintained under subsection (1) and published in accordance with subsection (2).

(4) This section applies on and after January 1, 2019.

2016 c24 s99

## Division 5 Land Use

### Land use bylaw

**639** Every municipality must pass a land use bylaw.

1995 c24 s95

### Protection of agricultural operations

**639.1** In preparing a land use bylaw, a municipality must consider the protection of agricultural operations unless an ALSA regional plan requires agricultural operations to be protected or requires agricultural land or land for agricultural purposes to be protected, conserved or enhanced, in which case the municipality must comply with the ALSA regional plan.

RSA 2000 c21(Supp) s5;2009 cA-26.8 s83

### Land use bylaw

**640(1)** A land use bylaw may prohibit or regulate and control the use and development of land and buildings in a municipality.

(2) A land use bylaw

- (a) must divide the municipality into districts of the number and area the council considers appropriate;
- (b) must, unless the district is designated as a direct control district pursuant to section 641, prescribe with respect to each district,
  - (i) the one or more uses of land or buildings that are permitted in the district, with or without conditions, or
  - (ii) the one or more uses of land or buildings that may be permitted in the district at the discretion of the development authority, with or without conditions,or both;
- (c) must establish a method of making decisions on applications for development permits and issuing development permits for any development, including provision for

- (i) the types of development permit that may be issued,
  - (ii) applying for a development permit,
  - (iii) processing an application for, or issuing, cancelling, suspending or refusing to issue, a development permit,
  - (iv) the conditions that are to be attached, or that the development authority may attach, to a development permit, either generally or with respect to a specific type of permit,
  - (v) how long any type of development permit remains in effect,
  - (vi) the discretion that the development authority may exercise with respect to development permits, and
  - (vii) any other matters necessary to regulate and control the issue of development permits that to the council appear necessary;
- (d) must provide for how and to whom notice of the issuance of a development permit is to be given;
- (e) must establish the number of dwelling units permitted on a parcel of land.

**(3)** A land use bylaw may identify additional land as adjacent land for the purposes of section 692.

**(4)** Without restricting the generality of subsection (1), a land use bylaw may provide for one or more of the following matters, either generally or with respect to any district or part of a district established pursuant to subsection (2)(a):

- (a) subdivision design standards;
- (b) the ground area, floor area, height, size and location of buildings;
- (c) the amount of land to be provided around or between buildings;
- (d) the landscaping of land or buildings;
- (e) the location, height and maintenance of fences and walls;
- (f) the establishment and maintenance of
  - (i) off-street or other parking facilities, and

for subdivision under the subdivision and development regulations.

2016 c24 s101

#### **Designation of direct control districts**

**641(1)** The council of a municipality that has adopted a municipal development plan, if it wishes to exercise particular control over the use and development of land or buildings within an area of the municipality, may in its land use bylaw designate that area as a direct control district.

**(2)** If a direct control district is designated in a land use bylaw, the council may, subject to any applicable statutory plan, regulate and control the use or development of land or buildings in the district in any manner it considers necessary.

**(3)** In respect of a direct control district, the council may decide on a development permit application or may delegate the decision to a development authority with directions that it considers appropriate.

**(4)** Repealed 2015 c8 s66.

RSA 2000 cM-26 s641;2015 c8 s66

#### **Permitted and discretionary uses**

**642(1)** When a person applies for a development permit in respect of a development provided for by a land use bylaw pursuant to section 640(2)(b)(i), the development authority must, if the application otherwise conforms to the land use bylaw and is complete in accordance with section 683.1, issue a development permit with or without conditions as provided for in the land use bylaw.

**(2)** When a person applies for a development permit in respect of a development that may, in the discretion of a development authority, be permitted pursuant to section 640(2)(b)(ii), the development authority may, if the application is complete in accordance with section 683.1, issue a development permit with or without conditions as provided for in the land use bylaw.

**(3)** A decision of a development authority on an application for a development permit must be in writing, and a copy of the decision, together with a written notice specifying the date on which the written decision was given and containing any other information required by the regulations, must be given or sent to the applicant on the same day the written decision is given.

**(4)** If a development authority refuses an application for a development permit, the decision must include the reasons for the refusal.

(9) If an application is deemed to be refused under subsection (8), the development authority must issue to the applicant a notice in the form and manner provided for in the land use bylaw that the application has been refused and the reason for the refusal.

(10) Despite that the development authority has issued an acknowledgment under subsection (5) or (7), in the course of reviewing the application, the development authority may request additional information or documentation from the applicant that the development authority considers necessary to review the application.

(11) If the development authority refuses the application for a development permit, the development authority must issue to the applicant a notice in the form and manner provided for in the land use bylaw that the application has been refused and the reasons for the refusal.

2016 c24 s125

## Development Appeals

### Permit deemed refused

**684(1)** The development authority must make a decision on the application for a development permit within 40 days after the receipt by the applicant of an acknowledgment under section 683.1(5) or (7) or, if applicable, in accordance with a land use bylaw made pursuant to section 640.1(b).

(2) A time period referred to in subsection (1) may be extended by an agreement in writing between the applicant and the development authority.

(3) If the development authority does not make a decision referred to in subsection (1) within the time required under subsection (1) or (2), the application is, at the option of the applicant, deemed to be refused.

(4) Section 640(5) does not apply in the case of an application that was deemed to be refused under section 683.1(8).

RSA 2000 cM-26 s684;2016 c24 s126;2018 c11 s13

### Grounds for appeal

**685(1)** If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

(3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted or the application for the development permit was deemed to be refused under section 683.1(8).

(4) Despite subsections (1), (2) and (3), if a decision with respect to a development permit application in respect of a direct control district

- (a) is made by a council, there is no appeal to the subdivision and development appeal board, or
- (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

RSA 2000 cM-26 s685;2015 c8 s73;2016 c24 s127

### Appeals

**686(1)** A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board

- (a) in the case of an appeal made by a person referred to in section 685(1)
  - (i) with respect to an application for a development permit,
    - (A) within 21 days after the date on which the written decision is given under section 642, or
    - (B) if no decision is made with respect to the application within the 40-day period, or within any extension of that period under section 684, within 21 days after the date the period or extension expires,



or

- (ii) with respect to an order under section 645, within 21 days after the date on which the order is made,

or

- (b) in the case of an appeal made by a person referred to in section 685(2), within 21 days after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

**(2)** The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.

**(3)** The subdivision and development appeal board must give at least 5 days' notice in writing of the hearing

- (a) to the appellant,
- (b) to the development authority whose order, decision or development permit is the subject of the appeal, and
- (c) to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified.

**(4)** The subdivision and development appeal board must make available for public inspection before the commencement of the hearing all relevant documents and materials respecting the appeal, including

- (a) the application for the development permit, the decision and the notice of appeal, or
- (b) the order under section 645.

**(4.1)** Subsections (1)(b) and (3)(c) do not apply to an appeal of a deemed refusal under section 683.1(8).

**(5)** In subsection (3), "owner" means the person shown as the owner of land on the assessment roll prepared under Part 9.

RSA 2000 cM-26 s686;2016 c24 s128;  
2017 c13 s1(65);2018 c11 s13

#### Hearing and decision

**687(1)** At a hearing under section 686, the subdivision and development appeal board must hear

- (a) the appellant or any person acting on behalf of the appellant,