

MOUNTAIN VIEW COUNTY

BYLAW NO. 05/18

TO AMEND THE LAND USE BYLAW NO. 15/15

**Mountain View County
Province of Alberta**

Bylaw No. 05/18

A BYLAW OF MOUNTAIN VIEW COUNTY IN THE PROVINCE OF ALBERTA TO AMEND THE LAND USE BYLAW NO. 15/15

SECTION 1 - AUTHORITY

- 1.1 Section 639 of the *Municipal Government Act*, as amended from time to time, requires that every municipality pass a Land Use Bylaw.
- 1.2 Section 191 of the *Municipal Government Act*, as amended from time to time, provides that the Land Use Bylaw may be amended by bylaw from time to time.

SECTION 2 - DEFINITIONS

- 2.01 Mountain View County hereby enacts that Land Use Bylaw No. 15/15, be amended as follows:

To delete Preamble from Section 5 Development Approval Process and replace with the following:

PREAMBLE

This section outlines the approval process of a development and subdivision application. Brochures explaining the approval process and the relation with the various levels of Approving Authorities are available through Planning & Development Services for further clarification.

To delete Section 5.1 and replace with the following:

5.1. Complete Development Permit Applications

1. The Approving Authority shall determine within twenty (20) calendar days (after the date of submission) if a Development Permit application is a complete application and send a notice in writing of confirmation to the applicant.
2. A complete Development Permit application shall include all the requirements of the applicable District, Section 4 and any other Sections of the Land Use Bylaw that applies to the application as well as:
 - a) Payment in full of applicable fees; and
 - b) Where subdivision is required, the subdivision must be registered pursuant to the subdivision regulation or comply with the Development Agreement(s) for the subdivision.
3. If the Approving Authority fails to determine within the twenty (20) calendar days (after the date of submission) if a Development Permit is complete, the application shall be deemed complete.
4. If an application is deemed incomplete, the Approving Authority shall issue a letter to the applicant that lists the outstanding documents and information to be submitted within a specified timeframe to be considered a complete application.

- a) After the outstanding documents and information is submitted and reviewed to determine if the application is complete, the Approving Authority shall send a notice in writing to the applicant to confirm the application is complete.
5. Failure to submit the outstanding documents and information within the timeframe of the letter or a timeframe as agreed between the applicant and the Approving Authority, the application shall be deemed to be refused and the Approving Authority shall proceed to issue a Notice of Decision for refusal with reasons.

To delete Section 5.2 and replace with the following:

5.2. Decision on a Development Permit Application

1. In making a decision on an application, the Approving Authority may approve the application with or without conditions, or if it relates to a discretionary use, refuse the application.
2. A Notice of Decision shall be sent to the applicant/landowner the same date the decision is made by the Approving Authority.
3. Before a decision is made, an application may be referred to such authorities or external agencies as the Approving Authority considers necessary, or is required by the Municipal Development Plan, any Inter-Municipal Development Plan or any other statutory document, for comments and advice respecting the application.
4. In reviewing a Development Permit application, the Approving Authority may request additional information or documentation that is considered necessary to make a determination.
5. In determining a Development Permit application for industrial or commercial land use, the Approving Authority shall, among other things, evaluate the application based on the provisions of the Commercial and Industrial Design Guidelines adopted by Council.
6. Despite being listed as a permitted use in a land use district, no Development Permit shall be issued if the site is determined to be unsuitable for the proposed use at the discretion of the Approving Authority.
7. The Approving Authority shall recommend approval or refusal of the application and may impose such conditions that are considered necessary to mitigate potential impacts.
8. Pursuant to Section 684 of the Act, an application for a Development Permit is, at the option of the applicant, deemed to be refused if the decision of an Approving Authority is not made within forty (40) days of a completed application being received by the County, unless the applicant has entered into an Agreement with the Approving Authority to extend the forty (40) day period.
9. Pursuant to Section 640(6) of the Act, the Approving Authority may approve an application for Development Permit notwithstanding that the proposal does not comply with this Bylaw, if in the opinion of the Approving Authority:
 - a) the proposal would not:
 - (i) unduly interfere with the amenities of the neighbourhood; or
 - (ii) materially interfere with or affect the use, enjoyment, or value of neighbouring properties; and

- b) the proposal conforms with the use prescribed for that land or building under this Bylaw.
10. In the event that a variance is granted for a Development Permit application, the Approving Authority shall specify the nature of the approved variance in the Development Permit approval.
 11. The Approving Authority may grant a variance on non-compliant Real Property Reports based on the conditions of an approved Development Permit or existing non-conforming development. Where the Municipality is requested to provide comments on a Real Property Report with respect to legally established or non-conforming existing development, the Approving Authority may:
 - a) where development is legally non-conforming or a Development Permit was not required, grant a relaxation of development standards up to 40%;
 - b) where a Development Permit has been issued, grant a relaxation by 10% of approved setback; or
 - c) otherwise require the issuance of a Development Permit for reasons of safety, hazard or general public concern or additional relaxation.

To delete Section 5.5 and replace with the following:

5.5. Notice of Decision and Re-application Interval

1. If a decision on a Development Permit application is issued for a Permitted Use for which a variance has been granted or for a Discretionary Use the Approving Authority shall
 - a) send the notice in writing to the applicant of the approval on the same day the decision is made;
 - b) publish the Notice of Decision on the County's website on the same day the decision is made and shall serve as the notice of issuance of the Permit to comply with section 686 (1)(b) of the Act;
 - c) provide notice in writing to the adjacent land or the adjoining properties that were circulated as part of the processing of the application.
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- d) publish a notice of the decision in the newspaper circulating in the Municipality stating the legal description of the land on which the development is being considered and the nature of the variance or development; and
 - e) state the procedure for any Appeal and the date the Appeal period expires.
2. If an application for Development Permit is refused, the Approving Authority shall send the notice in writing to the applicant on the same day the decision is made.
 3. When an application for a Development Permit is refused or refused as a result of an Appeal to the Subdivision and Development Appeal Board, the submission of another application for the same or similar use on the same parcel by the same or any other applicant may not be made for a period of six (6) months from the date of issue of the refusal, except where Council has by resolution waived the six (6) month waiting period and except when the refusal was the result of an incomplete application. If necessary, the determination of what constitutes same or similar use shall be made by referring the matter to the Approving Authority. If a second

application is refused, a third application may not be made within one (1) year of the date of refusal.

To delete Section 5.6.1 and replace with the following:

1. A Development Permit shall come into effect twenty-two (22) days after the date of the issue of the Notice of Decision, unless an Appeal is made to the Appeal Authority.

To add a new Section 5.7 with the following:

5.7 Complete Subdivision Applications

1. The Approving Authority shall determine within twenty (20) calendar days (after the date of submission) if a Subdivision application is a complete application and send a notice in writing of confirmation to the applicant.
2. A Subdivision application shall be considered complete if all of the following minimum requirements are provided by an applicant in accordance with the Subdivision and Development Regulation:
 - a) Complete application filled-in with owner authorization and applicant signature;
 - b) Site sketch showing the proposed subdivision boundaries and if necessary, all structures within the proposal with the location of servicing;
 - c) Permission for reasonable right-of-entry by County staff for site inspection;
 - d) Current Certificate of Title dated within thirty (30) days prior to the application date;
 - e) Abandoned well information as per Alberta Energy Regulator;
 - f) Payment in full of applicable fees;
 - g) If required, a Subdivision Time Extension Agreement; and
 - h) At the discretion of the Approving Authority, if required, information as identified in Section 4, subsection (3) and (4) of the Subdivision and Development Regulation.
3. If the Approving Authority fails to determine within twenty (20) calendar days (after the date of submission) if a Subdivision application is complete, the application shall be deemed complete.
4. If an application is deemed incomplete, the Approving Authority shall issue a letter to the applicant that list the outstanding documents and information to be submitted within a specified timeframe to be considered a complete application.
 - a) After the outstanding documents and information is submitted and reviewed to determine if the application is complete, the Approving Authority shall send a notice in writing to the applicant to confirm the application is complete.
5. If an application for Subdivision requires a land use redesignation in accordance with County's statutory plans and Land Use Bylaw, the Redesignation and Subdivision applications may be submitted at the same time. The Redesignation application shall proceed before the Subdivision application and:

- a) As part of complete application, a Time Extension Agreement shall be entered into with the applicant to extend the decision time limit in which the Subdivision decision must be made within sixty (60) calendar days after the date the Redesignation decision is made.
6. Pursuant to the Act, additional information and/or documentation necessary to review a Subdivision application may be required from the applicant/landowner during the course of a file review.
7. If a Subdivision application is deemed incomplete because the applicant/landowner fails to provide the information within the agreed timeframe, the application shall be refused with reasons by the Approving Authority unless the applicant/landowner had previously expressed, in writing, to have the Subdivision application withdrawn.

To delete Section 7.6.2 and replace with the following:

2. The Order shall specify a deadline for compliance and
 - a) state a time within which the person must comply with the Order;
 - b) state that if the person does not comply with the Order within the specified time, the Municipality will take the action or measure at the expense of the person;
 - c) the date the Order was made; and
 - d) sent to the person(s) that is subject to the Order on the same day the Order is made.

To delete Section 8.2 and replace with the following:

8.2. Procedure for Development Permit, Subdivision and Stop Order Appeals

1. Subdivision, Development Permit and Stop Order Appeals shall be to the Subdivision and Development Appeal Board or the specific Inter-Municipal Subdivision and Development Appeal Board in accordance with the Act and consistent with the applicable procedures of the Subdivision and Development Appeal Board or the Municipal Government Board.
2. An Appeal with regard to a Development Permit may be made by the following:
 - a) the applicant of a Development Permit, if the Approving Authority
 - (i) refuses a Development Permit;
 - (ii) issues a Development Permit subject to conditions;
 - (iii) fails to make a decision with respect to an application within forty (40) days of receipt of a complete application or within such longer period as the applicant may have approved, in writing; or
 - (iv) issues an Order under Section 645 of the Act, or Subsection 8.3 of this Bylaw.
 - b) by any person claiming to be affected by a Development Permit decision.
3. An Appeal to the Appeal Authority is subject to a non-refundable fee in accordance with the fee schedule as set from time to time by resolution or Bylaw of Council.

4. A Development Permit Appeal shall be made by serving a written Notice of Appeal, containing reasons for the Appeal, accompanied by the appropriate non-refundable administrative fee, to the Secretary of the Appeal Authority as specified in Section 686(1) of the Act:
 - a) in the case of an Appeal made by a person referred to in Subsections 8.2.2.a) within twenty-one (21) calendar days after:
 - (i) the date on which the decision of the Development Permit was made; or
 - (ii) if no decision is made with respect to the application within forty (40) calendar days period or within any extension of this time limit referred to under Subsections 8.2.2.a)(iii), the date the period or extension expires; or
 - b) in the case of an Appeal made by a person referred to in Subsection 8.2.2.b) within twenty-one (21) calendar days after the date on which the notice of the approval of the Development Permit was published on the County's website.
5. No Appeal may be made in respect of the issuance of a Development Permit for a Permitted Use unless the provisions of this Bylaw were relaxed, varied, or misinterpreted.
6. No Appeal may be made in respect of a Development Permit that was deemed to be refused as a result of an incomplete application.
7. No Appeal may be made in respect of a decision of Council of a Development Permit in a Direct Control District.
8. An Appeal with regard to a subdivision application may be made by the following:
 - a) by the applicant of a subdivision application, if the Approving Authority
 - (i) issues a subdivision approval subject to conditions;
 - (ii) refuse a subdivision with reasons;
 - (iii) fails to make a decision with respect to an application within sixty (60) days of receipt of a complete application or within such longer period as the applicant may have approved in writing; or
 - b) by any Government department that required referral by the Subdivision and Development Regulation or a School Board.
9. An Appeal to the Appeal Authority is subject to a non-refundable fee in accordance with the fee schedule as set from time to time by resolution or Bylaw of Council.
10. A Subdivision Appeal shall be made by serving a written Notice of Appeal, containing reasons for the Appeal, accompanied by the appropriate non-refundable administrative fee, to the Secretary of the Appeal Authority as specified in Section 678(2) of the Act:
 - a) within fourteen (14) calendar days after:
 - (i) receipt of the Notice of Decision; or
 - (ii) if no decision is made with respect to the application within the sixty (60) calendar days or within any extension of this time limit referred to under Subsections

8.2.7.a)(iii), the date the period or extension expires.

(iii) Pursuant to Section 678(3) of the Act, the date of receipt of the decision is deemed to be seven (7) calendar days from the date the decision is mailed.

11. An Appeal with regard to a Stop Order made under Section 645 of the Act and Section 7 of this Bylaw may be made by the following:

- a) the person(s) who received the Order; or
- b) by any person claiming to be affected by the Order.

12. An Appeal to the Appeal Authority is subject to a non-refundable fee in accordance with the fee schedule as set from time to time by resolution or Bylaw of Council.

13. A Stop Order Appeal shall be made by serving a written Notice of Appeal, containing reasons for the Appeal, accompanied by the appropriate non-refundable administrative fee, to the Secretary of the Appeal Authority as specified in Section 686(1) of the Act:

- a) within twenty-one (21) calendar days after the date on which the Order was made.

SECTION 3 - EFFECTIVE DATE

3.1 This Bylaw shall come into effect at such time as it has received third (3rd) reading and has been signed in accordance with the *Municipal Government Act*.

Received first reading February 14, 2018

Received second reading _____

Received third reading _____

Reeve

Chief Administrative Officer

Date of Signing