

PART III

GENERAL ADMINISTRATIVE CLAUSES

16.0 Authority and Responsibility of the Development Officer

16.1 Establishment and Appointment

- 1) The Development Officer shall be any person appointed by the Council of the RM of Armstrong to occupy the position of Development Officer.

16.2 Development Officer Duties and Responsibilities

The Development Officer:

- 1) Shall review each development permit application to ascertain whether it conforms to the adopted *Fisher Armstrong Planning District Development Plan* and amendments thereto, all applicable regulations and information regulations of this By-law and amendments thereto, and other Municipal By-laws, the conditions of any caveat, covenant, site plan, development agreement, variance or conditional use order, easement or any other instrument affecting a building or land.
- 2) May refer a development permit application to any municipal, provincial or federal department or any other agency or body, deemed appropriate to obtain comments on the application.
- 3) Shall approve, without any conditions, or with such conditions as are required to ensure compliance, an application for development of a Permitted Use provided the development complies with the regulations of this By-law, or shall refuse an application for development of a Permitted Use if the development does not comply with the regulations of this By-law unless he/she uses his/her discretion pursuant to Section 16.3 of this By-law.
- 4) May give notice of his/her decision on applications for development as follows:
 - a) where an application has been approved notice to the applicant shall be given in writing by ordinary mail; or
 - b) where an application has been refused, notice in writing shall be given to the applicant, by ordinary mail, and such notice shall state the reason for refusal.
- 5) Shall, in the case of a development permit for a temporary sign or portable sign, specify the length of time that the permit remains in effect.

- 6) Shall receive, review and process variation, permitted use and conditional use order applications.
- 7) Shall perform other such duties as described or implied elsewhere in this By-law or required by Council.
- 8) A person who is unsatisfied with a decision or order of the Development Officer may request Council to review the decision or order by written notice within 14 days after the person receives the decision or order.
- 9) After giving the person a reasonable opportunity to be heard, Council may confirm, vary, substitute or cancel the order or decision.

16.3 Variance to Regulations

- 1) The Development Officer may approve, with or without conditions, a minor variation not to exceed 10.00 percent of the regulations of this By-law governing front, side, rear or any other yard regulations.

16.4 Public Inspection of Applications

- 1) The Development Officer shall ensure that a Register of Applications is maintained, and is made available to any interested person during normal office hours.

16.5 Maintenance and Inspection of By-law

The Development Officer shall:

- 1) Make available to the public during normal office hours copies of this By-law and all subsequent amendments thereto.
- 2) Charge the specified fee for supplying to the public copies of this By-law.

17.0 Responsibilities of Council

Subject to the provisions of the Act, the Council is responsible for:

- 1) The enactment of this By-law.

- 2) Administering and enforcing those provisions of the Act, where applicable.
- 3) Considering the adoption or rejection of proposed amendments or the repeal of this By-law.
- 4) Approving or rejecting variation order applications.
- 5) Approving or rejecting conditional use order applications and considering revoking the authorized conditional use order for any violation of any conditions imposed by it.
- 6) Establishing a schedule of fees.

18.0 Duties of the Owner

- 1) Neither the granting of a development permit nor the approval of the drawings and specifications or the inspections made by the Development Officer shall in any way relieve the owner of the responsibility of complying with the regulations of this By-law or of any relevant By-laws of the RM of Armstrong.
- 2) Every owner shall:
 - a) permit the Development Officer to enter any building or premises for the purpose of administering or enforcing this By-law at all reasonable times and with the consent of the owner in accordance with the Act;
 - b) after the development application has been approved and the permit issued, notify the Development Officer and obtain his/her approval before doing any work at variance with the approved documents filed; and
 - c) be responsible for obtaining, where applicable, from the appropriate authorities, permits or licenses relating to the buildings, grades, plumbing, blasting, street, occupancy, electrical, highways, and all other permits required in connection with the proposed work.

19.0 Development Classes

The following classes of development are hereby established.

- 1) Class A No Development Permit Required
- 2) Class B Permitted Use

- 3) Class C Conditional Use

19.1 Class A Development (No Development Permit Required)

No development permit is required under this By-law for the developments listed below, provided that such developments shall comply with the Permitted Use and regulations of this By-law. For a development listed below, the Development Officer shall advise the applicant that no permit is required and return the submission, including any fees paid. Developments exempted from applications are as follows:

- 1) Regular maintenance and repair of any development, provided it does not include structural alterations.
- 2) Private driveways and patios which are accessory to a development.
- 3) A fence, wall, or gate not exceeding 2.00 m. (6.56 ft.) in height.
- 4) An accessory building that:
 - a) is less than 10.00 sq. m. (107.64 sq. ft.) in area;
 - b) does not exceed 4.57 m. (15.00 ft.) or one storey in height; and
 - c) is not considered a hazard by the Development Officer.
- 5) An unenclosed deck or a deck enclosed by a rail or parapet wall and a wheelchair ramp, all of which having a floor less than 0.61 m. (2.00 ft.) above grade unless it is anchored to the building.
- 6) Landscaping where the existing grade and natural surface drainage pattern is not materially altered.
- 7) The erection or placement of a temporary building, the sole purpose of which is incidental to the erection of a building for which a development permit has been granted, provided the temporary building is removed within 30 days of substantial completion or as determined by the Development Officer.
- 8) Demolition of a development only where a development permit has been issued for a new development on the same site, and the demolition of the existing development is explicit or implicit in that permit.

- 9) The following types of signs are exempt but this shall not relieve the owner or person in control of such signs from erecting and maintaining the signs in a safe and good condition:
 - a) signs of less than 0.60 sq. m. (6.46 sq. ft.) in area, advertising the sale, lease, or rent of property, premises, or buildings on that site;
 - b) memorial signs or tablets of bronze, brass, stone or other non-combustible materials when built into or attached to the walls of a building or other structure provided such tablets bear only the name of the owner, the name and use of the building, the date of erection of the building or reading matter commemorating a person or event;
 - c) signs of a duly constituted governmental body, including traffic or regulating devices, legal notices, railway crossing, danger or other emergency signs;
 - d) one real estate sign; and
 - e) non-illuminated directional signs, each sign not to exceed 0.50 sq. m. (5.38 sq. ft.) in sign area.

- 10) When a change in land use is from one agricultural activity to another, excluding livestock production operations.

20.0 Development Permit Application Submissions

20.1 General Conditions

- 1) An application for a development permit shall not be considered to have been received until the applicant has submitted all information required pursuant to this Section, and any information specifically required pursuant to the regulations of the applicable Zoning District or any other Section of this By-law and until the applicant has paid the appropriate fee.

- 2) Notwithstanding Section 20.1(1), the Development Officer may consider an application if the development is of such a nature as to enable a decision to be made on the application without all of the information required in this Section.

- 3) The Development Officer may require an applicant to submit such additional information as he/she considers necessary to verify the compliance of the proposed use or development with the regulations of this By-law.

- 4) A building permit for an accessory building cannot be issued unless a building permit for the main building has also been issued.
- 5) The approval of any application, drawings, or the issuing of a development permit shall not prevent the Development Officer from thereafter requiring the correction of errors, nor from prohibiting the development being carried out when the same is in violation of this By-law.
- 6) Where an application for a development permit is determined to contain incorrect information, no development permit shall be issued until the applicant corrects such information.
- 7) Any development permit issued on the basis of incorrect information contained in the application shall be invalid.
- 8) Unless otherwise specified in this By-law, all drawings submitted shall be drawn on substantial standard drafting material to a scale of not less than 1:100 or such other scale as the Development Officer may approve, and shall be fully dimensioned, accurately figured, explicit and complete.

20.2 Class B Developments (Permitted Use)

The following information shall be submitted with an application for Class B (Permitted Use) developments, and the appropriate application form fully and accurately completed in accordance with the following regulations:

- 1) The municipal address of land and buildings presently occupying the site, if any.
- 2) A Report on Title.
- 3) A legal description of the land on which the proposed development is to occur, by lot, block, subdivision and registered plan numbers.
- 4) The applicant's name, address and interest in the land.
- 5) A sketch plan of the site, showing the location of the proposed development relative to the boundaries of the site.

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- 6) Description of the work to be performed with respect to:
 - a) change in current occupancy of land use; or
 - b) description of proposed development or building operations.

- 7) Identification of the scale of the development with respect to:
 - a) gross floor area of the development in square metres;
 - b) area of the site covered in square metres;
 - c) height of the structure in metres; and
 - d) number of floors or storeys.

- 8) The estimated value, in dollars, of the proposed work.

- 9) A site plan, at a minimum scale of 1:500, showing the following:
 - a) a directional true north arrow with the north point located in such a manner that the true north is in the upper position of the drawings;
 - b) setbacks and yard dimensions;
 - c) the location of all buildings or structures in relation to property lines; and
 - d) dimensioned layout of existing and proposed parking areas, driveways, entrances and exits, abutting public roadways, median breaks and auxiliary lanes.

- 10) Identification of the scale of the development with respect to the number of dwellings, or establishments for commercial, industrial or other purposes.

- 11) If required by the Development Officer, a site plan at a minimum scale of 1:500, showing:
 - a) the location of sidewalks and walkways; where applicable, parking, loading, storage, outdoor service and display areas; and
 - b) the location of fences, screening, retaining walls, trees, landscaping, and other physical features both existing and proposed in the site and adjoining boulevard, if any.

- 12) Floor plans at minimum scale of 1:100, indicating all uses or occupancies, storage and garbage holding areas.

- 13) Elevations and drawings, indicating sections and the bulk of buildings, at a minimum scale of 1:100.

- 14) Number of parking and loading spaces required and provided.

- 15) A building location certificate.

20.3 Class C Developments (Conditional Use)

In addition to two copies of the information required for Class B (Permitted Use) developments, the applicant shall submit two copies of the following for Class C (Conditional Use) developments:

- 1) The applicant's name, signature, address and interest in the land.
- 2) A plan showing the location of adjacent buildings and structures indicating the approximate height and number of storeys.
- 3) Excluding the Agricultural and Natural Resource Development Use Class, a description of the exterior finishing materials to be used.
- 4) A written statement and other supportive material explaining the proposed development.

20.4 Sign Developments

The following information shall be submitted, in duplicate, with an application for a Sign Development, and the appropriate application form shall be fully and accurately completed:

- 1) The municipal address and legal description of the land or building where the sign is to be erected.
- 2) The applicant's name, address, telephone number and interest in the land.
- 3) The name of the business or development where the signs is to be erected.
- 4) Whether the development where this sign is to be erected is a single business occupancy or multiple business occupancy development.
- 5) A letter from the owner of the property on which the sign is to be erected, or his/her agent, authorizing the applicant's sign development.
- 6) Two sets of working drawings for the proposed sign showing:

- a) the overall dimensions of the sign, including all sign boxes and cabinets;
 - b) a description or illustration of the copy to be displayed on the sign;
 - c) the method of illumination, if any;
 - d) the materials from which the sign is to be constructed; and
 - e) method used to support the sign and the type of wall construction if the sign is anchored to a building.
- 7) Two sets of a sketch plan showing:
- a) the location of the sign on the building;
 - b) the clearance from grade from the lowest portion of the sign;
 - c) maximum extension of the sign above the building roof or parapet wall;
 - d) the distance of the maximum projection of the sign beyond the building wall; and
 - e) any sidewalks, pedestrian passageways, or public roadways that the proposed sign will extend over.

21.0 Special Information Regulations

21.1 Slope and Soil Information

- 1) When an application for a development permit is submitted to the Development Officer for the development of a site abutting a water course and Municipal drain, the Development Officer may require, in consultation with a Certified Professional Engineer of Manitoba, information regarding the existing and proposed grades at 0.50 m. (1.64 ft.) contour intervals. The final grades shall be to the satisfaction of the Development Officer.
- 2) Notwithstanding anything contained herein, the Development Officer may require a detailed engineering study of the soil conditions prepared by a Certified Professional Engineer of Manitoba prior to the issuance of a development permit or the construction of any development abutting a water course and Municipal drain. The engineering study shall contain evidence of:
 - a) test borings;
 - b) ground water piezometer test;
 - c) slope indicators where necessary;
 - d) identification of any sub-surface mining operations;
 - e) river erosion analysis; and
 - f) surface erosion analysis.

The detailed engineering study shall conclude by the registered Professional Engineer certifying that the foundations proposed for the development are designed with full knowledge of the soil conditions and the proposed siting of the development upon this site.

- 3) The Development Officer may require the submission of a detailed engineering study as outlined in Section 21.1(2) of this By-law prior to the issuance of a development permit at any location within the Municipality which in the opinion of the Development Officer or Certified Professional Engineer of Manitoba has unstable soil conditions.
- 4) The Development Officer, having required a detailed engineering study of the soil conditions may, acting on the advice of the Certified Professional Engineer of Manitoba, apply conditions to the approval of the development permit to prevent erosion and to stabilize soil conditions.

22.0 Conditions Attached to a Development Permit

- 1) The Development Officer or Council may impose, with respect to a Permitted Use, such conditions as are required to ensure compliance with this By-law.
- 2) Council may, with respect to a Conditional Use, impose such conditions as deemed appropriate, having regard to the regulations of this By-law, other municipal, provincial and federal government regulations, and matters raised at the Conditional Use Hearing.
- 3) The Development Officer or Council may, as a condition of issuing a development permit, require the applicant to make satisfactory arrangements for the supply of electric power, vehicular and pedestrian access, or any of the aforementioned, including payment of the costs of installation or constructing any such utility or facility by the applicant.
- 4) The Development Officer or Council may, as a condition of issuing a development permit require that an applicant enter into an agreement or an interim agreement, which shall be attached to and form part of such development permit, to do all or any of the following:
 - a) to construct, or pay for the construction of, a public roadway required to give access to the development;
 - b) to specify the location and number of vehicular and pedestrian access points to sites from public roadways;

- c) to install, or pay for the installation of, utilities that are necessary to serve the development, or pay the recovery costs of services which have already been installed;
 - d) to repair or reinstate, or to pay for the repair or reinstatement, to original condition, any street furniture, curbing, sidewalk, boulevard landscaping and tree planting which may be damaged or destroyed or otherwise harmed by development or building operations upon the site.
- 5) The Development Officer or Council may require any agreement entered into pursuant to Section 22.0(4) to be caveated against the title to the site at the Land Titles Office.

23.0 Enforcement and Penalties

23.1 Offenses

- 1) Any owner, lessee, tenant or occupant of land, or a building or a structure thereon, who, with respect to such land, building or structure:
 - a) contravenes; or
 - b) causes, suffers or permits a contravention of, any provision of the Act, a development permit, a development agreement or this By-law; commits an offense.
- 2) Any contractor, worker, or other person who constructs a building or structure, or makes an addition or alteration thereto:
 - a) for which a development permit is required but has not been issued or is not subsisting under this By-law; or
 - b) in contravention of a condition of a development permit issued under this By-law; commits an offense.

23.2 Penalties

- 1) Fines and penalties will be imposed as per the Act.

23.3 Suspension or Revocation of the Development Permit

- 1) The Development Officer may suspend or revoke a development permit where:

- a) the applicant fails to comply with the conditions of issuance of a permit; or
 - b) any person undertakes or causes or permits any development on a site contrary to the terms or conditions of a permit.
- 2) Any person who undertakes, or causes or permits, any development on a site without a permit, or after a permit has been suspended or revoked, shall discontinue such development forthwith upon notice in writing issued by the Development Officer so requiring, and shall not resume such development unless a permit has been issued or the permit reinstated.

24.0 Rezoning Amendments

24.1 Text Amendments

- 1) Any person applying to amend Parts I, II, III and IV of this By-law shall apply in writing to the Development Officer, furnishing reasons in support of the application and requesting that the Development Officer submit the application to the Council.
- 2) If a person applies to the Council in any manner for an amendment to Parts I, II, III and IV of this Zoning By-law, the Council shall require him/her to submit his/her application to the Development Officer in accordance with the provisions of this Section before it considers the amendment proposed by such person.

24.2 Rezoning Applications

- 1) Any person applying to amend Part II of this By-law to change the Zoning District governing any land shall apply in writing to the Development Officer and submit the following to the Development Officer:
 - a) a Report on Title which has been issued no later than 30 days prior to the receipt of the amendment application by the Development Officer;
 - b) the applicant's name, signature, address and interest in the property;
 - c) a signed statement by the applicant stating that he/she is willing to pay for all costs incurred by the Municipality in processing the proposed amendment, whether it be enacted or not, including, but not limited to, all mapping, printing, reproduction, planning, engineering, legal, surveys and advertising costs;
 - d) the appropriate application fee; and

- e) a brief written statement by the applicant in support of his/her application, and his/her reasons for applying.

24.3 Review and Processing of Amendments

- 1) Upon receipt of an application for a rezoning amendment, the Development Officer shall forward the application to Council for review.
- 2) If Council deems it appropriate to give the application first reading, the Development Officer shall then examine the proposed amendment or undertake an investigation and analysis of the potential impacts of development under the proposed Zoning District. The analysis shall be based upon the full development potential of the uses and development regulations specified in the proposed Zoning District and not on the merits of any particular development proposal. The analysis shall, among other things, consider the following impact criteria:
 - a) relationship to and compliance with the *Fisher Armstrong Planning District Development Plan* and Council policy;
 - b) compatibility with surrounding development in terms of land use function and scale of development;
 - c) traffic impacts;
 - d) relationship to, or impacts on utility services and public facilities such as recreational facilities and schools;
 - e) relationship to Municipal land, right-of-way or easement regulations;
 - f) effect on stability, retention and rehabilitation of desirable existing uses, buildings, or both in the area;
 - g) necessity and appropriateness of the proposed Zoning District in view of the stated intentions of the applicant;
 - h) relationship to the documented concerns and opinions of area residents regarding the application;
 - i) groundwater and soil conditions; and
 - j) topographical, physical and natural features.
- 3) The Development Officer shall prepare a written report on the proposed amendment and advise the applicant of the hearing date.
- 4) The Development Officer, in his/her discretion, may present for the consideration of Council any proposed amendment to this By-law, and the proposed amendment shall be accompanied by the report and recommendation of the Development Officer.

- 5) Council, in its discretion, may initiate any amendment to this By-law, and prior to the approval of any amendment, Council may refer the proposal to the Development Officer for his/her report and recommendation.
- 6) Every rezoning application shall be accompanied by the required fee as set out by Council.
- 7) When a Development and/or Zoning Agreement is to be entered into between the Municipality and the applicant, the applicant shall pay to the Municipality, in addition to any other fee required pursuant to this or any other By-law, a Development and/or Zoning Agreement fee.

24.4 Notification of Amendments

- 1) Prior to consideration by Council of a proposed rezoning amendment, the Development Officer shall place a public notice in compliance with the Act.

25.0 Subdivisions

- 1) No parcel of land shall hereafter be divided into sites, unless each site conforms to the regulations for the Zoning District upon which the site is located.
- 2) An existing undersized lot may be increased in area or frontage, or both, and still remain an existing undersized lot if after the increase the lot still remains undersized.
- 3) In addition to the regulations contained herein, all subdivisions shall conform to the provisions of the *Fisher Armstrong Planning District Development Plan*, and the provisions of the Act, where applicable.

26.0 Conditional Uses

- 1) An owner or his/her agent may file an application to use land for a use listed as a Conditional Use in this By-law.
- 2) An application for approval of a Conditional Use shall be filed with the Development Officer and shall be in such form and accompanied by such information and fees as determined by Council.

- 3) Council shall request the Development Officer to prepare a written report that identifies potential impacts. The analysis shall, among other things, consider the following impact criteria:
 - a) relationship to and compliance with the *Fisher Armstrong Planning District Development Plan* and Council policy;
 - b) compatibility with surrounding development in terms of land use function and scale of development;
 - c) traffic impacts;
 - d) relationship to, or impacts on utility services and public facilities such as recreational facilities and schools;
 - e) relationship to Municipal land, right-of-way or easement regulations;
 - f) effect on stability, retention and rehabilitation of desirable existing uses, buildings, or both in the area; and
 - g) relationship to the documented concerns and opinions of area residents regarding the application.
- 4) Prior to consideration by Council of a Conditional Use application, the Development Officer shall place a public notice in compliance with the Act.
- 5) An application for a Conditional Use shall be processed and approved or rejected in accordance with the Act. If warranted, Council may want to consider imposing conditions to ensure that the proposed development will not significantly impact the Municipality. This could include:
 - a) additional buffering measures such as increased yard setbacks, berms and fencing;
 - b) performance standards dealing with such potential impacts as noise, odour and vibration;
 - c) limiting the hours of operation;
 - d) imposing design and siting regulations including landscaping, outdoor lighting, refuse and storage areas, and building design and architectural appearance;
 - e) the owner/applicant upgrading certain municipal services such as roads and ditches;
 - f) a letter of credit related to municipal improvements such as road or drainage works; and
 - g) liability insurance protecting the municipality from any future legal claims, including environmental contamination to water sources.

- 6) The approval of Council shall expire and cease to have any effect if it is not acted upon within twelve months of the date of the decision, unless it is renewed at the discretion of Council for an additional period not exceeding twelve months.

27.0 Variation Orders

- 1) Any person who is of the opinion that this By-law injuriously or adversely affects him/her or his/her property rights, may at any time apply for a Variation Order, in accordance with the provisions of the Act.
- 2) An application for a Variation Order shall be filed with the Development Officer, and shall be in such form and accompanied by such information and fees as determined by the Development Officer or Council.
- 3) Prior to consideration by Council of a proposed Variation Order, the Development Officer shall place a public notice in compliance with the Act.
- 4) An application for a Variation Order shall be processed and approved or rejected in accordance with the provisions of the Act. Council shall request the Development Officer to prepare a written report that assesses the merits and implications of the proposed application.
- 5) The approval of Council shall expire and cease to have any effect if it is not acted upon within twelve months of the date of the decision, unless it is renewed at the discretion of Council for an additional period not exceeding twelve months.