

CITY OF CHESTERMERE

PROVINCE OF ALBERTA

BYLAW #012-20

A Bylaw of the City of Chestermere, in the Province of Alberta, to amend the Land Use Bylaw 022-10, as amended.

WHEREAS The Municipal Government Act, RSA 2000, C. M-26 and amendments thereto provides that a Municipal Council has adopted a Land Use Bylaw and may amend the Land Use Bylaw 022-10, as amended;

AND WHEREAS Council deems it desirable to amend Land Use Bylaw 022-10, as amended;

NOW THEREFORE The Council of the City of Chestermere, duly assembled, enacts as follows:

1. PART 2 INTERPRETATION

(1) Section 2.2 **Definitions** shall be amended with the following items:

- i. The addition of “ **Commencement of Development**” means:
 - (a) where a Development Permit is for a change of use, a change in intensity of use, or both, development commences when the applicant begins occupying the parcel and engaging in the Use which was approved by the Development Permit; or (b) where a Development Permit is for construction, construction combined with a change of use, or construction combined with a change in intensity of use, or both, development commences once a Building Permit has been issued for the development.”
- ii. The addition of “ **Surrounding Context**” refers to the relationship of a development to its surroundings; that is, to neighbouring existing and planned future uses, the natural characteristics of the site (escarpment, topography, slope, vegetation, etc.), and the neighbouring streetscape and community. Some elements that affect the responsiveness of a new development to its surroundings include appearance, height, scale, massing, setbacks, adjoining setbacks, space between buildings, landscaping, lighting, overshadowing, overlooking, and increases in traffic, parking, activity, noise, or odours. A new development consciously respects/responds to its Surrounding Context when the design maintains or contributes to the quality and character of the neighbourhood.”

2. PART 4 DEVELOPMENT APPLICATIONS

(2) Section 4.3 **Development Permit Applications** shall be amended with the following items:

- i. Section 4.3.2 shall be amended to the following:

“An application for a Development Permit shall not be considered complete until such time as, in the opinion of the Development Authority, all documents and other information, including but not limited to all details required for a comprehensively designed development, necessary to review the application have been submitted. Once the Development Authority determines that the application is complete, the Development Authority will notify the applicant accordingly by letter sent to the applicant’s physical or electronic address as set out in the application by courier, ordinary mail, or email.”
- ii. Section 4.3.3 shall be amended to the following:

“Despite determining an application complete, in the course of reviewing that application, the Development Authority may request additional information or documentation from the applicant that the Development Authority considers necessary for review of the application.”
- iii. Section 4.3.4 shall be added and will read as follows:

“When, in the opinion of the Development Authority, sufficient document, information, and details of the proposed development have not been included with the application for a Development Permit, the Development Authority shall determine the application incomplete, and notify the applicant accordingly by letter sent to the applicant’s physical or electronic address as set out in the application by courier, ordinary mail, or email. Further, the letter will set out any outstanding documents, information, or details necessary to consider the application complete and the date for their submission by the applicant, or a later date agreed on between the applicant and the Development Authority. If the application is determined to be materially incomplete following the agreed upon date of submission, the Development Authority shall return the application form and all submission material to the applicant, together with the appropriate refund in compliance with the current fee schedule at the time of the return of the application.”
- iv. Section 4.3.5 shall be added and will read as follows:

“Notwithstanding 4.3.4, the Development Authority may accept an application without all of the required information if, in the opinion of the Development Authority, a decision can be properly made on the application without that information.”

- (3) Section 4.4 **Decision** shall be amended with the following items:
- i. Section 4.4.1 shall be amended to the following:

“In issuing a Notice of Decision on a Development Permit application for a Permitted Use, the Development Authority shall:

 - a) approve, with or without conditions, the application if the proposed development conforms with this Bylaw; or
 - b) refuse the application if the proposed development does not conform to this Bylaw.”
 - ii. Section 4.4.2 shall be amended to the following:

“In issuing a Notice of Decision on an application for a “Discretionary Use,” the Development Authority:

 - a) may approve the application, with or without conditions, if it meets the requirements of this Bylaw, based on the merits of the application. In evaluating the merits of the application, the Development Authority shall consider alignment with all relevant statutory plans and policies and responsiveness to the Surrounding Context, in addition to compliance with the regulations and minimum standards of the Land Use Bylaw; or
 - b) may refuse the application even though it meets the requirements of this Bylaw, if the proposed development does not align with relevant statutory plans or policies, or does not respond appropriately to the Surrounding Context; or
 - c) shall refuse the application if the proposed development does not conform to this Bylaw.”
 - iii. Section 4.4.4 shall be amended to the following:

“Notwithstanding 4.4.3, the Development Authority, at its discretion, may approve a Development Permit, with or without conditions, for a use of land or a building that is not listed as a Permitted or Discretionary Use in the District in which the development is to be located, provided that:

 - a) the proposed use is similar to a use identified within the District and not more closely aligned with another use that is prohibited in that District;
 - b) based on 4.4.4(a), the proposed use is determined by the Development Authority to be a Discretionary Use; and
 - c) all public notices of the Development Permit approval specifically reference that the use was approved as a similar use.”

- (4) Section 4.7 **Development Permit Process** shall be amended with the following items:
- i. Section 4.7.1 shall be amended to the following:
“When an application for a Development Permit has been approved and the Notice of Decision has been given to the applicant, the Development Permit shall not be in effect until:
 - a) all conditions of approval that are required to be met prior to the issuance of the permit have been met to the satisfaction of the Development Authority; and
 - b) the appeal period stipulated by the Act has expired.”
 - ii. Section 4.7.2 shall be amended to the following:
“If an appeal is filed with the Subdivision and Development Appeal Board with respect to a Development Permit, the Development Permit shall not come into effect until the Board confirms or varies the decision of the Development Permit, or any condition attached to any of them.”
 - iii. Section 4.7.3 shall be amended to the following:
“If a further appeal is made to the court against the decision of the Subdivision and Development Appeal Board, the Development Permit shall not come into effect until a final decision is made by the court and a final order is entered by filing it with the court clerk.”
 - iv. Section 4.7.4 shall be amended to the following:
“If a Notice of Decision for approval has been granted by the Development Authority, all conditions of approval that are required for the issuance of the Development Permit shall be met to the satisfaction of the Development Authority within twelve (12) months of the date the Notice of Decision is given, unless an extension to this period has been granted by the Development Authority. If the conditions required for the issuance of the Development Permit are not met within the time period, the Development Permit shall automatically expire, without notice, and shall no longer be in effect.”
 - v. Section 4.7.5 shall be added and will read as follows:
“Further to 4.7.4, if the development authorized by a Development Permit is not commenced within twelve (12) months of the date of the Notice of Decision, and completed within twenty-four (24) months of the date of the Notice of Decision, the permit shall automatically expire, without notice, and shall no longer be in effect, unless an extension has been granted by the Development Authority.”
 - vi. Section 4.7.6 shall be added and read as follows:

“A written request for extension of any period referred to in 4.7.4 or 4.7.5 shall be submitted to and received by the Development Authority no less than thirty (30) days prior to the expiration of the permit. Requests after this time shall necessitate a reapplication for the permit.”

vii. Section 4.7.7 shall be added and read as follows:

“The Development Authority may suspend or cancel a Development Permit following a Notice of Decision for approval:

- a) if the application contains misrepresentation;
- b) if the application has not been paid for or a payment or part thereof is outstanding;
- c) where facts have not been disclosed which should have been at the time of consideration of the application for the Development Permit;
- d) if the Development Permit was issued in error;
- e) as part of Bylaw enforcement action pursuant to Part 6;
- f) where the applicant requests, by way of written notice to the Development Authority, the cancellation of the Development Permit, provided that the commencement of the use, development, or construction has not occurred; or
- g) if the development or use of the land has been abandoned for a period exceeding twelve (12) months.”

viii. Section 4.7.8 shall be added and read as follows:

“If the Development Authority suspends or cancels a Development Permit, the Development Authority shall notify the applicant of the Development Permit by letter sent to the applicant’s physical or electronic address as set out in the application by courier, ordinary mail, or email.”

ix. Section 4.7.9 shall be added and read as follows:

“Upon receipt of the Notice of Decision of suspension or cancellation, the applicant must cease all development, uses, and activities to which the Development Permit pertains.”

x. Section 4.7.10 shall be added and read as follows:

“When an application for a Development Permit has been voided, suspended, cancelled, or refused pursuant to this Bylaw, or revoked on appeal by the Subdivision and Development Appeal Board pursuant to Section 4.12, the submission of another application for a Development Permit on the same parcel of land for the same or similar use by the same or any other applicant shall not be accepted by the Development Authority for six (6) months after the later of (i) the date of the Notice of Decision to suspend, cancel, or refuse the

Development Permit application is given, and (ii) the date of the decision of the Subdivision and Development Appeal Board.”

- (5) Section 4.11 **Notice of Decision** shall be amended with the following items:
- i. Section 4.11.1 shall be amended to the following:

“When an application for a Development Permit for a Permitted Use is approved, with or without conditions, the Notice of Decision shall be given to the applicant by courier, ordinary mail, or email to the applicant’s physical or electronic address as set out in the application.”
 - ii. Section 4.11.2 shall be amended to the following:

“When an application for a Development Permit for a Permitted Use requiring a variance or a Discretionary Use is approved, with or without conditions or variances, the Notice of Decision shall be given to the applicant by courier, ordinary mail, or email to the applicant’s physical or electronic address as set out in the application. In addition, the Development Authority may, at its discretion, do any or all of the following:

 - a) publish the decision in a newspaper circulating in the City or on the City website for a period of twenty-one (21) days, stating the legal description and the civic address of the lot of the development, and identifying the use which has been approved on such lot;
 - b) notify adjacent landowners deemed to be affected by the decision by letter sent to their physical address by ordinary mail;
 - c) require the applicant to post site signage conspicuously on the property for which the application has been made with the information prescribed in Section 4.11.2(a) above, for the time period specified by the Development Authority.”
 - iii. Section 4.11.3 shall be amended to the following:

“When an application for a Development Permit is refused, the Notice of Decision, with reasons for refusal, shall be given to the applicant by courier, ordinary mail, or email to the applicant’s physical or electronic address as set out in the application.”
 - iv. Section 4.11.4 shall be amended to:

“For the purposes of this Bylaw, a Notice of Decision, notice, acknowledgement, letter, or other document relating to a Development Permit may be sent by courier, ordinary mail, or electronic means and such is deemed to have been served:

 - a) if by courier, on the day following delivery;

- b) if by ordinary mail, seven (7) days from the date of mailing;
- c) if by electronic means, on the day after it was sent; or
- d) if a Notice of Decision is published in a newspaper circulating in the City or on the City website, on the date the Notice of Decision appears in the newspaper or on the City website.”

(6) Section 4.12 **Appealing a Decision** shall be amended with the following item:

- i. Section 4.12.4 shall be amended to the following:
“An appeal shall be commenced by filing a Notice of Appeal, setting out all of the reasons that the person intends to rely on for the appeal, to the Secretary of the Board within twenty-one (21) days after the Notice of Decision has been given under Section 4.11.”

(7) Section 4.14 **Notice of Appeal** shall be amended with the following item:

- i. Section 4.14.2 shall be amended to the following:
“The Secretary to the Board shall, at least five (5) days prior to the hearing of an appeal:
 - a) publish a notice in a newspaper circulating in the City or on the City website stating:
 - i) the subject and nature of the appeal
 - ii) the time, date, and location of the hearing; and
 - iii) any other matters the Board considers necessary.
 - b) notify the appellant, the applicant, the Development Authority, objectors of record, and any other person that the Board considers should be notified in accordance with Section 4.11.4.”

3. PART 6 CONTRAVENTION AND ENFORCEMENT

(1) Section 6.5 **Penalties** shall be amended with the following item:

- i. Section 6.5.3 shall be amended to the following:
“A Development Authority may suspend or cancel a Development Permit which has not been complied with pursuant to Part 4.”

4. SEVERABILITY

If any Section or parts of this Bylaw are found in any court of law to be illegal or beyond the power of Council to enact, such Sections or parts shall be deemed to

“A Development Authority may suspend or cancel a Development Permit which has not been complied with pursuant to Part 4.”

4. SEVERABILITY

If any Section or parts of this Bylaw are found in any court of law to be illegal or beyond the power of Council to enact, such Sections or parts shall be deemed to be severable and all other Sections or parts of this Bylaw shall be deemed to be separate and independent there from and to be enacted as such.

5. General

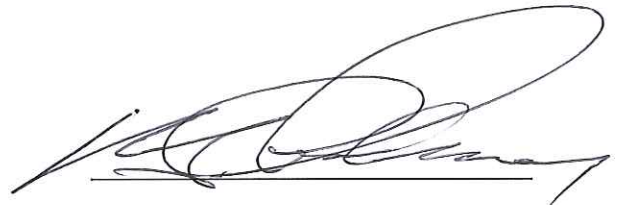
This Bylaw shall take effect on the date of Third and final Reading.

READ A FIRST TIME this 2nd of June 2020.

READ A SECOND TIME this 7th of July 2020.

READ A THIRD TIME this 7th of July 2020.

Resolution Numbers –



MAYOR



CAO