SUMMER VILLAGE OF KAPASIWIN

LAND USE BYLAW #242

Being a Bylaw of the Summer Village of Kapasiwin.

WHEREAS the Municipal Government Act, R.S.A, authorizes the Council of a municipality to enact a Bylaw to regulate the use and development of land and buildings.

THEREFORE the Municipal Council repeals all prior Land Use Bylaws and, on the date of the final passing of this Bylaw, enacts as follows:

READ A FIRST TIME THE 23rd DAY OF July, 2011.

READ A SECOND TIME THE 3rd DAY OF December, 2011, (as amended).

READ A THIRD TIME AND FINALLY PASSED THIS 12 DAY OF December, 2012.

MAYOR

CHIEF ADMINISTRATIVE OFFICER

TABLE OF CONTENTS

		Page
TABLE OF CONTENTS		Pg 2-3
BY-LAW NO. 242		Pg 1
PART I – TITLES AND MEANINGS		
SECTION 1	Title…….	Pg 4
SECTION 2	Meanings…….	Pg 4-13
PART II – ESTABLISHMENT OF THE OFFICE OF DEVELOPMENT OFFICER		
SECTION 3	Development Officer……..	Pg 14
PART III - DEVELOPMENT PERMITS		
SECTION 4	Permit Fee……...	Pg 14
SECTION 5	Where a Permit is Required……...	Pg 14-15
SECTION 6	Application for Development Permit	Pg 15-18
SECTION 7	Notice of Proposed Development …..	Pg 18-19
SECTION 8	Notice of Decision……..	Pg 19
SECTION 9	Effective Date of Permit …….	Pg 20
SECTION 10	Issuance of Development Permit……	Pg 220
SECTION 11	Condition of the Development Permit	Pg 20-22
SECTION 12	Development Appeals ……..	Pg 22-23
SECTION 13	Unauthorized Development, Bylaw Improvement and Permit validation…	Pg 23
SECTION 14	Right of Entry……	Pg 23-24
SECTION 15	Amendment and Validity of Bylaw...	Pg 24

PART IV – SITE REGULATIONS

SECTION 16	Pollution Control……	Pg 25
SECTION 17	Fencing……..	Pg 25-26
SECTION 18	Objectionable Items in Yards…….	Pg 26-27
SECTION 19	On-Site and Off Site Services and Improvements……	Pg 27
SECTION 20	Utility Easements…….	Pg 27
SECTION 21	Site Grading……	Pg 27
SECTION 22	Dwelling Units on a Lot…….	Pg 28
SECTION 23	Garages and Accessory Buildings…..	Pg 28
SECTION 24	Developments below the 725.42M Above Sea Level Contour……	Pg 28
SECTION 25	Business Signs……	Pg 28

PART V – THE ESTABLISHMENT OF DISTRICTS AND SCHEDULES

SECTION 26	Land Use Districts……	Pg 29
SECTION 27	Land Use District Map…….**.....**	Pg 29
SCHEDULE A		
	Residential for the R.1 Residential District……..	Pg 30-33
	Residential for the R.2 Residential District (Shallow lakefront lots)…….……	Pg 33
	Regulations for NER – Natural Environmental District…	Pg 34
	Land Use District Map ……..…	Pg 35
FORM A	Application Form for a Development Permit……	Pg 36

PART I - TITLE AND MEANINGS

SECTION 1 TITLE

This Bylaw may be referred to as THE SUMMER VILLAGE OF KAPASIWIN LAND USE BYLAW.

SECTION 2 MEANINGS

1. In this Bylaw:

ACCESSORY BUILDING -
means buildings which are separate from the principal building on the site where both are located and which the Development Officer decides is normally subordinate to, and the use of which is incidental to that of, the principal building and which, without limiting the generality of the foregoing, may include: boathouse, bunkhouse, carport, gazebo, greenhouse, guesthouse, pump house, storage shed, tool shed and wood shed.

ACCESSORY USE -
means a use of a building or part of a building or land which the Development Officer decides is normally incidental to and subordinate to the principal use of the site on which it is located.

ACT -
means The Municipal Government ACT, RSA 2000, Chapter M-26 as amended, and the regulations pursuant thereto.

BUILDING -
means any structure, erection, stockpile, sign or fixture that may be built or placed on land.

BUILDING HEIGHT -
means the vertical distance between grade and the highest point of a building; excluding an elevator housing, a mechanical housing, a roof stairway entrance, a ventilating fan, a skylight, a steeple, a chimney, a smoke stack, a fire wall, a parapet wall, a flagpole or similar device not structurally essential to the building.

CANOPY -

means a projection extending from the outside wall of a building normally for the purpose of shielding a part of the building from sun, rain or snow including any eave and rain trough.

CARPORT -

means a roofed structure used for storing or parking of not more than two private vehicles which has not less than 40 percent of its total perimeter open and unobstructed.

CHATTEL -

means a moveable item of personal property.

CORNER -

means the intersection of any two property lines of a site.

CORNER SITE -

see SITE, CORNER.

COUNCIL -

means the Council of the Summer Village of Kapasiwin.

DEVELOPER -

means an owner who builds or oversees the building of any structure, building, development for any purpose or who is an agent or any person, firm or company required to obtain or having obtained a Development Permit.

DEVELOPMENT -

means development as defined in the Act, and includes the following:

1. the carrying out of any construction or excavation, or other operations, in, on, over or under land, or the making of any change in the use or the intensity of use of any land, buildings or premises, and, without restricting the generality of the foregoing, includes the removal of topsoil. For the purposes of this Bylaw development also means the demolition of a building;

2. in a building or on a site used for dwelling purposes, any increase in the number of families occupying and living in the building or on the site, and any alteration or additions

which provide for an increase in the number of dwelling units within the building or on the site;

3. the placing of refuse or waste material on any land;

4. the use of the land for the storage or repair of motor vehicles or other machinery or equipment;

5. the continued use of land or of a building for any purpose for which it is being used unlawfully when this Bylaw is enacted;

6. the more frequent or intensive use of land for the parking of trailers, bunkhouses, portable dwellings, skid shacks or any other type of portable building whatsoever whether or not the same has been placed or affixed to the land in any way;

7. grading and quarrying on a parcel;

8. Clearance of trees and vegetation on the slope of the bank next to the Lake; and

9. Modification of the shoreline through the dumping of rocks, soil or sand or by constructing sea walls or similar structures.

DEVELOPMENT APPEAL BOARD -
means the Development Appeal Board appointed by Council pursuant to Section 627 of the Act.

DEVELOPMENT OFFICER -
means the official or officials of the Summer Village of Kapasiwin with the responsibility of receiving, considering and deciding on applications for development under this Land Use Bylaw.

DEVELOPMENT PERMIT -
means a certificate or document permitting a specified development and includes a plan or drawing or a set of plans or drawings, specifications or other documents. A Development Permit is separate and distinct from approvals required under the Safety Codes Act of Alberta (e.g. Building, Electrical, Plumbing, Gas or Private Sewage Discipline) permits.

DISCONTINUED -

means the time at which, in the opinion of the Development Officer, substantial construction activity or a conforming use has ceased.

DISCRETIONARY USE -

means a use of land or buildings provided for in the Schedule A of this Bylaw, for which a Development Permit may be issued with or without conditions.

DWELLING -

means any building or structure used principally for human habitation and which is supported on a permanent foundation or base but does not include multiple dwellings, apartments, horizontal multiple dwellings, trailers or any other type of building which is movable.

DWELLING UNIT -

means a self-contained living premise with cooking, eating, living, sleeping and sanitary facilities for domestic use of one or more individuals.

EXCAVATION -

means any breaking of ground for any development, but does not include common household gardening and ground care.

FAMILY -

means a single person occupying a dwelling unit, or two or more persons related by heredity, marriage, an adult interdependent partner relationship or adoption who together are occupying a dwelling unit; or not more than five unrelated persons occupying a dwelling unit as a single housekeeping unit.

FENCE -

means a vertical physical barrier constructed to prevent visual intrusion, sound abatement, or unauthorized access.

FENCE, GOOD NEIGHBOUR –

means a common fence constructed on the side property line of adjacent parcels with sufficient structural integrity to support mutual agreed fencing material and the owners of the adjacent parcels agreeing to share all costs of the structural elements, including installation, equally.

FLOOR AREA -

means the greatest horizontal area of a building above grade within the outside surface of exterior walls and the centerline of fire walls but not including the floor areas of basements, attached garages, sheds, open porches or breezeways.

FOOTPATH EASEMENT -

means a right-of-way for a footpath 3.05 metres (10ft.) in width lying within the limits of the plan registered in the Land Titles Office for the North Alberta Land Registration District as Plan No. 9021906 on July 10, 1990, pursuant to instrument number 902203995 and granted by virtue of easement instrument registered against certain titles to parcels within the Summer Village of Kapasiwin as Instrument No. 1420 E.T. and being a right-of-way granted in favour of the property owners of the Summer Village of Kapasiwin and their invitees for the purpose of a continuous and uninterrupted footpath.

FOUNDATION -

means the lower portion of a building which is usually concrete or masonry and includes the footings which transfer the weight of a load on a building to the ground.

FRONT YARD -

see YARD, FRONT.

FRONTAGE -

means the length of a street boundary from which principal access is gained.

GARAGE -

means an accessory building or part of the principal building, designed and used primarily for the storage of motor vehicles or any other personal property.

GRADE -

means the ground elevation established for the purpose of regulating the number of stories and the height of a building. The building grade shall be the level adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level the grade shall be determined by averaging the elevation of the ground for each

face of the building.

LAKE –
means Wabamun Lake.

LANE -
means a public thoroughfare for vehicles, the right-of-way which does not exceed 10m (33 ft.) and not less than 6m (19.7 ft.) in width, and which provides a secondary means of access to a parcel or parcels.

LOT -
means a part of a parcel of land, the boundaries of which is separately described in a Certificate of Title or is shown on a registered plan of subdivision.

NATURAL RESERVE -
means all lands within and owned by the Summer Village of Kapasiwin and all undeveloped road allowances that are in their natural state.

NON-CONFORMING BUILDING -
means a building that on the date the Land Use Bylaw or any amendment thereof becomes effective does not, or in the case of a building under construction when constructed will not, comply with the Land Use Bylaw.

OCCUPANCY -
means the use or intended use of a building or part thereof for the shelter or support of persons or property.

PARCEL -
means the aggregate of the one or more areas of land described in a Certificate of Title or as shown on a registered plan of subdivision.

PARKING FACILITY -
means the area set aside for the storage and parking of motor or recreational vehicles and includes parking stalls, loading spaces, aisles, entrances and exits to the area, and traffic islands where they are part of the parking lot.

PARKING STALL -

means a space set aside for the parking of one motor or recreational vehicle.

PERMITTED USE -

means the use of land or a building provided for in Schedule A of the Bylaw for which Development Permit shall be issued with or without conditions upon an application having been made which conforms to the Land Use Bylaw.

PRINCIPAL BUILDING -

means a building which, in the opinion of the Development Officer:

(i) occupies the major or central portion of the site;

(ii) is the chief or main building among one or more buildings on the site; or

(iii) constitutes by reason of its use the primary purpose for which the site is used;

There shall be no more than one principal building on each site unless specifically permitted otherwise in this Bylaw.

PRINCIPAL USE -

means the primary purpose, in the opinion of the Development Officer, for which a building or site is used.

PRIVY -

means an outdoor toilet facility consisting of a holding tank fitted for pump out service with above grade superstructure in compliance with all provisions of the Safety Codes Act of Alberta and Regulations thereunder.

REAR YARD -

see YARD, REAR.

RECREATIONAL EQUIPMENT BUILDING -

means any permanent building, the intended use of which is for either active or passive recreation. Certain types of sidewalk furniture may be classified recreational equipment at the discretion of the Development Officer.

REGIONAL PLAN -

means the Regional Plan or Ministerial Regional Plan required by the Act.

SETBACK -

means the perpendicular distance measured from the outside edge of a wall, structural support element, eave or rain trough to the front, side or rear property line of the building site, as the case may be.

SHORT FORM -

means an abbreviation.

SIGN -

means an object or devise intended for the purpose of advertising or calling attention to any person, matter, thing or event.

SIGN, FREESTANDING -

is a sign supported by one or more uprights, braces or pylons and which stands independently of buildings.

SITE -

means one or more lots or parcels for which a Development Permit is being made, and may include streets, lanes walkways and any other land surface upon which development is proposed.

SITE AREA -

means the total area of a site.

SITE BOUNDARIES -

means those boundaries which bound the site as determined by the Development Officer.

SITE COVERAGE -

means, in the case of a residential building or structure, the combined area of all buildings on the lot, measured at the level of the lowest containing habitable rooms, and in the case of a non-residential building or structure, the combined area of all buildings or structures upon the lot, measured at the level of the lowest storey above grade, including in both cases all porches and verandas, open or covered but excluding open and closed terraces at grade, steps, cornices, eaves, and similar projections; such area shall include air wells, and all other space within a building except inner or outer courts.

SITE DEPTH -

means the average horizontal distance between the front and rear site boundaries. The front of a site shall deemed to be the high water mark shown on a plan of survey registered in the Land Titles offices as instrument #4722 A.Q.

SITE, INTERIOR -

means a site which is bounded by only one street.

SUMMER VILLAGE – means the Summer Village of Kapasiwin

TRAILER OR TRAVEL TRAILER -

means a recreational vehicle which is not permanently affixed to the land.

YARD -

means a required open space unoccupied and unobstructed by any structure or portion of a structure above the general ground level of the graded lot, unless otherwise permitted in this Bylaw.

YARD, FRONT -

means that portion of the site abutting the Lake and extending across the full width of the site from the front property line of the site to the furthermost extension of an exterior wall, structural support element, and eave or rain trough on the Lakeside.

YARD, REAR -

means that portion of the site extending across the full width of the site from the rear property line of the site to the further most extension of an exterior wall, structural support element, eave or rain trough.

YARD, SIDE -

means that portion of the site extending from the front yard to the rear yard and lying between the side property line of the site and the nearest portion of any eave or rain trough of any building. If there is no eave or rain trough then to be measured from the portion of any building which extends furthest from the building.

Notwithstanding the meanings above, the Act, takes precedence in a case of dispute on the meanings of all words or clauses.

PART II - ESTABLISHMENT OF THE OFFICE OF DEVELOPMENT OFFICER

SECTION 3 DEVELOPMENT OFFICER

1) The office of Development Officer is hereby established and shall be filled by a person or persons appointed by resolution of Council.

2) The Development Officer shall

   a. receive, consider and decide on applications for a Development Permit; and

   b. make available for inspection to any property owner

      i. a copy of this Bylaw, as amended; and

      ii. a register of all applications including the decisions rendered on them and the reasons therefore.

   c. ensure that copies of this Bylaw and associated fee schedule(s) are published in a timely way and kept up to date on the Website maintained for the Summer Village.

   d. carry out his duties as prescribed in the Act with regard to appeals, or designate a person to do the same; and

   e. perform such duties as established to enforce this Bylaw in conformance with the Act.

PART III - DEVELOPMENT PERMITS

SECTION 4 PERMIT FEES

The Development Permit application fee shall be as established by resolution of Council.

SECTION 5 WHERE A PERMIT REQUIRED

1) Except as provided in Subsection (2), no person shall commence any development unless he has been issued a Development Permit in respect thereof.

2) A Development Permit is **not required** for development of the type described as follows:

   a) the maintenance or repair of any building if the work does not include structural alterations; or

   b) the completion of a development which was under construction in accordance with a lawful Development Permit issued at the effective date of this Bylaw provided that the development is completed within the time limit of such a permit or within twelve (12) months of the effective date of this Bylaw whichever is earlier; or

   c) the completion, alteration, maintenance or repair of a street, lane or utility, undertaken upon a public thoroughfare or utility easement, or undertaken to connect the same with any lawful use of buildings or land; or

   d) the erection or placement of a sign designating the owner or address of the property; or

   e) the erection or placement of a temporary building or sign, the sole purpose of which is incidental to the erection of a any principal building for which a Development Permit has been granted, provided the temporary building or sign is removed within sixty (60) days of substantial completion or as determined by the Development Officer or as directed by the

Development Officer, or

f) the erection of campaign signs for federal, provincial, municipal or school board elections on private properties for no more than thirty (30) days, or such other time as regulated under Provincial or Federal legislation provided that:

(i) such signs are removed within one day of the election date; and

(ii) the consent of the property owner or occupant is obtained; and

(iii) such signs do not obstruct or impair vision or traffic; and

(iv) such signs indicate the name and address of the sponsor and the person responsible for removal; or

g) landscaping, including retaining walls of 1.0 m (3.3 ft) in height or less, as measured from the base of the retaining wall, where the existing natural surface drainage pattern on or off site is not altered, except where landscaping forms part of a development which requires a Development Permit for excavation and grading; or

h) A temporary, non-illuminated sign or advertisement not exceeding 1.5 m2 (16 ft2) in size, relating to the sale or leasing of land, the carrying out of the construction of a building or similar works or the announcement of any local event, provided that the advertisement is removed within fourteen (14) days of the completion of the event or works advertised.

SECTION 6 APPLICATION FOR DEVELOPMENT PERMIT

1) Every application for a Development Permit shall

a) be made in the form prescribed in FORM A.

b) be signed by the registered owners or their agent where a person other than the owner is authorized by the owner to make

application. The correctness of the information supplied shall, when required by the Development Officer, be verified by a Statutory Declaration;

c) state the proposed uses or occupancy of all parts of the site and buildings, and such other information as may be required by the Development Officer;

d) include site plans in duplicate at a scale satisfactory to the Development Officer, showing any or all of the following

(i) front, side and rear yards,

(ii) outlines of the roof overhangs on all buildings,

(iii) north point,

(iv) legal description of property,

(v) location of existing and proposed municipal and private local improvements, principal building and other structures including accessory buildings, garages, carports, fences, driveways, paved areas, and major landscaped areas including buffering and screening areas where provided,

(vi) the height and horizontal dimensions of all buildings, existing and proposed,

(vii) the lowest finished floor elevation in either the basement or main floor in the principal and accessory buildings where applicable,

(viii) any other information or test required by the Development Officer respecting the site or adjacent lands,

(ix) on all lakefront lots or lots where flooding may occur, the 1-in-100 year flood line as determined by survey (725.42 meters /2380 ft. above sea level contour).

(x) the location of all natural tree areas and how they will be affected by the proposed development.

(e) a written summary describing the proposed development to owners of adjacent parcels. The applicant shall provide written confirmation that the proposed development has been presented to and discussed with adjacent property owners and such information shall be provided to the Development Officer. A development application shall not be treated as complete and capable of approval until such information has been provided to the satisfaction of the Development Officer.

2) Notwithstanding the requirements of Section 6.1(d) and (e), an application for a Development Permit may comprise such additional material and information as the Development Officer may at his discretion deem appropriate for the circumstances.

3) An application for a Development Permit shall be considered by the Development Officer who shall:

a) approve, with or without conditions, an application for a permitted use where the proposed development conforms to the Bylaw; or

b) approve, with or without conditions, or refuse an application for a discretionary use; or

c) refuse an application for a use which is neither a permitted use or a discretionary use.

4) Notwithstanding Subsection 3(c), the Development Officer may approve or conditionally approve an application for a Development Permit for a use not prescribed as a permitted or discretionary use if, in his opinion,

a) the proposed development would not

(i) unduly interfere with the amenities of the neighborhood; or

(ii) materially interfere with or affect the use, enjoyment

or value of neighboring properties; and

b) the proposed development conforms to the use prescribed for that land or building in this Bylaw.

The Development Officer may impose such conditions on approval of an application as, in his opinion are necessary to ensure the orderly, esthetic and economical development of land within the Summer Village.

5) Where an application for a Development Permit is approved with conditions, the Developments Officer may, before issuing the Development Permit, require the applicant or the owner of the land affected by the Development Permit to enter into an agreement with the Summer Village of Kapasiwin to ensure compliance with the conditions, and such an agreement may be protected by Caveat registered by the Summer Village of Kapasiwin as an restrictive covenant.

6) Where an application for a Development Permit has been refused by the Development Officer and/or the Development Appeal Board and in the event of an appeal another application for a Development Permit on the same site for the same or similar use of land may not be submitted by the same or any other applicant until at least twelve (12) months after the date of the refusal by the Development Officer or the Development Appeal Board, as the case may be.

SECTION 7 NOTICE OF PROPOSED DEVELOPMENT

1. Prior to an application being considered for a discretionary use or pursuant to Section 6(4), the Development Officer shall require as a condition, prior to consideration of the application, that the applicant display for no less than seven days in a conspicuous place on the site (and no further from the street or streets abutting the site than the Development Officer directs), a notice or notices setting out the proposed use in a form prescribed by the Development Officer.

2. The Development Officer shall notify the owners of adjacent properties upon receipt of an application for a discretionary use. The notice required by the Development Officer pursuant to Subsection (1) shall state:

a) the proposed use of the building or site; and

b) that an application respecting the proposed use will be considered by the Development Officer; and

c) that any person who has an objection to the proposed use of the site may deliver to the Development Officer a written statement of his objection to such use indicating

(i) his full name and the address for service of any notice to be given to him in respect of the objection; and

(ii) the reasons for his objection to the proposed use.

The statement must be received by the Development Officer not later than the day specified in the notice.

SECTION 8 NOTICE OF DECISION

1. The decision of the Development Officer on an application for a Development Permit shall be given to the applicant in FORM A.

2. If a Development Officer refuses an application for a Development Permit, the notice of decision shall contain the reasons for refusal.

3. When an application for a Development Permit is approved for a discretionary use or pursuant to Section 6(4):

a) a notice shall be mailed forthwith to all assessed owners of properties within 60m (196.9 ft.) of the site and to those assessed property owners who in the opinion of the Development Officer may be affected. This notice shall indicate

(i) the date the Development Permit was issued, and

(ii) that an appeal may be made by a person affected by the decision by serving written notice of the appeal on the Development Appeal Board within fourteen (14) days after the date the Development Permit was issued.

SECTION 9 EFFECTIVE DATE OF PERMIT

(1) Where an appeal is made to the Development Appeal Board; a Development Permit which has been granted shall not come into effect until a decision on the appeal has been rendered.

(2) Where an appeal of a Development Permit is granted pursuant to this Bylaw can be considered by the Development Appeal Board, it shall not come into effect until thirty (30) days after the date an order, decision or Development Permit is issued, and any development proceeded with by the applicant prior to the expiry of this period is at the risk of the applicant. A Development Permit does not come into effect until the appeal period ends and if there is an appeal, only after the appeal is granted.

SECTION 10 ISSUANCE OF DEVELOPMENT PERMIT

1. The Development Officer shall issue a Development Permit to the applicant immediately after completion of all the following:

   a) approval or conditional approval of the application by the Development Officer, or approval or conditional approval after appeal to the Development Appeal Board, and

   b) the payment of the Development Permit fee as required pursuant to Section 4, and

   c) if an agreement is required to meet the conditions after the agreement has been signed.

SECTION 11 CONDITIONS OF DEVELOPMENT PERMIT

1. A person to whom a Development Permit has been issued shall obtain, where applicable, from the appropriate authority permits relating to Building, Electrical, Plumbing, Gas and Private Sewage disciplines, and all other permits required in connection with the proposed development.

2. The applicant shall be financially responsible during construction for any damage by the applicant, his servants, his suppliers, agents or contractors to any public or private property.

3. The applicant shall prevent excess soil debris from being spilled on public streets, lanes or the Footpath Easement and shall not place soil or any other materials on adjacent properties without permission in writing from adjacent property owners.

4. Subsections 2 and 3 may be enforced pursuant to Section 13.

5. The Development Officer **may** require a Real Property Report relating to the building for which a permit is applied for.

6. Except at the discretion of the Development Officer, no building shall be used or occupied and no change in the existing occupancy classification of a building shall be made until substantial completion as determined by the Development Officer has been undertaken.

(7) Environmentally Sensitive Lands, any development on lands, which are designated or deemed by the Development Officer to be environmentally sensitive, shall be discouraged or carefully controlled.

a) When reviewing an application for development on environmentally sensitive lands, the Development Officer shall consider the following:

i) The impact of the proposed development on the subject and surrounding area and Lake,
ii) The soil types and conditions of the area surrounding the subject property,
iii) Any information on the past history of the subject property and surrounding area from a geo-technical perspective and
iv) Comments and recommendations from the Ministry of Environment and Sustainable Resource Development.

b) As part of the Development Permit application, the Development Officer may require a geo-technical study, prepared by a qualified geo-technical engineer, addressing the

proposed development. The geo-technical study shall establish building setbacks from property lines based on land characteristics of the subject property.

c) The Development Officer may require the following as conditions of approval for a Development Permit application on land which is considered environmentally sensitive:

i) that measures be taken to ensure that infiltration into area slopes, the subject property and adjacent lands are minimized , and

ii) that measures be taken to reduce impact on environmental sensitive lands, and

iii) the registration of a restrictive covenant relating to conditions to protect the environmentally sensitive land against the certificate of title for the subject property related to the approved development.

SECTION 12 DEVELOPMENT APPEALS

1. An application for Development Permit shall at the option of the applicant, is deemed to be refused when a decision of the Development Officer is not made within forty (40) days of receipt of the application.

2. Where a Development Officer refuse or fails to issue a Development Permit to a person, or issues a Development subject to conditions, or issues an order under the Act, the person applying for the permit or affected by the order, as the case may be, may appeal to the Development Appeal Board in accordance with the Act.

3. A person referred to in Subsection (1) or any other person affected by an order, decisions or Development Permit of the Development Officer may appeal to the Development Appeal Board by serving a written notice of the appeal on the Development Board within fourteen (14) days after the order, decision or Development was issued, or if no decision is made, then within 54 days of receipt of the application by the Development Officer

4. The Notice of Appeal shall be in three (3) copies, and shall be

addressed to the Secretary of the Development Appeal Board, shall contain the particulars set out on the form, and shall be served upon the Secretary of the Board by mail or by delivery at his/her home/office.

5. The development appeal will be considered, and the public hearing will be held under the Development Appeal Board Bylaw, and pursuant to the requirements of the Act.

SECTION 13 UNAUTHORIZED DEVELOPMENT, BYLAW ENFORCEMENT AND PERMIT VALIDATION

1. A Development Permit shall lapse after one year from the date of issuance unless development has commenced on the site. All construction of a principal building or an accessory building shall be completed within one year of commencement of construction unless one further extension not to exceed 180 days is granted upon a written application to the Development Officer. The determination of whether or not construction of a building is complete shall be in the sole discretion of the Development Officer.

2. If, at any time while this Bylaw is in effect, it appears expedient to Council (upon finding that a permit has been approved by fraud or misrepresentation) Council by resolution may suspend or revoke the original approval.

3. In the case of suspension pursuant to Subsection (2) if, and when the development has been modified to comply with the original and intended approval, Council may by resolution authorize the resumption of development.

4. The Act, and specifically Sections 81 and 82 of the Act shall apply in case of contravention of this Bylaw.

5. The Act, and specifically Sections 7 and Part 13, Divisions 4 & 5 of the Act shall apply in the case of fines, penalties and Orders of Compliance.

SECTION 14 RIGHT OF ENTRY

Any person authorized by the Development Officer may enter into or upon any land or building within the Summer Village boundary, pursuant to Section 542 of the Act, for the purpose of ensuring compliance with this Land Use Bylaw.

SECTION 15 AMENDMENT AND VALIDITY OF BYLAW

1. This Bylaw and any amendment thereto shall be enacted in conformance with the Regional Plan, General Municipal Plan or statutory plans as adopted or amended.

2. If it appears to the Development Officer that any proposed amendment is at variance with the Regional Plan, General Municipal Plan or any other statutory plan he shall advise the applicant in writing that an amendment must be made to those statutory plans before the proposed amendment can be processed.

3. The requirement and procedure for amendment or repeal of this Bylaw or any part thereof is established by the Act.

4. The validity of this Bylaw and its amendments are governed by the Act.

5. The public hearing to be held with respect to a proposed Bylaw to amend or repeal this Bylaw or any part thereof shall be held not less than fourteen (14) days after the publication of a notice in two issues of a newspaper circulating in the area as required in the Act.

6. When application is made to Council for an amendment to this Bylaw, it shall be accompanied by:

    a) an application fee, to be determined by resolution of Council; and

    b) the cost of advertising for the public hearing, which is to be borne by the applicant, although Council may determine that the whole or part of the application fee shall be returned to the applicant.

PART IV - SITE REGULATIONS

SECTION 16 POLLUTION CONTROL

1. No storage or activity may be undertaken in the Summer Village which, in the opinion of the Development Officer constitutes a danger or annoyance to persons on the site, on public property, or on any other sites, by reason of the generation of:

noise	radiation hazards
vibration	fire and explosive hazards
dust, and other particulate matter	heat, humidity and glare
smoke	refuse matter
odour	waste or waterborne waste
toxic and noxious matter	water or steam
traffic	

2. Sites and buildings in the Summer Village shall be maintained in a clean and tidy condition free from all rubbish and debris.

SECTION 17 FENCING

This Section was revised per Resolution 2014-37 at a Council Meeting held October 27, 2014 and reads as follows:

~~(1) The following types of fence shall not be permitted:~~

~~(a) electrified or barbed wire fences;~~

~~(b) fences higher than 1.8 metres (6 ft.) in height;~~

~~(c) fences in a front yard and parallel to the east boundary of the Footpath Easement; and~~

~~(d) fences on the west or Lake side of the Footpath Easement.~~

~~(2) No fences on the side of a parcel (side fences) shall extend beyond the west or Lake side wall or the structural support elements of a principal building on a parcel or the west or Lake side wall or structural support element of a building on an adjacent parcel.~~

~~(3) Provided always that a side fence less than 1 metre (3.2 ft.) in height may extend beyond the west or lakeside wall of the principal building closest to the Lake to within 2 metres (6.4 ft.) of the east boundary of the Footpath Easement.~~

~~(4) Gates or any obstruction across the Footpath Easement of any type are prohibited.~~

~~(5) Good neighbor Fences constructed in front yards and less than 1.8 metres (6ft) in height are encouraged.~~

(1) The following types of fence shall not be permitted:

(a) electrified or barbed wire fences,

(b) fences higher than 1.8 metres (6 ft.) in height,

(c) fences in front yard (see Yard, Front definition),

(d) fences on the west side or lake side of the footpath easement,

(e) gates or any obstruction across the footpath easement of any type are prohibited.

SECTION 18 OBJECTIONABLE ITEMS IN YARDS

1. Garbage shall be stored in weather-proof and animal-proof containers and screened from adjacent sites and public thoroughfares.

2. No person shall keep or permit in any part of a yard in the Summer Village:

a) any dismantled, wrecked vehicle including trailers for more than fourteen (14) successive days; or

b) any vehicle weighing in excess of 45,000 kg gross vehicle weight for longer than is reasonably necessary to load or unload such a vehicle;

c) any object or chattel which, in the opinion of the Development Officer, is unsightly or tends to adversely affect the amenities of the district; or

d) any excavation, storage or piling up of materials required during the construction stage unless all necessary safety measures are undertaken. The owner of such materials or excavations shall be deemed to assume full responsibility to ensure the situation does not prevail any longer than reasonably necessary to complete a particular stage of construction work. The Development Officer may require removal of all materials and the filling of all excavations if he deems in his sole discretion that the situation has prevailed longer than necessary.

SECTION 19 ON-SITE AND OFF-SITE SERVICES AND IMPROVEMENTS

1. Where any on-site services or improvements, or any off-site local improvements are required to service a proposed development, a person shall not begin the excavation for the foundation nor commence the development until the Development Officer is satisfied that such services or improvements will be undertaken.

2. No Development Permit shall be issued for a development to be served by private sewer and water systems until the specifications for the systems have been approved by the appropriate Provincial Department.

SECTION 20 UTILITY EASEMENTS

Subject also to the conditions of a utility easement, no permanent structure

other than a fence shall be constructed or placed on that utility easement unless

a) in the opinion of the Development Officer, the said structure does not restrict access to the utility easement for the purpose of installation and maintenance of the utility; and

b) written consent has been obtained from the person for whose use the easement has been granted.

SECTION 21 SITE GRADING

In all cases, site grades shall be established to preventing drainage from one parcel to an adjacent parcel(s).

SECTION 22 DWELLING UNITS ON A LOT

No person shall construct or locate, or cause to be constructed or occupied, more than one dwelling unit per parcel.

SECTION 23 GARAGES AND ACCESSORY BUILDINGS

1. Where a building is attached to the principal building by an open or enclosed roofed structure, it is to be considered a part of the principal building and not an accessory building.

2. Accessory buildings used for sleeping accommodation are permitted and may contain full kitchen facilities for the storage, preparation and cooking of food but not to be used as a full time principal building for rent.

SECTION 24 DEVELOPMENT BELOW THE 725.42M (above sea level) CONTOUR

All new development below the 725.42 metre above sea level contour shall be constructed at the risk of the owner who shall be responsible for any loss or damage that may occur to their development.

SECTION 25 BUSINESS SIGNS

No signs advertising any type of business whatsoever shall be permitted anywhere within the Summer Village of Kapasiwin.

PART V - THE ESTABLISHMENT OF DISTRICTS AND SCHEDULES

SECTION 26 LAND USE DISTRICTS

The Summer Village of Kapasiwin is hereby divided into the following Districts: (See Schedule "A")

Short Form	District Designation
R1	Residential
R2	Residential (Shallow lakefront lots)
NER	Natural Environment Recreation

SECTION 27 LAND USE DISTRICT MAP

1. Land Use Districts specified under Section 27 are described in the short form on the LAND USE DISTRICT MAP (Schedule A) which is an integral part of this Bylaw.

2. The district boundaries are delineated on the LAND USE DISTRICT MAP. Where uncertainty arises as to the precise location of the boundary of any District, the following guidelines shall apply:

    a) Where District boundaries are shown to approximate the

following, they shall be deemed to

(i) the parcel boundaries, or

(ii) the Summer Village boundaries.

b) District boundaries not referenced specifically to items indicated in Clause (a), shall be determined on the basis of the scale of the map.

c) Where land use Districts have been established in accord with a proposed subdivision of land, the Districts shall be understood to conform to the Certificate of Title or the plan of survey when registered in a Land Titles Office. Prior to registration, the district boundary shall be determined on the basis of the scale of the map.

3. The District Regulations of this Bylaw do not apply to roads, lanes or other public thoroughfares.

SCHEDULE A

1. **Regulations for the R.1 Residential District**

1.1 Permitted Uses

The following uses are permitted:

(a) One Dwelling Unit on a parcel;

(b) Accessory buildings.

1.2 Site Areas

(a) the minimum site for any building or land use shall be that which was legally in force under the Act or its predecessors at the time or registration of the parcel, except that this may be relaxed by the

Development Appeal Board on the advice of the Alberta Ministry of Environment and Sustainable Development;

(b) the total ground floor area of all buildings does not exceed 30% of the area of the lot; and

(c) the Development Officer may require that there be adequate clearance between all buildings.

1.3 Yards and Setbacks

The following minimum yards and setbacks are required for the principal buildings:

Front yard: 8 metres (26.2 ft.) from the easterly limit of the Footpath Easement in the case of parcels subject to the said Footpath Easement

Side yard: 2 metres (6.6 ft.)
Rear yard: 6 metres (19.7 ft.)

The following minimum yards and setbacks are required for accessory buildings:

Front Yard: See requirements of Section 1.4 of this Schedule A.
Side Yard: 0.6 metres (2 ft.)
Rear Yard: 0.6 metres (2 ft.)

1.4 The maximum building height of any principal building on a parcel and any accessory building in a rear yard shall be 9 metres (29.5 ft.) and the maximum height of any other accessory building on a parcel shall be 4.5 metres (15 ft.).

1.5 Accessory Buildings

All accessory buildings may only be built on the **rear half** of the lot except structures such as boathouses, pump houses and gazebos in accordance with the setbacks outlined above.

1.6 Sanitation

(a) No Development Permit shall be issued for any building until the Development Officer is satisfied that there are satisfactory arrangements for the lawful disposal of sewage.

(b) All principal buildings and accessory buildings which contain toilet facilities or produce waste water of any type shall be connected to sewage systems consisting of a holding tank in turn connected to disposal fields or a mound. All holding tanks shall have a pump out capability.

(c) Disposal fields and mounds shall not be constructed in a Front Yard and shall in all events be set back a minimum of 20 metres from the east boundary of the Footpath Easement.

d) The regulations of the Alberta Department of Labor, Plumbing Inspection Branch, shall govern the installation of holding tanks and septic systems, the operation of existing septic tanks and the location of disposal fields.

e) No earth closets or privies are permitted and the Development Officer on reasonable notice to an owner may require a privy or earth closet without pump out tank to be removed.

1.7 Relocation of Buildings

(a) Any person making application to relocate an existing building on a lot as a principal or accessory building shall:

i) make an application for a Development Permit,

ii) provide recent colour photographs showing all sides of the building and
iii) a statement of the age, size and structural condition of the building, and
iv) a statement of any proposed improvements to the building, including a description of the colour, texture and/or finish applied to exterior surfaces and a drawing of proposed landscaped areas, and
v) state the present location and use of the building and the proposed area or the parcel for the relocated building.

(b) The Development Officer may, at his discretion, inspect the building or cause the building to be inspected by a person he appoints, and

shall determine the suitability of the building for the proposed use.

(c) The Development Officer may, at his discretion, require that
   i. Any modification, renovations or improvements required to the design, construction, sighting finishing and cladding of the relocated building shall comply with this bylaw and shall be listed as conditions of the Development Permit; and
   ii. The conditions shall be completed within 120 days of the relocation or in a timely fashion as determined by the Development Officer.

(d) Any travel or other costs incurred by the Development Officer in processing a Development Permit for a moved-in building may be added to the fee for the Development Permit.

2. **Regulations for the R.2 - Residential District (Shallow lakefront lots)**

2.1 Permitted Uses

The following uses are permitted

(a) One Dwelling Unit on a parcel;

(b) Accessory buildings.

2.2 Yards and Setbacks

The following minimum yards and setbacks are required for principal buildings:

Front yard: 8 metres (26.2 ft.) from the easterly limit of the Footpath Easement in the case of parcels subject to the said Footpath Easement

For all other parcels the Front Yard setback shall be at the discretion of the Development Officer.

Side yard: 2 metres (6.6 ft.)
Rear yard: 6 metres (19.7 ft.)

The following minimum yards and setbacks are required for accessory buildings:

Side Yard: 0.6 metres (2 ft.)
Front Yard and Rear Yard setbacks shall be at the discretion of the Development Officer.

2.3 All principal buildings and accessory buildings which contain toilet facilities or produce waste water of any type shall be connected to holding tanks only. All holding tanks shall have a pump out capability. No holding tank shall be constructed in a front yard in this District. No disposal fields, mounds or other types of waste water disposal systems shall be permitted in this District.

2.4 Except for section 1.6(b) and (c), all other provisions of the R1 Residential District shall apply in this District.

3. **Regulations for NER - Natural Environmental Recreational District**

3.1 Permitted Uses

(a) Natural reserve

(b) Historical sites registered or classified under the Alberta Historical Resources Act.

Lands and Property, the use and development of which is or may be subject to superior legislation including Lands and Property held by the Government of Canada in Right of Her Majesty, a Development Permit is not required for any use in this District which is consistent with those uses, activities and operations prescribed in the appropriate superior legislation.

(c) Recreation facilities that are already developed or are yet to be developed by the Summer Village of Kapasiwin.

3.2 Discretionary Uses

(a) Cross-country Ski trails and summer walking trails.

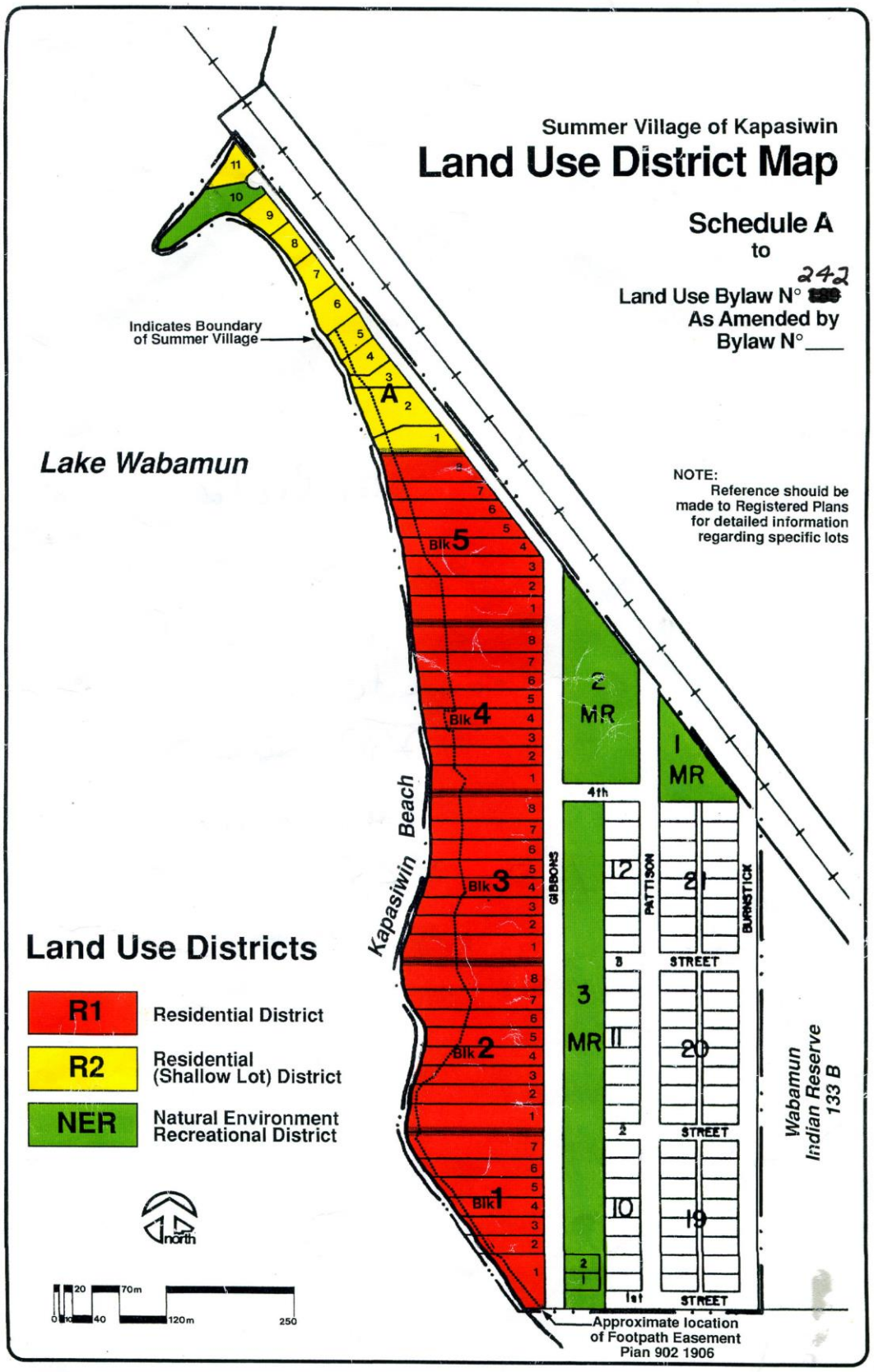
(b) Municipal services as may be required, and authorized by the Council of the Summer Village of Kapasiwin.

3.3 Yards and Setbacks

As for R1 Residential District.

3.4 Sanitation

As for R1 Residential District.


Summer Village of Kapasiwin
Land Use District Map
Schedule A
to
Land Use Bylaw N° 242
As Amended by
Bylaw N°____
Indicates Boundary of Summer Village
Lake Wabamun
NOTE:
Reference should be made to Registered Plans for detailed information regarding specific lots
Kapasiwin Beach
Blk 5
Blk 4
Blk 3
Blk 2
Blk 1
A
2 MR
1 MR
3 MR
4th
GIBBONS
PATTISON
BURNSTICK
STREET
Wabamun Indian Reserve 133 B
Land Use Districts
R1 Residential District
R2 Residential (Shallow Lot) District
NER Natural Environment Recreational District
north
0 to 20 40 70m 120m 250
Approximate location of Footpath Easement Plan 902 1906

Date:……. Application No:…….

FORM A
SUMMER VILLAGE OF KAPASIWIN
APPLICATION FOR A DEVELOPMENT PERMIT

I/We hereby apply for a Development Permit for use noted below:

Name of Applicant _____Signature:_____

Mailing Address _____

Telephone Number _____Email:_____

Address of property to be developed: Lot _____ Block _____ Plan **5674HW** Gate_____

Registered Owner _____**Signature:**_____

Proposed Development _____

Project Value _____

A site plan must be attached to this application, showing the location of existing and proposed buildings on the land.

ATTENTION! You or your contractor is required to get the appropriate Safety Code Act Permits for your development. Please contact the Inspections Group Inc. for all Safety Code Permits (Building, Electrical, Plumbing and Septic Systems) at 12010-111 Ave. NW Edmonton AB, T5G 0E6. Phone No: 780-454-5048 or www.inspectionsgroup.com. Provincial Regulations can be seen at www.safetycodes.ab.ca".

The personal information provided by you is being collected under the authority of the Municipal Government Act and will be used for the purposes under the Act. The personal information that you provide may be made public, subject to the provisions of the Freedom of Information and Protection of Privacy Act.

I authorize the staff of the Summer Village of Kapasiwin and other agencies as designated in Section 653(2) of the Municipal Government Act, R.S.A. 2000, to enter my land for the purpose of conducting a site inspection in connection with my development permit.

I swear/affirm that the information contained in this application is true to the best of my knowledge, and that no further progress will occur on the development until a decision on the permit has been rendered.

_____

Date of Issue _____

Expiry Date _____

The above application has been

APPROVED upon receipt of Permit Fee of _____
SUBJECT TO THE FOLLOWING CONDITIONS
REFUSED

_____
Development Officer

The permit that has been refused or conditionally approved may be appealed to the Development Appeal Board (which is Council).