

BYLAW NO. 853

OF THE
TOWN OF KILLAM
IN THE PROVINCE OF ALBERTA

BEING A BYLAW OF THE TOWN OF KILLAM, IN THE PROVINCE OF ALBERTA, FOR THE PURPOSE OF AMENDING THE TOWN OF KILLAM LAND USE BYLAW NO. 809.

WHEREAS the Council of the Town of Killam considers it necessary to amend the Land Use Bylaw No. 809, and

WHEREAS the Council has the authority pursuant to the provisions of the Municipal Government Act, Revised Statutes of Alberta, 2000, Chapter M26, to amend the said Land Use Bylaw No. 809.

NOW THEREFORE the Council of the Town of Killam, duly assembled, enacts as follows:

THAT the Land Use By-law No. 809 be hereby amended as follows:

AMEND Section 20: Variance Authority

- 20.1 Notwithstanding Sections 18.2.5 and 18.3.3, the Development Authority may consider an application for a development that does not conform with this Bylaw, if in its opinion:
- 20.1.1 the proposed development conforms with the use prescribed for the land or building in this Bylaw; and
 - 20.1.2 the proposed development would not:
 - 22.1.2.1 unduly interfere with the amenities of the neighbourhood;
or
 - 22.1.2.2 materially interfere with or affect the use, enjoyment or value of neighbouring properties.
- 20.2 Unless otherwise prescribed elsewhere in this Bylaw, all development permit applications for a variance shall be referred to the Municipal Planning Commission for a decision.
- 20.3 In exercising their discretion under Section 20.1, the Development Authority shall consider the general purpose and intent of the appropriate district and the following requirements:

- 20.3.1 except as otherwise provided in this Bylaw, there shall be no variance from the regulations prescribing dwelling unit density or parcel coverage;
- 20.3.2 a variance from the provisions in this Bylaw shall not be granted when the variance will knowingly cause a building or use to not comply with federal, provincial, or other municipal regulations, including the Safety Codes Act; and
- 20.3.3 variance requests to height, setbacks, and other regulations that may affect the conformance of a structure with municipal, provincial, or federal regulations shall be circulated to affected departments for review and comment prior to a decision on the application for the development permit.
- 20.4 A variance request shall include justification as to why the regulation cannot be adhered to.
- 20.5 The Development Authority may issue a variance in accordance with Table 20-1:

Table 20-1: Variances

District	Percentage of variance that may be granted by a Development Officer	Percentage of variance that may be granted by the Municipal Planning Commission
R1A - Residential Single Detached	0.1% - 19.9%	20.0% - 40%
R1 - Residential General	0.1% - 19.9%	20.0% - 40%
R2 - Residential Mobile Home Subdivision	0.1% - 19.9%	20.0% - 40%
R3 - Residential Multi Family	0.1% - 9.9%	10.0% - 25%
R4 - Residential Low Density	0.1% - 19.9%	20.0% - 40%
C1 - Commercial Central	0.1% - 9.9%	10.0% - 25%
LIB - Light Industrial Business	0.1% - 29.9%	30.0% - 50%
P - Parks	0.1% - 9.9%	10.0% - 25%
I - Institutional	0.1% - 9.9%	10.0% - 25%
UR - Urban Reserve	0.1% - 29.9%	30.0% - 50%

- 20.5.1 Variances for the districts listed above in excess of what is prescribed in the third column of Table 20-1 shall be refused by the Development Authority.

AMEND Section 22: Notice and Validity of Decision

- 22.1 A decision of the Development Officer and/or Municipal Planning Commission on an application for a development permit shall be given in writing and sent by regular mail to the applicant.
- 22.2 Where a development permit application is refused, the reason(s) for the refusal shall be stated in the decision letter.
- 22.3 When a development permit, that is a discretionary use or if it is a permitted use but requires a variance, is approved, the Development Officer shall publicize a notice of decision in any or all of the forms as described as follows:
 - 22.3.1 Mail a notice of the decision to all persons whose use, enjoyment or value of the property may, in the opinion of the Development Officer, be affected; and/or
 - 22.3.2 Post a notice of the decision conspicuously on the property for which the application has been made; and/or
 - 22.3.3 Publish in a newspaper circulating in the municipality a notice of the decision.
- 22.4 A permit does not come into effect until 21 days after the date the approval is posted or published in the newspaper. If an appeal is lodged with the SDAB, no development shall be commenced until the appeal is finally determined and the issuance of the development permit is upheld.
- 22.5 When a development permit is approved after granting a variance, the Development Officer shall send a notice by regular mail to adjacent landowners advising them of the variance and the right of appeal.
- 22.6 A development permit issued is not valid until all the conditions of the permit, except those of a continuing nature, have been met and no notice of appeal has been filed with the Subdivision and Development Appeal Board within the appeal period.
- 22.7 If the development authorized by a permit is not commenced within twelve (12) months from the date of its issue, or carried out with reasonable diligence, the permit is deemed to be void, unless an extension to this period has previously been granted by the Development authority. The maximum extension period shall be one year. Commencement of construction is deemed when grading and excavation of the lands commences.

- 22.8 If an application for a development permit has been refused, by the Development Officer, Municipal Planning Commission or by a decision of the Subdivision and Development Appeal Board, another application for a permit may not be submitted on the same property, for the same or similar use of the land, by the same or any other applicant, for six (6) months after the date of the previous refusal or appeal decision.

AMEND Section 24: Appealing a Decision

- 24.1 The applicant for a development permit may appeal to the Board if the Development Officer and/or Municipal Planning Commission:
- 24.1.1 Refuses or fails to make a decision on a development permit within 40 days of receipt of a completed application; or**
- 24.1.2 Issues a development permit subject to conditions.**
- 24.2 In addition to the applicant, any person affected by a development permit or the decision on it, may appeal to the Board.
- 24.3 Notwithstanding 24.1 and 24.2 there is no appeal in respect of the issuance of a development permit for a Permitted Use unless the provisions of this Bylaw are relaxed, varied, or misinterpreted.
- 24.4 An appeal by an applicant must be commenced within **21** days of the notification of the decision or when the 40 day period or any time extension expires. An appeal by any other affected person must be made within 14 days of the notice of the issuance of the permit was given.
- 24.5 A decision on a development application within a Direct Control District may be appealed only if the Development Officer and/or Municipal Planning Commission did not follow the directions of Council. If the Board finds that the Development Officer and/or Municipal Planning Commission did not follow Council's directions, it may, in accordance with Council's directions, substitute its decision for that of the Development Officer and/or Municipal Planning Commission.

AND AMEND Section 36: Corner Lot Provision

- 36.1 No person on a corner lot in any District shall erect, place or maintain, within a triangle formed by the boundaries of the site common with the streets abutting them and a straight line connecting points on each of said boundaries a distance of six (6) metres from the point where they intersect, a wall, fence, shrub, trees, hedge or any object over one (1) metre in height above the lowest street grade adjacent to the intersection.
- 36.2 In all districts, where the site abuts two streets, the Development Authority shall assign which yard shall be classified as the front yard and which yard shall be classified as the side yard.

36.3 The location of buildings, excluding Accessory Buildings, on corner sites shall be subject to the approval of the Municipal Planning Commission who may at their discretion, relax the front yard setback requirements taking into account the location of existing adjacent buildings or the permitted setback on adjacent sites where a building does not exist, and having regard for the variances allowed.

This Bylaw shall come into force and effect upon the date that it is finally passed.

READ a first time this 26th day of April, 2018.

READ a second time 17th day of May, 2018.

READ a third and final time and finally passed this 17th day of May, 2018.

Mayor

Chief Administrative Officer