

**MUNICIPAL DISTRICT OF BIGHORN NO. 8**  
**PUBLIC HEARING NOTICE**

**RE: BYLAW NO. 23-Z/22 FOR AN AMENDMENT TO SECTION 26 OF THE LAND USE BYLAW 09-Z/18 ADJUSTING SETBACK REQUIREMENTS FOR THE RAFTER SIX TOURIST AND RECREATION DISTRICT IN ACCORDANCE WITH THE MUNICIPAL GOVERNMENT ACT, CHAPTER M-26, REVISED STATUTES OF ALBERTA 2000, AS AMENDED**

**DATE: TUESDAY, FEBRUARY 7, 2023**

**TIME: 7:00 P.M.**

**LOCATION: COUNCIL CHAMBERS AT THE MD OF BIGHORN OFFICE  
2 HEART MOUNTAIN DRIVE  
EXSHAW, ALBERTA T0L 2C0**

**PURPOSE:**

The focus of the Rafter Six Tourist and Recreation District (the “RSTR”) is to provide land for tourist-related facilities and recreation. This amendment to Section 26 of Land Use Bylaw 09-Z/18 (the “LUB”) would reduce the RSTR district's front, rear, and side yard setbacks from 30.0m to 5.0m. The properties affected are legally described as Ptn. LSD 7, 8, and 9 Section 27, Township 24, Range 8, W5M and Ptn. LSD 12 NW Section 26, Township 24, Range 8, W5M.

The M.D. of Bighorn is holding a Public Hearing with respect to the amendment to the RSTR District as described above. The purpose of the proposed amendment is to incorporate several existing setback variances within the district. The area is fully surrounded by provincial crown lands, and as such the 30.0m setback arguably creates an unnecessary constraint to the affected property owners.

The proposed Bylaw 23-Z/22 can be changed by Council at Second and Third Readings.

**REPRESENTATION:**

The public hearing for proposed Bylaw 23-Z/22 will **provide the public with an opportunity to address Council**. Verbal and written comments and suggestions are invited and should be addressed to the point of the draft bylaw. They may be made by any person or group of persons, or a person acting on his, her or their behalf, who claims to be affected by the proposed draft bylaw; and from any other persons whom, at the hearing, Bighorn Council wishes to hear.

Participation at the public hearing is open to the public in Council Chambers at the MD of Bighorn Municipal Office. The public hearing will be livestreamed on the [MD YouTube Channel](#)

**Written submissions may be made electronically to [bighorn@mdbighorn.ca](mailto:bighorn@mdbighorn.ca)**. If you cannot do so electronically, written submissions can be mailed or dropped off at the Municipal Office, #2 Heart Mountain Drive, P.O. Box 310, Exshaw, Alberta, T0L 2C0 by the date indicated below. There is a drop box located on the front of the building.

Written submissions received before **9 a.m. on February 3, 2023** will be part of a record of public submissions published by **5 p.m. February 6, 2023**, and will be distributed to Council. Submissions received after the deadline, but before the close of the hearing, will be added to the record after the hearing adjourns.

Verbal presentations may be made at the hearing by individuals or groups (as described above), whether or not they have submitted a written presentation. Verbal presentations should be limited to five (5) minutes, except that a person speaking as a representative of a group of persons may speak for a maximum of ten (10) minutes.

**DOCUMENTATION:**

A copy of Bylaw No. 23-Z/22 is available to view or download from the Agenda Center on the M.D.'s website [www.mdbighorn.ca](http://www.mdbighorn.ca) (<https://www.mdbighorn.ca/AgendaCenter>) or at the MD of Bighorn office located at 2 Heart Mountain Drive, Exshaw, Alberta.

**Your response to this advertisement will be considered your consent to the public distribution of your written or verbal submission as part of the public record for this hearing, including any personal information you provide.**

For additional information, contact the M.D. of Bighorn No. 8 office at 403-673-3611 or 403-233-7678 (Calgary direct line).

Peter Scholz, Director of Planning Services  
MD of Bighorn No. 8

**MUNICIPAL DISTRICT OF BIGHORN NO. 8**

**BYLAW #23-Z/22**

A BYLAW FOR THE PURPOSE OF AMENDING THE MUNICIPAL DISTRICT OF BIGHORN NO. 8 LAND USE BYLAW IN ACCORDANCE WITH THE MUNICIPAL GOVERNMENT ACT, CHAPTER M-26, REVISED STATUTES OF ALBERTA 2000, AS AMENDED

**WHEREAS** the Municipal District of Bighorn No. 8 adopted Land Use Bylaw No. 09-Z/18;

**AND WHEREAS** pursuant to the Municipal Government Act, being Chapter M-26 of the Revised Statutes of Alberta 2000 as amended, a Council may adopt and amend a Land Use Bylaw;

**AND WHEREAS** Administration is proposing to amend Land Use Bylaw No. 09-Z/18, as amended to reduce the current front, rear, and side yard setbacks meant for Rafter Six Tourist and Recreation District from 30.0 m to 5.0 m.

**AND WHEREAS** Council, having considered at a public hearing the concerns of persons claiming to be affected by this bylaw amendment application, believes that the Land Use Bylaw amendment should be allowed to achieve the orderly, economic, and beneficial use of land in the Municipal District.

**NOW THEREFORE**, the Municipal Council of the Corporation of the Municipal District of Bighorn No. 8 in the Province of Alberta, duly assembled in Council, enacts as follows:

Land Use Bylaw No. 09-Z/18 is amended as follows:

1. Section 26.5.1 of the Land Use Bylaw No. 09-Z/18 is amended as set out in the table below:

	Current Setback	Proposed Setback
Front yard setback	30.0m	5.0m
Rear yard setback	30.0m	5.0m
Side yard setback	30.0m	5.0m

2. The Land Use Bylaw amendments contained in Bylaw 23-Z/22 shall be consolidated into Bylaw 09-Z/18, as amended.

READ A FIRST TIME THIS \_\_\_13th\_\_\_ DAY OF \_\_\_\_\_December\_\_\_\_\_, A.D., 2022.

READ A SECOND TIME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D., 2022.

READ A THIRD TIME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D., 2022.

\_\_\_\_\_  
REEVE

\_\_\_\_\_  
CHIEF ADMINISTRATIVE OFFICER

## **Request for Decision Council Meeting**

**DATE:** December 5, 2021

**FILE NO:** 0131-01-06

**REPORT TITLE:** First Reading of Proposed Bylaw 23-Z/22 (Adjusting setbacks for Rafter Six Tourist and Recreation District (RSTR)).

**RECOMMENDATION:**

1. That Council approve the First Reading of Bylaw 23-Z/22 to change the minimum yard setbacks for Rafter Six Tourist and Recreation District from 30.0 meters to 5.0 meters; and,
2. That Council schedule a Public Hearing date and time for Bylaw 23-Z/22.

**LEGISLATIVE REQUIREMENT/AUTHORITY:** Section 191 (1) of the Municipal Government Act allows a municipality to amend and repeal its Land Use Bylaw. Section 692 of the Municipal Government Act requires a municipality to hold a Public Hearing with respect to amending a Land Use Bylaw in accordance with Section 230 after giving notice of it in accordance with Section 606.

**BACKGROUND/DISCUSSION:**

Rafter Six Tourist and Recreation District's focus is to provide land for tourist-related facilities and recreational development in accordance with Rafter Six Ranch Area Structure Plan. After considering some important factors, including topographic limitations, the Administration proposes an amendment to reduce the district's front, rear, and side yard setbacks.

1. This Land Use Bylaw Amendment is requested to adjust and reduce the front, rear, and side yard setbacks for development in this district from 30.0m to 5.0m.
2. Crown Parkland surrounds the affected parcels. The current 30.0m setback requirements are a carryover from standard agricultural setbacks, in which they are reasonable. Reducing the setback in this land use district will not unduly impact or interfere with the amenities of the neighbourhood or materially affect the use, enjoyment, or value of neighbouring parcels of land.
3. The constitutional principle of minimal interference states that governments should invoke laws that restrict the activity of free and law-abiding citizens strictly to the minimum extent necessary to encourage the orderly development of society. A 30.0m setback from parkland is, in this case, an unnecessary infringement on the use of the affected landowner.
4. Although there is no record of historic cabins with a 4.8m setback from an interior lot line on file, the proposed amendment will not affect existing structures.

The Administration believes that amending the Bylaw to reduce the setback requirements for this district will allow more flexibility for the landowners to develop their lands and resolve the setback variance issue within the district.

The Proposed Bylaw 23-Z/22 can be found in Attachment 2.

The proposed amendment is consistent with the MDP and LUB policies.

**Circulation:**

After First Reading, the Land Use Bylaw amendment application will be circulated to the internal MD departments, including Operations, Finance and Fire Services.

The application will be circulated to external agencies, those listed on the title, and adjacent landowners during the public hearing advertising period.

**JUSTIFICATION:** Providing First Reading to the bylaw allows the Public Hearing process to proceed. The proposed amendment is consistent with the M.D.'s Rafter Six Area Structure plan and LUB.

**FINANCIAL IMPLICATIONS:** Staff and Council time in reviewing the proposed Bylaw and the cost for the Public Hearing advertisement.

**PUBLIC PARTICIPATION PLAN (IF REQUIRED):** A Public Hearing is required as part of the Land Use Bylaw Amendment process.

**COMMUNICATION (INTERNAL/EXTERNAL):** Hafsat Adebayo, Peter Scholz, Operations Department, Finance Department, Fire Services Department, C.A.O.

**ALTERNATIVES:**

1. That Council make changes to proposed Bylaw 23-Z/22.
2. That Council postpone First Reading of the Bylaw 23-Z/22, pending further information.
3. That Council refuse proposed Bylaw 23-Z/22.

**ATTACHMENTS:**

1. Proposed Bylaw 23-Z/22

<b>PREPARED BY:</b>	Hafsat Adebayo	<b>APPROVED BY:</b>	
<b>SUBMITTED TO:</b>	M.D. Council	<b>MEETING DATE:</b>	December 13, 2022



# PUBLIC HEARING PROCEDURES

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1. **Motion to go into Public Hearing**: The Chair will call for a motion from Council to go into the Public Hearing, for the proposed bylaw/resolution.  
\*\* Chairman calls the Hearing to order. Housekeeping issues relating to the fact that some members of the public may participate through telephone or video rather than in-person:
  - If participating by way of telephone or video, please state your name when you begin speaking either in support or opposition to the proposed bylaw/resolution;
  - Please mute your microphone or phone when not speaking to minimize background noise; and
  - Please avoid interrupting or speaking over anyone.
2. **Outline of Public Hearing Procedures**: The Chair will outline the Public Hearing procedures. Providing that a person or persons have indicated their intent to speak to the proposed bylaw/resolution, the Public Hearing Procedures will be as per #3 - #9 below. In situations where no person has indicated an intent to speak to the proposed bylaw/resolution, the Public Hearing Procedures will commence at #10 below.
3. **Introduction by Administration**: A member or members of M.D. Administration will introduce the proposed bylaw/resolution, provide information on the notice of Public Hearing (how and where the Hearing was advertised; notification of affected landowners, government departments, if applicable; etc.), and indicate what correspondence/submissions have been received in response to the notices provided. After Administration's introduction is complete, any Councillor may ask Administration relevant questions.
4. **Introduction by Applicant**: Should there be an Applicant for the bylaw/resolution, the Applicant will be provided with a maximum of twenty (20) minutes to present their application. After the Applicant's introduction is presented, any Councillor may ask the Applicant relevant questions.
5. **In Favour**: The Chair will then call for anyone present who wishes to speak in favour of the proposed bylaw/resolution. Persons speaking on their own behalf may speak for a maximum of five (5) minutes; persons speaking as a spokesperson for a group or petition may speak for a maximum of ten (10) minutes. Those speaking in favour must be unconditionally in support of the proposed bylaw/resolution: anyone supporting with conditions will be deemed to be in opposition to the proposed bylaw/resolution. After any presentation in favour is concluded, any Councillor may ask the speaker relevant questions.
6. **In Opposition**: The Chair will then call for anyone present who wishes to speak in opposition to the proposed bylaw/resolution. Persons speaking on their own behalf may speak for a maximum of five (5) minutes; persons speaking as a spokesperson for a group or petition may speak for a maximum of ten (10) minutes. After any presentation in opposition is concluded, any Councillor may ask the speaker relevant questions
7. **Rebuttal by Applicant**: The Applicant will be given an opportunity to provide rebuttal comments to those points raised by those who spoke in opposition. Rebuttal comments are restricted to addressing new points raised by those who spoke in opposition. After any rebuttal presentation is concluded, any Councillor may ask the speaker relevant questions
8. **Final Questions of Administration**: Councillors may ask any final relevant questions of Administration.
9. **Closure of the Public Hearing**: The Chair will then close the Public Hearing, noting that Council will not accept any further written or oral submissions on the bylaw/resolution.
10. **No one present to speak**: If, at the commencement of the Public Hearing, if no person indicates an intent to speak to Council, the following procedures will be followed:
  - Council may hear an introduction from Administration.
  - Councillors may ask Administration relevant questions.
  - The Chair then closes the Public Hearing.



February 3rd, 2023

Dear Mr. Scholz, Administration, and Members of Council for the MD of Bighorn,

On December 13th, 2022, I wrote to the MD and planning staff emphasizing my opposition to the proposed change to Bylaw 23-Z/22. I am doing so again prior to the imminent Public Hearing.

In October 2022, the Star 6 Ranch alerted the MD to an encroachment onto the side yard setback of an adjacent property. It was my hope that the MD would investigate and enforce the setback provisions in its existing bylaw. Instead, the Star 6 Ranch was informed soon after that Council was considering a bylaw change that would decrease the setback provisions in the LUB for this district by 600%.

As was stated at the December 13th, 2022 meeting there are topographical limitations in this district which could make it difficult for a property owner to develop their lands. Fortunately, there is a provision, as read to you verbatim by Mr. Scholz, which *allows Council to reduce the side yard setback on a case-by-case basis.*

Furthermore, the bylaw appropriately respects the boundaries and natural features of Bow Valley Provincial Park which surrounds our ASP. If a proponent can demonstrate their encroachment on the setback has a minimal impact, the MD can approve the development. The current bylaw is effective and requires those parties impacted by a proposed development with a reduced setback are notified and allowed to state their concerns.

The Star 6 Ranch recently took advantage of this provision and was granted a legal encroachment.

The Star 6 recognizes that this specific district within the MD of Bighorn, is complex and it has taken my husband and I eight years of research and education to plan and develop our property to minimize our impact to the environment and respect our adjacent neighbors. We are comfortable that the current bylaw provides important protection for current landowners in the ASP and at the same time provides adequate latitude for appropriate developments.





Unfortunately, there has been a long history of non-compliance in this district. Ignoring the current encroachment, and more importantly relaxing the current setback provision only encourages continued non-compliance consistent with the history. Additionally, not only is the setback being ignored, **but also the development which is encroaching is an unpermitted development** in the form of an Atco-style trailer.

In conclusion I re-iterate my opposition to the proposed change to Bylaw 23-Z/22.

I urge Council, instead, to enforce the existing Land Use Bylaws which have been proven to work effectively.

Yours Sincerely,

Fiona Mactaggart





Wednesday, February 1, 2023

To: bighorn@mdbighorn.ca

Dear MD of Bighorn, Reeve and Councillors,

Regarding; Bylaw NO. 23-Z/22

As a landowner in the MD of Bighorn, I have concerns and do not agree with the proposed changes to Bylaw No.23-Z/22, for an amendment to Section 26 of the Land Use Bylaw 09-Z/18 adjusting setback requirements etc.

The laws currently in place to govern the MD should be enforced, instead of making sweeping changes to an existing LUB .

Changing Land Use Bylaws, instead of enforcing an existing bylaw is poor governance, and a practice I do not agree with. The existing bylaw should be maintained and used to address specific requests for setbacks changes. The proposed changes could be precedent setting.

Thank you for your time,

Donna White