



**BYLAW NO. 10-23
TOWN OF STRATHMORE
IN THE PROVINCE OF ALBERTA**

BEING A BYLAW OF THE TOWN OF STRATHMORE IN THE PROVINCE OF ALBERTA TO ESTABLISH A SUBDIVISION AND DEVELOPMENT APPEAL BOARD AND TO PROVIDE FOR THE ADMINISTRATION OF THE SAME.

WHEREAS the Municipal Government Act requires that the Town of Strathmore is required to establish a Subdivision and Development Appeal Board;

NOW THEREFORE THE COUNCIL OF THE TOWN OF STRATHMORE, DULY ASSEMBLED, ENACTS AS FOLLOWS:

1. TITLE

101. This Bylaw may be cited as the "Subdivision and Development Appeal Board Bylaw."

2. DEFINITIONS

201. The following words and phrases shall mean:

- a) "Act" means the Municipal Government Act, RSA 2000, Chapter M-26 and amendments thereto;
- b) "Appellant" means a person who, pursuant to the Act, has served a notice of appeal on the Subdivision and Development Appeal Board.
- c) "Board" means the Subdivision and Development Appeal Board established by this Bylaw.

- d) "Close" used in relation to an Appeal Hearing, means to terminate the Hearing.
- e) "Council" means the Mayor and Councillors of the Town for the time being elected pursuant to the provisions of the Act, whose terms are unexpired, who have not resigned and who continues to be eligible to hold office under the terms of the Act.
- f) "Designated Officer" means a designated officer as defined in the Act.
- g) "Development Appeal" means an appeal described in Section 9 of this Bylaw.
- h) "Development Application" means an application made to the Development Authority in accordance with the Land Use Bylaw for the purpose of obtaining a development permit.
- i) "Development Authority" means the designated development officer or persons designated by the Town to perform the functions of a development authority under the Act.
- j) "Development Permit" means a document authorizing a development issued in accordance with the Land Use Bylaw.
- k) "Land Use Bylaw" means the Bylaw adopted as the Land Use Bylaw of the Town pursuant to the Act.
- l) "Recess" used in relation to an Appeal Hearing means to take a break in the Hearing with the intent of returning to the Hearing at specific time and date to allow for additional information to be brought to the hearing.
- m) "Subdivision Appeal" means an appeal described in Section 10 of this Bylaw.
- n) "Subdivision Authority" means the designated subdivision officer or persons designated by the Town to perform the functions of a Subdivision Authority under the Act.

- o) "Subdivision and Development Appeal Board Secretary" means the person appointed to the position and who will carry out the duties as set out in Section 601.
- p) "Town" means the Town of Strathmore in the Province of Alberta.
- q) "Working Day" means the portion of the day between 8:30 a.m. and 4:30 p.m. from Monday to Friday inclusive, except for statutory holidays and holidays approved by Council.

3. BOARD ESTABLISHMENT AND MEMBERSHIP

301. The Subdivision and Development Appeal Board of the Town is hereby established.
302. The Board shall consist of a minimum of seven (7) members of the public at large who shall be appointed by a resolution of Council.
303. A minimum of three (3) members of the Board shall constitute a quorum.
304. No person who is an employee of the Town, or who carries out subdivision or development powers, duties and functions on behalf of the Town, shall be appointed to the Board.
305. Any vacancy on the Board caused by the death, retirement or resignation of a member may be filled by resolution of Council so long as the requirements of the Act are met.

4. TERM OF OFFICE

401. The term of office of each member of the Subdivision and Development Appeal Board will be a period not exceeding three (3) years with the terms being staggered. A member may be re-appointed to a maximum of six (6) consecutive years of service.

5. CHAIRMAN

501. The members present and constituting a quorum at a meeting of the Board shall elect a Chairman from amongst themselves to preside at that meeting.

6. RESPONSIBILITIES

601. The Board Secretary shall:
 - a) make and keep a record of the Board's proceedings which may be in the form of a summary of the evidence presented at a Hearing;
 - b) shall notify the Applicant(s) and Appellant(s), members, advisors to the Board, and anyone required under the Act of the arrangements for holding each meeting;

- c) keep and maintain on file, for inspection by the public during regular office hours, the following:
 - i) written minutes of any and all meetings and business transacted by the Board;
 - ii) all relevant documents and materials respecting the Appeal, including the Application, the decision or Order, and the letter of Appeal. Copies of relevant documents will be made available upon request.

602. The Designated Officer shall:

- a) undertake all actions stated under the requirements for Subdivision and Development Appeal Board Hearings contained in the Act;
- b) receive all written submissions and provide for recording of those requests;
- c) receive all requests to be heard at the Appeal Hearing and provide for recording of these requests;
- d) provide a written report to clarify, where necessary, the purpose and effect of the Appeal being considered.

7. SUBMISSIONS & APPEAL HEARING PROCEDURES

- 701. The Board shall meet at such intervals as are necessary to consider and decide Appeals filed with it in accordance with the Act.
- 702. The Board may make rules necessary for the conduct of its meetings, its hearings and its business that are consistent with this Bylaw, the Town's Land Use Bylaw and Procedural Bylaw, and the Act.
- 703. In order for the Appeal Hearing to proceed, not less than a Quorum of the Board shall be present. Should a Quorum not be available within fifteen (15) minutes of the scheduled time of the Hearing, the members present shall declare the meeting recessed to a future date.
- 704. The Agenda of the Appeal Hearing shall be restricted to the business for which the Hearing was called.

705. All submissions for the Agenda of Appeal Hearing shall be received by the Designated Officer no later than 4 p.m., five (5) working days prior to the date of the Appeal Hearing.
706. Agendas shall be available to Board members and the Public no later than three (3) working days prior to the date of the Appeal Hearing.
707. At the commencement of an Appeal Hearing, the Chairman shall:
- a) state the matter to be considered at the hearing;
 - b) ask the Designated Officer if the Appeal Hearing has been advertised in accordance with the Municipal Government Act;
 - c) request that the Designated Officer present a report on the issue at hand.
708. Any person who claims to be affected by the subject matter of the Appeal Hearing shall be afforded an opportunity to be heard by the Board in person or through an agent, in the following order:
- a) the Chairman will call on the Designated Officer to read into the record the written submissions to the Appeal Hearing;
 - b) the Chairman will call those who have indicated either verbally or in writing that they wish to speak on the issue at hand;
709. Each person giving a verbal presentation shall give the following information:
- a) their name and address; and
 - b) an indication as to whether they are speaking on their own behalf or on behalf of another person or group of citizens or an organization.
710. Should any person refuse to provide the information requested above the Chairman shall not allow them to speak.
711. Each person addressing the Appeal Hearing shall complete their verbal presentation within five (5) minutes which does not include questions from the Chairman or any member of Board through the Chairman. Answers shall be brief and factual.

712. The Chairman may ask, with the consent of the majority of the Board members present, if there is anyone present who has not already made a verbal presentation or submitted a written submission who wishes to make any general comments regarding the Appeal matters. All comments will be in accordance with Sections 709, 710 and 711 of this Bylaw.
713. Any member of the Board, through the Chairman, may direct questions to any person present who has provided a written or verbal submission. Persons answering questions shall limit themselves to a brief and factual response to the question, and shall direct all comments to the Chairman.
714. The Chairman will allow the Designated Officer to make closing comments.
715. The Board shall hear appeals in public, but may at any time recess and deliberate in private.
716. If there is more than one Appeal Hearing on the Agenda, the Chairman shall recess or close one Appeal Hearing before opening another Appeal Hearing.
717. If an Appeal Hearing is recessed, the Board shall not receive any additional submissions in relation to the subject matter until it re-opens the Hearing.
718. The Board may recess at any time, to a specific date and time, in order for additional information to be brought to a hearing.
719. If an Appeal Hearing is closed, the Board shall not receive any additional submissions from the public in relation to the subject matter, until after it has voted on the subject matter of the Appeal Hearing.
720. The decision of the majority of the members of the Board present at a duly convened meeting at which a quorum is present is deemed to be the decision of the Board.
721. In the event of a tie vote, an Appeal shall be deemed to be denied.
722. A Board member, who for any reason is unable to attend the whole of the hearing of an Appeal, shall not participate in the Board's deliberations or the decision made by the Board on that Appeal.

723. The Board shall not permit electronic or similar recording devices to be used during a hearing by anyone in attendance.

8. FEES

801. An Appellant shall pay to the Town a fee of One Hundred Dollars (\$100.00) per Appeal, at the same time a Notice of Appeal is served on the Secretary of the Board.

802. No Appeal shall be scheduled until such time as all fees and relevant documents are submitted by the Applicant.

9. DEVELOPMENT APPEALS

901. Subject to Sections 641(4) and 685(3) of the Act, the Board shall hold an Appeal Hearing on an Appeal where a Development Authority for the Town:

a) fails or refuses to issue a development permit to a person;

b) issues a development permit subject to conditions; or

c) issues an order under Section 645 of the Act, and the Appellant appeals within the time limitations and in the manner indicated in the Act.

902. Subject to Sections 641(4) and 685(3) of the Act, the Board shall hear Appeals from any person affected by an order, decision or development permit issued by the Development Authority, who Appeals within the time limitations and in the manner indicated in the Act.

903. The Board shall hold an Appeal Hearing respecting any Development Appeal within Thirty (30) days of receipt of the Notice of Appeal.

904. The Board shall give at least five (5) days notice in writing of the hearing to:

a) the Appellant;

b) the Development Authority;

- c) the owners required to be notified under the Land Use Bylaw; and
- d) any other person that the Board considers to be affected by the appeal and should be notified.

905. In determining a Development Appeal, the Board:

- a) must hear the persons referred to in Section 687(1) of the Act if those persons appear at the hearing;
- b) shall comply with the Land Use Policies established pursuant to Section 622 of the Act;
- c) shall comply with any statutory plan and the Land Use Bylaw of the Town of Strathmore;
- d) shall have regard to but not be bound to the Subdivision and Development Regulations;
- e) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own, except in the case of a Development Permit issued by Council with respect to land in a Direct Control District;
- f) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the Land Use Bylaw if, in its opinion,
 - (i) the proposed development would not:
 - (a) unduly interfere with the amenities of the neighbourhood,
or
 - (b) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land;
 - and
 - (ii) the proposed development conforms with the use prescribed for that land or building in the Land Use Bylaw.

906. The Board shall give its decision in writing together with reasons for the decision within fifteen (15) days of the conclusion of the hearing.

10. SUBDIVISION APPEALS

1001. Subject to Section 678 of the Act, the Board shall hear appeals of decisions of the Subdivision Authority provided an appeal is received within the time limitations and in the manner indicated in the Act.
1002. The Board shall hold an Appeal Hearing respecting any Subdivision Appeal within thirty (30) days of receipt of the Notice of Appeal.
1003. The Board shall give at least five (5) days notice in writing of a hearing to:
- a) the Appellant;
 - b) the applicant for subdivision approval;
 - c) the Subdivision Authority;
 - d) any school authority to whom the application for subdivision approval was referred;
 - e) all adjacent land owners who were given notice under Section 653(4) of the Act;
 - f) every Government department that was given a copy of the application for subdivision approval pursuant to the Subdivision and Development Regulations; and
 - g) if the land that is the subject of the application for subdivision approval is adjacent to the boundaries of another municipality, that municipality.
1004. In determining a Subdivision Appeal, the Board:
- a) must hear the persons referred to in Section 680(1) of the Act if those persons appear at the hearing;
 - b) shall be consistent with the Land Use Policies established pursuant to Section 622 of the Act;
 - c) shall have regard to any statutory plan which is in effect;

- d) shall conform with the uses of land referred to in the Land Use Bylaw;
 - e) shall have regard to, but is not bound by, the Subdivision and Development Regulations;
 - f) may confirm, revoke or vary the approval or decision or any condition imposed by the Subdivision Authority or make or substitute an approval, decision or condition of its own;
 - g) may exercise the same power as the Subdivision Authority is permitted to exercise pursuant to the Act or any Regulations or Bylaws under the Act;
 - h) shall give its decision in writing together with reasons for the decision with fifteen (15) days of the conclusion of the hearing.
1005. Any member of the Board who voted on the decision which is the subject of a Subdivision Appeal shall not participate in the hearing of the Appeal.
1006. Pursuant to Section 682(2) of the Act, if a Subdivision Authority fails or refuses to endorse a plan of subdivision or other instrument submitted to it under Section 682(1), the Chairman of the meeting of the Board which heard a Subdivision Appeal is authorized to endorse the Plan of Subdivision or other instrument.

11. **CONFLICT OF INTEREST**

1101. A member of the Board shall not participate in discussion on, nor vote on, any matter before the Board on any question:
- a) affecting a private company of which he or she is a controlling shareholder or the beneficial holder of a majority of its issued shares;
 - b) affecting a public company in which he or she holds more than Ten (10%) percent of the number of shares issued;
 - c) affecting a partnership, proprietorship or firm of which he or she is a member;
 - d) affecting a company of which he or she is a director; or

e) on any question in which he or she has a direct or indirect pecuniary interest.

1102. When a member of the Board is not entitled to vote by virtue of Section 1101, he or she shall so declare before discussion of the question and shall not participate in the debate and the abstention and the reasons therefore shall be recorded in the minutes.

12. REPEALING PREVIOUS BYLAW

1201. Bylaw #09-23 and all amendments thereto are hereby rescinded.

13. EFFECTIVE DATE

1301. This Bylaw shall come into full force and effect upon third and final reading.

READ A FIRST TIME this day of October 6, 2010.

READ A SECOND TIME this day of October 6, 2010.

READ A THIRD TIME and finally passed this day of October 6, 2010.

MAYOR

MUNICIPAL CLERK