

**LETHBRIDGE COUNTY
IN THE PROVINCE OF ALBERTA**

**BYLAW 1457
SUBDIVISION and DEVELOPMENT APPEAL BOARD**

A Bylaw of Lethbridge County in the Province of Alberta being enacted to establish a municipal Subdivision and Development Appeal Board;

AND WHEREAS, the Municipal Government Act, Chapter M-26 of the Revised Statutes of Alberta 2000, and amendments thereto, provides that a municipality shall, by bylaw, establish a Subdivision and Development Appeal Board;

NOW THEREFORE, the Council of Lethbridge County in the Province of Alberta duly assembled, enacts as follows:

TITLE

1. This bylaw may be cited as "**Lethbridge County Subdivision and Development Appeal Board Bylaw**".

2. DEFINITIONS

- 2.1 "**Act**" means the Municipal Government Act, Revised Statutes of Alberta 2000, Chapter M-26, as amended from time to time;
- 2.2 "**Appellant**" means the person who may appeal to the Board in accordance with the Act;
- 2.3 "**Board**" means the Subdivision and Development Appeal Board of Lethbridge County established pursuant to this bylaw;
- 2.4 "**Council**" means the Council of Lethbridge County;
- 2.5 "**Member**" means a member of the Subdivision and Development Appeal Board;
- 2.6 "**Municipality**" means Lethbridge County in the Province of Alberta;
- 2.7 "**Secretary**" means the person or persons authorized to act as secretary for the Subdivision and Development Appeal Board;
- 2.8 "**Subdivision and Development Appeal Board**" means those individuals appointed by Council to act as the municipal appeal body;
- 2.9 All other terms used in this bylaw shall have the meaning as is assigned to them in the Municipal Government Act, as amended from time to time.

3. ESTABLISHMENT AND COMPOSITION

- 3.1 Appointments to the Subdivision and Development Appeal Board shall be made by resolution of Council.
- 3.2 Council shall appoint five persons to the board, and may appoint more than five persons for the purposes of training or to serve in the capacity of "alternate" members, but in no instance shall more than five members sit to hear and make a decision on an appeal.
- 3.3 For the purpose of this bylaw, the Subdivision & Development Appeal Board shall be composed of adult residents of Lethbridge County.

- 3.4 Members of the Subdivision and Development Appeal Board shall not be members of the Subdivision Authority, the Development Authority or employees of the County.
- 3.5 Appointments to the Subdivision and Development Appeal Board shall be made for a term of three years.
- 3.6 Council may, at its discretion, appoint sitting Board members to serve for an additional term of three years or extend the term of any appeal board member beyond the specified appointed period.

4. REMOVAL FROM OFFICE

- 4.1 The Council may remove any member of the Board from Office if:
 - 4.1.1 In the opinion of Council, a member is not performing his/her duties satisfactorily in accordance with the Act, this bylaw, or in consideration of the principles of judicial fairness and natural justice; or
 - 4.1.2 A member is absent for more than three (3) consecutive meetings of the Board without reasonable cause.
- 4.2 In the event of actions occurring in Subsection 4.1.1 or 4.1.2, the Chairperson of the Board may report the circumstances, suggesting the warranted removal of any member from office, to Council which shall:
 - 4.2.1 Make a decision thereon, and
 - 4.2.2 Advise the member concerned of the decision, in writing, stating the reasons therefor.

5. OFFICER OF THE SUBDIVISION and DEVELOPMENT APPEAL BOARD

- 5.1 Annually, at the first Appeal Board meeting following the Organizational Meeting of Council, the members of the Board shall elect one of the members to act as Chairperson.
- 5.2 The Chairperson shall hold office for a period of one (1) year from the date of appointment. In the absence of the Chairperson, the members present will appoint an Acting Chairperson to serve in this capacity during such absence.
- 5.3 An order, decision, approval, notice or other thing made, given or issued by the Board shall be signed by the Chairperson or a person authorized to do so.
- 5.4 In the absence or unavailability of the Chairperson to sign an appeal board decision, the Acting Chairperson or other board member as designated and authorized by the Board, may sign an appeal board decision on behalf of the Board.
- 5.5 The Secretary of the Board is authorized on behalf of the Board to sign the Notice of Hearing and the official minutes of the appeal hearing.

6. QUORUM

- 6.1 Three (3) of the appointed members shall constitute a quorum at any meeting of the Board.
- 6.2 Only those members present during the entire length of the discussion, pertaining to a matter being considered at a meeting of the Board, shall participate in the decision deliberations and have a vote on the matter.
- 6.3 In the absence of a quorum being established at an appeal hearing, the Board members present shall not receive or have evidence submitted or presented to the Board members present, and shall adjourn the hearing

to a time and a date upon which the Board may reconvene and proceed with a meeting quorum.

7. DUTIES OF THE SUBDIVISION and DEVELOPMENT APPEAL BOARD

7.1 The Board shall hear appeals from:

- 7.1.1 a decision of the subdivision authority; or
- 7.1.2 a decision of a Development Officer for the County.

7.2 At the Public Hearing, on a Development Appeal or Subdivision Appeal, the Board shall hear from:

- 7.2.1 the appellant(s) or any other person(s) acting on their behalf;
- 7.2.2 the Development Officer, or designate, from whose order, decision or development permit the appeal is made;
- 7.2.3 the representative from the Subdivision Authority, or designate, from whose subdivision decision the appeal is made;
- 7.2.4 the County's planning representative, or designate;
- 7.2.5 any other person who was given notice of the Hearing and who wishes to be heard, or a person acting on their behalf; and
- 7.2.6 those persons representing government departments if the application was referred to that department;
- 7.2.7 any other person who claims to be affected and who the Chairperson agrees to hear;

If those persons choose or indicate they want to make a presentation to the Board.

7.3 An order, decision or approval made, given or issued by the Board will be used as a statement of the Board under the signature of the Board Chairperson.

7.4 The granting and duration of an adjournment is at the discretion of the Board.

7.5 During the Hearing, should the Board desire further technical information, legal opinions or other assistance, it may adjourn the Hearing pending receipt of such information, opinion or other assistance.

7.6 The Chairperson shall be responsible to ensure the Board carries out the responsibilities in accordance with the provisions of the Act.

7.7 The Chairperson has the authority to conduct a hearing as he/she determine(s) suitable, but shall act on the principles of unbiasedness and judicial fairness. The Chairperson may limit a submission if it is determined to be repetitious or irrelevant and shall be empowered to rule if evidence presented is irrelevant to the matter at issue and to direct the members to disregard the irrelevant evidence.

7.8 The decision of the majority of the Members present at a meeting shall be deemed to be the decision of the whole Subdivision and Development Appeal Board. In the event of a tie vote, the appeal shall be deemed to be disallowed.

7.9 Under the guidance of the Chairperson, the Board may make rules and procedures for how it holds and conducts an appeal hearing as it determines necessary and fair.

7.10 If an issue of bias or pecuniary interest is raised by an appellant or affected party against a sitting Board Member during an appeal, the Board has a duty to ascertain the facts, move in-camera to discuss the issue raised, and shall be tasked with making a determination of whether

the subject Board Member may continue to sit to hear the appeal or must reclude themselves.

- 7.11 The Board does not have the jurisdiction or authority to award pecuniary or monetary awards or costs to any person, entity or organization involved in an appeal.

8. APPEAL

- 8.1 An appeal shall be made in accordance and in the manner prescribed in the Act.
- 8.2 If there is a question about the validity of an appeal being filed, it shall be the responsibility of the Board to make the determination of whether the appeal is in fact valid. In such circumstances, the Board must convene the appeal hearing in accordance with the Act to establish jurisdiction and then it may decide on the matter of validity.
- 8.3. At the time of service of the Notice of Appeal, the appellant shall pay to the County a fee in accordance with the County's "Schedule of Fees Bylaw".
- 8.4. In the event an appeal is abandoned by the Appellant, the Board shall not be obliged to hold the Public Hearing referred to in the Act unless another Notice of Appeal has been served upon the Board in accordance with the Act.

9. DUTIES OF THE SECRETARY

- 9.1 The Secretary of the Board shall receive, on behalf of the Board, appeals which have been served upon the board.
- 9.2 The Secretary shall carry out such duties as may be designated by the Board from time to time.
- 9.3 The Secretary to the Board shall cause to be kept minutes of each meeting of the Board and shall prepare an agenda for each meeting of the Board.
- 9.4 On behalf of the Board, the Secretary is tasked with the duty of ensuring the appeal has been properly and legally filed within the parameters of the MGA, and shall contact the appellant to the best of his/her capabilities if the requirements have been determined to have not been met, to advise him/her of such.
- 9.5. The Secretary of the Board shall send notification, of the Board's decision, to those required to be notified of the decision and other appropriate parties.
- 9.6 The Secretary to the Board shall compile and retain as a record of the appeal hearing a master appeal file, consisting of the appeal letter, notices, exhibits, decision and minutes, for each individual appeal that is filed.

10. REMUNERATION AND EXPENSES

- 10.1 The Members of the Board shall be entitled to such remuneration, travelling and other expenses as may be fixed from time to time by Council and the remuneration and travelling expenses shall be established and paid by Lethbridge County.

11. TRANSITION

- 11.1 Should any provision of this bylaw become invalid, that invalid provision shall be severed and the remaining provisions of the bylaw shall be maintained.

12. RESCIND PREVIOUS BYLAW

This Bylaw rescinds Bylaw No. 1122 and any amendment thereto.

13. EFFECTIVE DATE

This Bylaw shall come into effect on the date of final reading and passing thereto.

GIVEN first reading this 17th day of December, 2015.



Reeve



Chief Administrative Officer

GIVEN second reading this 17 day of December, 2015.

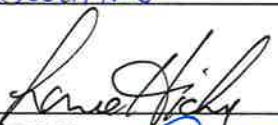


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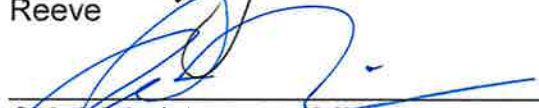


Chief Administrative Officer

GIVEN third reading this 17 day of December, 2015.



Reeve



Chief Administrative Officer