

CITY OF LACOMBE BYLAW 229

Consolidation to April 9, 2018

A Bylaw of the City of Lacombe in the Province of Alberta, pursuant to the provisions of S. 627 of the Municipal Government Act, S.A. 2015, c. M-26 to provide for the establishment of a Subdivision and Development Appeal Board.

The Municipal Council of the City of Lacombe in the Province of Alberta duly assembled, enacts as follows:

Title:

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

Definitions:

2. The following words and terms are defined as follows:
 1. "Act" means the Municipal Government Act, S.A. 2015, c. M-26
 2. "Board" means the Subdivision and Development Appeal Board of the City of Lacombe established pursuant to this Bylaw;
 3. "Chief Administrative Officer" means the Chief Administrative Officer of the City of Lacombe appointed by Council under Bylaw No. 58;
 4. "Clerk" means the designated officer appointed as the Clerk of the Subdivision and Development Appeal Board. (b.229.5, 04/09/2018)
 5. "Council" means the Council of the City of Lacombe;
 6. "Development Authority" means the person or persons appointed pursuant to the Subdivision and Development Authority Bylaw 228;
 7. "Land Use Bylaw" means Land Use Bylaw No.400; (b.229.4, 10/24/2016)
 8. "Member" means a member of the Subdivision and Development Appeal Board appointed pursuant to this Bylaw;
 9. "Pecuniary Interest" shall have that meaning set out in Division 6 of Part 5 of the Act as applied and adapted in the context of this Bylaw;
 10. "Public Member" means a person who is not a member of Council and who otherwise qualifies as an elector of the City of Lacombe;
 11. "Subdivision Authority" means the Subdivision Authority as established pursuant to Subdivision and Development Authority Bylaw No. 228;
 12. "City" means the City of Lacombe.

Establishment

3. The Subdivision and Development Appeal Board is hereby established

Membership and Term

4. The Board shall consist of five (5) members of which number (03/24/97)
 - a) a maximum of two (2) members may be members of Council; and
 - b) a minimum of three (3) members shall be public members
5. A Member of the Board shall not include:
 - a) a Member of the Municipal Planning Commission;
 - b) a person who carries out development or subdivision powers on behalf of the City;
 - c) an employee of the City.

6. Each Member of the Board shall be appointed for a term specified by resolution of Council.
7. A person may be reappointed to the Board upon the expiration of that person's term.
8. In the event of a vacancy, Council may appoint a new member to serve for the remainder of the vacating Member's term.
 - 8.1 In the event Council deems it desirable to do so, temporary appointments can be made to replace a member or members for a specific hearing in the same manner as outlined in s. 6. (03/24/97)
 - 8.2 A member of the Board shall complete all training and qualification requirements in accordance with the Subdivision and Development Appeal Board Regulation, Alta Regulation 195/2017. (b. 229.5, 04/09/2018)
9. If a Member misses three (3) consecutive meetings without the authorization of the Board, the person is disqualified and the position becomes vacant; otherwise, a Member of the Board shall not be discharged without cause.
10. The Chair and Vice-Chair of the Board shall be selected by the Board from its membership. (229.3, 11/09/15)
11. New member applications are forwarded to the Mayor's office for review and approval, forwarded to the Subdivision and Development Appeal Board for information and submitted to Council for ratification and appointment. (229.3, 11/09/15)

Procedure

11. A quorum for the Board shall consist of a majority of the members, but members of Council may not form the majority of the quorum.
12. In accordance with the Act, the Board may establish panels of the Board, but where it does only one member of Council may sit on such panel (b. 229.5, 04/09/2018) (229.3, 11/09/15)
13. The Chair and Vice-Chair of a committee shall be appointed by the Board.
14. In the event of absence or inability of the Chair to preside at a Board meeting, the Vice-Chair shall preside, and in the event of the absence or inability of both the Chair and Vice-Chair to preside at a meeting of the Board, the members present constituting the quorum shall elect one of its members to act as Chair for that meeting.
15. The CAO is designated as Clerk of the SDAB, with no additional remuneration. The CAO may delegate the powers, duties and functions to an employee of the Municipality. (b. 229.5, 04/09/2018)
 - 15.1 Notwithstanding Section 15, no person may be appointed as Clerk of the SDAB unless that person has successfully completed a training program in accordance with the Regulations made pursuant to the Act and shall maintain currency in their training. (b. 229.5, 04/09/2018)
 - 15.2 No employee of the Municipality who carries out the powers, duties or functions of development authority or subdivision authority shall be appointed as Clerk of the SDAB. (b. 229.5, 04/09/2018)
 - 15.3 The Subdivision and Development Appeal Board (SDAB) Clerk, as designated officer, shall carry out all obligations imposed upon the Clerk pursuant to the Act and regulations thereunder, including:
 - a) perform such duties as may be necessary to ensure that the SDAB is in full compliance with its duties under the Act.
 - b) provide notice of the hearing in accordance with Section 679 of the Act respecting subdivision appeals and Section 686 (3) of the Act respecting Development appeals;

- c) notify all members of the SDAB of the scheduling arrangements for the holding of each hearing and other meetings of the SDAB
- d) make available for public inspection before the commencement of the public hearing all relevant documents and materials respecting the appeal, including:
 - 1. the application for the development permit, the decision and the notice of appeal, or
 - 2. the order issued under section 645 of the Municipal Government Act
- e) Attend all meetings and hearings of the SDAB and shall keep the following records with respect thereto:
 - 1. All notice of appeal applications
 - 2. Copies of all information pertaining to the order or decision being appealed
 - 3. Records of all notices of hearings and of persons to whom they were sent
 - 4. Copies of all written representations to the SDAB
 - 5. The names and addresses of those making representations at the hearing
 - 6. The transcript and record of all SDAB meetings and hearings, its findings and reasons for its decision
 - 7. Records of all notices of decisions and of persons to whom they were sent, and
 - 8. All notices, decisions, and orders made on such other matters as the SDAB may direct or the Clerk may determine.
- f) For each hearing recording and issuing a decision the Board and its findings with reasons, to all affected parties;
- g) Not vote on any matters before the SDAB

(b. 229.5, 04/09/2018)

- 16. Only those Members present at a whole hearing of an appeal shall be able to vote on the appeal.
- 17. A decision of the Members forming a quorum at a duly convened meeting of the Board or committee thereof shall be deemed to be the decision of the whole Board.
- 18. In the event of a tie vote, the appeal shall be deemed to be denied.
- 19. For any procedures not covered in Part 17 of the Act or by bylaw of the City, the Board may establish such other procedures as may be required for the conduct of hearings.

SDAB Functions and Duties (b. 229.5, 04/09/2018)

- 20. Within thirty (30) days of receiving written notice of an appeal that is in accordance with the provisions of the Act, the Board shall hold a public hearing to hear an appeal of:
 - a) a decision of the Subdivision Authority or Development Authority;
 - b) a refusal or failure by the Subdivision Authority or Development Authority to make a decision within the time allowed for a decision established in the Act; or
 - c) a stop work order issued by the Development Authority.
- 21. The hearings of the Board shall be in public, but the Board may at any time recess and deliberate in private.
- 22. A request for adjournment of a hearing may be granted at the discretion of the Board, but any adjournment must be to a specific time and date.
- 23. The Board may adjourn to a specific time and date upon its own volition to continue to receive interventions and presentation or to request technical information, legal opinions or other information desired by the Board.

24. Upon conclusion of a hearing the Board shall deliberate and reach its decision in private.
25. The Chair or acting Chair:
 - a) shall be responsible for the conduct of a meeting
 - b) may limit a submission if it is determined to be repetitious or inappropriate in any manner
26. If a Member has a pecuniary interest in a matter before the Board, or if a Member is aware of any reason which may lead to a possible bias when hearing the matter, the Member shall:
 - a) disclose the general nature of the pecuniary interest or likelihood of bias to the Board prior to the Board's consideration of the matter;
 - b) abstain from discussion and disposition on the matter;
 - c) leave the room in which the meeting or hearing is taking place until discussion and disposition of the matter is completed.
27. The abstention of the member and the disclosure of the members interest or bias shall he recorded in the minutes.
28. The Board shall issue its decision in writing, together with reasons for the decision. within fifteen (15) days of the conclusion of a hearing.
29. A decision of the board is not final until notification of the decision is given in writing.
30. An order, decision, approval, notice or other thing made or given by the SDAB shall be signed on its behalf by the Chairperson, or a member appointed to act as Chairperson, or the Clerk. (b. 229.5, 04/09/2018)
31. If the Subdivision Authority fails or refuses to endorse a plan of subdivision or other instrument as approved by the Board on appeal, the Chair or Vice-Chair of the Board is authorized to endorse the subdivision instrument.
32. Deleted (229.3, 11/09/15)
33. Deleted (229.3, 11/09/15)
34. Schedule "A" is attached hereto and forming a part of this bylaw.
35. Deleted. (b. 229.5, 04/09/2018)

INTRODUCED AND GIVEN FIRST READING this 2nd Day of October, 1995, A.D.

GIVEN SECOND READING this 2nd Day of October, 1995, A.D.

PRESENTED FOR THIRD READING this 2nd Day of October, 1995, A.D.

GIVEN THIRD AND FINAL READING this 2nd Day of October, 1995, A.D.

_____ (Original Signed) _____
Mayor

_____ (Original Signed) _____
Chief Administrative Officer

Schedule "A"

For Applicants Subdivision & Development Appeal Board

Purpose

Meets when the Board receives a development permit appeal or subdivision or stop order appeal. The Board is composed of five members, with a maximum of two Councillors. All are appointed by Council. The Board hears appeals from interested parties who want to challenge a decision on a development application, challenge a decision on a subdivision application, or challenge the issuance of a stop order. The Board operates under the authority of the Municipal Government Act. Each appeal must be handled within strict time limits and it is critical that members be available to meet these timelines.

Role of Councillor

Any SDAB member holding other positions in the community including that of municipal council member, must keep their role in those positions separate from their role as a SDAB member. A SDAB member's expert knowledge can be used in the evaluation of evidence submitted but cannot be used as evidence in the case. All members of the Board are active voting members.