

BYLAW NO. 1036/18

A BYLAW OF CLEARWATER COUNTY, IN THE PROVINCE OF ALBERTA TO PROVIDE FOR THE ESTABLISHMENT OF A SUBDIVISION AND DEVELOPMENT APPEAL BOARD.

WHEREAS Section 145(b) of the *Municipal Government Act, as amended*, allows a Council to pass a bylaw in relation to the procedure and conduct of other bodies established by Council.

AND WHEREAS Section 627(1) of the *Municipal Government Act* requires Council to establish by Bylaw a Subdivision and Development Appeal Board.

AND WHEREAS Section 627(3) of the *Municipal Government Act* requires that a panel of a Subdivision and Development Appeal Board hearing an appeal must not have more than one Councillor as a member.

AND WHEREAS Section 628(1) of the *Municipal Government Act* requires that a Subdivision and Development Appeal Board Bylaw prescribes the functions and duties of the Subdivision and Development Appeal Board.

NOW THEREFORE the Council for Clearwater County, 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:
 - a) "Act" means the Municipal Government Act, R.S.A. 2000, c. M-26, as amended;
 - b) "Board" means the Subdivision and Development Appeal Board of Clearwater County established pursuant to this Bylaw;
 - c) "Council" means the Council of Clearwater County;
 - d) "Councillor" means a member of Council who is duly elected and continues to hold office and includes the Reeve.
 - e) "County" means Clearwater County;
 - f) "Development Authority" means the person or persons appointed pursuant to Development and Subdivision Authorities Bylaw No. 998/14;
 - g) "Land Use Bylaw" means Clearwater County Land Use Bylaw as adopted and amended by the Council;
 - h) "Member" means a member of the Subdivision and Development Appeal Board appointed pursuant to this Bylaw;
 - i) "Subdivision Authority" means the Subdivision Authority as established pursuant to the Development and Subdivision Authorities Bylaw No. 998/14;
 - j) "Development Nodes" means lands designated by the Minister of Environment and Sustainable Resource Development for special planning purposes;
 - k) "The Minister" means the Minister of Environment and Parks.

Establishment

3. The Subdivision and Development Appeal Board is hereby established.

Membership, Term and Training

4.
 - a) The Board shall consist of five standing members plus four alternate members. One of the standing members shall be a Councillor and four shall be citizens-at-large. Two alternate members shall be Councillors and two shall be citizens-at-large.
 - b) In the event the subject of an appeal contains lands within a development node, the Board shall consist of one additional member, appointed by the Minister.
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 County;
 - c) an employee of the County.
6. Each member of the Board, appointed by Council, shall be for a term specified by a Resolution of Council, but in no case shall the appointment be more than one year. Any member appointed by the Minister shall maintain membership at the discretion of the Minister.
 7. Notwithstanding Section 6, 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 by resolution, or the Minister may appoint, as the case may be, a new member to serve for the remainder of the vacating member's term.
 9. If a member misses three (3) consecutive meetings without the authorization of Council, the person is disqualified and the position becomes vacant. This section does not apply to the member appointed by the Minister.
 10. The Chairman and Vice-Chairman of the Board shall be appointed annually by resolution of Council. The member appointed by the Minister is not eligible to hold the office of Chairman or Vice-Chairman.
 11. Before participating in any hearing as a member of a panel of the board, all members must successfully complete a training program as prescribed by the *Municipal Government Act*, and Subdivision and Development Appeal Board Regulation.

Procedure Matters

12. A quorum for the Board shall consist of a majority of the standing members (three or more). Only one Councillor may sit on a Board panel hearing an appeal.
13. No more than five members may participate in any appeal hearing process for appeals outside the development nodes. For appeals within the development nodes no more than six members may participate in the hearing, and one member must be the member appointed by the Minister. In the event that a standing member is not able to attend an appeal hearing, an alternate member may sit in the standing members place and hear the appeal with all the privileges, responsibilities and limitations of a standing member.
14. Pursuant to Clause 12 of this Bylaw, only a Councillor alternate member may hear an appeal in place of a Councillor standing member, and only a citizen-at-large member may hear an appeal in place of a citizen-at-large standing member.
15. In the event of absence or inability of the Chairman to preside at a Board meeting, the Vice-Chairman shall preside, and in the event of the absence or inability of both the Chairman and Vice-Chairman to preside at a meeting of the Board, the members present in constituting a quorum shall elect one of its members to act as Chairman for that meeting.
16. Council shall appoint by Resolution of Council a person or persons to serve as Secretary to the Board, who shall:
 - a) not have a vote;
 - b) give at least five (5) days' notice of a hearing of an appeal to:
 - i) in the case of an appeal against an order, decision or a failure to make a decision by the Development Authority, the appellant, the Development Authority whose decision, order or permit is the subject of the appeal, those owners required to be notified under the Land Use Bylaw and any other person the Board considers to be affected;
 - ii) in the case of an appeal against a decision or a failure to make a decision by the Subdivision Authority, the applicant for subdivision approval; the

Subdivision Authority; if the land is adjacent to the boundaries of the Town of Rocky Mountain House, the Town of Rocky Mountain House; and the school authority to whom the application was referred; an adjacent landowner who was given notice of the application; and every government department that was given a copy of the application pursuant to the subdivision and development regulations;

- c) notify all standing members of the Board, and the member appointed by the Minister and alternate members as the case may require, of the meetings of the Board, including hearings;
 - d) prepare and maintain a file of written minutes of the business transacted at all meetings, including hearings, of the Board;
 - e) for each hearing, record and issue a decision of the Board and its findings, with reasons, to all affected parties;
 - f) be authorized to sign on behalf of the Board any order, decision, approval, notice, or any other thing made, given or issued by the Board;
 - g) undertake such other duties as Council or the Board may require.
17. Only those members present at a whole hearing of an appeal shall be able to vote on the appeal, wherein those voting form a quorum.
18. A decision of the members forming a quorum at a duly convened meeting of the Board thereof shall be deemed to be the decision of the whole Board.
19. In the event of a tie vote, the appeal shall be deemed to be denied.
20. For any procedures not covered in Part 17 of the Act or by bylaw of the County, the Board may establish other procedures for the conduct of hearings.

Functions and Duties

21. 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) the Subdivision Authority or Development Authority's refusal or failure to make a decision within the time allowed for a decision established in the Act;
 - c) a stop work order issued by a Development Authority.
22. The hearings of the Board shall be in public, but the Board may at any time recess and deliberate in private.
23. 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 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 Board shall determine an appeal in accordance with the provisions of Part 17 of the Act.
26. The Chairman or Acting Chairman:
- 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.
27. If a member has direct 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 declare an interest or likelihood of bias to the Board and remove himself/herself from participating as a Board member for that particular appeal.

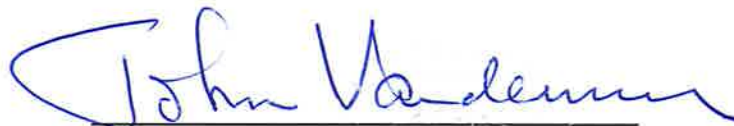
- 28. The Board shall issue its decisions in writing, together with reasons, within fifteen (15) days of the conclusion of any hearing.
- 29. A decision of the Board is not final until notification of the decision is given in writing.
- 30. Notwithstanding Section 15.f, an order, decision or approval made, given or issued by the Board may be signed by the Chairman, or Vice-Chairman of the Board in the Chairman's absence.
- 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 Chairman or Vice-Chairman of the Board is authorized to endorse the subdivision instrument.
- 32. Bylaw 996/14 is hereby rescinded.
- 33. This Bylaw shall come into force immediately upon third and final reading.

READ A FIRST TIME 23rd day of January, 2018.

READ A SECOND TIME this 23rd day of January, 2018.

PERMISSION FOR THIRD READING this 23rd day of January, 2018.

READ A THIRD time and finally passed this 23rd day of January, 2018.


REEVE


CHIEF ADMINISTRATIVE OFFICER