

**TOWN OF MORINVILLE
PROVINCE OF ALBERTA
SUBDIVISION AND DEVELOPMENT APPEAL BOARD BYLAW
BYLAW 15/2017**

A BYLAW OF THE TOWN OF MORINVILLE, IN THE PROVINCE OF ALBERTA, TO ESTABLISH A SUBDIVISION AND DEVELOPMENT APPEAL BOARD (SDAB) FOR THE TOWN OF MORINVILLE.

WHEREAS Council wishes to establish a Subdivision and Development Appeal Board bylaw as required pursuant to Section 627 of the Municipal Government Act, as amended.

NOW THEREFORE, the Municipal Council of the Town of Morinville, Alberta, duly assembled, hereby enacts as follows.

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

2.0 DEFINITIONS

- 2.1 **"Appellant"** means the person who has served written Notice of Appeal to the Subdivision and Development Appeal Board (SDAB) from an order or decision issued in accordance with the *Municipal Government Act*;
- 2.2 **"Chief Administrative Officer (CAO)"** means the Chief Administrative Officer of the Municipality appointed by Council;
- 2.3 **"Clerk"** means the Chief Administrative Officer or designate to act as the Clerk of the Subdivision and Development Appeal Board;
- 2.4 **"Council"** means the duly elected officers of the Municipality;
- 2.5 **"Member"** means a member of the Subdivision and Development Appeal Board duly appointed pursuant to this Bylaw;
- 2.6 **"Municipal Government Act"** means the *Municipal Government Act*, RSA 2000 Ch. M-26, as amended from time to time;
- 2.7 **"Municipality"** means the Municipal Corporation of the Town of Morinville in the Province of Alberta;
- 2.8 **"Subdivision and Development Appeal Board (SDAB)"** means the members of Council and Public at Large appointed by resolution of Council to the Subdivision and Development Appeal Board of the Municipality; and
- 2.9 **"Vacancy"** means the absence of a member that is unable to continue to fulfill his or her obligation as a member.
- 2.10 **ALL OTHER TERMS** used in this bylaw shall have the meaning assigned to them by the *Municipal Government Act*, to the extent that said meaning differs from the ordinary mean.

3.0 ESTABLISHMENT, MEMBERSHIP AND TERM

- 3.1 The SDAB is hereby established and shall consist of minimum of six members, two of which may be members of Council with the remaining members from the Public at Large.
- 3.2 Members of Council on the SDAB as required by Section 3.1 shall be appointed at the annual Organizational Meeting of Council for a one-year term. Any member of Council's appointment to the SDAB terminates upon ceasing to be a member of Council. For clarity, a panel of the SDAB hearing an appeal shall not have more than one councillor as a member.

**TOWN OF MORINVILLE
PROVINCE OF ALBERTA
SUBDIVISION AND DEVELOPMENT APPEAL BOARD BYLAW
Bylaw 15/2017
Page 2**

- 3.3 Council shall appoint the SDAB members from the Public at Large as required by Section 3.1 by Resolution of Council at an annual Organizational Meeting of Council and in accordance with the following:
- 3.3.1 Members of the SDAB from the Public at Large shall be appointed for a two-year term and may serve for additional/subsequent terms on the SDAB in accordance with Section 3.3.
- 3.3.2 Any vacancy occurring may be filled for the remainder of the term by Council resolution.
- 3.3.3 The appointment of a member of the SDAB from the Public at Large terminates upon expiry of their term as established by Resolution of Council pursuant to Section 2.12, ceasing to be a resident of the Municipality or for other reasons as may be determined by Council.
- 3.3.4 No member of the SDAB from the Public at Large may be an employee of the Municipality, a person who carries out subdivision or development powers, duties and functions on behalf of the Municipality or is a member of the Municipal Planning Commission.
- 3.4 SDAB members shall be entitled to such remuneration, travelling and living expenses as may be fixed from time to time.
- 4.0 PANEL, QUORUM, CHAIRPERSON AND RULES OF PROCEDURE**
- 4.1 An SDAB panel hearing an appeal shall consist of five members of the SDAB. Quorum for an SDAB panel hearing an appeal shall be three SDAB members.
- 4.2 The members of the SDAB shall appoint one Public at Large member as Chairperson. The Chairperson shall hold office for a period of one year from the date of appointment. To ensure compliance with Sections 4.1, the appointed Chairperson must always be present to form the SDAB. Notwithstanding the foregoing, where the Chairperson is unable to attend an appeal hearing, the SDAB shall appoint a member present to act as Chair for the duration of the appeal.
- 4.3 Where any member of the SDAB is for any reason unable to attend an appeal hearing, the panel of the members of the SDAB present at a hearing shall represent the whole SDAB. Any member who is absent for the whole or any part of any hearing shall refrain from participating in the deliberations or decision made by the SDAB on that appeal. The decision of the members present at a duly convened hearing shall constitute the decision of the whole SDAB.
- 4.4 For those matters not covered in this bylaw, or Part 17 of the *Municipal Government Act* or the regulations thereto, the SDAB may establish rules of procedure as necessary for the conduct of its appeal hearings and other business that is consistent with this bylaw and the *Municipal Government Act*.
- 5.0 CLERK POWERS, DUTIES AND FUNCTIONS**
- 5.1 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.

TOWN OF MORINVILLE
PROVINCE OF ALBERTA
SUBDIVISION AND DEVELOPMENT APPEAL BOARD BYLAW
Bylaw 15/2017
Page 3

5.2 Notwithstanding Section 5.1:

- 5.2.1 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 *Municipal Government Act* and there forth maintain currency in their training.
- 5.2.2 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.

5.3 The Clerk of the SDAB shall:

- 5.3.1 perform such duties as may be necessary to ensure that the SDAB is in full compliance with its duties under the *Municipal Government Act*.
- 5.3.2 notify all members of the SDAB of the scheduling arrangements for the holding of each hearing and other meetings of the SDAB.
- 5.3.3 make available for public inspection before the commencement of the public hearing all relevant documents and materials respecting the appeal, including:
 - 5.3.3.1 the application for the development permit, the decision and the notice of appeal, or
 - 5.3.3.2 the order issued under section 645 of the *Municipal Government Act*.
- 5.3.4 attend all meetings and hearings of the SDAB and shall keep the following records with respect thereto:
 - 5.3.4.1 all Notice of Appeal applications,
 - 5.3.4.2 copies of all information pertaining to the order or decision being appealed,
 - 5.3.4.3 records of all notices of hearings and of persons to whom they were sent,
 - 5.3.4.4 copies of all written representations to the SDAB,
 - 5.3.4.5 the names and addresses of those making representations at the hearing,
 - 5.3.4.6 the transcript and record of all SDAB meetings and hearings, its findings and reasons for its decision,
 - 5.3.4.7 records of all notices of decisions and of persons to whom they were sent, and
 - 5.3.4.8 all notices, decisions, and orders made on such other matters as the SDAB may direct or the Clerk may determine.
- 5.3.5 not vote on any matters before the SDAB.

6.0 NOTICE OF APPEAL

- 6.1 Any person wishing to appeal to the SDAB in accordance with section 678 or section 685 of the *Municipal Government Act*, whichever case applies, shall file a Notice of Appeal with the SDAB.

**TOWN OF MORINVILLE
PROVINCE OF ALBERTA
SUBDIVISION AND DEVELOPMENT APPEAL BOARD BYLAW
Bylaw 15/2017
Page 4**

- 6.2 A Notice of Appeal shall be made out to the SDAB in writing, in the form required by the Clerk, and shall be accompanied by a fee as established by Council. The Notice of Appeal form shall contain:
- 6.2.1 the name(s) of the appellant(s) and contact information, including but not limited to mailing address and telephone number;
 - 6.2.2 information relating to the order or decision being appealed (in the case of a subdivision appeal, the notice must also contain the information required under section 678(4) of the *Municipal Government Act*);
 - 6.2.3 grounds for appeal; and
 - 6.2.4 any other information the Clerk considers necessary.
- 6.3 The Appellant shall serve a Notice of Appeal by mail, courier or delivering it in person, so as to reach the Clerk within the time provided pursuant to section 678(2) or section 686(1) of the *Municipal Government Act*, whichever case applies, at the following address:

Clerk of the SDAB
Town of Morinville
10125 – 100 Avenue
Morinville, AB T8R 1L6

7.0 NOTICE OF HEARING

- 7.1 The Clerk shall send written notice of the time and place of an appeal hearing, together with a summary of the matter being appealed, not less than five days (including Saturdays, Sundays and holidays, but not counting the date that the notice was received or the date of the hearing) prior to the hearing to those persons required to be notified pursuant to section 679(1) or section 686(3) of the *Municipal Government Act*, whichever case applies.
- 7.2 In the case of the Appellant, Notice of Hearing shall be delivered by mail or in person to the address given on the Appellant's Notice of Appeal.
- 7.3 In the case where the person upon which the order or decision was issued to is not the Appellant, Notice of Hearing shall be delivered to that person by mail or in person to the address given on the order or notice of decision.
- 7.4 In the case of those other persons required to be notified per Section 7.1 above, Notice of Hearing shall be delivered by mail or in person to the address on the last revised assessment roll.
- 7.5 In addition to the notice required above, the Clerk may publish Notice of Hearing in such other manner as they may determine.
- 7.6 Where a hearing is adjourned or the decision is reserved, it shall be the duty of the Chairperson to announce to those in attendance that notice of the time and place for further hearing or the decision will be sent to only those persons who leave their name and address with the Clerk. Thereafter only such persons required to be notified per Section 7.1 above and who do leave their name and address shall be entitled to notice of the further hearing or the decision.

**TOWN OF MORINVILLE
PROVINCE OF ALBERTA
SUBDIVISION AND DEVELOPMENT APPEAL BOARD BYLAW
Bylaw 15/2017
Page 5**

8.0 MEETINGS AND APPEAL HEARINGS

8.1 The SDAB:

- 8.1.1 shall meet for the hearing of appeals as frequently as is necessary, and in any event must hold an appeal hearing within 30 days after receipt of a Notice of Appeal.
- 8.1.2 shall hold the hearing of appeals open to the public and all persons who wish to attend shall be entitled to do so, whether or not they have a direct interest in the proceedings before the SDAB.
- 8.1.3 is not required to hear from any person other than those specified in section 680(1) or section 687(1) of the *Municipal Government Act*, whichever case applies.
- 8.1.4 may, if in their opinion it is warranted, adjourn or postpone a hearing at the request of any party the SDAB considers to be affected, or if the SDAB requires additional information in order to determine an appeal. The granting and duration of an adjournment is at the discretion of the SDAB.
- 8.1.5 may, while carrying out its powers, duties and responsibilities, accept any oral or written evidence that it considers proper, whether admissible in a court of law or not, and is not bound by the laws of evidence applicable to judicial proceedings.
- 8.1.6 shall make and keep a record of its proceedings, which may be in the form of a summary of the evidence presented at a hearing.

8.2 A member of a SDAB may not participate in a hearing of the SDAB unless the member is qualified to do so by successfully completing a training program in accordance with the Regulations made pursuant to the *Municipal Government Act* and there forth maintaining currency in their training.

8.3 If a member has a direct or indirect pecuniary interest or non-pecuniary interest in any matter before the SDAB, or is aware of any reason which may likely lead them to entertain a bias when hearing any matter, that member shall declare such interest or likelihood of bias to the SDAB and shall abstain from discussion or voting upon such matter, and such abstention shall be recorded.

9.0 DECISIONS

9.1 The SDAB shall give its decision of an appeal in writing together with reasons for the decision within 15 days after concluding the hearing.

9.2 In determining an appeal, the SDAB must act in accordance with section 680(2) or section 687(3) of the *Municipal Government Act*, whichever case applies, in making its decision.

9.3 The decision of the majority of the panel of the SDAB hearing an appeal at a duly convened hearing is deemed to be the decision of the whole SDAB. In the event of a tie vote, the appeal shall be deemed to be denied.

9.4 The Clerk or the Chairperson of the SDAB may make a verbal announcement of the decision of an appeal at the conclusion of the hearing, but in such event shall notify the parties that the verbal decision is not final or binding, and that the parties shall not act upon it until it has been submitted in writing and signed.

**TOWN OF MORINVILLE
PROVINCE OF ALBERTA
SUBDIVISION AND DEVELOPMENT APPEAL BOARD BYLAW
Bylaw 15/2017
Page 6**

- 9.5 The written decision of the SDAB is final and binding on all parties and persons subject only to an appeal upon question of law or jurisdiction in accordance with Section 688 of the *Municipal Government Act*.

10.0 SIGNING AUTHORITY

- 10.1 A notice, decision, documentation or correspondence made, given, issued or required by the SDAB may be signed on its behalf by the Chairperson, or a member appointed to act as Chairperson, or the Clerk.

11.0 COURT OF APPEAL

- 11.1 The Clerk shall keep on file all notices of applications for leave to appeal to the Court of Appeal from a decision of the SDAB pursuant to section 688 of the *Municipal Government Act*.
- 11.2 The Clerk shall act on behalf of the SDAB to ensure it acts in accordance with sections 688 and 689 of the *Municipal Government Act*.

12.0 ANNUAL REPORTING

- 12.1 The municipality shall submit a report to the Minister of Municipal Affairs, in the form and manner and at the times required by the Municipal Affairs, containing information as required by the Subdivision and Development Appeal Board Regulation, including, but not limited to, the number of Clerks and Members appointed and those who have completed and/or enrolled in required SDAB training.

13.0 GENERAL

- 13.1 That Bylaw 1/2011 is rescinded upon this Bylaw coming into force.
- 13.2 That this bylaw shall come into full force and effect upon the final passing thereof.
- 13.3 Upon the coming into force of this Bylaw, the members of the SDAB appointed pursuant to Bylaw 1/2011 are continued as members of the SDAB under this Bylaw until new members are appointed in accordance with this Bylaw.

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**TOWN OF MORINVILLE
PROVINCE OF ALBERTA
SUBDIVISION AND DEVELOPMENT APPEAL BOARD BYLAW
Bylaw 15/2017
Page 7**

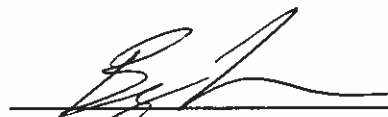
14.0 SEVERABILITY

- 14.1 If any Section or parts of this bylaw are found in any court of law to be illegal or beyond the power of Council to enact, such Section or parts shall be deemed to be severable and all other Section or parts of this bylaw shall be deemed to be separate and independent there from and to be enacted as such.

READ a first time the 12th day of December, 2017

READ a second time the 12th day of December, 2017

READ a third time and finally passed the 12th day of December, 2017



Barry Turner
Mayor



Andrew Isbister
Chief Administrative Officer