

MOUNTAIN VIEW COUNTY

BYLAW NO. 08/23

**ESTABLISHING THE SUBDIVISION AND DEVELOPMENT APPEAL
BOARD**

**Mountain View County
Province of Alberta**

Bylaw No. 08/23

**A BYLAW OF MOUNTAIN VIEW COUNTY IN THE PROVINCE OF ALBERTA ESTABLISHING THE
SUBDIVISION AND DEVELOPMENT APPEAL BOARD FOR MOUNTAIN VIEW COUNTY.**

SECTION 1 – AUTHORITY

1.01 Section 627(1) of the Municipal Government Act provides that Council must by bylaw establish a Subdivision and Development Appeal Board.

SECTION 2 - PURPOSE OF THE BYLAW

2.01 The purpose of this bylaw is to establish the Subdivision and Development Appeal Board for Mountain View County.

SECTION 3 - DEFINITIONS

3.01 In this Bylaw, unless the context otherwise requires:

- a. **“Act”** refers to the Municipal Government Act, SA 2000, CM-26 as amended from time to time.
- b. **“Appellant”** means the person who may appeal to the Board in accordance with the Act.
- c. **“Applicant”** means the person who applied for the original development or subdivision to the Approving Authority who may also act as the Appellant in certain circumstances.
- d. **“Board”** means the Subdivision and Development Appeal Board established by this bylaw.
- e. **“Chair”** means the person appointed pursuant to Section 5.09 of this bylaw.
- f. **“Chief Administrative Officer”** means the person appointed as the Chief Administrative Officer for Mountain View County.
- g. **“Clerk”** means the person appointed by Mountain View County as Clerk to the Board that has completed the training prescribed by Section 627.3(a) of the Municipal Government Act
- h. **“Commission”** means the Municipal Planning Commission of Mountain View County.
- h. **“Council”** means the Council of Mountain View County.
- i. **“County”** means Mountain View County.

- j. **“Members”** means a member of the Board as appointed by Mountain View County that has completed the training prescribed by Section 627.3(b) of the Municipal Government Act.
- k. **“Respondent”** means the individual or party representing the Approving Authority.

SECTION 4 - ESTABLISHMENTS/POWER

- 4.01 The Subdivision and Development Appeal Board is hereby established.
- 4.02 The Board shall deal with subdivision and development appeals in accordance with the provisions the Act and shall exercise any other powers, duties and functions given to it by any other bylaws of Council.

SECTION 5 - MEMBERSHIP

- 5.01 Council shall appoint Members of the Board by resolution.
- 5.02 Each member at large shall be appointed for a term of up to three years at the Council Organizational Meeting or from time to time should vacancies occur.
- 5.03 A member may be reappointed on the expiry of their term.
- 5.04 Council shall appoint three members of Council annually at its Organizational meeting to the Board.
- 5.05 Only one (1) member of Council shall be permitted to participate in any hearing.
- 5.06 No person who is an employee of the County or is a member of the Municipal Planning Commission shall be appointed as a member of the Board.
- 5.07 The Board shall be composed of nine (9) total Members. Six (6) Members shall be members at large.
- 5.08 The Clerk shall develop an ongoing Board rotation that will be presented to the Board immediately following each Organizational Meeting. This rotation shall be based on the following principles:
 - a) Best efforts will be undertaken to schedule a five (5) person Board for all hearings
 - b) The Chair will be scheduled for every hearing. In the event that the Chair is unavailable, the Board shall select a Chair for that hearing in accordance with this Bylaw.
 - c) Councillors will be scheduled on an equal, rotational basis for the one (1) permitted spot on a hearing. In the event that a Councillor is unavailable for the selected hearing date, the next Councillor scheduled shall be permitted to sit on the hearing.
 - d) All Members-at-large will be scheduled on an equal, rotational basis for the remaining three (3) Board positions on a hearing. In the event that any member(s) scheduled for the hearing is unavailable for the selected hearing date, the next scheduled member(s) shall be permitted to sit on the hearing.

- e) No consideration shall be made for the nature, scope or length of the hearing.

Following the appointment of the Board for a hearing, the Clerk shall update the rotation and provide it for the Board's information to reflect ongoing equity amongst the Board Members. .

- 5.09 The Chair will be selected by the Board Members at their first meeting following the County Organizational Meeting. The Chair shall not be a member of Council.
- 5.10 Nominations for the position of chair will be accepted by the Clerk in advance of the first meeting following the Organizational meeting of Council.
- 5.11 In the event that more than one Member receives a nomination for Chair, the Clerk shall call for a secret vote by proxy from all Members to determine the Chair. The result of the vote will be declared by the Clerk to the members by email prior to the next meeting.

SECTION 6 - DUTIES OF THE CHAIR

6.01 The Chair

- a) shall be responsible to see that all things required to be carried out by the Board under the Act are carried out in accordance with the provisions of the Act.
- b) is empowered to rule that evidence presented is irrelevant to the matter in issue and to direct the Members to disregard the evidence.
- c) may limit a submission if they determine it to be repetitious.
- d) shall, when a hearing is tabled and time is not fixed for its continuation, announce that notice of the continuation of the meeting will be sent to those persons leaving their name and address with the Clerk. Only those persons leaving their name and address shall be entitled to notice of the continuation of the hearing.

SECTION 7 - DUTIES OF THE CLERK

- 7.01 The Chief Administrative Officer must appoint a Clerk to the Board. The Clerk of the Board shall:
 - a) receive notices of appeals
 - b) send notices related to hearings
 - c) answer inquiries and provide information to appellants and the public.
 - d) schedule hearings
 - e) attend hearings
 - f) keep a written record of the proceedings of the Board which shall include:
 - i) a summary of the evidence presented at the hearing

- i) the decision of the Municipal Planning Commission
- iii) the Notice of Appeal and the Notice of Hearing of the Appeal
- iv) the Board's decision on each appeal
- v) the reasons for the Board's decision on each appeal
- g) Maintain a list of names and addresses of persons who leave their names and addresses in accordance with Section 6.01(d) of this Bylaw
- h) Draft the decision for signing by the Chair.

7.02 The Clerk may delegate the Clerk's duties and functions to an employee of the County who is not employed in the Planning and Development department provided that they have completed the prescribed Clerk training required by the Municipal Government Act.

SECTION 8 - SUBMITTING AN APPEAL

8.01 A person shall appeal to the Board in the manner provided in the Act.

8.02 At the time of service of the Notice of Appeal, the Appellant shall pay the County a Fee in accordance with the County's Fee Schedule Bylaw. In the event that the Appeal is successful, the fee shall be returned in its entirety to the Appellant. In the event the Appeal is not successful, but the decision provides substantive changes that support the Appellant's position, the Board shall also render a recommendation to Council as to whether the fee should be refunded.

SECTION 9 - OPERATION OF THE BOARD

9.01 The Board shall meet as required upon the submission of a Notice of Appeal.

9.02 A Board hearing shall require three (3) to five (5) members, one (1) of which may be a member of Council. In the event that the Board is required to rehear an appeal, the Board shall be comprised of three (3) members, one (1) of which may be a member of Council.

9.03 The Board shall hold public hearings respecting appeals in accordance with the Act.

9.04 A 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.

9.05 If the Chair is unable to attend a hearing, the Members present at the hearing shall elect a Chair from amongst themselves. The Chair for the hearing may be either a public member or member of Council.

9.06 If a Member has any conflict of interest or perception of bias, whether direct or indirect, in any matter before the Board, the Member shall be responsible for the declaration of such matter to the Board prior to any discussion on the matter and for determination as to whether that matter precludes them from participating in a non-bias, neutral manner. In the event that a preliminary issue is raised from any party on a Member's neutrality on the file, the Board shall recess to deliberate and return to provide a decision on their findings.

- 9.07 A quorum at a hearing of the Board shall be three (3) Members.
- 9.08 At the hearing of the Appeal, the Board shall hear all the persons that the Board is required to hear under the Act.
- 9.09 At the hearing of the Appeal, should the Board desire further technical information, legal opinions or other assistance, it may table the hearing pending receipt of such information, opinion or other assistance.
- 9.10 The hearing procedures will typically be in the following order:
- a) The Chair will open the hearing;
 - b) The Chair will outline the procedure to be followed at the hearing and seek any objections to any members present at the appeal;
 - c) The Clerk will read the details of the appeal including the jurisdiction that the appeal is being heard under.
 - d) The Chair will call for any preliminary matters to be dealt with;
 - e) County Administration will have an opportunity to make a presentation on the details of the appeal;
 - f) The Appellant will have an opportunity to make a presentation;
 - g) Persons speaking in support of the Appellant may make a presentation;
 - h) The Respondent will have an opportunity to make a presentation;
 - i) Persons speaking in support of the Respondent, which may include the Applicant depending on the nature of the file, may make a presentation
 - j) The Respondent is given an opportunity for rebuttal and concluding remarks;
 - k) The Appellant is given an opportunity for rebuttal and concluding remarks.
 - l) The Chair will either recess the hearing or declare the hearing closed.
- 9.11 The Board shall have full discretion to amend the hearing procedures listed in Section 9.10 to permit a more efficient or transparent hearing process.
- 9.12 Parties to the appeal may be permitted to participate in the hearing proceedings via electronic means. The Board shall be required to attend the hearing in person unless in person attendance is not permitted due to Provincial or Municipal orders, at which time the Board shall be permitted to conduct their operations in accordance with this Bylaw through electronic means.

SECTION 10 - DECISIONS

- 10.01 After hearing all submissions and rebuttal, if any, the Board shall deliberate and reach its decision in private.
- 10.02 In arriving at its decision, a consensus reached by the majority of those Members present shall constitute the decision of the Board.
- 10.03 In the event that the Board is unable to reach a consensus from a majority of those Members present, the appeal shall be deemed to be denied.
- 10.04 The decision of the Board shall be given in writing in accordance with the Act.
- 10.05 The decision of the Board shall be signed by the Chair who presided at the hearing at which the decision was made.
- 10.06 The Board shall file its written decision and reasons in accordance with the Act to:
 - a) the Applicant;
 - b) the Appellant;
 - c) the Respondent; and
 - d) those affected persons who gave their name and address to the Clerk during the public hearing.

SECTION 11 - REPEAL OF BYLAW

- 11.01 Bylaw No. 06/22 and all associated bylaws are hereby repealed.

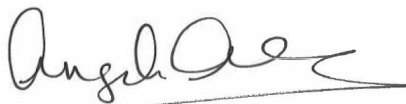
SECTION 12 - EFFECTIVE DATE

- 12.01 This Bylaw shall come into effect at such time as it has received third (3rd) reading and has been signed in accordance with the *Municipal Government Act*.

Read the first time this 12th day of April 2023.

Read the second time this 26th day of April 2023.

Read the third time this 26th day of April 2023.



Reeve



Chief Administrative Officer

May 3, 2023

Date of Signing