

MOUNTAIN VIEW COUNTY

BYLAW NO. 16/23

ESTABLISHING THE TOPSOIL APPEAL BOARD

**Mountain View County
Province of Alberta**

Bylaw No. 16/23

A BYLAW OF MOUNTAIN VIEW COUNTY IN THE PROVINCE OF ALBERTA ESTABLISHING THE TOPSOIL APPEAL BOARD FOR MOUNTAIN VIEW COUNTY.

SECTION 1 – AUTHORITY

1.01 Section 145(2) of the Municipal Government Act provides that Council may, by bylaw, establish council committees and other bodies.

SECTION 2 - PURPOSE OF THE BYLAW

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

SECTION 3 - DEFINITIONS

3.01 In this Bylaw, unless the context otherwise requires:

- a. **“Appellant”** means the person who may appeal to the Board in accordance with the Topsoil Bylaw.
- b. **“Board”** means the Agricultural Pest Appeal Board established by this bylaw.
- c. **“Chair”** means the person appointed pursuant to Section 5.06 of this bylaw.
- d. **“Chief Administrative Officer”** means the person appointed as the Chief Administrative Officer for Mountain View County.
- e. **“Clerk”** means the person appointed by Mountain View County as Clerk to the Board.
- 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
- k. **“Respondent”** means the Topsoil Review Committee as established by the Topsoil Bylaw.
- l. **“Topsoil Bylaw”** refers to Mountain View County’s Topsoil Bylaw as amended from time to time.

SECTION 4 - ESTABLISHMENTS/POWER

4.01 The Topsoil Appeal Board is hereby established.

4.02 The Board shall deal with appeals in accordance with the provisions of the Topsoil Bylaw.

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 The Board shall be composed of six (6) total Members.
- 5.05 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 three (3) 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) All Members-at-large will be scheduled on an equal, rotational basis for the remaining two (2) 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.
 - d) 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.

- 5.06 The Chair shall be the current Chair of the County's Subdivision and Development Appeal Board.

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 Topsoil Bylaw are carried out in accordance with the provisions of the Topsoil Bylaw.
 - 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
 - ii) the Notice of Appeal
 - iii) the Board's decision on each appeal
 - iv) 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.

SECTION 8 - SUBMITTING AN APPEAL

- 8.01 A person shall appeal to the Board in the manner provided in the Topsoil Bylaw.
- 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 Bylaw.

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) members.
- 9.03 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.

- 9.04 If the Chair is unable to attend a hearing, the Members present at the hearing shall elect a Chair from amongst themselves.
- 9.05 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.
- 9.06 A quorum at a hearing of the Board shall be three (3) Members.
- 9.07 At the hearing of the Appeal, the Board shall hear all the persons that the Board is required to hear under the Topsoil Bylaw.
- 9.08 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.
- 9.09 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) The Respondent is given an opportunity for rebuttal and concluding remarks;
 - j) The Appellant is given an opportunity for rebuttal and concluding remarks.
 - k) The Chair will either recess the hearing or declare the hearing closed.
- 9.10 The Board shall have full discretion to amend the hearing procedures listed in Section 9.09 to permit a more efficient or transparent hearing process.

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 within fifteen (15) days of the conclusion of the hearing.

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 to:

- a) the Appellant;
- b) the Respondent; and
- c) those affected persons who gave their name and address to the Clerk during the public hearing.


SECTION 11 - EFFECTIVE DATE

11.01 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 26th day of April 2023.

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

Read the third time this 10th day of May 2023.



Reeve



Chief Administrative Officer

May 12, 2023

Date of Signing