



# Subdivision and Development Appeal Board Information Guide

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This package is provided for information purposes only and is a consolidation of material that is publicly available. The information contained within the package has no legislative sanction. Individuals are advised to consult official Statutes, Regulations and Bylaws should be consulted in their entirety to ensure that they have the appropriate and complete information for the purposes of their appeal



## **Subdivision & Development Appeal Board**

The Subdivision and Development Appeal Board (SDAB) hears and makes decisions on appeals related to Stop Orders, Development Permits and Subdivisions. A decision related to a development permit application can be appealed by people who may be affected by a decision of the Development Authority. Whereas a decision related to a subdivision application can only be appealed by the applicant, government department or a school board.

An SDAB is a statutory body intended to perform an independent adjudicative function that hears complaints and functions like a court. It is an administrative board mandated by the Municipal Government Act and created by a municipality to carry out appropriate functions and procedures.

SDABs exercise what are called quasi-judicial functions. This means they make finding of fact based on evidence and then, apply legal rules, as found in the legislation and the planning instruments, to those findings. This process allows the SDAB to make a decision on a subdivision or a development matter after conducting a hearing fairly and in accordance with the legislation, administrative law, and the principles of natural justice. The SDAB operates through an evidence gathering method which consists of presentations and questions from the Board. It is different than a Court of Law as there is no opportunity to cross-examine witnesses or other speakers.

Mountain View County's SDAB strives to be non-intimidating for all parties and encourages you to ask questions wherever necessary to better understand the process and your role in it!

## **Subdivision & Development Appeal Board Composition**

The board is appointed by County Council and consists of citizens living in Mountain View County and Mountain View County Councillors. The board established for any given file will consist of 2 to 4 Public Members and 1 Councillor.

Once you have met the requirements and filed a proper appeal, this Board presides over your hearing. The Secretary to the SDAB is an administrative representative that can be your contact for any SDAB related inquiries.

### **For more information:**

Subdivision and Development Appeal Board  
Mountain View County  
1408 – Twp 320 Postal Bag 100  
Didsbury, AB T0M 0W0  
Phone: 403-335-3311  
Email: [legislative@mvcountry.com](mailto:legislative@mvcountry.com)

## **Filing a Subdivision or Development Appeal**

### **Grounds for an Appeal**

You can appeal a Development Authority's decision if:

- Your application for a development permit has been refused
- Your application for a development permit was approved with conditions that are unacceptable to you
- You have been issued a Stop Order directing you to stop construction or stop the present use of your property
- You will be affected by a new development, or new use of someone else's property
- If a development authority refuses or fails to issue a development permit to a person within 40 days of receipt of the application

You can appeal the Subdivision Authority's decision if:

- Your application for a subdivision has been refused
- Your application for a subdivision was approved with conditions that are unacceptable to you
- If a subdivision authority fails or refuses to make a decision on an application for subdivision approval within 60 days of receipt of the application

### **Filing an Appeal**

Before filing an appeal, talk to the County's Planning & Development department to consult the Development Officer or Planner on the file to ensure that you have all the information about the proposed development or subdivision. Then it is recommended to speak with the Secretary to the SDAB who is a third party. The Secretary is not involved in any of the previous reviews or decisions on the file but can give you information related to the Board's jurisdiction, hearing process and anything else related to the SDAB. If you require further assistance, it is recommended that you seek legal advice.

To appeal a decision, you must submit a completed appeal form and pay the required fee within 21 days of the date of the notice of decision. There is an appeal form located on the County website ([www.mountainviewcounty.com](http://www.mountainviewcounty.com)) or available by contacting the County. If you missed the appeal deadline, it is important to ensure you are prepared to present the reasons for the late filing or to justify why you believe the filing was not late. The Board must make this determination prior to proceeding with a hearing on the main concerns of the appeal.

### **Appeal Fees**

A filing fee of \$425.00 is required and must accompany your appeal form or it is not considered complete and will not be processed.

Appeal fees may be paid by cheque payable to Mountain View County or by using VISA, MasterCard, Debit or Cash in person at the County Office located at 1408 – Twp Rd 320 Didsbury, AB TOM OWO.

- In the event that your appeal is successful, that appeal fee is refunded.
- In the event that your appeal is unsuccessful, but substantial changes to the file result due to the appeal, the Board will make a determination as to whether the appeal fee will be refunded or not.

- If your appeal fee is not refunded by the Board, only Council has the authority to refund the fee by submitting a request for consideration.

### **Disclosure of Evidence (Documentation)**

Prior to the hearing, all parties are required to submit any information they intend to present at the hearing within a reasonable timeframe. The purpose of this is to ensure that all parties are given an opportunity to review the materials that will be presented in order to prepare for the hearing. All documentary or photographic evidence and a summary of testimonial evidence must typically be submitted 7 days prior to the hearing for inclusion in the hearing package to the Board. The Board does usually allow for hardcopies to be submitted the day of the hearing, provided enough copies are made for all participants.

### **Preparing for the Hearing**

The Board relies on written evidence presented as well as verbal submissions made during the hearing for the basis for its decisions. It is therefore critical that parties appearing before the Board ensure sufficient evidence is presented to support their respective positions. The Appellant should not rely on the Development/Subdivision Authority to make the case for them. It is the responsibility of each party to present evidence to support their position.

Here are some suggestions for preparing your presentation for the Subdivision and Development Appeal Board (SDAB) hearing:

- Determine the relevant planning issues associated with the appeal.
- The Board **does** have access to Mountain View County Bylaws in their entirety. As such, it is not essential to submit the entire piece of legislation for the Agenda Package. Parties are encouraged to submit sections that are most relevant to their file if they would like to draw the Board's attention towards a specific section or clause within a Bylaw.
- Prepare a clear, concise, and logical written presentation
- Be prepared to summarize your presentation. The Board is provided the Agenda Package in advance and will have an opportunity to review all written submissions. As such, it is not necessary to read through the written presentation in its entirety for the Board.
- Be familiar with the site
- To assist the Board in understanding your position and the proposal, you may wish to provide photographs, illustrative material, well prepared drawings, or written submissions to the hearing as documentary evidence.
- Ask anyone in support of your position to speak on your behalf at the hearing and write letters outlining their position in support or objection.
- You may seek professional advice or ask someone else to present your case, but citizens often represent themselves. If there is doubt as to whether the Board has the legal right to hear the appeal, you may want to seek professional advice.
- Review the contents of the SDAB hearing package assembled by the SDAB Secretary.
- Your cooperation and attendance at the hearing will prevent any unnecessary delays for the Board and will help the Municipality use resources effectively. By attending the hearing, the Board is in a position to ask you questions (if any).

You must not speak to members of the Subdivision and Development Appeal Board about an appeal or a potential appeal prior to the hearing, because this may disqualify them from participating in the

hearing. Board members do not discuss appeal cases with the Development Authority or the Subdivision Authority before the hearings and will be unfamiliar with the exact particulars of the file until the hearing.

## **Hearing Process**

- The Chair of the SDAB will open the hearing and provide an overview of the hearing process and any housekeeping request.
- The Secretary will outline the jurisdiction of the appeal and any preliminary matters. If you have any concerns regarding the ability for the SDAB to proceed, such as a question of jurisdiction or needing more time to prepare, this is when it should be raised.
- The Planning & Development department will provide an overview of the file and the lands in question.
- The Appellant is asked to summarize their reasons for the appeal and may have others to speak to support their position. Board members may question them.
- The Respondent and other persons in attendance at the hearing with an interest in the appeal will present their arguments and respond to any questions of the Board.
- The Board will then take a quick break to allow parties time to develop their rebuttals.
- The Chair will ask the Respondents if they wish to respond to any new information raised during the hearing.
- The Chair will ask if the Appellant wishes to respond to any new information raised during the hearing.
- The hearing is then closed, and the Board goes into a meeting closed to the public to discuss the appeal.
- The Board will present its decision and reasons in writing within 15 days of the hearing.
- A decision of the SDAB is not final or binding until the decision is issued in writing.

The Board does not, on its own initiative, seek information or evidence. The Board relies on the written evidence presented, as well as verbal submissions at the hearing, as the basis for their decision. Therefore, it is critical that persons appearing before the Board ensure that sufficient evidence is presented to support their respective positions.

When presenting an appeal, keep in mind the Board does not consider precedent when making its decision. Each application is judged on its own merits.

Exhibits used during a presentation become part of the Board's record of the hearing and must be retained by the Board at the conclusion of the hearing.

Please note that SDAB hearings, with the exception of the Board's decision-making discussions, are public and open to the media. Therefore, any submissions or comments are made available to the public in its entirety.

## **Postponing or Not Attending Your Hearing**

You may submit a written request to postpone an SDAB hearing including the reasons for the request, either to the Board at the time of the hearing or to the SDAB Secretary prior to the hearing.

Hearings will only be postponed at the discretion of the Board, and all parties should be prepared to proceed in the event that the postponement is not granted.

If you are not in attendance when your appeal is called, the Subdivision and Development Appeal Board may proceed without you. The Board will consider the information presented on the appeal form, any written submissions received, hear presentations from any one in attendance, and then make a ruling on the appeal. It is important that you describe your position clearly and in detail on your appeal form or file a written submission ahead of time if you cannot be at the hearing.

### **Withdrawal of an Appeal**

A withdrawal should be submitted in writing to the SDAB Secretary as soon as possible. Your cooperation will prevent any unnecessary delays for the Board and will help the County use its resources effectively.

### **Agendas and Decisions**

The SDAB agenda and hearing package is distributed to the Board, the Development or Subdivision Authority, the appellant, and the applicant by 4:00 pm 5 days preceding the scheduled hearing date. Affected parties may receive an SDAB hearing package by making a request to the SDAB Secretary or by visiting the County website following the agenda release deadline.

The SDAB schedules its meetings upon receipt of an appeal and after consulting Board Member availability. The SDAB is required to open an Appeal Hearing within 30 days of receiving an Appeal Notice and typically holds its hearings beginning at either 9:00 a.m. or 1:00 p.m.

### **Appealing the SDAB Ruling**

SDAB decisions are final unless it can be shown that the Board erred in law or jurisdiction. You may appeal the Board's decision to the Alberta Court of Appeal. You must apply for leave to appeal a decision of the Subdivision and Development Appeal Board within 30 days of the date that the written decision was issued.

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