

BYLAW NO. 231-18

BEING A BYLAW OF CLEAR HILLS COUNTY, IN THE PROVINCE OF ALBERTA, TO ESTABLISH A SUBDIVISION APPEAL BOARD AND A DEVELOPMENT APPEAL BOARD CLEAR HILLS COUNTY

WHEREAS, the Council of Clear Hills County wishes to establish a Subdivision Appeal Board and a Development Appeal Board as required under Section 627 of the *Municipal Government Act*, RSA 2000, Chapter M-26; and

WHEREAS, Council wishes to delegate Clear Hills County's Subdivision Appeal Board powers and duties to an Intermunicipal Subdivision Appeal Board; and

WHEREAS, Section 628 of the *Municipal Government Act* requires a Council that establishes a Development Appeal Board to prescribe the functions and duties of the Board.

NOW THEREFORE, the Council of Clear Hills County, in the Province of Alberta, duly assembled, hereby enacts as follows:

SECTION I – PURPOSE, NAME AND DEFINITIONS

Purpose

1. The purpose of this bylaw is to establish a Development Appeal Board for Clear Hills County

Name

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

Definitions

3. In this Bylaw,
 - (a) ACT means the Municipal Government Act.
 - (b) ALSA Regional Plan means a regional plan as defined in the Alberta Land Stewardship Act.
 - (c) APPELLANT means the person who has served written notice of an appeal on the Development Appeal Board from a decision or order of the Development Authority.

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- (d) BOARD means the Development Appeal Board of Clear Hills County, established pursuant to this Bylaw.
 - (e) CLERK means a designated officer appointed by resolution of Council to act as Clerk of the Development Appeal Board, pursuant to Section 627.1 of the Act.
 - (f) COUNCIL means the Council of Clear Hills County.
 - (g) COUNTY means the corporation of Clear Hills County.
 - (h) DEVELOPMENT AUTHORITY means the person appointed pursuant to Development Authority Bylaw No. 14.
 - (i) LAND USE BYLAW means Clear Hills County Land Use Bylaw No. 7 and any amendments thereto.
 - (j) MEMBER means a member of the Development Appeal Board of Clear Hills County, as appointed by the Council of Clear Hills County .
 - (k) PANEL means the members of the Development Appeal Board of the Town of Manning constituted to hear and decide upon an appeal.
 - (l) SUBDIVISION AUTHORITY means the Subdivision Authority as established pursuant to Subdivision Authority Bylaw No. 12 and any amendments thereto.
 - (m) 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 meaning of such terms.

SECTION II – ESTABLISHMENT, DUTIES AND POWERS

Establishment

1. The Development Appeal Board for Clear Hills County is hereby established.

Duties and Powers

2. The Board shall deal with development and stop order appeals, in accordance with the provisions of the Act, and shall exercise any other powers, duties and functions given to it by any other bylaws of Council.

Subdivision Appeal Board

3. The Mackenzie Inter-Municipal Subdivision Appeal Board shall act as the Subdivision Appeal Board on behalf of Clear Hills County.

SECTION III - ADMINISTRATION

Membership, Training, Term and Conditions of Service

1. The Development Appeal Board shall consist of one (1) member of Council and three (3) members-at-large appointed by Council.
2. Council shall appoint a minimum of one (1) alternate member of Council to the Development Appeal Board who shall act in the absence of the member of Council appointed in subsection (1).
3. Appointment of the members of the Board shall be made by resolution of Council annually at their organizational meeting, excepting for the first appointment which shall be made at the time of the passage of this bylaw.
4. A person appointed as a member of the Development Appeal Board shall complete a mandatory training program set or approved by the Minister of Municipal Affairs within one year of their appointment.
5. A member of the Development Appeal Board who serves for a period exceeding three (3) years shall complete a refresher training program set or approved by the Minister of Municipal Affairs every three (3) years.
6. The length of a person's appointment to the Board is at the discretion of Council and shall be renewed on an annual basis.
7. In the event of a vacancy, Council may appoint by Resolution of Council a new member to the Board to serve for the remainder of the vacating member's term.
8. Members of the Board may be entitled to such remuneration, travelling and living expenses, as may be established by Council from time to time

Eligibility

9. A member of the Board shall not include:
 - (a) a member of the Municipal Planning Commission; or
 - (b) a person who carries out subdivision or development powers, duties and functions on behalf of the County; or
 - (c) an employee of the County.

10. A member of Council's appointment to the Board terminates upon the person ceasing to be a member of Council.

Chair

11. The members of the Board shall elect one of themselves as Chair and one of themselves as Vice-Chair.

12. The Vice-Chair may preside at meetings and hearings of the Board in the absence of the Chair.

13. The Chair and Vice-Chair shall hold office for a period of one year from the date of appointment.

Quorum

14. Three of the members of the Board constitute a quorum.

15. A panel of the Board hearing an appeal cannot have more than one (1) councillor.

Absent Board Members

16. A member of the Board who is unable to attend the whole or a part of any hearing of an appeal, shall not participate in the deliberations or decision made by the Board upon that appeal.

17. In the event of the absence of, or inability to act as, Chair or Vice-Chair at a meeting of the Board, the other members of the Board shall select a Chair for the hearing from amongst themselves.

Signing Authority

18. An order, decision, approval, notice or other things, made, given or issued by the Board may be signed on its behalf by the Chair or another member of the Board authorized to sign on its behalf.

Meetings and Public Hearings

19. In accordance with the *Municipal Government Act*; the board may establish panels of the Board.

20. The Chair shall be responsible for the conduct of a hearing.

21. Within thirty (30) days of receipt of a notice of appeal duly filed pursuant to the provisions of the *Municipal Government Act*, the board shall hold a public hearing to hear an appeal of:
 - (a) a decision of the Development Authority; or
 - (b) the Development Authority's refusal or failure to make a decision within the time period allowed for a decision, as established by the *Municipal Government Act*; or
 - (c) a stop order issued by the Development Authority.

22. Upon receipt of a notice of appeal duly filed pursuant to the provisions of the *Municipal Government Act*, and of this Bylaw, the Clerk shall convene a special meeting of the Board to consider the agenda for a hearing; the procedures to be used at a hearing; and what persons are affected by the appeal and should be notified thereof.

23. The hearing of an appeal pursuant to the *Municipal Government Act* and the provisions of this Bylaw shall be held in public, but the Board may deliberate and make its decision in a meeting closed to the public, in accordance with Section 197 of the *Municipal Government Act*.

24. In accordance with Section 629 of the *Municipal Government Act*, the Board may accept any oral or written evidence that it considers, whether admissible in a court of law or not, and is not bound by the laws of evidence applicable to judicial proceedings.

25. The board shall make and keep records of office proceeding which may be in the form of a summary of the evidence presented at a hearing in accordance with Section 629 of the *Municipal Government Act*.

26. 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.

27. A request for adjournment of a public hearing may be granted at the discretion of the Board, but any adjournment must be to a specific time and date.

28. The board may refer to the County's Procedural Bylaw 222-17 for matters not covered in this bylaw or the *Municipal Government Act*.

Decisions

29. Upon conclusion of a public hearing, the Board may deliberate and make its decision in a meeting closed to the public in accordance with Section 197 of the *Municipal Government Act*.
30. All members present shall vote on every matter placed before the Board unless the member declares a pecuniary interest in the same manner as required of an elected representative pursuant to Sections 169, 170, and 172 of the *Municipal Government Act*. Any member who declares a pecuniary interest shall not participate in any debate or decision concerning the matter. Such pecuniary interest shall be recorded in the minutes.
31. The decision of the majority of the members of the Board present at a hearing, duly convened, is deemed to be the decision of the whole Board.
32. Where there is a tie vote on an appeal motion, that motion is deemed defeated.
33. The Secretary of the Board or the Chairperson, may make a verbal announcement of the decision upon an appeal at the conclusion of the public hearing, but in that event shall notify the parties that the verbal decision is not final and binding, and that the parties should not act upon it until it has been reduced to writing and signed.
34. The Board shall give its decision upon an appeal in writing together with reasons for the decision within fifteen (15) days of the conclusion of the hearing
35. Where the Board allows an appeal against the refusal of a development permit by the Development Authority, the Development Authority shall issue a development permit in conformity with the Board's decision, upon receiving notice of the Board's decision.
36. The Board may confirm, revoke or vary any condition imposed by the Development Authority or make or substitute any condition of its own.
37. Pursuant to Section 630.2 of the *Municipal Government Act*, the Board shall carry out its duties and functions and exercise its jurisdiction in accordance with any applicable ALSA Regional Plan.

Immunity

38. The members of the Development Appeal Board are not personally liable for anything done or omitted to be done in good faith in the exercise or purported exercise of a power, duty or function under Part 17 of the *Municipal Government Act*.
39. No member of the Development Appeal Board is liable for costs by reason of or in respect of an application for permission to appeal or an appeal under this Part 17 of the *Municipal Government Act*.

SECTION IV - CLERK**Appointment**

1. Council hereby appoints the Executive Assistant as the designated officer in the position Clerk of the Development Appeal Board.

Training

2. The Clerk shall:
- a) Complete a mandatory training program set or approved by the Minister of Municipal Affairs within one (1) year of taking office.
 - b) Complete a refresher training program set or approved by the Minister of Municipal Affairs every three (3) years.

Duties and Responsibilities

3. The Clerk shall:
- (a) perform such functions as may be necessary to ensure that the Board is in full compliance with its duties under the *Municipal Government Act* and this Bylaw.
 - (b) attend all meetings and hearings of the Board;
 - (c) not vote on any matters before the Board;
 - (d) notify all members of the Board of the arrangements for the holding of each hearing and other meetings of the Board;
 - (e) make available for public inspection before the commencement of a public hearing all relevant documents and materials respecting the appeal including the application, its refusal and the appeal therefrom, or a stop order of the Development Authority, as the case may be.
 - (f) keep the following records:
 - i. the minutes of all meetings and hearings, including a written summary of all evidence presented at a hearing in accordance with Section III (23);

- ii. all applications;
 - iii. records of all notices of hearings and of persons to whom they were sent;
 - iv. copies of all written representations to the Board;
 - v. notes as to each representation;
 - vi. the names and addresses of those making representations at a hearing;
 - vii. the decisions of the Board;
 - viii. the reasons for the decision of the Board;
 - ix. the vote of the members of the Board on the decision;
 - x. records of all notices of decision and of persons to whom they were sent;
 - xi. all notices, decisions and orders made on appeal from the decisions of the Board; and
 - xii. such other matters as the Board may direct or the Secretary may determine.
- (g) perform any other duties and functions as the Board may determine.

SECTION V – NOTIFICATION

Notice of an Appeal

1. The written notice of appeal shall be made on the official Appeal Form and shall be signed by the appellant.
2. The appellant may serve the Appeal Form on the Board by EITHER:
 - (a) Mailing it to:

The Clerk, Development Appeal Board
Clear Hills County
Box 240
Worsley, Alberta T0H 3W0

by registered mail, so as to reach the above address within twenty-one (21) days after the date the decision, the order, or no decision within the required period, is made by the Development Authority, as:

- i. first published in a newspaper circulating in the area; or
- ii. posted on the site of the subject property, or
- iii. received by the appellant,

whichever of these shall occur first.

OR

(b) delivering the Appeal Form in person to the County Office within twenty-one (21) days after the date the decision, the order, or no decision within the required period, is made by the Development Authority, as:

- i. first published in a newspaper circulating in the area; or
- ii. posted on the site of the subject property, or
- iii. received by the appellant,

whichever of these shall occur first.

Proof of the said delivery shall be the official receipt of the Clear Hills County Office

Appeal Fee

3. The Appeal Form shall be accompanied by a fee of an amount established by Council from time to time.
4. Notwithstanding subsection 3, where the Board is of the opinion that an appeal is applicable to and for the benefit of the municipality at-large, the Board may direct that the application fee be returned to the appellant.

Notice of a Hearing

5. The Clerk, in the name of the Board, shall give at least five (5) days' written notice of the time and place of the hearing of an appeal, together with a summary of the application, to:
 - (a) the appellant;
 - (b) the Development Authority;
 - (c) those persons required to be notified under the Land Use Bylaw and any other person that the Board considers to be affected by the appeal that should be notified; and
 - (d) any other persons required to be notified in accordance with the *Municipal Government Act*.
6. In the case of the appellant, notice of the appeal hearing shall be sent by registered mail to the address given on the appellant's Appeal Form.
7. In the case of those persons referred to in subsection 5(c) above, notice of the appeal hearing shall be sent by registered mail to the address shown on the last revised assessment roll.
8. In addition to the notice required by subsection 5 the Board may direct that the Secretary publish notice of the hearing in such manner as the Board may determine.

9. Where a hearing is adjourned or the decision is reserved, and the Board does not at the time of adjournment fix a time and place for the further hearing of the application and announce it to those in attendance, it shall be the duty of the Chair to announce to those in attendance that the notice of the time and place for further hearing will be sent to only those persons who leave their name and address with the Clerk; and thereafter, only such persons as do leave their name and address shall be entitled to the notice of the further hearing.

SECTION VI – COURT OF APPEAL

Court of Appeal

1. The Secretary shall keep on file all notices of application made for leave to appeal to the Appellate Division from decisions of the Board pursuant to the *Municipal Government Act*.

SECTION VII – SEVERABILITY

Severability

1. If any portion of this bylaw is declared invalid by a court of competent jurisdiction, then the invalid portion shall be severed.

SECTION VIII – REPEAL OF BYLAW

Repeal of Bylaw

1. The Subdivision and Development Appeal Board Bylaw No. 174-13 is hereby repealed.

SECTION IX – EFFECTIVE DATE


Effective Date

1. This Bylaw shall come into full force and effect upon the date of its final passing thereof.

READ for a FIRST time this 27 day of MARCH A.D., 2018.

READ for a SECOND time this 27 day of MARCH A.D., 2018.

READ for a THIRD time this 27 day of MARCH A.D., 2018.



Jason Ruecker, Reeve



Allan Rowe, Chief Administrative Officer

