

# THE COUNTY OF VERMILION RIVER IN THE PROVINCE OF ALBERTA

## BYLAW 18-02

### ***A BYLAW OF THE COUNTY OF VERMILION RIVER TO ESTABLISH A SUBDIVISION AND DEVELOPMENT APPEAL BOARD AND TO ESTABLISH THE POSITION OF CLERK TO THE BOARD***

---

**WHEREAS** section 627 of the *Municipal Government Act*, Revised Statutes of Alberta, 2000, Chapter M-26, as amended, provides that a council must, by bylaw, establish a subdivision and development appeal board; and

**WHEREAS** section 628 of the *Municipal Government Act* provides that a bylaw under section 627 must prescribe the functions and duties of the subdivision and development appeal board; and

**WHEREAS** section 627.1(1) of the *Municipal Government Act* provides that a council, having established a Subdivision and Development Appeal Board must authorize appointment of one or more clerks of the subdivision and development appeal board and that the person appointed to the position of Clerk must be a designated officer; and

**AND WHEREAS** section 210(1) provides that a council may, by bylaw, establish one or more positions to carry out the powers duties and functions of a designated officer under the Municipal Government Act or any other enactment or bylaw;

**NOW THEREFORE** the Council of the County of Vermilion River, duly assembled, enacts as follows:

#### **1. TITLE**

1.1. This Bylaw shall be known as the "**Subdivision and Development Appeal Board Bylaw**".

#### **2. DEFINITIONS AND INTERPRETATION**

2.1. In this Bylaw:

2.1.1. "Act" means the Municipal Government Act, (MGA) being Chapter 26, Revised Statutes of Alberta, 2000, and amendments thereto;

2.1.2. "Appellant" means a person who has filed a notice of appeal with the Board;

2.1.3. "Applicant" means the person who has applied for a development permit or subdivision and the decision about their application is under appeal to the Board. The Applicant may also be the Appellant;

- 2.1.4. "Board" means the Subdivision and Development Appeal Board (SDAB) established pursuant to Section 3 of this Bylaw; "Chairperson" means the Member that is elected Chairperson pursuant to this Bylaw;
- 2.1.5. "Clerk" means the person or persons appointed to the position established under Section 8 of this Bylaw;
- 2.1.6. "Code of Conduct" means the County of Vermilion River Subdivision and Development Appeal Board Code of Conduct (SDAB Code of Conduct);
- 2.1.7. "Council" means the municipal council of the County of Vermilion River ;
- 2.1.8. "Councillor" means a member of Council;
- 2.1.9. "County" means the municipality of the County of Vermilion River;
- 2.1.10. "Designated Officer" means a person or persons appointed to a position to carry out the powers, duties and functions of a designated officer for the municipality as established by bylaw pursuant to Section 210(1) of the Act.
- 2.1.11. "Development" means development as defined in Section 616(b) of the MGA;
- 2.1.12. "Development Authority" means the Development Authority established for the County in accordance with Section 624 of the Act to perform the functions of a development authority under the Act;
- 2.1.13. "Land Use Bylaw" means the bylaw adopted, from time to time, as the Land Use Bylaw for the County by the Council pursuant to the Act;
- 2.1.14. "Subdivision" means a division of land that will result in the creation of a surface parcel or the rearrangement of the boundaries or limits of a surface parcel.
- 2.1.15. "Subdivision Authority" means the Subdivision Authority for the County established under the Subdivision Authority Bylaw, passed in accordance with Section 623 of the Act, to perform the functions of a subdivision authority under the Act;
- 2.1.16. "Vice-Chairperson" means the Member that is elected Vice-Chairperson pursuant to this Bylaw.

### **3. ESTABLISHMENT AND POWERS**

- 3.1. The Subdivision and Development Appeal Board of the County of Vermilion River is hereby established.

### **4. FUNCTIONS, POWERS, AND DUTIES**

- 4.1. The Board shall hear appeals
  - 4.1.1.1. from decisions of the Development Authority;
  - 4.1.1.2. from decisions of the Subdivision Authority; and
  - 4.1.1.3. of Stop Orders issued by the Development Authority.

- 4.2. The Board shall conduct itself in accordance with all provisions set out in Part 5 and Part 17 of the Act and the SDAB Code of Conduct.
- 4.3. The Board shall establish procedures for its Meetings and Hearings.
- 4.4. Meetings of the Board shall be held at the times and places determined by the Board.

## **5. QUALIFICATIONS AND MEMBERSHIP**

- 5.1. Before participating in a hearing of the Board, all appointed Board Members must receive training as Subdivision and Development Appeal Board members.
- 5.2. The Board shall consist of seven (7) Members. Members shall be appointed by resolution of Council. Two (2) Members shall be appointed from Council and the five (5) remaining Members shall be appointed from the public at large.
- 5.3. A Councillor shall not sit on an appeal, if the appeal involves a property in their electoral division.
- 5.4. Any vacancies caused by the death, retirement, or resignation of a Member may be filled by resolution of Council.
- 5.5. Council may remove a member from the Board by resolution at any time.
- 5.6. Under extraordinary circumstances, such as when a large number of Members of the Board may have a potential conflict of interest, the Council may appoint additional members of the Board for a specific, short period of time, as set out in the resolution of Council, in order to ensure that the Board will have a quorum for a hearing.

## **6. TERMS OF OFFICE**

- 6.1. Each Member appointed from the public-at-large shall be appointed by Council for a term of two (2) years and may be reappointed by Council for successive terms.
- 6.2. The Council Members shall be appointed to the Board for a one (1) year term. In the event that a Council Member ceases to be a member of Council their appointment to the Board shall immediately terminate.

## **7. CHAIRPERSON**

- 7.1. Each year, at the first hearing of the Board, following the appointment of members, a Chairperson shall be elected by vote of the majority of the Members.
- 7.2. The Chairperson shall be one of the public- at-large Members.
- 7.3. A member may be re-elected to the position of Chairperson.
- 7.4. The Chairperson shall preside at the hearings of the Board.
- 7.5. The Chairperson shall hold the office of Chairperson for a period of one (1) year.

## **8. VICE-CHAIRPERSON**

- 8.1. A Vice-Chairperson shall be elected at the same time and in the same manner as the Chairperson.
- 8.2. The Vice-Chairperson shall preside at hearings of the Board in place of the Chairperson, if the Chairperson for any reason, does not preside at the hearing.
- 8.3. In the absence of both the Chairperson and the Vice-Chairperson, the Members present at the hearing will elect one of the other Members in attendance at the hearing to preside at the hearing.
- 8.4. Any Member may be elected to the position of Vice-Chairperson.

## **9. CLERK**

- 9.1. A position of designated officer for the purpose of carrying out the function of the Clerk for Board, is hereby established and the individual appointed to that position will have the title "Clerk of the SDAB".
- 9.2. The Clerk shall be appointed by resolution of Council.
- 9.3. The Clerk shall not be a member of the Board.
- 9.4. The Clerk of the SDAB may authorize someone to act as the Clerk to the SDAB provided that the person so authorized has the qualifications to be appointed Clerk as specified under the Act.
- 9.5. The Clerk must maintain and enhance their understanding of the requirements imposed on him or her by the Municipal Government Act, its applicable regulations, the SDAB Bylaw, other applicable bylaws of the County of Vermilion River, the SDAB Code of Conduct, and Policies and Procedures governing the SDAB.
- 9.6. The Clerk shall, among other things, in their interactions with Board Members, parties and the public:
- 9.7. Be courteous, professional, fair and unbiased; and
- 9.8. Contribute to the preservation of order and decorum in a hearing.
- 9.9. The Clerk is expected to participate and contribute to professional development of Board Members.
- 9.10. The Clerk must attend all meetings and hearings of the SDAB and effectively contribute to the operation of the Board.
- 9.11. The Clerk has the following responsibilities and duties:
  - 9.11.1. make and keep a record, until it is turned over to the County, of the Board proceedings, which may be in the form of a summary of the evidence presented at a hearing;

- 9.11.2. ensure statutory notices and decisions of the Board are provided to such persons as the Act requires;
- 9.11.3. abide by standard operating procedures for the Board that are approved by resolution by Council from time to time;
- 9.11.4. sign orders, decisions, approvals, notices, and other items on behalf of the Board; and.
- 9.11.5. such other additional duties and functions that may be delegated by the Board.

## **10. QUORUM**

- 10.1. A quorum for hearing shall be three (3) Members. One (1) of those Members shall be a Member appointed from Council.
- 10.2. A Member who is, for any reason, unable to attend the whole of any hearing of an appeal shall not participate in the deliberation or decision of the Board upon that appeal.

## **11. FEES AND EXPENSES**

- 11.1. The remuneration, traveling and other expenses of the Members shall be paid in accordance with the amounts established the County policy which may be adopted and amended by resolution of Council from time to time.
- 11.2. The fees for filing of an appeal and the holding of hearings, and the meetings of the Board shall be set by resolution of Council.

## **12. APPEAL HEARINGS**

- 12.1. The Board shall hold hearings when and as necessary to consider and decide appeals filed with the Board in accordance with the Act.
- 12.2. The Board shall hear appeals and shall make its decisions on the appeals in accordance with the requirements of the Act.
- 12.3. After hearing all submissions and any rebuttal, the Board shall deliberate and reach its decision in private.
- 12.4. The Board shall have prepared and maintain a file of written Minutes of the business transacted at all hearings of the Board, copies of which shall be regularly filed with the County. The Minutes may be in the form of a summary of the submissions and evidence received at the hearings rather than verbatim.
- 12.5. The Board may make recommendations to Council with respect to provisions of the County Land Use Bylaw.

## **13. RECORDING DEVICES**

- 13.1. No person is allowed to use a recording device in the room where and while a hearing is in progress, unless the Chairperson grants permission.

13.2. Audio or digital recordings of hearings of the Board shall be made by the Clerk for minute taking purposes only. Once minutes for a Board hearing have been approved the Clerk may erase the recording or otherwise render the recording irretrievable.

**14. REPEAL**

14.1. This Bylaw repeals and replaces Bylaw 08-09 upon coming into effect.

14.2. This Bylaw repeals, supersedes, and takes precedence over all previously passed Bylaws that refer to Hearing Procedures for the Board, as well as any previously passed motions of Council or the Board that may be in conflict with this Bylaw.

**15. PROVISIONS MAY BE SEVERED**

15.1. Should any provision of this Bylaw be determined to be invalid, then such provisions shall be severed and the remaining bylaw shall be maintained.

**16. EFFECTIVE DATE**

16.1. THIS Bylaw shall come into force and effect upon receiving third and final reading and having been signed by the Reeve and Chief Administrative Officer.

Read a first time this 27<sup>th</sup> day of February, 2018

Read a second time this 27<sup>th</sup> day of February, 2018

Read a third time this 27<sup>th</sup> day of February, 2018

**SIGNED** and **PASSED** by the Reeve and Chief Administrative Officer this 27 day of February, 2018

  
\_\_\_\_\_  
Reeve

  
\_\_\_\_\_  
Chief Administrative Officer