

BYLAW 2603/D&P/19

BEING A BYLAW OF THE TOWN OF STONY PLAIN IN THE PROVINCE OF ALBERTA FOR THE PURPOSE OF ESTABLISHING A SUBDIVISION AND DEVELOPMENT APPEAL BOARD

WHEREAS it is deemed to be desirable and necessary to establish a Subdivision and Development Appeal Board;

NOW THEREFORE the Council of the Town of Stony Plain pursuant to the authority conferred upon it by Section 627(1), Part 17 of the *Municipal Government Act*, RSA 2000, c. M-26 enacts as follows:

1.0.0 Title

1.1.0 This bylaw may be cited as the “Subdivision and Development Appeal Board Bylaw”.

2.0.0 Definitions

In this bylaw all words and expressions shall have the meanings respectively assigned to them in the Town of Stony Plain Land Use Bylaw 2576/LUO/17 and subsequent amendments thereto.

In this bylaw:

- 2.1.0 “Act” means Part 17 of the *Municipal Government Act*, RSA 2000, c. M-26 and any amendments thereto;
- 2.2.0 “Appellant” means someone who appeals for an official decision to be changed;
- 2.3.0 “Applicant” means a person who makes an application;
- 2.4.0 “Board” as referred to in this bylaw means the Town of Stony Plain Subdivision and Development Appeal Board;
- 2.5.0 “Chair” means Council representative appointed for the Public Hearing; or in the absence of a Councillor: Vice Chair as appointed by the Board; or Board Member appointed as Chair in the absence of any other Chair;
- 2.6.0 “Council” means the municipal Council of the Town of Stony Plain;
- 2.7.0 “Development Authority” means a Development Authority as provided for in Part 17 of the Act;
- 2.8.0 “Member” means a panel Member of the Subdivision and Development Appeal Board appointed in accordance with this bylaw;
- 2.9.0 “Public Hearing” means an official meeting where members of the public hear the facts;
- 2.10.0 “Recording Secretary” means the person employed in the capacity of either the Subdivision or Development Appeal Board Assistant, or a staff person so delegated by the SDAB Clerk;
- 2.11.0 “SDAB Clerk” means the person or persons authorized to act as clerk for the Subdivision and Development Appeal Board by the Council;
- 2.12.0 “Subdivision and Development Appeal Board” means that body appointed by Council to serve as appeal body on all subdivision and development matters pursuant to Division 10, Part 17 of the *Municipal Government Act*;
- 2.13.0 “Town” means the Town of Stony Plain; and
- 2.14.0 “Town Resident” means a person living in the municipality on a daily basis and having a permanent address in the municipality.

All other terms used in this bylaw shall have the meaning as is assigned to them in the *Municipal Government Act*, as amended from time to time.

3.0.0 General

3.1.0 Establishment

- 3.1.1 The Subdivision and Development Appeal Board hereinafter called the “Board” is established.
- 3.1.2 All previous membership appointments made under Bylaw 2411/D&P/10 shall continue under Bylaw 2603/D&P/19.

3.2.0 Appointment and Terms

- 3.2.1 The Subdivision and Development Appeal Board is appointed by resolution of Council as follows:
 - 3.2.1.1 Duly appointed Council – only one (1) Councillor is permitted to attend each Hearing;
 - 3.2.1.2 A pool of up to Seven (7) members-at-large; and
 - 3.2.1.3 One (1) SDAB Clerk – Non-voting member.

3.3.0 Board Members and SDAB Clerk must obtain and maintain certification for their training to hear a SDAB hearing as per requirements outlined in the *Municipal Government Act*.

3.4.0 Only Town Residents are eligible to sit as a members-at-large on the Subdivision and Development Appeal Board.

3.5.0 Council members of the Board shall be appointed annually at the organizational meeting of Council.

3.6.0 Members-at-large appointments, where possible, shall be made at the annual Organizational Meeting of Council and shall be appointed for an initial term of not more than three (3) years, so long as not more than two (2) member-at-large terms expire in any one year.

3.6.1 New members shall take office at the first meeting following the official effective date of their appointment.

3.6.2 Members-at-large shall be eligible to serve for a maximum of two (2) consecutive terms. Then, they must sit out at least one (1) year prior to again being eligible to serve on the Board.

3.7.0 The Town Manager shall be an advisor to the Subdivision and Development Appeal Board and may be invited to attend all meetings but shall not have a vote.

3.8.0 No person who is a member of the Municipal Planning Commission shall be appointed to act as a Member of the Subdivision and Development Appeal Board.

3.9.0 No person who is a Development Officer shall be appointed to act as a Member of the Subdivision and Development Appeal Board but the Development Officer shall normally be in attendance at all meetings; or will appoint a designate in their absence.

3.10.0 When deemed necessary, the Board may request any other person(s) to attend its meetings in an advisory capacity but such person(s) shall not have a vote thereon.

Vacation of Position

3.11.0 Board Members shall be deemed to have vacated their positions if, being appointed as members from the Town of Stony Plain, they cease to reside in the Town of Stony Plain.

3.12.0 Unless otherwise approved by the Board, any Member of the Board, who is absent from three (3) consecutive meetings shall be replaced with a new Member.

3.13.0 Any vacancy on the Board caused by the death, retirement, or resignation of a Member may be filled by the Citizen at Large Board Appointment process and resolution of Council.

3.14.0 Provided that there is a quorum, replacements to the Board will not be made if less than one (1) year is remaining in the term of the position to be filled. If one (1) year or more is remaining in

the term of the position to be filled, a replacement will be appointed by Council for the remainder of the term.

- 3.15.0 The Board shall not be disbanded without cause, however all members-at-large sit at the approval of Council and may be discharged at Council's discretion.

Meetings

- 3.16.0 The Board shall hold such meetings as are necessary to fulfill the Board's responsibilities and will be held at the request of the Chair or the majority of the Members of the Board, with at least five (5) days' notice to the Board. The Chair may call a special meeting of the Board upon twenty-four (24) hours' notice.

- 3.17.0 The Board shall constitute a quorum for the making of all decisions and for doing any action required or permitted to be done by the Board. Four (4) Board Members constitute a quorum.

- 3.18.0 Notwithstanding a vacancy in the membership of the Board, the powers and duties of the Board may be exercised and performed provided that there are at least a minimum of four (4) remaining members and one (1) Councillor.

- 3.19.0 Only those Members of the Board present at the meeting shall vote on any matter before it.

- 3.20.0 The decision of the majority of the Members present at a meeting duly convened shall be deemed to be the decision of the whole Board.

- 3.21.0 The Board shall hold public meetings in the Council Chambers of the Town of Stony Plain unless the members by resolution unanimously agree to meet elsewhere, within the Town.

- 3.22.0 If available, a video recording for public viewing will be set up and communicated;

3.22.1 Notice to the public will be made that the video recording will be taking place and shared on a public viewing site;

3.22.2 Video recording of the public portions of the meeting will occur and be viewed in real-time through the Town's approved site;

3.22.3 Public access to historic video recordings of any SDAB meeting will be available through the Town's website for a prescribed period of time;

3.22.4 Official recordings will be retained as official record as prescribed in the Retention and Disposition Schedule; or as long as the video may be viewed through electronic means.

- 3.23.0 The Board may make rules as are necessary for the conduct of its meetings and its business that are consistent with this bylaw, the Municipal Regulations in effect at the time and the *Municipal Government Act*.

- 3.24.0 Minutes of all Regular and/or Special board meetings shall be regularly filed with the Council.

Duties and Authority

- 3.25.0 The duties, procedures, and authority of the Board shall be in accordance with the conditions outlined in Part 17 of the *Municipal Government Act*.

- 3.26.0 A Board hearing an appeal on a subdivision or development matter must hold the hearing within 30 days of receiving a notice of appeal.

- 3.27.0 Any Member of the Board shall not vote when he or she has a conflict of interest or a pecuniary interest in a matter which is before the Board.

- 3.28.0 When a Member is not entitled to vote by virtue of Section 5.3.0, they shall so declare before discussion of the question and shall not participate in the discussion, debate or voting, and abstention shall be recorded.

- 3.29.0 Parties to be heard on Subdivision Appeals:

Pursuant to Section 680(1) Part 17 of the *Municipal Government Act*, the Board must hear:

- 3.29.1 The Applicant or person acting on behalf of the Applicant;

- 3.29.2 A person who is given notice of the hearing and wishes to be heard;
- 3.29.3 A government department, that has been circulated the application; and,
- 3.29.4 The Subdivision Approval Authority.

3.30.0 Parties to be heard on Development Appeals:

Pursuant to Section 687(1), Part 17 of the *Municipal Government Act*, the Board must hear:

- 3.30.1 The Applicant; or person acting on behalf of the Appellant;
- 3.30.2 The Development Authority;
- 3.30.3 A person who is given notice of the hearing and wishes to be heard; and
- 3.30.4 Any person who claims to be affected by the order, decision or permit and the Board agrees to hear.

3.31.0 In determining a subdivision appeal, the Board:

- 3.31.1 Must have regard for any statutory plan;
- 3.31.2 Must conform to the uses of land referred to in a land use bylaw;
- 3.31.3 Must be consistent with the land use policies; and,
- 3.31.4 Must have regard but is not bound by the subdivision and development regulations pursuant to Section 680(2) of the *Municipal Government Act*.

3.32.0 In determining a development appeal, the Board:

- 3.32.1 Must comply with the land use policies and statutory plans and the land use bylaw in effect; and,
- 3.32.2 Must have regard to but is not bound by the subdivision and development regulations pursuant to Section 687(3), Part 17 of the *Municipal Government Act*.

3.33.0 The Board shall give its decision in writing together with the reasons for the decision within 15 days of concluding the hearing, pursuant to Section 687(2) of the *Municipal Government Act*, 2000.

3.34.0 An order, decision, approval, notice or other thing made, given or issued by the Board may be assigned on its behalf by the Chair to a Member elected to act as Chair or person authorized to sign on the Board's behalf.

3.35.0 Except when communicating a decision of the Board, no Member thereof shall issue, or purport to issue any order, direction, or instruction to any person.

Chair

3.36.0 Council, during the annual Organizational Meeting of Council, shall appoint Councillors to the Subdivision and Development Appeal Board; and the Councillor who hears the appeal hearing shall act as the Chair.

3.37.0 The Board shall appoint its own Vice Chair. In the absence of the Council, the Vice Chair shall act as Chair. Where both are absent, the Board by resolution shall appoint an Acting Chair.

SDAB Clerk

3.38.0 Council shall appoint by resolution, a SDAB Clerk to the Board and such appointed person shall not have voting privileges.

3.39.0 SDAB Clerk will:

- 3.39.1 Receive and process the appeal application as per Section 685 and 686, Part 17 of the *Municipal Government Act*;
- 3.39.2 Assist the Applicant to ensure all required information and right to appeal are met;
- 3.39.3 Prepare required notifications; and
- 3.39.4 Prepare for meeting.

3.40.0 The SDAB Clerk shall notify all Members and advisors to the Board and persons requested to be in attendance at the meeting of the Board of the holding of any regular or special board meeting.

3.41.0 Notice of Hearing on Subdivision Appeals:

Pursuant to Section 679, Part 17 of the *Municipal Government Act*, the SDAB Clerk shall on behalf of the Board give at least five (5) days written notice of the hearing on a subdivision matter to:

- 3.41.1 The Applicant for subdivision approval;
- 3.41.2 The subdivision authority;
- 3.41.3 If land that is the subject of the application is adjacent to the boundaries of another municipality, that municipality;
- 3.41.4 Any school authority to which the application was referred;
- 3.41.5 An adjacent landowner; who was given notice of the application for subdivision; and,
- 3.41.6 Every government department that was given a copy of the application.

3.42.0 Notice of Hearing on Development Appeals:

Pursuant to Section 686(3), Part 17 of the *Municipal Government Act*, the SDAB Clerk shall on behalf of the Board give at least five (5) days written notice of the hearing on a development matter to:

- 3.42.1 The Appellant;
- 3.42.2 The Development Authority; and,
- 3.42.3 Those landowners required to be notified under the land use bylaw and any other person considered by the Board to be affected by the appeal.

3.43.0 The SDAB Clerk shall make available for public inspection before the commencement of the hearing all relevant documents and materials respecting the appeal including:

- 3.43.1 The application for the development permit, the decision, reasons therefore, and the notice of appeal; or,
- 3.43.2 The order under Section 645 (refers to Stop orders).

3.44.0 The SDAB Clerk shall:

- 3.44.1 prepare and keep a written record of the Board meeting, which may be in the form of a summary of the evidence presented at the hearing;
- 3.44.2 give the Board's decision in writing together with the reasons for the decision within fifteen (15) days of concluding the hearing;
- 3.44.3 maintain all records including the evidence presented and the correspondence relevant to the Board;
- 3.44.4 direct the Recording Secretary to transcribe evidence presented at the hearing and decision of the Board as official minutes for the Hearing;
- 3.44.5 Keep and maintain on file the following records for inspection by the public during office hours:
 - 3.44.5.1 A register of all appeals against development permits, including the decisions thereon, and the reasons therefore; and
 - 3.44.5.2 Records of all evidence presented at the Board meetings by Appellants.
- 3.44.6 Issue to the Subdivision or Development Authority, all affected parties and persons attending the hearing, notices of the decisions of the Board and reasons therefore in writing; and,
- 3.44.7 Carry out such other administrative duties as the Board may specify.

4.0.0 Effectiveness and Review

4.1.0 If any portion of this bylaw is declared invalid by a court of competent jurisdiction, then the invalid portion must be severed and the remainder of the bylaw is deemed valid.

4.2.0 Bylaw 2411/D&P/10 and amendments thereto are hereby repealed.

4.3.0 This bylaw shall be reviewed within its fourth year, being 2023, or as deemed necessary.

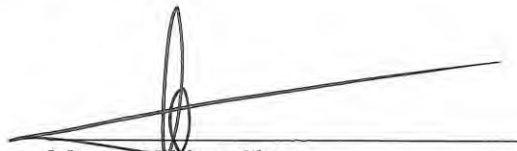
4.4.0 This bylaw shall take full force and effect January 14, 2019 and in accordance with Section 213, *Municipal Government Act*, RSA 2000, c. M-26 and amendments thereto.

Read a first time this 14th day of January, AD 2019.

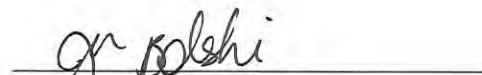
Read a second time this 14th day of January, AD 2019.

Given unanimous consent this 14th day of January, AD 2019.

Read a third time this 14th day of January, AD 2019.



Mayor William Choy



Jen Boleski, CPA, CA
General Manager, Corporate Services