

BYLAW NO. 2021

BEING A BYLAW OF THE TOWN OF PEACE RIVER, IN THE PROVINCE OF ALBERTA, TO ESTABLISH A SUBDIVISION AND DEVELOPMENT APPEAL BOARD FOR THE TOWN OF PEACE RIVER

WHEREAS, the Council of the Town of Peace River wishes to establish a Subdivision and Development Appeal Board as required under the provisions of the *Municipal Government Act*, RSA 2000, Chapter M-26.

NOW THEREFORE, the Council of the Town of Peace River, duly assembled, enacts as follows:

GENERAL

1. This bylaw may be cited as the "Subdivision and Development Appeal Board Bylaw".
2. The Subdivision and Development Appeal Board for the Town of Peace River is hereby established.

DEFINITIONS

3. In this bylaw:
 - a) "Appellant" means the person who has served written notice of an appeal to the Subdivision and Development Appeal Board from a decision or order of the Development Authority or the Subdivision Authority.
 - b) "Board" means the Subdivision and Development Appeal Board of the Town of Peace River, established pursuant to this bylaw.
 - c) "Council" means the duly elected municipal Council of the Town of Peace River.
 - d) "Designated Officer" means the designated Clerk of the Subdivision and Development Appeal Board as delegated by Council.
 - e) "Development Authority" means the person(s) appointed pursuant to the Development Authority Bylaw and any amendments thereto.
 - f) "Land Use Bylaw" means the Town of Peace River Land Use Bylaw and any amendments thereto.
 - g) "Member" means a member of the Subdivision and Development Appeal Board of the Town of Peace River, as appointed by the Council of the Town of Peace River.
 - h) "Procedural Bylaw" means the Town's Procedural Bylaw and any amendments thereto.
 - i) "Subdivision Authority" means the Subdivision Authority as established pursuant to Subdivision Authority Bylaw No. 1595 and any amendments thereto.
 - j) "Town" or "Town of Peace River" means the corporation of the Town of Peace River.
 - k) All other terms used in this bylaw shall have the meaning assigned to them by the *Municipal Government Act*, RSA 2000, Chapter M-26,

as amended, to the extent that said meaning differs from the ordinary meaning of such terms.

ADMINISTRATION

4. Membership and Term

The Board shall be composed of nine (9) members, no more than two (2) of whom shall be members of Council and shall be appointed annually at the organizational meeting of Council. The remaining members at large shall be appointed for a term of three (3) years by resolution of Council and a term may be renewed by further resolution of Council.

5. Eligibility

- a) A member of the Board shall not include:
 - i. a member of the Town of Peace River Municipal Planning Commission; or
 - ii. a person who carries out subdivision or development powers, duties and functions on behalf of the Town; or
 - iii. an employee of the Town.
- b) A member of Council's appointment to the Board terminates upon the person ceasing to be a member of Council.
- c) Members of the Board shall not include non-residents of the Town of Peace River unless:
 - i. the member is currently a member of the Board, but in that event, that membership shall not be renewed or extended unless the membership falls within the requirements of subparagraph c)ii below;
 - ii. there would be no more than two (2) non-resident members, each of whom have a substantial connection to the Town of Peace River by virtue of either owning property or operating a business within the Town's municipal boundaries, or Council otherwise deems a substantial connection for good and sufficient reason.

6. Quorum

- a) Five (5) members of the Board constitute a quorum.
- b) A quorum cannot include more than one (1) member of Council at a public hearing or meeting of the board.

7. Chair

The members of the Board shall elect one of themselves as Chair.

8. Absent Members

- a) Where a hearing is held by the Board, and a member or members of the Board is or are for any reason unable to attend on any day or date, the other members who are sitting on the hearing have the power to continue the hearing as fully and effectively as if the

members unable to attend are present and have and may exercise and perform the powers and duties of the Board.

- b) A member of the Board who is for any reason 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.
- c) In the event of the absence, or the inability to act, of the Chair at a hearing or meeting of the Board, the members of the Board present at the hearing or meeting shall elect a member to act as Chair at that hearing or meeting.

9. Signing Authority

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

10. Public Hearings and Meetings

- a) In accordance to the *Municipal Government Act*, the Board may establish panels of the Board.
- b) The Chair or Acting Chair shall be responsible for the conduct of a public hearing.
- c) Within thirty (30) days of receiving written notice of an appeal that is in accordance with the provisions of the *Municipal Government Act*, the Board shall hold a public hearing to hear an appeal of: a decision of the Subdivision Authority or Development Authority; the Subdivision Authority or Development Authority's refusal or failure to make a decision within the time allowed for a decision established by the *Municipal Government Act*; or a stop order issued by the Development Authority.
- d) Upon receipt of a notice of appeal duly filed pursuant to the provisions of the *Municipal Government Act* and of this bylaw, the Clerk may convene a special meeting of the Board to consider what persons are affected by the appeal and should be notified thereof.
- e) The hearing of an appeal by the Board 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*.
- f) 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.
- g) 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.
- h) For those matters not covered in this bylaw or the *Municipal Government Act*, the Board may refer to the Town's Procedural Bylaw.

11. Decisions

- a) 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*.
- b) The decision of the majority of the members of the Board present at a public hearing, duly convened, is deemed to be the decision of the whole Board.
- c) In the event of a tie vote, the motion shall be considered defeated.
- d) 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.
- e) The Chair or Clerk of the Board 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 or binding, and that parties should not act upon it until it has been reduced to writing and signed.
- f) 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 public hearing.
- g) 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.
- h) The Board may confirm, revoke or vary the approval or decision or any condition imposed by the Subdivision Authority or make or substitute an approval, decision or condition of its own.

CLERK

12. Council hereby appoints the Director of Corporate Services and Economic Development as the Designated Officer in the position of Clerk of the Subdivision and Development Appeal Board.

13. The Clerk shall not vote on any matters before the Board.

14. The Clerk of the Board 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) notify all members of the Board of the arrangements for the holding of each public hearing and other meetings of the Board;
- c) make available for public inspection before the commencement of a public hearing all relevant documents and materials respecting the appeal;

- d) attend all meetings of the Board;
- e) keep the following records:
 - i. the minutes of all meetings and hearings;
 - 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 Clerk may determine.

NOTIFICATION

15. The written notice of appeal shall be made on the Town's Subdivision and Development Appeal Form, accompanied by a fee in the amount established by Council from time-to-time, and signed by the appellant.

16. The appellant may serve the appeal form to the Board by EITHER:
a) mailing it to:

Clerk
Subdivision and Development Appeal Board
Town of Peace River
P.O. Box 6600
Peace River, Alberta
T8S 1S4

- i. within fourteen (14) days after the deemed refusal of the Subdivision Authority or receipt of the written decision of the Subdivision Authority, the decision being EITHER:
 - A. first published in a newspaper circulating in the area; or
 - B. posted on the site of the property, the subject of the application; or
 - C. received by the appellant,

whichever of these shall occur first.

OR

- ii. within twenty-one (21) days after the deemed refusal of the Development Authority or the date the decision or order was made by the Development Authority, the decision being EITHER:

- A. first published in a newspaper circulating in the area; or
- B. posted on the site of the property, the subject of the application; or
- C. received by the appellant,

whichever of these shall occur first.

OR

- b) delivering it in person to the Town Office:

- i. within fourteen (14) days after the deemed refusal of the Subdivision Authority or receipt of the written decision of the Subdivision Authority, the decision being EITHER:

- A. first published in a newspaper circulating in the area; or
- B. posted on the site of the property, the subject of the application; or
- C. received by the appellant,

whichever of these shall occur first.

OR

- ii. within twenty-one (21) days after the deemed refusal of the Development Authority or the date the decision or order was made by the Development Authority, the decision being EITHER:

- A. first published in a newspaper circulating in the area; or
- B. posted on the site of the property, subject of the application; or
- C. received by the appellant,

whichever of these shall occur first.

Proof of the said delivering shall be the official receipt of the Town.

- c) For the purposes of subsections 16(a) and 16(b) the date of receipt of a mailed decision is deemed to be seven (7) days from the date the decision is mailed, unless otherwise legislated.

- 17. 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.

18. Notice

- a) The Clerk, in the name of the Board, shall give at least 5 days' written notice of the time and place of the hearing of an appeal, together with a summary of the application, to:
 - i. the appellant;
 - ii. the Development Authority or Subdivision Authority;
 - iii. 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
 - iv. any other persons required to be notified in accordance with the *Municipal Government Act*.
- b) In the case of the appellant, notice of the appeal hearing shall be sent by mail to the address given on the appellant's appeal form.
- c) In the case of those persons referred to in 18(a) above, notice of the appeal hearing shall be sent by mail to the address shown on the last revised assessment roll.
- d) In addition to the notice required by 18(a), the Board may direct that the Clerk publish notice of the hearing in such manner as the Board may determine.
- e) 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 notice of the further hearing.

COURT OF APPEAL

19. The Clerk shall keep on file all notices of application made for leave to appeal to the Court of Appeal from decisions of the Board pursuant to the *Municipal Government Act*.

SEVERABILITY

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

REPEAL OF BYLAW

21. The Subdivision and Development Appeal Board Bylaw Nos. 1599 and 1816 are hereby repealed.

EFFECTIVE DATE

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

READ a first time this 12 day of March, 2018.

READ a second time this 12 day of March, 20 18.

READ a third and final time this 12 day of March,
20 18.

SIGNED by the Mayor and Chief Administrative Officer this 12 day
of March, 20 18.



Thomas Tarpey
Mayor



Christopher J. Parker
Chief Administrative Officer