

BYLAW 55-2011

A BYLAW OF STRATHCONA COUNTY IN THE PROVINCE OF ALBERTA TO ESTABLISH THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD.

The Council of Strathcona County, duly assembled enacts as follows:

1. NAME

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

2. PURPOSE

The purpose of this Bylaw is to establish a Subdivision and Development Appeal Board pursuant to the Municipal Government Act, R.S.A. 2000, c. M 26, as amended.

3. DEFINITIONS

In this Bylaw:

- 3.1 "Act" means the Municipal Government Act, R.S.A. 2000, c. M 26, as amended;
- 3.2 "Adjacent" means land that is contiguous to a site and includes land that would be contiguous if not for a public roadway, river, stream, pipeline, powerline, or railway;
- 3.3 "Appellant" means a person who, pursuant to the Act, has filed a notice of appeal, with reasons, with the Subdivision and Development Appeal Board;
- 3.4 "Board" means the Strathcona County Subdivision and Development Appeal Board;
- 3.5 "Chief Commissioner" means the Chief Administrative Officer of Strathcona County;
- 3.6 "Council" means the Council of Strathcona County;
- 3.7 "County" means Strathcona County;
- 3.8 "Development Application" means an application made to the Development Authority in accordance with the Land Use Bylaw for the purpose of obtaining a development permit;
- 3.9 "Development Authority" means the authority established by Council to exercise development powers and duties on behalf of the County;
- 3.10 "Development Permit" means a document authorizing a development, issued in accordance with the Land Use Bylaw, the Subdivision and Development Regulations and the Act;
- 3.11 "Government" means the Government of the Province of Alberta;
- 3.12 "Land Use Bylaw" means the Land Use Bylaw of Strathcona County, as amended or replaced from time to time;
- 3.13 "Member(s)" means a member or members of the public appointed by Council pursuant to this Bylaw;

- 3.14 "Subdivision Application" means an application made to the Subdivision Authority in accordance with the Act, the Subdivision and Development Regulations and the Land Use Bylaw, for the purpose of obtaining a Subdivision Approval;
- 3.15 "Subdivision Approval" means a subdivision document authorizing the subdivision of a parcel of land in accordance with the Act, the Subdivision and Development Regulations and the Land Use Bylaw;
- 3.16 "Subdivision Authority" means the authority established by Council to exercise subdivision powers and duties on behalf of the County;
- 3.17 "Subdivision and Development Regulations" means the regulations enacted pursuant to Section 694 of the Act, including the Subdivision and Development Regulations and the Subdivision and Development Forms Regulation.

4. ESTABLISHMENT

The Subdivision and Development Appeal Board is hereby established.

5. MEMBERSHIP

- 5.1 The Board shall be composed of:
 - 5.1.1 Five (5) Members; including both urban and rural representation;
 - 5.1.2 Two (2) Alternate Members to fill a vacancy created by the absence or resignation of any member.
- 5.2 No person, who is a member of a municipal planning commission or an employee of the County or any person who carries out subdivision or development powers, duties and functions on behalf of the County shall be appointed to the Board.
- 5.3 Any vacancies caused by the death, retirement, or resignation of a member, may be filled by resolution of Council.
- 5.4 All members of the Board shall be residents of the County.

6. TERM OF OFFICE

- 6.1 Members shall be appointed to the Board by Council for a three (3) year term effective as of January 1 in each year or as otherwise designated by Council.
- 6.2 Retiring Members may be re-appointed provided that no Members may serve more than two (2) consecutive terms on the Board.
- 6.3 Notwithstanding section 6.2, Council may allow a Member to be re-appointed for a third consecutive term if Council determines that extraordinary conditions warrant such an appointment.
- 6.4 Any Member of the Board who is absent from one-third (1/3) of the Board meetings scheduled annually or three (3) consecutive meetings of the Board, shall forfeit his or her office, unless there is a resolution of the Board accepting a valid reason for his or her absence.

7. CHAIRMAN

- 7.1 In January each year, a chairman shall be elected by vote of the majority of the members.
- 7.2 A retiring chairman may be re-elected to that office.
- 7.3 A chairman shall preside at the meetings of the Board.

8. VICE-CHAIRMAN

- 8.1 A vice-chairman shall be elected, at the same time and under the same rules, as the chairman is elected.
- 8.2 The vice-chairman shall preside at the meetings of the Board in the absence of the chairman.
- 8.3 In the absence of the chairman and vice-chairman, the Board shall elect a chairman to preside at the meeting of the Board.

9. SECRETARY

- 9.1 The Chief Commissioner shall designate an employee of the County to act as the Secretary of the Board.
- 9.2 The responsibilities of the Secretary shall be as follows:
 - 9.2.1 ensure that all statutory requirements of the Board are met.
 - 9.2.2 inform all affected parties of the appeal hearing in accordance with the requirements of this Bylaw.
 - 9.2.3 compile all necessary documentation for distribution to Board members.
 - 9.2.4 provide services for the recording of the proceedings of the Board and for the retention of Board materials.
 - 9.2.5 communicate decisions of the Board to affected parties.

10. MEETINGS

- 10.1 The Board shall meet at such intervals as are necessary to consider and decide appeals filed with it, in accordance with the requirements of the Act.
- 10.2 Where an Appellant or other interested party makes a request to have an appeal heard at a special meeting the Board may order the costs of holding that special meeting be borne by the Appellant or other party requesting the special meeting, as the case may be. The Board shall have the discretion to determine whether or not such costs shall be payable in advance of the special hearing. Costs shall consist of the per diem honorariums payable to the Board members as established by Council resolution. Costs shall be payable to the Secretary of the Board.

11. QUORUM

- 11.1 A quorum of the Board shall be three members.
- 11.2 Only those members of the Board present at a meeting of the Board shall take part in the making of a decision on any matter before it.
- 11.3 If an appeal is tabled for any reason following the submission of evidence, a special meeting may be called and those members present at the original hearing shall attend the special meeting to render a decision on the matter.

12. SUBDIVISION APPEALS

- 12.1 The Board shall consider and decide all appeals concerning Subdivision Applications that have been properly filed in accordance with the Act; and that are accompanied by the fee set by Council for Board Appeals in the Strathcona County Fees and Charges Bylaw 51-2010, as amended and replaced from time to time.
- 12.2 The Board shall hold a public hearing respecting the appeal within thirty (30) days of receipt of a written notice of appeal.
- 12.3 The Board shall give at least five (5) days' notice, in writing, of the hearing to:
 - 12.3.1 the Appellant;
 - 12.3.2 the Subdivision Authority;
 - 12.3.3 if land that is the subject of the application is Adjacent to the boundaries of another municipality, that municipality;
 - 12.3.4 any school authority to whom the application was referred;
 - 12.3.5 owners of land that is Adjacent to the land that is the subject of the appeal;
 - 12.3.6 every Government department that was given a copy of the Subdivision Application pursuant to the Subdivision and Development Regulations.
- 12.4 The Board shall make available for public inspection, prior to the hearing, all relevant documents and materials respecting the appeal.
- 12.5 In accordance with the Act, the Board shall hear:
 - 12.5.1 the Appellant or any person acting on his behalf;
 - 12.5.2 any other person or entity wishing to be heard who was served with notice of the hearing or a person acting on behalf of the person or entity;
 - 12.5.3 the Subdivision Authority.
- 12.6 At the hearing of the appeal, should the Board desire further technical information, legal opinions or other assistance, it may table the hearing pending receipt of such information, opinion or other assistance.

13. SUBDIVISION APPEAL DECISIONS

13.1 In determining an appeal, the Board:

13.1.1 must have regard to any statutory plan;

13.1.2 must conform with the uses of land referred to in the Land Use Bylaw;

13.1.3 must be consistent with the land use policies;

13.1.4 must have regard to but is not bound by the Subdivision and Development Regulations;

13.1.5 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;

13.1.6 may, in addition to the other powers it has, exercise the same power as a Subdivision Authority is permitted to exercise pursuant to the Act or regulations or bylaws under Part 17 of the Act.

14. DEVELOPMENT APPEALS

14.1 The Board shall consider and decide all appeals concerning Development Applications and orders issued under the Act that have been properly filed in accordance with the Act; and that are accompanied by the fee set by Council for Board Appeals in the Fees and Charges Bylaw 51-2010, as amended and replaced from time to time.

14.2 The Board shall hold a public hearing respecting the appeal within thirty (30) days of receipt of a written notice of appeal.

14.3 The Board shall give at least five (5) days' notice, in writing, of the public hearing to:

14.3.1 the Appellant;

14.3.2 the Development Authority;

14.3.3 those owners required to be notified under the Land Use Bylaw;

14.3.4 any other person or persons that the Board considers to be affected by the appeal.

14.4 The Board shall make available for public inspection, prior to the public hearing, all relevant documents and materials respecting the appeal, including:

14.4.1 the application for the development permit, the decision and the notice of appeal; or

14.4.2 the order under the Act.

14.5 In accordance with the Act, the Board shall hear:

- 14.5.1 the Appellant or any person acting on his behalf;
 - 14.5.2 the Development Authority;
 - 14.5.3 other person wishing to be heard who was served with notice of the hearing or person acting on his behalf;
 - 14.5.4 any other person who claims to be affected by the order, decision or permit and that the Board agrees to hear or person acting on behalf of that person.
- 14.6 At the hearing of the appeal, should the Board desire further technical information, legal opinions or other assistance, it may table the hearing pending receipt of such information, opinion or other assistance.

15. DEVELOPMENT APPEAL DECISIONS

- 15.1 In determining an appeal, the Board:
- 15.1.1 must comply with the land use policies and statutory plans and, subject to section 15.1.4, the Land Use Bylaw;
 - 15.1.2 must have regard to but is not bound by the Subdivision and Development Regulations;
 - 15.1.3 may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
 - 15.1.4 may make an order, decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the Land Use Bylaw or land use regulations if, in its opinion:
 - 15.1.4.1 the proposed development would not:
 - (a) unduly interfere with the amenities of the neighbourhood; or,
 - (b) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land; and,
 - 15.1.4.2 the proposed development conforms with the use prescribed for that land or building in the Land Use Bylaw.

16. DECISIONS

- 16.1 The decision of a majority of the members of the Board shall be deemed to be the decision of the whole Board. In the event of a tied vote of the Board, the appeal is lost.

16.2 The Board shall:

16.2.1 make and keep a written record of its proceedings which may be in the form of a summary of the evidence presented to it at the hearing; and

16.2.1 give its decision in writing, together with reasons for the decision, within fifteen days of the conclusion of the hearing to the Appellant and any other person who was in attendance at the public hearing and made submissions to the Board in respect of that hearing.

16.3 An application for leave to appeal to the Court of Appeal shall be made:

16.3.1 to a judge of the Court of Appeal; and,

16.3.2 within thirty (30) days after the issue of the decision sought to be appealed.

17. GENERAL

The Board may make rules as are necessary for the conduct of its business and its meetings that are consistent with the Meeting Procedures Bylaw, the Land Use Bylaw and the Act.

18. REPEAL OF BYLAW

Bylaw 75-2007 is repealed effective December 31, 2011.


19. EFFECTIVE DATE

This Bylaw shall come into effect January 1, 2012.

Read a first time this 8 day of November, 2011.

Read a second time this 8 day of November, 2011.

Read a third time and finally passed this 8 day of November, 2011.



MAYOR



MANAGER, LEGISLATIVE & LEGAL SERVICES

Date Signed: Nov 15, 2011