

**WHEATLAND COUNTY
BYLAW 2019-10**

BEING A BYLAW OF WHEATLAND COUNTY IN THE PROVINCE OF ALBERTA TO PROVIDE FOR THE ESTABLISHMENT OF A SUBDIVISION AND DEVELOPMENT APPEAL BOARD IN WHEATLAND COUNTY PURSUANT TO SECTION 627(1) OF THE *MUNICIPAL GOVERNMENT ACT*, R.S.A. 2000, CHAPTER M-26 AND AMENDMENTS THERETO.

WHEREAS Section 627(1) of the *Municipal Government Act*, R.S.A. 2000 Chapter M-26 and amendments thereto requires Council to establish a Subdivision and Development Appeal Board by bylaw;

NOW THEREFORE Wheatland County Council, duly assembled, hereby enacts as follows:

1. NAME OF THE BYLAW

- a. This bylaw shall be cited as the "Wheatland County Subdivision and Development Appeal Board Bylaw".

2. DEFINITIONS

- a. **Act** means the *Municipal Government Act*, R.S.A. 2000 Chapter M-26, as amended from time to time;
- b. **Adjacent** means land that is contiguous to the subject land and includes land that would be contiguous if not for a public roadway, river, stream, pipeline, powerline or railway;
- c. **Alternate Board Member** means an individual who is a member of another Alberta municipality's subdivision and development appeal board, appointed by the Clerk on a temporary basis to particular appeal matters in respect of which the Clerk has a concern regarding Member availability or quorum, and such Alternate Board Member must be qualified in accord with relevant provincial regulations (e.g. completed required training), must not be a member of an elected municipal council, and shall be subject to and shall conform with this Bylaw as a Member of the Board unless expressly stated otherwise herein;
- d. **Appellant** means the person has filed a notice of appeal to the Board in accordance with the Act;
- e. **Applicant** means the person who made the initial development or subdivision application upon which the appeal is based, or a person authorized to act on their behalf;
- f. **Bias** means Pecuniary Interest as well as Common Law Bias;
- g. **Board** means the Subdivision and Development Appeal Board of Wheatland County established pursuant to this Bylaw;
- h. **Chief Administrative Officer** means the individual appointed to the position of Chief Administrative Officer for the County by Council in accordance with the Act from time to time;
- i. **Clerk** means the Designated Officer appointed by Council to act as the clerk of the Board pursuant to Section 627.1 of the Act;
- j. **Code of Conduct** means the County's Code of Conduct Bylaw No. 2018-03, as may be amended or replaced by Council from time to time;
- k. **Common Law Bias** means a situation where a Member's personal or private interests may or may be perceived as influencing the Member on a matter before the Board including but not limited to: direct or indirect Pecuniary Interest, pre-

judgment, closed mindedness, undue influence, relationship with any of the parties involved in the matter including family members, close friends and business associates;

- l. **Council** means the duly elected Council of Wheatland County;
- m. **Councillor** means a duly elected member of Council;
- n. **County** means the municipal corporation of Wheatland County together with its jurisdictional boundaries, as the context requires;
- o. **Designated Officer** has the same meaning as prescribed in the Act;
- p. **Development** has the same meaning as prescribed in Part 17 of the Act;
- q. **Development Authority** means the persons or bodies established by Council to be a Development Authority for the County in accordance with Section 624 of the Act including:
 - i. County Development Officers pursuant to the Land Use Bylaw; and
 - ii. the Municipal Planning Commission;
- r. **Land Use Bylaw** means the Wheatland County Land Use Bylaw No. 2016-01 as amended or replaced by Council from time to time;
- s. **Members** means the members of the Subdivision and Development Appeal Board appointed pursuant to this Bylaw and includes Alternate Board Members as provided for in this Bylaw;
- t. **Municipal Planning Commission** means the Municipal Planning Commission established by Council pursuant to County Bylaw No. 2017-63, as may be amended or replaced by Council from time to time;
- u. **Organizational Meeting** has the same meaning as prescribed in Part 5, Division 9 of the Act;
- v. **Pecuniary Interest** has the same meaning as prescribed in Part 5, Division 6 of the Act;
- w. **Procedure Bylaw** means the County's Procedure Bylaw No. 2013-40, as may be amended or replaced by Council from time to time;
- x. **Resident** means an individual who lives in the County on a daily and permanent basis and whose primary residence is located within the County;
- y. **Subdivision** has the same meaning as in Part 17 of the Act;
- z. **Subdivision Authority** means the persons or bodies established by Council to be a Subdivision Authority for the County in accordance with Section 623 of the Act including the Municipal Planning Commission.

3. APPEALS

- a. An appeal to the Subdivision and Development Appeal Board shall be made in accordance with and in the manner prescribed in the Act.
- b. At the time of service of the Notice of Appeal, the Appellant shall pay to the County a fee in accordance with the County's Master Fee Schedule.
- c. In the event an appeal is abandoned or withdrawn by the Appellant, the Board shall not be obliged to hold the public hearing referred to in the Act.

4. BOARD ESTABLISHMENT AND COMPOSITION

- a. The Board is hereby established and the Board shall perform such functions as may be assigned to it in accordance with the Act.
- b. The Board shall be composed of a minimum of five (5) Members with a maximum of seven (7) Members , provided that Alternate Board Members may be added from time to time as reasonably required in accord with this Bylaw.
- c. It is preferred, but not required, that one Member be appointed from each electoral ward in the County.
- d. All Members shall be not less than 18 years of age. Alternate Board Members are not required to be Resident. Members other than Alternate Board Members are required to be Resident.
- e. A Member of the Board shall not include:
 - i. a County employee;
 - ii. a person who carries out Subdivision or Development powers, duties and functions on behalf of the County;
 - iii. a member of the Municipal Planning Commission; or
 - iv. a Councillor.
- f. In the event a vacancy occurs on the Board, Council shall fill the vacancy as soon as reasonably possible by resolution.
- g. All Members shall adhere to the Code of Conduct and the Pecuniary Interest provisions of the Act, as applicable.

5. BOARD MEMBER TERM OF OFFICE

- a. Members of the Board shall hold office at the pleasure of Council.
- b. Members of the Board, except Alternate Board Members, shall be appointed by Council for a three (3) year term at the annual Organizational Meeting and may be reappointed by Council for additional term(s) from time to time.
- c. Notwithstanding any vacancy in the membership of the Board, the remaining Members may exercise and perform the powers and duties of the Board.
- d. A person may be re-appointed to the Board upon expiration of that person's term of office.
- e. In the event a vacancy occurs on the Board prior to completion of a three (3) year term, a replacement Member may be appointed by Council within three (3) months of the notice of the vacancy and the person so appointed to fill such vacancy shall hold office for the balance of the period that the predecessor would have held office, had the predecessor continued in office.

6. BOARD MEMBER REMOVAL

- a. The Council may remove any Member from the Board at any time if:
 - i. In the opinion of Council, a Member is not performing his/her duties satisfactorily; or
 - ii. In the opinion of the Board, a Member is not performing his/her duties satisfactorily; or
 - iii. A Member is absent for more than three (3) consecutive meetings of the Board without reasonable cause.

- b. In the event of circumstances occurring in accordance with Section 6. a. ii. or iii, the Chairperson or, where the circumstances involve the Chairperson, the Vice-Chairperson of the Board shall report the circumstances warranting removal of any Member from the Board to Council in writing. Upon receipt of the written report, Council shall:
 - i. advise the subject Member of the alleged circumstances warranting the Member's removal from the Board in writing and request that the Member provide a written response to Council within seven (7) days;
 - ii. consider the report and the Member's written response, if provided within seven (7) days or such other timeframe as may be allowed by Council in its discretion;
 - iii. make a decision with respect to whether or not to remove the Member from the Board; and
 - iv. advise the Member and the Chairperson or Vice-Chairperson, as appropriate, of Council's decision in writing together with reasons for the decision.
- c. The decision of Council shall be final.

7. BOARD CHAIRPERSON, ACTING CHAIRPERSON AND CLERK

- a. Annually, at the first Board meeting following the Organizational Meeting, the majority of the Members of the Board shall elect one of the Members to act as Chairperson and a second Member to act as Vice-Chairperson for the Board.
- b. The Chairperson and Vice-Chairperson shall hold office for a period of one (1) year from the date of appointment.
- c. In the event of absence or inability of the Chairperson to preside at a Board meeting, the Vice-Chairperson shall preside, and in the event of the absence or inability of both the Chairperson and Vice-Chairperson to preside at a meeting of the Board, the Members present in constituting a quorum shall elect one of its Members to act as Chairperson for that meeting.
- d. A Designated Officer shall be appointed by Council as Clerk of the Board.

8. QUORUM AND VOTING

- a. Members may meet in panels, which panels shall have all of the powers, duties and responsibilities of the Board, and a decision of a panel is a decision of the Board. A quorum of a panel of the Board shall be three (3) Members.
- b. Only those Members present during the entire appeal hearing and discussion of the appeal matter by the Board shall have a vote on the appeal.
- c. If an appeal is tabled for any reason following the submission of evidence, a special Board meeting may be called and those Members present at the original hearing shall attend the special meeting to render a decision on the matter.
- d. The Clerk shall not have a vote on any matters before the Board.
- e. The decision of the majority of the Members who heard the appeal shall be deemed to be the decision of the whole Board. In the event of a tie vote, the appeal shall be deemed to be refused.

9. FUNCTIONS AND DUTIES OF THE BOARD

- a. The Board shall perform such functions as are required of it in accordance with and in the manner prescribed in the Act.
- b. Within thirty (30) days of receiving written notice of an appeal that is filed in accordance with the provisions of the Act and which is accompanied by the fee set

by Council for Board appeals, the Board shall hold a public hearing to hear an appeal of:

- i. a decision of the Subdivision Authority or Development Authority;
- ii. the Subdivision Authority or Development Authority's failure to make a decision within the time allowed for a decision established in the Act; or
- iii. a Stop Order issued by a Development Authority.

Development Appeals

- c. With respect to an appeal from the Development Authority, upon call to order of the Public Hearing, the Board shall hear from:
 - i. the Development Authority from whose order, decision or development permit the appeal is made, or a person acting on behalf of the Development Authority; and
 - ii. the Appellant or any person acting on behalf of the Appellant.
- d. If the appeal is not in respect of a deemed refusal of an incomplete application pursuant to Section 683.1(8) of the Act, the Board shall also hear from:
 - i. any other person who was given notice of the hearing and who wishes to be heard, or a person acting on behalf of that person; and
 - ii. any other person who claims to be affected by the order, decision or permit and that the Board agrees to hear, or a person acting on behalf of that person.

Subdivision Appeals

- e. With respect to an appeal from the Subdivision Authority, upon call to order of the Public hearing, the Board shall hear from:
 - i. the Subdivision Authority that made the decision;
 - ii. the Appellant; and
 - iii. the Applicant where the Applicant is not the Appellant.
- f. If the appeal is not in respect of a deemed refusal of an incomplete application pursuant to Section 653.1(8) of the Act, the Board shall also hear from:
 - i. if land that is subject the subject to the application is Adjacent to the boundaries of another municipality, that municipality;
 - ii. any school board to whom the application was referred;
 - iii. every Provincial Government department that was given a copy of the Application; and
 - iv. each owner of Adjacent land to the land that is subject to the appeal.

General

- g. The hearings of the Board shall be in public, but the Board may, at any time, recess and deliberate and make a decision in private.
- h. A request for adjournment of a hearing may be granted at the discretion of the Board, but any adjournment must be to a specific time and date.
- i. The Board may adjourn a hearing to a specific time and date upon its own volition to request technical information, legal opinions or other information desired by the Board.
- j. Upon conclusion of a hearing, the Board shall deliberate and reach its decision in private.
- k. The Board shall determine an appeal in accordance with the provisions of Part 17 of the Act.

- l. The Chairperson shall be responsible to ensure the Board carries out the responsibilities in accordance with the provisions of the Act.
- m. The Chairperson may limit submissions if the submissions are determined to be repetitious or irrelevant, and shall be empowered to rule if evidence presented is irrelevant to the matter at issue, and to direct the Members to disregard the irrelevant evidence.
- n. If a Member has a Pecuniary Interest in a matter before the Board or if a Member is aware of any reason which may lead to that Member having a Common Law Bias with respect to a matter before the Board, the Member shall declare the Pecuniary Interest or possibility of Common Law Bias to the Board prior to the Board hearing any evidence or submissions on the appeal and shall remove himself/herself from participating as a Board Member for that particular appeal.
- o. The Board shall issue its decisions in writing, together with reasons, within fifteen (15) days of the conclusion of the hearing to:
 - i. the Appellant;
 - ii. the Applicant where the Applicant is not the Appellant;
 - iii. the Development or Subdivision Authority, as applicable; and
 - iv. any other person who was in attendance at the public hearing and made submissions to the Board in respect of that appeal hearing.
- p. An order, decision or approval made, given or issued by the Board will be signed by the Board Chairperson or the Vice Chairperson in the absence of the Chairperson.
- q. A decision of the Board is not final until notification of the decision is given in writing.
- r. For any procedures not covered in Part 17 of the Act or the Procedure Bylaw, the Board may establish procedures for the conduct of hearings.

10. DUTIES OF THE CLERK

- a. The Clerk of the Board shall:
 - i. receive, on behalf of the Board, notice of appeals which have been served upon the Board and ensure that all applicable matters are contained in the notice of appeal as required by the Act;
 - ii. provide at least 5 days' written notice, on behalf of the Board, of the hearing to those parties as required by the Act;
 - iii. notify all Members of the Board of the meetings and/or hearings of the Board;
 - iv. appoint Alternate Board Members in accord with this Bylaw;
 - v. make available for public inspection before commencement of the hearing all relevant documents and materials respecting the appeal as required by the Act;
 - vi. carry out such duties as may be designated by the Board from time to time;
 - vii. cause to be kept minutes and records of each meeting or hearing of the Board;
 - viii. prepare an agenda for each meeting or hearing of the Board;
 - ix. send written notification, of the Board's decision together with reasons for the decision to parties as required by the Act; and
 - x. undertake such other duties as Council or the Board may require.

11. REMUNERATION AND EXPENSES

- a. The Members of the Board shall be entitled to such remuneration, travel and other expenses as may be fixed from time to time by Council and the remuneration and travel expenses shall be established and paid by the County.

12. REPEAL

Bylaw 2018-08 is hereby rescinded upon the passing and signing of Bylaw No. 2019-10.

13. EFFECTIVE DATE

This Bylaw comes into full force and effect upon it receiving third and final reading thereof.

WILSON MOVED first reading of Bylaw 2019-10 on February 5, 2019, and it was

Carried.

IKERT MOVED second reading of Bylaw 2019-10 on February 5, 2019, and it was

Carried.

ARMSTRONG MOVED that permission be granted to hold third and final reading of Bylaw 2019-10

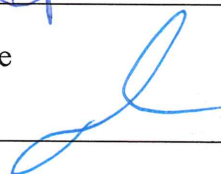
Carried Unanimously.

WILSON MOVED third and final reading of Bylaw 2019-10, on February 5, 2019, and it was

Carried.



Reeve



Chief Administrative Officer