



BYLAW C-7717-2017

OFFICE CONSOLIDATION

A Bylaw of Rocky View County, in the Province of Alberta, to establish an Appeal and Review Panel.

WHEREAS the *Municipal Government Act* provides that a council of a municipality may pass bylaws for municipal purposes respecting the body that is to decide appeals and related matters;

WHEREAS section 627 of the *Municipal Government Act* provides that a municipality must establish a Subdivision and Development Appeal Board;

WHEREAS Rocky View County Council has chosen to delegate to a Committee of Council the authority to review orders issued by Administration under section 545 and 546 of the *MGA*;

WHEREAS Rocky View County Council has chosen to authorize a Committee of Council with the authority to hear and decide on appeals made pursuant to the *Agricultural Pests Act* and *Weed Control Act*;¹

NOW THEREFORE, the Council of Rocky View County, duly assembled, enacts as follows:

Short Title

1 The short title of this bylaw is “Appeal and Review Panel Bylaw.”

Definitions

2 In this Bylaw, unless the context otherwise requires, the following definitions apply:

- (a) “**Administration**” means the general operations of Rocky View County, including all employees and volunteers;
- (a.1) “**Agricultural Pests Act**” means the *Agricultural Pests Act*, RSA 2000, c A-8, as amended or replaced from time to time;²
- (b) “**Appellant**” means a person who has filed a notice of appeal or an authorized person acting on behalf of the Appellant;
- (c) “**Applicant**” means a person who made the initial application upon which an appeal is based or authorized person acting on behalf of the Applicant;

¹ Bylaw C-7892-2019

² Bylaw C-7892-2019

- (d) **“Chief Administrative Officer”** means that individual appointed by Council into the position of Chief Administrative Officer for Rocky View County pursuant to the *Municipal Government Act* or his/her designate;
- (e) **“Clerk”** means a person appointed by the Chief Administrative Officer to assist the Panels in fulfilling their mandates and legislative requirements;
- (f) **“Council”** means the duly elected Council of Rocky View County;
- (g) **“Court”** means a Court of competent jurisdiction in the Province of Alberta;
- (h) **“Development Authority”** means the authority established by Council to exercise development powers and duties on behalf of Rocky View County;
- (i) **“Development Permit”** means a document authorizing a development, issued in accordance with the Land Use Bylaw, the Subdivision and Development Regulations and the *Municipal Government Act*;
- (j) **“Land”** means the aggregate of one or more areas of land described in a certificate of title issued by the Land Titles Office;
- (k) **“Land Use Bylaw”** means Rocky View County bylaw # C-4841-97, the *Land Use Bylaw*;
- (l) **“Master Rates Bylaw”** means the Rocky View County bylaw known as the “Master Rates Bylaw.”
- (m) **“Member at Large”** means a member or members of the public appointed to the Panel by Council pursuant to this Bylaw;
- (n) **“Municipal Government Act”** means the *Municipal Government Act*, RSA 2000, c M-26;
- (o) **“Organizational Meeting”** means the organizational meeting of Council as required under s 192 of the *Municipal Government Act*;
- (p) **“Panel”** means the Subdivision and Development Appeal Board or the Enforcement Appeal Committee;
- (q) **“Rocky View County”** means Rocky View County as a municipal corporation established pursuant to the laws of the Province of Alberta and the area within the jurisdictional boundaries of Rocky View County, as the context of this Bylaw so requires;
- (r) **“Subdivision Application”** means an application made to the Subdivision Authority in accordance with the *Municipal Government Act*, the *Subdivision and Development Regulations* and the *Land Use Bylaw*, for the purpose of obtaining a Subdivision Approval;

- (s) "**Subdivision Approval**" means a subdivision document authorizing the subdivision of a parcel of land in accordance with the *Municipal Government Act*, the *Subdivision and Development Regulations* and the *Land Use Bylaw*;
- (t) "**Subdivision Authority**" means the authority established by Council to exercise subdivision powers and duties on behalf of Rocky View County; and
- (u) "**Subdivision and Development Regulations**" means the regulations enacted pursuant to Section 694 of the *Municipal Government Act*, including the *Subdivision and Development Regulations*, Alta Reg 43/2002 and the *Subdivision and Development Forms Regulation*, Alta Reg 44/2002.
- (v) "**Weed Control Act**" means the *Weed Control Act*, SA 2008, c W-5.1, as amended or replaced from time to time.³

Establishment of Panels

- 3 The following Panels are hereby established:
- (1) Subdivision and Development Appeal Board; and
 - (2) Enforcement Appeal Committee.

Application

- 4 Nothing in this Bylaw relieves a person from complying with any provision of any federal or provincial law or regulation, other bylaw, or any requirement of any lawful permit, order or license.
- 5 Any heading or sub-heading in this Bylaw is included for guidance purposes and convenience only, and shall not form part of this Bylaw.
- 6 Specific reference to other bylaws, statutes and regulations are intended to refer to the current laws applicable within the Province of Alberta as at the time this Bylaw is enacted, and as may be amended from time to time, including successor legislation.
- 7 Section Deleted⁴

Jurisdiction of the Panel

- 8 When sitting as the Subdivision and Development Appeal Board, the Panel has all requisite powers, duties and responsibilities of the Subdivision and Development Appeal Board under the *Municipal Government Act* and the *Subdivision and Development Regulations*.
- 9 The Subdivision and Development Appeal Board is authorized to hear appeals on the following matters:

³ Bylaw C-7892-2019

⁴ Bylaw C-7855-2018, *Board and Committee Code of Conduct Bylaw*

- (1) Appeals concerning Bylaw interpretations and Subdivision decisions, except those which lie to the Municipal Government Board as set out in s 678 of the *Municipal Government Act*; and
 - (2) Development Appeals, if a development authority
 - (a) fails or refuses to issue a development permit to a person,
 - (b) issues a development permit subject to conditions, or
 - (c) issues an order under s 645 of the *Municipal Government Act*.
- 10 When sitting as the Enforcement Appeal Committee, the Committee is authorized to hear and make decisions on appeals for which Council has made it responsible under any Rocky View County bylaw as well as all appeals concerning compliance orders issued under s 545 of the *Municipal Government Act*.
- 10.1 When sitting as the Enforcement Appeal Committee, the Committee is authorized to hear and make decisions on appeals under its jurisdiction made pursuant to the *Agricultural Pests Act* and *Weed Control Act*.⁵
- 11 The Subdivision and Development Appeal Board may seek clarification from Council for Bylaw and Subdivision decisions.

Membership

- 12 Council will establish the members of the Panel according to the following regulations:
- (1) Council will appoint:
 - (a) Four Members at Large and two alternate Members at Large; and
 - (b) One member of Council.⁶
 - (2) Panels will meet in odd numbered panels, in groups of no less than 3 members and no more than 5 members.⁷
- 12.1 Notwithstanding any other provisions in this Bylaw, where a Panel has commenced an appeal hearing but not yet issued a decision in that appeal before the term of the Members sitting on the Panel expires, Council may, by resolution, extend the terms of the Members sitting on the Panel for the purpose of completing the appeal hearing and issuing a decision in that appeal.⁸

⁵ Bylaw C-7892-2019

⁶ Bylaw C-7743-2017

⁷ Bylaw C-7743-2017

⁸ Bylaw C-7731-2017; Bylaw C-8017-2020

- 12.2 Notwithstanding any other provisions in this Bylaw, where a Rocky View County Councillor has participated in a Council decision on a request for subdivision approval, that Councillor shall not form part of the appeal panel for that subdivision matter.⁹
- 13 No Panel member shall participate in an appeal and/or decide on an appeal where that person has a pecuniary interest in the matter, as defined in “Schedule A”.
- 14 No person who is an employee of Rocky View County shall be appointed to the Panel.
- 15 Any Panel vacancies that occur in between Organizational Meetings of Council may be filled by resolution of Council.
- 16 All members of the Panel must be ordinarily resident in Rocky View County.
- 17 Section Deleted¹⁰

Terms of Appointment

- 18 Council members as regular members are appointed to the Panel annually at the Organizational Meeting for a one-year term.
- 19 Where a member of Council is appointed as a member of the Panel, his/her appointment shall terminate upon him/her ceasing to be a member of Council.
- 20 Council shall appoint Members at Large to the Panel for a two-year term.
- 21 Notwithstanding section 20, a retiring Member at Large may be re-appointed to the Panel upon the expiration of his/her term, but the person must re-apply for appointment to the Panel.
- 22 All Members at Large are appointed at the pleasure of Council.
- 23 Any member of the Panel who is absent from three consecutive meetings of the Panel, without providing valid medical authorization to the Chair, forfeits his/her office. A resolution of Council is not required to ratify the forfeiture of office.
- 24 Any member of the Panel may be removed by resolution of Council where, in the opinion of Council, that member has contravened the Code of Conduct as set out in “Schedule A” or as may be established by resolution of Council from time to time.

Remuneration

- 25 Remuneration and travel expenses of the Panel members shall be established by Council policy.

⁹ Bylaw C-7743-2017

¹⁰ Bylaw C-7855-2018, *Board and Committee Code of Conduct Bylaw*

Chair and Vice-Chair

- 26 The Chair of each Panel is appointed by Council at its annual organizational meeting.¹¹
- 27 The Vice-Chair of each Panel is elected from its membership by majority vote at the first meeting of each Panel following the annual organizational meeting.¹²
- 28 The Chair:
- (1) Shall preside at hearings;
 - (2) Shall ensure that all hearings for the Panel are conducted in a fair and impartial manner, in accordance with the rules for such hearings as set out in the *Municipal Government Act*, or as established by the Panel from time to time;
 - (3) Is authorized to rule that evidence presented at a hearing is irrelevant to the matter at issue and may direct the members to disregard the evidence; and
 - (4) May limit a submission if he/she determines it to be repetitious.
- 29 In the event of absence or inability of the Chair to preside at a meeting, the Vice-Chair shall preside and shall have all of the same rights and responsibilities of the Chair.
- 30 In the event of absence or inability of both the Chair and Vice-Chair to preside at a meeting, the members present shall elect one of its members to preside as Acting Chair for that meeting.

Clerk

- 31 The Chief Administrative Officer shall designate an employee to act as the Clerk.
- 32 The responsibilities of the Clerk are as follows:
- (1) Advise the Chair during the hearing as needed;
 - (2) Inform all affected parties of the hearing in accordance with the requirements of this Bylaw;
 - (3) Inform all statutory parties of the appeal hearing as required by the *Municipal Government Act* and the *Subdivision and Development Board Regulations*;
 - (4) Compile all necessary documentation for distribution to Panel members;
 - (5) Provide services for the recording of the proceedings of the Panel and for the retention of exhibits; and
 - (6) Communicate decisions of the Panel to affected parties.

¹¹ Bylaw C-7952-2019

¹² Bylaw C-7952-2019

Meetings

- 33 The Panel shall hold meetings as necessary to consider and decide appeals.
- 34 Only members of the Panel present for the entire hearing shall participate in the making of a decision on any matter before it.
- 35 The Chair may recess a hearing for any reason following the submission of evidence. However, only those members present at the original hearing will participate and/or render a decision on the matter.

Hearing Procedures

- 36 Letters or materials previously submitted to the Subdivision Authority, the Development Authority, or other authority will not become part of the appeal, unless resubmitted for the appeal hearing. The person submitting the letter or material must be identified by name on the document.
- 37 For the Clerk to copy and distribute materials to the Panel, materials must be provided no later than 9:00 a.m. on the last business day before the hearing.
- 38 Materials submitted at the hearing must include 15 copies.
- 39 The use of photographs, maps, videos, and written submissions may be used, and will become property of the Panel as exhibits to the hearing.
- 40 Members will have an opportunity to question any person who makes a presentation before the Panel at any point during or following his/or her presentation.
- 41 The order of presentations from persons or groups in attendance at the hearing will typically be as follows:
 - (1) The Chair will open the hearing;
 - (2) The Chair will outline the procedure to be followed at the hearing;
 - (3) The Clerk will read the details of the appeal and will ask if there is anyone present who has any objection to any of the members hearing the appeal;
 - (4) The Chair will accept, mark and enter any exhibits presented by the parties;
 - (5) Administration will have an opportunity to make a presentation;
 - (6) The Appellant will have an opportunity to make a presentation;
 - (7) The Applicant will have an opportunity to make a presentation (if Applicant is different from the Appellant);
 - (8) Persons speaking in support of the Appellant may make a presentation;
 - (9) Persons speaking in opposition of the Appellant may make a presentation;

- (10) Representatives of Municipalities, School Authorities, and Government Agencies (where the hearing concerns a subdivision matter) may make a presentation;
 - (11) The Appellant and those who spoke in favour of the appeal may rebut any new evidence presented;
 - (12) Members will have an opportunity to ask closing questions of any of the parties that spoke; and
 - (13) The Chair will either recess the hearing or declare the hearing closed.
- 42 The Panel shall hear appeals in public, but it may at any time recess and deliberate in private.
- 43 Should the Panel choose to request technical information, legal opinions, or other assistance, it may recess the hearing pending receipt of such information.
- 44 Electronic devices shall not be used to record or livestream during the hearing by anyone in attendance except the Clerk.
- 45 The decision of the majority of the members of the Panel present at a meeting shall be deemed to be the decision of the whole Panel.
- 46 A Panel member, who for any reason is unable to attend the entire hearing of an appeal, shall not participate in the Panel's deliberations for the decision made by the Panel on that appeal.

Fees

- 47 Every Appellant is required to pay the applicable fees as set out in the *Master Rates Bylaw*.

Severability

- 48 Each provision of this Bylaw is independent of all other provisions. If any such provision is declared invalid by a court of competent jurisdiction, all other provisions of this Bylaw will remain valid and enforceable.

Effective Date

- 49 Bylaw C-7717-2017 is passed when it receives third reading, and is signed by the Reeve/Deputy Reeve and the CAO or Designate, as per the *Municipal Government Act*.

Repeal of Bylaw

- 50 That Bylaw C-6262-2006 is hereby repealed, upon this bylaw coming into full force and effect.

READ A FIRST TIME IN COUNCIL this 19th day of September, 2017

READ A SECOND TIME IN COUNCIL this 19th day of September, 2017

UNANIMOUS PERMISSION FOR THIRD READING this 19th day of September, 2017

READ A THIRD TIME IN COUNCIL this 19th day of September, 2017

“Greg Boehlke”

Reeve

“Charlotte Satink”

CAO or Designate

October 3, 2017

Date Bylaw Signed

Schedule "A"

Appeal and Review Panel Member Code of Conduct

Schedule Deleted¹³

¹³ Bylaw C-7855-2018, *Board and Committee Code of Conduct Bylaw*