



TOWN OF COCHRANE

Bylaw 21/2024

A bylaw of the Town of Cochrane, in the Province of Alberta, to establish a Subdivision and Development Appeal Board.

WHEREAS pursuant to section 627 of the *Municipal Government Act*, RSA 2000, c. M-26, as amended, a municipality must by bylaw establish a subdivision and development appeal board;

NOW THEREFORE the Council of the Town of Cochrane, in the Province of Alberta, duly assembled, hereby enacts as follows:

1. Title

- 1.1 This Bylaw may be cited as the "Subdivision and Development Appeal Board Bylaw".

2. Definitions

2.1 In this Bylaw:

- (a) "Act" means the Municipal Government Act, RSA 2000, c. M-26, as amended;
- (b) "Applicant" means a person who applies for subdivision approval or development permit;
- (c) "Appellant" means a person who appeals to the Subdivision and Development Appeal Board in accordance with the Act and the Land Use Bylaw;
- (d) "Board" means the Subdivision and Development Appeal Board as established under this Bylaw;
- (e) "Clerk" means the individual(s) appointed as the Clerk of the Board in accordance with the Act, this Bylaw and any applicable Regulations;
- (f) "Council" means the Mayor and Councillors of the Town of Cochrane;
- (g) "Councillor" means a member of Council not including the Mayor, as the Mayor is ex-officio of all Committees, where applicable;
- (h) "Hearing" means a quasi-judicial proceeding for deciding on an appeal for subdivision or development matters as prescribed in the Act;

- (i) "Intermunicipal Subdivision and Development Appeal Board" means a group of Subdivision and Development Appeal Board members duly appointed by the Councils of municipalities participating in a joint regional pool.
- (j) "Land Use Bylaw" means the Town of Cochrane Land Use Bylaw 01/2022, as amended or replaced from time to time;
- (k) "Meeting" means an assembly of the Board members for general Board matters or training, and excludes an appeal hearing;
- (l) "Member" means an annually appointed Member of Council, duly elected and continuing to hold office, or a Member of the Board duly appointed by Council;
- (m) "Municipality" means the municipal corporation of the Town of Cochrane;
- (n) "Organizational Meeting" means the annual Organizational Meeting of Council held pursuant to the Act;
- (o) "Panel" means Members of the Subdivision and Development Appeal Board convened to hear an appeal; and
- (p) "Public at Large Member" means a Board Member who is not a member of Council.

3. Establishment

- 3.1 The Town of Cochrane Subdivision and Development Appeals Board is hereby established:.
- 3.2 Subject to and in accordance with the provisions of the Act, the Board shall hear and make determinations in respect of appeals brought in respect of:
 - (a) decisions of a Subdivision Authority which are to be heard by the Board pursuant to section 678(2) of the Act;
 - (b) orders, decisions or development permits made or issued by a Development Authority pursuant to section 685 of the Act; and
 - (c) such other matters as the Board may now or may hereafter be required to hear by the Act or by bylaw of the Town.
- 3.3 The Board, when hearing an appeal respecting a subdivision application or order relating to a subdivision matter, must act in accordance with section 680 of the Act.
- 3.4 The Board, when hearing an appeal respecting a development permit or order related to a development matter, must act in accordance with Section 687 of the Act.

4. Membership and Term

- 4.1 The Board shall consist of seven Members who shall be appointed by resolution of Council and be composed of:
 - (a) Six Public-at-Large Members, being residents of the Town of Cochrane and at least eighteen years of age;
 - (b) One Alternate Member, being a resident of the Town of Cochrane and at least eighteen years of age; and

- (c) One Council representative.
- 4.2 Members shall be appointed to the Intermunicipal Subdivision and Development Appeal Board at time of appointment by Council to the Town of Cochrane Subdivision and Development Appeal Board.
- 4.3 An employee of the municipality, a member of Cochrane Planning Commission, or a person who carry out subdivision and development powers, duties, and functions on behalf of the Municipality, may not be appointed to the SDAB.
- 4.4 Members shall be appointed by Council for a term up to three-years.
- 4.5 A Member may serve more than one term but in no event shall a Member serve more than two consecutive terms unless otherwise designated by Council.
- 4.6 Members must abide by the Code of Conduct Bylaw 12/2018, as amended or replaced from time to time.
- 4.7 All membership vacancies shall be advertised to request formal submission of applications
- 4.8 Appointments of members will be made from those applicants responding on a timely basis to the advertised need.
- 4.9 A public Member is not eligible for continuing a term on the Board and/or for reapplying for the next subsequent term on the Board if the Member:
 - (a) fails to attend three consecutive meetings of the Board, unless that absence is caused by illness or is authorized in advance by the chair with notice of and reasons for the member's absence (the sufficiency of such reasons to be determined by the Chair in his or her sole discretion); or
 - (b) ceases to meet the eligibility requirements set out in this bylaw.

5. Resignations And Removals

- 5.1 Any Member may resign from the Board at any time by sending written notice to the Clerk who shall inform Council and the Board Chair.
- 5.2 Council may remove a Member at any time.
- 5.3 If a vacancy occurs before Council's annual organizational meeting, Council may appoint a replacement for the remainder of the term.

6. Remuneration & Training

- 6.1 Members shall successfully complete training as prescribed by the Minister prior to participating in a Hearing.
- 6.2 Members shall be compensated for attendance at and participation in hearings and training required under the Act as set out in Schedule A.

7. Quorum

- 7.1 A quorum at any Hearing shall be four Members.
- 7.2 No more than seven Members shall sit at a Hearing.

8. Chair and Vice-Chair

- 8.1 The Members of the Board shall elect from its membership on an annual basis a Chair and Vice-Chair by a majority vote during the SDAB annual organizational meeting.
- 8.2 In the event of absence or inability of the Chair to preside at a Hearing, the Vice-Chair shall preside.
- 8.3 In the absence or inability of both the Chair and Vice-Chair to preside at a meeting, the Members present, in constituting a quorum, shall elect one of its Members to preside as Chair for that Hearing.

9. Panel

- 9.1 A Panel does not require a Councillor to sit.
- 9.2 Members must disclose any conflict of interest in the same manner as required of an elected official under the Act and Code of Conduct Bylaw 12/2018. If a conflict is declared, that Member must not sit on a Panel or deliberate on the matter before the Panel.
- 9.3 If for any reason a Member of the Panel cannot continue to participate in a Hearing, the Hearing may proceed without that Member but only if enough other Members are present to still achieve quorum. If not, the Hearing will be adjourned and may be re-heard by a new Panel.

10. Virtual Participation in Hearings

- 10.1 Subdivision and Development Appeal Board Hearings occur in Council Chambers and are open to the public.
- 10.2 The public, Applicant, Appellant, Respondent and Board members may attend virtually by electronic means, at the discretion of the Clerk.
- 10.3 The public, Applicant, Appellant, Respondent and Board members may only attend virtually if at minimum, the virtual attendees can be heard in Council Chambers and by other virtual attendees and the attendees in Council Chambers can be heard by the virtual attendees.
- 10.4 During deliberations, a Board member attending virtually shall confirm no one else is present in their location who is able to hear the deliberations discussion.

11. Clerk

- 11.1 As per the CAO delegation bylaw, the CAO shall appoint a Clerk(s) to the Subdivision and Development Appeal Board.
- 11.2 The Clerk(s) must successfully complete training, as prescribed by the Minister, prior to assuming the duties and responsibilities of the Clerk.
- 11.3 The duties and responsibilities of the Clerk include the following:
 - (a) Keep and maintain a register of all appeals to the Board and the decisions thereon;
 - (b) Keep and maintain a record of the Board proceedings which may be in the form of a summary of the evidence presented at the hearing;
 - (c) Keep copies of all decisions rendered by the Board; and
 - (d) Upon request, assist the Chair in preparing written decisions.

- 11.4 The CAO may delegate to the Clerk the authority to sign on its behalf an order, decision, approval notice or other thing made or given by the Board.
- 11.5 The Clerk shall carry out their duties and responsibilities as outlined in the Act and the SDAB Alberta Regulation 195/2017.

12. Appeal Fees

- 12.1 Appellants must pay a \$200 fee for a development appeal, a stop order appeal or a subdivision appeal.
- 12.2 The Clerk may refund appeal fees if the appeal is withdrawn prior to the start of the hearing.

13. Withdrawing an Appeal

- 13.1 A notice made by the appellant to withdraw an appeal must be made in writing (letter or email) and submitted to the SDAB Clerk:
 - (a) before the hearing begins, or
 - (b) after the close of the hearing but before the Board issues its decision.
- 13.2 A notice made by the appellant to withdraw an appeal may be made verbally if the notice is made during the hearing.

14. Functions and Duties

- 14.1 The Board holds hearings as necessary to consider and decide appeals, in accordance with the Act.
- 14.2 The Board shall comply with Procedural Bylaw 17/2024, the Act and any applicable Regulations.
- 14.3 The granting and duration of an adjournment is at the discretion of the Board.
- 14.4 Where, in the opinion of the Board, an adjournment is warranted, the Board may request technical information, legal opinions or other assistance, and may adjourn the hearing for this purpose.
- 14.5 After hearing the appeal, the Board shall deliberate and reach its decision in private. In arriving at its decision, the majority vote of those Members present shall constitute the decision of the Board.
- 14.6 A Member who, for any reason, is unable to attend the whole of the hearing of an appeal shall not participate in the Board's deliberations or decision on that appeal.
- 14.7 In the event of a tie vote of the Board, an appeal shall be deemed to be denied.
- 14.8 In arriving at its decision and formulating its reasons, the Board may obtain independent legal advice and assistance from other technical agencies.
- 14.9 A decision of the Board is not final until notification of the decision is given in writing.

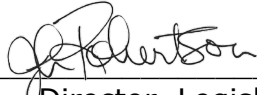
If any clause in this bylaw is found to be invalid, it shall be severed from the remainder of the bylaw and shall not invalidate the whole bylaw.

This Bylaw shall come into full force and effect upon the date of third and final reading.

Read a first time: May 27, 2024
Read a second time: June 10, 2024
Read a third time: June 10, 2024



Mayor



Director, Legislative &
Administrative Services

Bylaw No. 21/2024
Subdivision and Development Appeal Board
Schedule 'A' - Remuneration

Remuneration

1. Members of the Subdivision and Development Appeal Board, excluding council members will be compensated for their attendance at and participation in hearings and training required by the Municipal Government Act at a per diem rate of:
 - (a) \$100 for less than 4 hours;
 - (b) \$200 for 4 to 8 hours; and
 - (c) \$400 for over 8 hours.
 - (d) The chair will receive an additional \$50 per hearing.