

BYLAW NO. 1096-18

**BEING A BYLAW OF
MACKENZIE COUNTY
IN THE PROVINCE OF ALBERTA**

**TO ESTABLISH THE
SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

WHEREAS, pursuant to the provisions of the *Municipal Government Act*, Revised Statutes of Alberta, 2000, Chapter M-26 and amendments thereto, Section 624, Council may establish a Development Authority, and

WHEREAS, pursuant to the provisions of the *Municipal Government Act*, Revised Statutes of Alberta, 2000, Chapter M-26 and amendments thereto, Section 627, Council may establish a Subdivision and Development Appeal Board, and

WHEREAS the Council of Mackenzie County in the Province of Alberta, has deemed it necessary to define the function of a Subdivision and Development Appeal Board, as it relates to the appeal process.

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

1. TITLE

- a) This Bylaw shall be cited as the “Subdivision and Appeal Board Bylaw”.

2. DEFINITIONS

In the Bylaw:

- a) “**Act**” - means the *Municipal Government Act* Revised Statutes of Alberta, 2000, Chapter M-26 and amendments thereto.
- b) “**Appellant**” - means the person who has served written notice of an appeal to the Clerk of the Board from a decision, order or development permit issued by the Development Authority or a notice of decision issued by the subdivision approving authority.
- c) “**Board**” - means the Appeal Board established pursuant to this Bylaw.
- d) “**Chairman**” – means a Member of the Board who is appointed to preside over a hearing in accordance with this bylaw.
- e) “**Council**” - means the Mackenzie County Council.

- f) **“Members at Large”** - are Members of the Board who are not Councillors of the Municipality.
- g) **“Municipality”** - means the municipal corporation of Mackenzie County.
- h) **“Clerk”**- means a designated officer appointed by Council to act as Clerk of the Board.
- i) **“Subdivision Approving Authority”** - is the authority appointed by Council to decide applications for subdivision.
- j) All other terms used in this Bylaw shall have the meaning assigned to them by the Act.

3. ESTABLISHMENT

- a) The Board is hereby established.
- b) The Members of the Board are hereby considered “authorized persons.”

4. DUTIES

The Board shall:

- a) Decide upon all appeals referred to it by the Clerk of the Board, including an:
 - i) appeal of a development permit decision issued by the development authority;
 - ii) appeal of a stop order issued by the development authority; and
 - iii) appeal of a notice of decision for subdivision issued by the development authority.
- b) Perform other such duties as described or implied in this Bylaw or as may be assigned to it by Council.

5. MEMBERSHIP

- a) The Membership of the Board shall consist of:
 - i) two (2) Members of Council, of which one (1) will sit on the Board at any one hearing;
 - ii) five (5) Members at Large, of which two (2) will sit on the Board at any one

hearing.

- b) Council Members of the Board shall be appointed annually by resolution of Council at the Organizational Meeting held in October.
- c) Members at Large shall be appointed to the Board by resolution of Council for a three-year term or as otherwise designated by Council.
- d) Notwithstanding, Clause 5. c), a person may be reappointed upon expiration of their term.
- e) No person who is an employee of Mackenzie County or a member of the Municipal Planning Commission shall be appointed to the Board by Council, subject to the provisions of this Bylaw.
- f) A Member of Council's appointment to the Board terminates upon that person ceasing to be a Member of Council or otherwise ineligible to serve as a Member of the Board, subject to the provisions of this Bylaw.
- g) Where a Board position is left vacant for any reason, Council may appoint a replacement for the remainder of that term.
- h) If a Member has any pecuniary interest, whether direct or indirect, in any matter before the Board, the Member shall declare such interest to the Board before discussion of the matter, and shall not participate in the hearing, or discuss or vote upon the matter, and such abstention shall be recorded in the minutes.
- i) Members may not participate in a hearing of the Board unless the member has successfully completed a training program set or approved by the Minister.

6. QUORUM & MEETINGS

- a) Three (3) Members of the Board where Members of Council do not form the majority constitute a quorum.
- b) The Board shall meet at such intervals as are necessary to consider and decide appeals filed with it in accordance with the Act.
- c) The Board shall not permit electronic or similar recording devices to be used during a hearing by anyone in attendance, except the Clerk of the Board.

7. CHAIRMAN

- a) The Members of the Board shall elect one of themselves as Chairman and one of themselves as Vice-Chairman at the commencement of each Hearing.

8. ABSENT BOARD MEMBERS

- a) A Member of the Board who is for any reason unable to attend the whole or part of an appeal, shall not participate in the deliberations or decision by the Board upon that appeal.
- b) In the event of the absence or inability of the Chairman of the Board to act as Chairman, the Vice-Chairman of the Board shall act as Chairman. In the event of the Chairman and Vice-Chairman being absent or unable to act as Chairman, the remaining Members will elect a Chairman from amongst themselves.

9. SIGNING AUTHORITY

- a) An order, decision, approval, notice or other things made, given or issued by the Board may be signed on its behalf by its Chairman, Vice-Chairman or a Member elected to act as Chairman.
- b) An officer appointed by Council may sign on behalf of the Board.

10. CLERK OF THE BOARD

- a) The position of a designated officer for the limited purpose of carrying out the functions of the Clerk of the Board is hereby established.
 - i. For financial purposes, only that portion of salary and benefits related to carrying out the Clerk functions shall be disclosed as required by legislation.
- b) The Clerk(s) of the Board shall be appointed by resolution of Council and shall not be a member of the Board.

The Clerk shall:

- c) attend all meetings and hearings of the Board, but shall not vote on any matters before the Board.
- d) perform such functions as may be necessary to ensure that the Board is in full compliance with its duties under the Act and this Bylaw.
- e) attend all meetings of the Board and shall keep the following records with respect thereto:
 - 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 the hearing;
 - vii) the decision 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.
- f) notify all Members of the Board of the arrangements for the holding of each hearing and other meetings of the Board.
- g) make available for public inspection before the commencement of the public hearing, all relevant documents and materials respecting the appeal including:
- i) all applications, notices, stop orders, and decisions related to the appeal, and
 - ii) written notice of appeal from individuals who believe that they are affected by the decision, order, or notice.

11. PUBLIC HEARING

- a) The hearing of the appeal pursuant to the Act shall be held in public and all persons who wish to attend shall be entitled to do so.
- b) The Board shall meet for the hearing of appeals as frequently as is necessary, and in any event within thirty (30) days of receipt of a notice of appeal duly filed pursuant to the Act.

12. SPECIAL MEETING

- a) Upon receipt of a notice of appeal duly filed pursuant to the provisions of the 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. Such a meeting shall be called not less than six days prior to the date of the public hearing by the Clerk of the Board. The Board is allowed to hold a special meeting to:
 - i) Determine who should be notified of the Board hearing, and
 - ii) Determine if any Members of the Board are unable to attend the hearing

due to absence or pecuniary interest.

13. ELECTRONIC RECORDINGS

- a) The Clerk shall keep an electronic record of all Hearings, except during breaks and those portions of Hearings held In-Camera.
- b) Electronic recordings will only be transcribed if they are required in connection with any audit or investigation in connection with litigation.
- c) The electronic recording for each Hearing will be retained and backed up for one (1) year.

14. DECISIONS

- a) The Board shall issue its decision upon an appeal in writing together with reasons for the decision pursuant to the provisions of the Act.
- b) The decision of the majority of the Members of the Board present at a meeting duly convened is deemed to be the decision of the whole Board.
- c) In the event of a tie vote, the appeal is defeated.
- d) The decision is not final and binding until the decision has been signed and given in writing in accordance with the Act.

15. PROVINCE OF ALBERTA APPEAL PROCEDURE

- a) The Clerk shall keep on file all notices of applications made for leave to appeal to the Court of Appeal from decisions of the Board issued pursuant to the Act.

16. APPEAL FEES

- a) Appellants may be charged an appeal fee to cover the costs associated with a subdivision or development appeal. The appeal fee may be fixed from time to time by resolution of Council according to the Fee Schedule Bylaw.
- b) If the Subdivision & Development Appeal Board decides in favour of the appellant, the fees paid by the appellant shall be refunded.

17. REMUNERATION & TRAVEL EXPENSES

- a) Members shall be compensated according to the Honorariums and Expense Reimbursement Bylaw in effect for Mackenzie County.

18. EFFECTIVE DATE AND REPEAL OF BYLAW

- a) That Bylaw 1087-18 and all amendments thereto are hereby repealed.
- b) The adoption of this bylaw is effective upon the date of the passing of the third and final reading thereof.

READ a first time this 25th day of July, 2018.

READ a second time this 25th day of July, 2018.

READ a third time and finally passed this 25th day of July, 2018.

(original signed)

Peter F. Braun
Reeve

(original signed)

Len Racher
Chief Administrative Officer