

BYLAW NO. 079/97

BEING A BYLAW OF THE
MUNICIPAL DISTRICT OF MACKENZIE NO. 23
IN THE PROVINCE OF ALBERTA
TO AMEND BYLAW 036/95
TO ESTABLISH THE
MUNICIPAL DISTRICT OF MACKENZIE NO. 23
SUBDIVISION AND DEVELOPMENT APPEAL BOARD

WHEREAS Section 624 of the Municipal Government Act, 1994, Chapter M-26.1, and amendments thereto, empowers a Council to establish a Development Authority, and

WHEREAS Section 627 of the Municipal Government Act, 1994, Chapter M-26.1, and amendments thereto, empowers a Council to establish a Subdivision and Development Appeal Board, and

WHEREAS the Council of the Municipal District of Mackenzie No. 23, 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 the Municipal District of Mackenzie No. 23, in the Province of Alberta, duly assembled, hereby enacts as follows:

1. THAT Section 3.0.1 of Schedule "A" of Bylaw No. 036/95, being a *Municipal District of Mackenzie No. 23 Bylaw*, be amended as follows:
"The Board is hereby established and shall consist of eight (8) members appointed by resolution of Council of which five (5) will sit on the Board at any one hearing as noted in section 3.2.0 (MEMBERSHIP)."
2. THAT Section 3.8.1(a)(iii) of Schedule "A" of Bylaw No. 036/95 be amended as follows: "appeal of a notice of decision for subdivision issued by the subdivision approving authority."
3. THAT this Bylaw is effective upon the date of the third and final reading.

First Reading given on the 27th day of March, 1997

Reuben Derksen
Reuben Derksen, Reeve

Dennis Litke
Dennis Litke, C.A.O.

Second Reading given on the 27th day of March, 1997

Reuben Derksen
Reuben Derksen, Reeve

Dennis Litke
Dennis Litke, C.A.O.

Third Reading and Assent given on the 27th day of March, 1997

Reuben Derksen
Reuben Derksen, Reeve

Dennis Litke
Dennis Litke, C.A.O.

SCHEDULE "A"

Bylaw No. 079/97

MUNICIPAL DISTRICT OF MACKENZIE NO. 23

SUBDIVISION AND DEVELOPMENT

APPEAL BOARD BYLAW

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BYLAW NO. 079/97

**MUNICIPAL DISTRICT OF MACKENZIE NO. 23
SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

SECTION 1.0.0 GENERAL

1.0.1 This Appeal Board Bylaw may be cited as the "Bylaw".

SECTION 2.0.0 DEFINITIONS

2.0.1 In the Bylaw:

- (a) "Municipality" means the Municipal District of Mackenzie No. 23.
- (b) "Act" means the Municipal Government Act, 1994, and amendments thereto.
- (c) "Board" means the Appeal Board established pursuant to this Bylaw.
- (d) "Council" means the Municipal District of Mackenzie No. 23 Council.
- (e) "Members at Large" are Members of the Board who are no Councillor's of the Municipality.
- (f) "Secretary" means the person appointed by Council to act as Secretary of the Board.
- (g) "Development Officer" means the designated officer, person or organization appointed by Council pursuant to the Act.
- (h) "Subdivision Approving Authority" is the authority appointed by Council to decide applications for subdivision.
- (i) "Appellant" means the person who has served written notice of an appeal to the Secretary 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.
- (j) All other terms used in this Bylaw shall have the meaning assigned to them by the Act.

SECTION 3.0.0 ADMINISTRATION

3.0.1 The Board is hereby established and shall consist of eight (8) members appointed by resolution of Council of which five (5) will sit on the Board at any one hearing as noted in section 3.2.0 (MEMBERSHIP).


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- 3.0.2 The Members of the Board are hereby considered “authorized persons”.
- 3.1.0 ELIGIBILITY
- 3.1.1 No person who is appointed by the municipality as the development officer, an employee, or a non-resident of the Municipal District of Mackenzie No. 23 shall be appointed to the Board by Council, subject to the provisions of this Bylaw.
- 3.2.0 MEMBERSHIP
- 3.2.1 The Membership of the Board shall consist of two (2) Members of Council, and a pool of five (5) Members at Large of which three (3) will sit on the Board at any one hearing.
- 3.2.2 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.
- 3.2.3 Members of the Board may be appointed by Council annually, or as required, subject to the provisions of this Bylaw.
- 3.2.4 Subject to other provisions of this Bylaw, one (1) Member of Council, as appointed by Council, may be an alternate Member of the Board if:
- (a) A Member of the Board who is also a Member of Council pursuant of this Bylaw is unable to participate as a Member of the Board.
- 3.3.0 APPEAL FEES
- 3.3.1 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.
- 3.4.0 REMUNERATION, TRAVELING AND LIVING EXPENSES
- 3.4.1 The Members of the Board shall be entitled to such Remuneration, traveling and living expenses, as may be fixed from time to time by resolution of Council.
- 3.5.0 QUORUM
- 3.5.1 Three (3) Members of the Board where Members of Council do not form the majority constitute a quorum.
- 3.6.0 ABSENT BOARD MEMBERS
- 3.6.1 A Member of 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.
- 3.6.2 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.

3.7.0 CHAIRMAN

3.7.1 The Members of the Board shall elect one of themselves as Chairman and one of themselves as Vice-Chairman.

3.7.2 The Chairman and Vice-Chairman shall hold office for the duration of their appointment to the Board or until such time as their written resignation from those positions.

3.8.0 DUTIES

3.8.1 The Board shall:

- (a) Decide upon all appeals referred to it by the Secretary 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 subdivision approving authority.
- (b) Perform other such duties as described or implied in this Bylaw or as may be assigned to it by Council.

3.9.0 SIGNING AUTHORITY

3.9.1 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.

3.9.2 An officer appointed by Council may sign on behalf of the Board.

3.10.0 DECISIONS

3.10.1 The Board shall issue its decision upon an appeal in writing together with reasons for the decision pursuant to the provisions of the Act.

3.10.2 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.

3.11.0 SPECIAL MEETING

3.11.1 Upon receipt of a notice of appeal duly filed pursuant to the provisions of the Act, and of this Bylaw, the Secretary 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 Secretary of the Board. The Board is allowed to allowed to hold a special meeting to:

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- (a) Determine who should be notified of the Board hearing; and
 - (b) Determine if any Members of the Board are unable to attend the hearing due to absence or pecuniary interest.
- 3.11.0 PUBLIC HEARING**
- 3.11.1 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.
- 3.11.2 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.

SECTION 4.0.0 SECRETARY OF THE BOARD

- 4.0.1 The Council shall appoint a Secretary to the Board who may be an employee of the municipality.
- 4.0.2 The Secretary shall attend all meetings and hearings of the Board, but shall not vote on any matters before the Board.
- 4.1.1 Functions of the Secretary
- The Secretary of the Board shall:
- (a) 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.
 - (b) shall 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 Secretary may determine.

- (c) the Secretary shall:
 - (i) notify all Members of the Board of the arrangements for the holding of each hearing and other meetings of the Board,

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(ii) make available for public inspection before the commencement of the public hearing, all relevant documents and materials respecting the appeal including:

- (a) all applications, notices, stop orders, and decisions related to the appeal; and
- (b) written notice of appeal from individuals believe that they are affected by the decision, order, or notice.

SECTION 5.0.0

PROVINCE OF ALBERTA APPEAL PROCEDURE

5.0.1

The Secretary 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.

SECTION 6.0.0

RESCISSION OF FORMER BYLAW

6.0.1

Improvement District Order No. 012/94, being the Municipal District of Mackenzie No. 23 Development Appeal Board Order, and any amendments thereto, is hereby rescinded.



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