

## **BYLAW 1343/15**

### **ESTABLISHMENT OF SUBDIVISION DEVELOPMENT AND APPEAL BOARD STURGEON COUNTY, MORINVILLE, ALBERTA**

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BYLAW 1343/15 BEING A BYLAW OF STURGEON COUNTY, MORINVILLE, ALBERTA FOR THE PURPOSE OF establishing a Subdivision and Development Appeal Board.

**WHEREAS**, Section 627 of the Act provides that a Council must establish a subdivision and development appeal board by bylaw;

**AND WHEREAS**, Section 628 of the Act provides that a Council must by bylaw prescribe the functions and duties of the subdivision and development appeal board;

**NOW THEREFORE BE IT RESOLVED**, that the Council of Sturgeon County, hereby establishes the Subdivision and Development Appeal Board to hear subdivision and development appeals as follows:

#### **DEFINITIONS**

1. In this Bylaw:
  - (a) "Act" means the Municipal Government Act, RSA 2000, c M-26, and amendments thereto;
  - (b) "Board" means the subdivision and development appeal board established to hear and make decisions on appeals as established by this bylaw;
  - (c) "Chair" means a Member who is appointed to preside over a Hearing in accordance with this bylaw;
  - (d) "Council" means County Council;
  - (e) "Council Member" means a Member of the Board who is a member of Council;
  - (f) "County" means Sturgeon County;
  - (g) "Electronic recording" is a recording that contains machine generated and readable, as opposed to human generated and readable, information. This includes audio and/or video recordings.
  - (h) "Hearing" means a meeting on a contested matter or an opportunity whereby the applicant or agent representing the applicant is provided the opportunity to be heard by the SDAB, in addition to any other person with standing;
  - (i) "Land Use Bylaw" means the County's Land Use Bylaw, as amended or repealed and replaced from time to time;
  - (j) "Member" is a member of the Board duly appointed by Council pursuant to this bylaw;
  - (k) "Public Member" is a Member of the Board who is not a member of Council.

#### **ESTABLISHMENT**

2. The Subdivision and Development Appeal Board is hereby established to hear and decide subdivision and development appeals in accordance with the provisions of the Act and exercise any other powers, duties and functions given to it by the Land Use Bylaw and any other bylaws of Council.

#### **MEMBERSHIP**

3. The Board shall be composed of up to eight Members appointed by Council.

4. There shall be up to six Public Members and up to two Council Members appointed to the Board
5. No person who is a member of a municipal planning commission or an employee of the County or who carries out subdivision or development powers or duties for the County shall be appointed to the Board.

**TERM**

6. Public Members shall be appointed to the Board by Council for a three year term effective as of January 1 of the year of the appointment or as otherwise designated by Council. In order to ensure the continuity of membership, appointments will be filled on a rotational basis with two members in each of three staggered terms.
7. Council Members shall be appointed to the Board by Council annually at the Council organizational meeting effective immediately.
8. Where a Board position is left vacant for any reason, Council may appoint a replacement for the remainder of that term
9. There will be no automatic succession appointments.

**CHAIR**

10. The Chair for a Hearing shall be appointed at the commencement of each Hearing by the Members in attendance.

**CLERK**

11. The County's Legislative Officer will act as the Board clerk and in this capacity shall receive notices of appeal, schedule hearings, send notices related to hearings, keep an accurate record of the proceedings of the Board and communicate decisions to the affected parties.
12. The Board's files, including the original, signed decisions and agenda packages of the Board, shall be retained in accordance with Sturgeon County's Corporate Records Structure and any other governing legislation.

**BOARD HEARINGS**

13. Unless otherwise scheduled and advertised, Board Hearings shall be held on those days and times established by Council during the annual organizational meeting.
14. The Board shall hear appeals in public.
15. Any Member with a direct or indirect interest in any matter before the Board shall, if present, declare the interest to the Board prior to any discussion of the matter, abstain from discussions and voting on any question relating to the matter and leave the meeting room until the matter is concluded. The minutes shall record the declaration and the time at which the member left and returned to the meeting room.

16. Quorum at any Hearing shall be three Members.
17. Council Members shall not form the majority of the Board hearing an appeal.

#### **ELECTRONIC RECORDINGS**

18. The Clerk shall keep an electronic record of all Hearings, except during breaks and those portions of Hearings held In Camera.
19. Electronic recordings will only be transcribed if they are required in connection with any audit or investigation in connection with litigation.
20. The electronic recording for each Hearing will be retained and backed up for one (1) year.
21. Use of any electronic recording devices, including but not limited to digital cameras, stand-alone video cameras, Internet accessible webcams, video recorders, audio recorders, and software designed to monitor activities during a Hearing by the press or public may be prohibited at the discretion of the Chair.

#### **DECISIONS**

22. After hearing all submissions the Board shall deliberate and reach its decision in private.
23. The decision of the majority of the Members present at a Hearing duly convened shall be the decision of the Board. In the event of a tie vote, the appeal is lost.
24. A Member who is for any reason unable to attend the whole of the hearing shall not participate in the Board deliberations or the decision made by the Board on that appeal.
25. The decision is not final and binding until the decision has been signed and given in writing in accordance with the Act.

#### **REMUNERATION**

26. Partial day remuneration and travel expenses to and from the Hearing for Public Members shall be in accordance with rates and schedules as approved by Council from time to time and reflected on the Sturgeon County Monthly expense claim form. All expenditures, as well as the round trip kilometers of each trip, must be itemized.
27. The chair is eligible for an additional partial day remuneration out of respect for the additional time required to review and sign decisions.
28. Remuneration for Council Members shall be considered to be already covered with the Councillor's salary.

**ENACTMENT**

29. This Bylaw shall come into effect upon third and final reading.

30. Bylaws 960/02 Schedule K and 798/95 are hereby repealed.

Read a first time this 13<sup>th</sup> day of January, 2015.

Read a second time this 28<sup>th</sup> day of April, 2015.

Read a third time this 28<sup>th</sup> day of April, 2015.

  
MAYOR

  
COUNTY COMMISSIONER (CAO)

If any portion of this bylaw is declared invalid by a court of competent jurisdiction, then the invalid portion must be severed and the remainder of the bylaw is deemed valid.