

BYLAW 1410/18

ESTABLISHMENT OF SUBDIVISION AND DEVELOPMENT APPEAL BOARD

STURGEON COUNTY, MORINVILLE, ALBERTA

BYLAW 1410/18 BEING A BYLAW OF STURGEON COUNTY, MORINVILLE, ALBERTA FOR THE PURPOSE OF ESTABLISHING A SUBDIVISION AND DEVELOPMENT APPEAL BOARD.

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

WHEREAS, pursuant to section 628 of the *Municipal Government Act*, a bylaw under section 627 must provide for the applicable matters described in section 145(b), and prescribe the functions and duties of the subdivision and development appeal board; and

WHEREAS, pursuant to section 145(b) of the *Municipal Government Act*, Council may pass bylaws in relation to the procedures to be followed by Council, council committees and other bodies established by the Council; and

WHEREAS, pursuant to section 627.1 of the *Municipal Government Act*, Council must appoint a designated officer to act as the Clerk of the Subdivision and Development Appeal Board.

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

DEFINITIONS

1. In this Bylaw:

- (a) "Act" or "MGA" 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) "Clerk" means the Designated Officer appointed by Council to act as Clerk of the Subdivision and Development Appeal Board.
- (e) "Council" means Sturgeon County Council.
- (f) "Council Member" means a member of the Board who is a member of Council.
- (g) "County" means Sturgeon County.
- (h) "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.
- (i) "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.
- (j) "Member" is a member of the Board duly appointed by Council pursuant to this bylaw.

- (k) "Panel" means a maximum of five (5) members of the Board selected to hear and make decisions regarding an appeal.
- (l) "Public Member" is a member of the Board who is not a member of Council.
- (m) "SDAB" means the Subdivision and Development Appeal Board.

ESTABLISHMENT

2. The Subdivision and Development Appeal Board is hereby established to hear appeals regarding decisions made by the County's subdivision and development authorities in accordance with the provisions of the Act. The Board will make decisions regarding appeals based on evidence presented to it during a public hearing.
3. The Subdivision and Development Appeal Board shall carry out their duties and responsibilities and conduct themselves in accordance with the *Municipal Government Act* and its regulations, and the bylaws, policies and procedures of Sturgeon County.

MEMBERSHIP

4. The Board shall be composed of up to eight (8) members appointed by Council.
5. A panel of not more than five (5) members will serve at any one hearing, with quorum being three (3) members.
6. A panel of members shall have all the powers, duties and responsibilities of the subdivision and development appeal board.
7. The composition of the Board shall be as follows:
 - (a) Two (2) Members of Council, no more than one (1) of whom shall serve at any one hearing.
 - (b) Six (6) Public Members, no more than four (4) of whom shall be selected on a rotational and/or availability basis, shall serve at any one hearing.
8. Unless an order of the Minister authorizes otherwise, a panel of a subdivision and development appeal board hearing an appeal must not have more than one councillor as a Member.
9. The following persons may not be appointed as Members of a subdivision and development appeal board:
 - (a) an employee of the municipality;
 - (b) a person who carries out subdivision or development powers, duties and functions on behalf of the municipality;
 - (c) a member of a Municipal Planning Commission.
10. A Member of the SDAB may not participate in a hearing of the subdivision and development appeal board unless the Member is qualified to do so in accordance with the regulations made under section 627.3(b).

11. Remuneration and travelling expenses for Members shall be in accordance with remuneration as specified under Sturgeon County bylaws, policies and procedures and shall be established by Council from time to time.

TERM

12. Public Members shall be appointed to the Board by Council for a three-year term, effective immediately following their appointment, or as otherwise designated by Council. In order to ensure the continuity of membership, if necessary, appointments will be filled on a rotational basis with two members in each of three staggered terms.
13. Council Members shall be appointed to the Board by Council at the annual Organizational Meeting of Council. Their appointment shall become effective immediately unless otherwise specified by Council.
14. If at any time a Board position is vacant for any reason, Council may appoint a replacement for the remainder of that term and shall be bound by the restrictions placed upon the original appointment.
15. All member vacancies shall be advertised to request formal submission of applications from any individuals holding an interest in the region.
16. Members may be reappointed for successive terms; however, there will be no automatic succession appointments.

CHAIR

17. The Chair for a hearing shall be appointed on an annual basis at the first hearing following the annual board appointments of Council decided at the Organizational Meeting of Council.
18. In the event that either the Chair or Vice Chair are not in attendance at any hearing, the Chair shall be appointed at the commencement of the hearing by the members in attendance.
19. The Chair or Vice-Chair shall not be a Member of Council.

CLERK

20. The Clerk will be a designated officer appointed by Council who meets the qualification requirements as set out in the *Municipal Government Act* and its regulations and will fulfill his/her duties and act in accordance with the Act, County bylaws, policies and procedures. The Clerk appointed as designated officer for the SDAB may be a person who holds the appointment as a Clerk of the Assessment Review Board.
21. The Clerk shall be the Senior Legislative Services Officer or her/his designate.
22. No designated officer is eligible for appointment unless that designated officer has successfully completed a training program in accordance with the regulations made under section 627.3(a) of the Act.
23. No subdivision authority or development authority is eligible for appointment under this section.

24. The clerk 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.
25. 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.
26. The Clerk shall be an employee of Sturgeon County. Remuneration and expenses shall be in accordance with Sturgeon County's payroll schedules.

BOARD HEARINGS

27. Unless otherwise scheduled and advertised, Board hearings shall be held on those days and times established by Council during the annual Organizational Meeting.
28. The Board shall hear appeals in public while deliberations and decision making are held in camera.
29. The Board must make and keep a record of its proceedings, which may be in the form of a summary of the evidence presented at the hearing.
30. 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 summary of evidence shall record the declaration and the time at which the member left and returned to the meeting room.
31. Quorum at any hearing shall be three Members.

ELECTRONIC RECORDINGS

32. The Clerk shall keep an electronic record of all hearings with the exception of breaks and those portions of a hearing held in camera.
33. Electronic recordings will only be transcribed if they are required in connection with any audit or investigation in connection with litigation.
34. The electronic recording for each hearing shall be retained in accordance with Sturgeon County's Corporate Records Structure and any other governing legislation.
35. 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

36. After hearing all submissions, the Board shall deliberate and reach its decision in camera.

37. 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.
38. 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.
39. The decision is not final and binding until the decision has been signed and given in writing in accordance with the Act.

REMUNERATION

40. 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. All expenditures, as well as round-trip kilometers for each trip, must be itemized on the Sturgeon County Monthly Expense Claim Form and submitted to the SDAB Clerk for processing.
41. When in the position of Chair, the Public Member is eligible for an additional partial day remuneration to compensate for the added responsibilities of the role.
42. Aside from a Councillor's salary, there will be no additional remuneration for Council Members.


TRANSITIONAL PROVISIONS, REPEAL AND EFFECTIVE DATE

43. Any member of the Subdivision and Development Appeal Board, at the time of this bylaw coming into force, is deemed to be a member of the Subdivision and Development Appeal Board.
44. This Bylaw shall come into force and take effect upon the date of third and final reading.
45. Bylaws 1343/15 and 1361/16 are hereby repealed upon third and final reading of this Bylaw.

Read a first time this 12th day of June 2018.

Read a second time this 12th day of June 2018.

Read a third time this this 12th day of June 2018.


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.