

# CITY OF GRANDE PRAIRIE

## BYLAW C-1374

### A Bylaw to establish A Subdivision and Development Appeal Board

**WHEREAS** Section 627 of the *Municipal Government Act* RSA 2000, Chapter M-26 as amended, requires that the City of Grande Prairie establish a Subdivision and Development Appeal Board, and

**WHEREAS** Sections 145 and 627 of the *Municipal Government Act* RSA 2000, Chapter M-26 as amended, requires Council to provide for the procedure and conduct of bodies established by Council.

**NOW THEREFORE, THE MUNICIPAL COUNCIL OF THE CITY OF GRANDE PRAIRIE, IN THE PROVINCE OF ALBERTA, DULY ASSEMBLED, ENACTS AS FOLLOWS:**

#### 1. NAME

This Bylaw shall be called the “Subdivision and Development Appeal Board Bylaw”.

#### 2. DEFINITIONS

The following words and phrases mean:

- 2.1 “**Act**” means the Municipal Government Act, as amended or replaced from time to time.
- 2.2 “**Alternate Member**” means an individual that Council has appointed as a member of the Board pursuant to Section 3.8 of this Bylaw.
- 2.3 “**Appellant**” means a person who, pursuant to Section 685 of the Act, has served a notice of appeal on the Subdivision and Development Appeal Board.
- 2.4 “**Board**” means the Subdivision and Development Appeal Board established by this Bylaw and includes an inter-municipal Subdivision and Development Appeal Board, pursuant to Section 627 of the Act.
- 2.5 “**City**” means the City of Grande Prairie.
- 2.6 “**Clerk**” means a Designated Officer appointed as a Clerk, pursuant to Section 624(2) of the Act, acting in the capacity as the Clerk to the Subdivision and Development Appeal Board established by Section 6 of this Bylaw.
- 2.7 “**Council**” means the duly elected Council of the City of Grande Prairie.
- 2.8 “**Development Appeal**” means an appeal described in Section 9.1 of this Bylaw.
- 2.9 “**Development Application**” means an application made to the Development Authority in accordance with the Land Use Bylaw (LUB) for the purpose of obtaining a development permit.
- 2.10 “**Development Authority**” means the person or persons designated by the City pursuant to Section 624 of the Act, to perform the functions of a Development Authority.
- 2.11 “**Development Permit**” means a document authorizing a development issued in accordance with the Land Use Bylaw (LUB).

- 2.12 “**Land Use Bylaw (LUB)**” means the Bylaw adopted by Council pursuant to Section 639 of the Act.
- 2.13 “**Subdivision Appeal**” means an appeal described in Section 10.1 of this Bylaw.
- 2.14 “**Subdivision Authority**” means the person or persons designated by the City pursuant to Section 623 of the Act, to perform the functions of a Subdivision Authority.

### 3. ESTABLISHMENT AND MEMBERSHIP

- 3.1 The Subdivision and Development Appeal Board of the City is hereby established.
- 3.2 The Board shall consist of eight (8) members appointed by resolution of Council as follows:
- 3.2.1 Three (3) members from Council; and
- 3.2.2 Five (5) members from the public-at-large.
- 3.3 No person who is an employee of the City, or who carries out subdivision or development powers, duties and functions on behalf of the City, shall be appointed to the Board.
- 3.4 A member from the public-at-large, may resign from the Board at any time by giving written notice to the Legislative Services Manager.
- 3.5 Any vacancy on the Board caused by the death, retirement or resignation Council may appoint a replacement for the remainder of that term.
- 3.6 Council may remove a member from the Board by resolution at any time for any reason they consider appropriate.
- 3.7 Remuneration for Board members from the public-at-large who participate in public hearings and/or mandatory training shall be:
- a) Chairman
- i) \$219.00 for up to four (4) hours;
- ii) \$383.00 for four (4) hours up to eight (8) hours; or
- iii) \$601.00 for over eight (8) hours.
- b) Member
- i) \$164.00 for up to four (4) hours;
- ii) \$290.00 for four (4) hours up to eight (8) hours; or
- iii) \$427.00 for over eight (8) hours.
- 3.8 Notwithstanding 3.2 of this Bylaw, if the Clerk anticipates that there is or may be an issue respecting quorum for the Board to hold a public hearing on a Development Appeal or Subdivision Appeal because there are an insufficient number of members of the Board able to or may not be eligible to sit as a member of the Board. For that particular public hearing, Council may appoint a person for a specific period or a specific appeal to sit as an Alternate Member of the Board.
- 3.9 An Alternate Member of the Board shall have the same powers and duties as members of the Board appointed pursuant to Section 3.2 of this Bylaw.

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**4. TERM OF OFFICE**

- 4.1 The term of office of each member of Council appointed to the Board will be a period not exceeding four (4) years and will coincide with their term of office as a member of Council.
- 4.2 The term of office for each member of the public-at-large on the Board will be a three (3) year term. A member may be re-appointed to a maximum of two (2) terms.
- 4.3 Council may alter the terms of appointment of any member.

**5. CHAIR**

- 5.1 The members present and constituting a quorum at a public hearing shall elect a Chair from amongst themselves to preside at the public hearing.
- 5.2 The Chair will preside over and be responsible for the conduct of the public hearing.

**6. CLERK**

- 6.1 The position of a Designated Officer for the limited purpose of carrying out the functions of the Clerk is hereby established.
- 6.2 The Clerk shall be appointed by resolution of Council and shall not be a member of the Board.
- 6.3 The Clerk shall have responsibilities and functions including the following:
  - 6.3.1 making and keeping a record of the Board's proceedings which may be in the form of a summary of the evidence presented at a public hearing;
  - 6.3.2 ensuring statutory notices and decisions of the Board are provided to such persons as the Act requires;
  - 6.3.3 compiling and providing agenda packages to members of the Board and making the same available to the public;
  - 6.3.4 signing orders, decisions, approvals and notices made, given or directed by the Board on its behalf; and
  - 6.3.5 arranging for Alternate Members in accordance with Sections 3.7 and 3.8 of this Bylaw.

**7. QUORUM**

- 7.1 A quorum of the Board shall be a majority of its members.
- 7.2 The Board shall meet at such intervals as are necessary to consider and decide appeals filed with it in accordance with the Act.
- 7.3 The Board may make rules necessary for the conduct the public hearing that are consistent with this Bylaw, the LUB, Procedure Bylaw and the Act.
- 7.4 The decision of the majority of the members of the Board present at a duly convened public hearing at which a quorum is present is deemed to be the decision of the Board.
- 7.5 In the event of a tie vote, an appeal shall be deemed to be denied.

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- 7.6 A Board member, who for any reason is unable to attend the whole of the public hearing of an appeal, shall not participate in the Board's deliberations or the decision made by the Board on that appeal.
- 7.7 The Board may recess at any time, to a specific date and time, in order for additional information to be brought to a public hearing.
- 7.8 The Board shall not permit electronic or similar recording devices to be used during a public hearing by anyone in attendance, except the Clerk.

## 8. FEES

- 8.1 An Appellant shall pay to the City a fee, in accordance with [Bylaw C-1395, Schedule "A"](#), at the same time a notice of appeal is served on the Clerk of the Board.
- 8.2 Failure to submit the required fee at the same time the notice of appeal is served to the Clerk; the Clerk shall deem the application as "incomplete" until such time the fee is received with the notice of appeal.
- 8.3 Fees paid by an Appellant for a successful appeal decision shall be refunded to the Appellant within fifteen (15) days from the conclusion of the public hearing.

## 9. DEVELOPMENT APPEALS

- 9.1 Pursuant to Sections 641(4)(b) and 685(1) of the Act, the Board shall hold a public hearing on an appeal where a Development Authority for the City:
- 9.1.1 fails or refuses to issue a development permit to a person;
  - 9.1.2 issues a development permit subject to conditions; or
  - 9.1.3 issues an order under Section 645 of the Act.
- 9.2 The Board shall hold a public hearing respecting any Development Appeal within thirty (30) days of receipt of the notice of appeal pursuant to Section 686(2) of the Act.
- 9.3 The Board shall give at least five (5) days notice in writing pursuant to Section 686(3) of the Act for the scheduled public hearing:
- 9.3.1 to the Appellant;
  - 9.3.2 to the Development Authority whose order, decision or development permit is the subject of the appeal; and
  - 9.3.3 to those owners required to be notified under the LUB and any other person that the Board considers to be affected by the appeal and should be notified.
- 9.4 In determining a Development Appeal, the Board:
- 9.4.1 must hear the appellant or any person referred to in Section 687(1) of the Act if those persons appear at the public hearing;
  - 9.4.2 may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own referred to in Section 687(3)(c); except in the case of a Development Permit issued by Council with respect to land in a Direct Control District pursuant to Section 641(4) of the Act;

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- 9.4.3 may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the LUB pursuant to Section 687(3)(d) if, in its opinion:
- a) the proposed development would not:
    - i) unduly interfere with the amenities of the neighbourhood; or
    - ii) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land; and
  - b) the proposed development conforms with the use prescribed for that land or building in the LUB.
- 9.4.4 shall comply with the Land Use Policies established pursuant to Section 622 of the Act; and
- 9.4.5 shall have regard to but not be bound to the subdivision and development regulations.
- 9.5 The Board shall give its' decision in writing together with reasons for the decision within fifteen (15) days of the conclusion of the public hearing pursuant to Section 687(2) of the Act.

## 10. SUBDIVISION APPEALS

- 10.1 Pursuant to Section 678(2) of the Act, the Board shall hear appeals of decisions of the Subdivision Authority.
- 10.2 The Board shall hold a public hearing respecting any Subdivision Appeal within thirty (30) days of receipt of the notice of appeal pursuant to Section 680(3) of the Act.
- 10.3 The Board shall give at least five (5) days notice in writing pursuant to Section 679(1) of the Act for the scheduled public hearing to:
- 10.3.1 the applicant for subdivision approval;
  - 10.3.2 the Subdivision Authority that made the decision;
  - 10.3.3 if the land that is the subject of the application is adjacent to the boundaries of another municipality, that municipality;
  - 10.3.4 any school board to whom the application was referred;
  - 10.3.5 every Government department that was given a copy of the application pursuant to the subdivision and development regulations; and
  - 10.3.6 all adjacent land owners who were given notice under Section 653(4) of the Act.
- 10.4 In determining a Subdivision Appeal, pursuant to Section 680(2) of the Act, the Board hearing the appeal:
- 10.4.1 must hear the persons referred to in Section 680(1)(a) of the Act if those persons have been notified of the public hearing;
  - 10.4.2 must have regard to any statutory plan;
  - 10.4.3 must conform with the uses of land referred to in the LUB;
  - 10.4.4 must be consistent with the land use policies established pursuant to Section 622 of the Act;
  - 10.4.5 must have regard to, but is not bound by, the subdivision and development regulations;
  - 10.4.6 may confirm, revoke or vary the approval or decision or any condition imposed by the Subdivision Authority or make or substitute an approval, decision or condition of its' own;

- 10.4.7 may, in addition to the other powers it has, exercise the same power as a Subdivision Authority is permitted to exercise pursuant to this Part or the regulations or bylaws under this Part; and
- 10.4.8 shall give its' decision in writing together with reasons for the decision within fifteen (15) days of the conclusion of the public hearing pursuant to Section 680(3) of the Act.

10.5 If there is an appeal of the Boards decision, any member of the Board who voted on the decision shall not participate in the appeal hearing.

10.6 Pursuant to Section 682(2) of the Act, the Chairman of the Board which heard a Subdivision Appeal is authorized to endorse the Plan of Subdivision or other instrument.

**11. CONFLICT OF INTEREST**

11.1 A member of the Board shall not participate in discussion on, nor vote on, any matter before the Board on any question:

- 11.1.1 affecting a private company of which they are a controlling shareholder or the beneficial holder of a majority of its' issued shares;
- 11.1.2 affecting a public company in which they hold more than ten (10%) percent of the number of shares issued;
- 11.1.3 affecting a partnership, proprietorship or firm of which they are a member; or
- 11.1.4 affecting a company of which they are a director.

11.2 A Board member who fails to declare a conflict of interest in a matter before the Board, or fails to absent them self from proceedings dealing with such a matter, ceases to be a member for that public hearing.

**12. PECUNIARY INTEREST**

12.1 The pecuniary interest provisions of the Act, pursuant to Section 170(1)(a)(b), apply to all members while attending public hearings, as though they were councillors.

**13. REPEAL**

13.1 Bylaw C-964 and all amendments are hereby repealed.

**14. EFFECTIVE DATE**

14.1 This Bylaw shall take effect on the date it is passed.

**READ** a first time this  7  day of  October , 2019.

**READ** a second time this  7  day of  October , 2019.

**READ** a third time and finally passed this  7  day of  October , 2019.

“B. Given” (signed)  
Mayor

“A. Karbasheski” (signed)  
City Clerk