

## **BYLAW NO. 3619/2019**

Being a bylaw of The City of Red Deer to establish the Appeal Boards.

COUNCIL OF THE CITY OF RED DEER ENACTS AS FOLLOWS:

### **PART I PROVISIONS APPLICABLE TO BOTH APPEAL BOARDS**

#### **Short Title**

1. The short title of this bylaw is “The Appeal Boards Bylaw”.

#### **Interpretation**

2. The headings in this bylaw are for reference purposes only.
3. References to enactments and bylaws in this bylaw include amendment and replacement enactments and bylaws, and regulations and orders made in accordance with them.

#### **Definitions**

4. (l) In this bylaw:
  - (a) “Advisory Committee” is a subcommittee of the Board and meets as necessary.
  - (b) “Appellant” means a person who has served a written Notice of Appeal as set out in the Municipal Government Act or subordinate legislation or authorized person acting on behalf of the Appellant.
  - (c) “Applicant” means a person who made the initial application upon which an appeal is based or authorized person acting on behalf of the Applicant.
  - (d) “Board” means either the Subdivision and Development Appeal Board or Red Deer Appeal and Review Board as established by Council, and in a section of this bylaw relating to a specific Board, means that specific Board.
  - (e) ‘Chief Elected Official’ means the Mayor for the City of Red Deer.
  - (f) “Citizen Representative” means a person appointed by Council who does not represent a specific organization;

- (g) “Designated Officer” means the designated officer appointed as the Clerk of the Subdivision and Development Appeal Board in accordance with section 627.1 of the MGA.
- (h) “Member” means a member of the Board;
- (i) “MGA” means the Municipal Government Act of Alberta, RSA 2000, Ch. M-26, as amended; and
- (j) “Resident” means a resident of the City of Red Deer;

### **Establishment of Boards**

- 5. (1) The following Boards are established:
  - (a) Red Deer Appeal and Review Board; and
  - (b) Subdivision and Development Appeal Board.

### **Advisory Committees**

- 6. (1) The Boards may act as an Advisory Committee for the purpose of collaborating with the Designated Officer on all matters affecting the Board including but not limited to:
  - (a) Board Member attendance at hearings;
  - (b) Developing policies regarding Board matters;
  - (c) Monitoring and evaluating Board performance.
- (2) When meeting in an advisory capacity, the Board shall convene and keep minutes as an Advisory Committee and the quorum and voting requirements in this Bylaw apply.

### **Conduct and Procedures**

- 7. (1) The conduct of Members and the procedures of the Board will be in accordance with:
  - (a) The express provisions of the MGA and related regulations;

- (b) Principles of natural justice and procedural fairness; and
- (c) Policies and procedures of the Board.

## Membership

8. (1) Each Board consists of five Members as follows:
- (a) 5 Citizen Representatives; and
  - (b) 2 alternate Citizen Representatives.

## Quorum

9. (1) Quorum is a majority of Members.
- (2) The Board must not sit in even numbered panels.
- (3) The majority decision constitutes the decision of the Board.

## Appointments

10. (1) In selecting Members, preference may be given to local residents; however, it is also recognized that non-residents who own property or have a business in the City also have a stake in the community.
- (2) Former Members, former Council Members, and former City employees may apply for appointment for either Board after a two year hiatus from that capacity, with exceptions to be made at the discretion of Council.
- <sup>2</sup>(3) The Chief Elected Official is not a Member of the Board.
- (4) All Members are appointed for three-year terms and serve on hearings for appeals and/or reviews filed during their term.
- (5) Where a Board position is left vacant for any reason, Council may appoint a replacement for the remainder of that term. Council may also alter the terms of appointment of any Member.
- (6) A Member may be re-appointed to a Board at the expiration of the Member's term but may not serve more than two consecutive terms, with exceptions to be made at the discretion of Council;

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<sup>1</sup> 3619/B-2019, 3619/A-2019

<sup>2</sup> 3619/B-2019

- (7) A Member may resign from a Board at any time by giving written notice to the Designated Officer.
- (8) Council may remove any Member from a Board for cause or misconduct on the recommendation of the Designated Officer.

### **Hearings**

11. (1) Hearings will be held at such time and place as determined by the Board.
- (2) Public notice of a Board hearing will be given in the manner provided for in the MGA and subordinate legislation.
- (3) The proceedings of the Board must be conducted in public. However, the Board may close to the public portions of a hearing in accordance with the MGA, the Freedom of Information and Protection of Privacy Act, and Policies of the Board.
- (4) The Board may deliberate and make its decisions in meetings closed to the public.

### **Chair and Vice Chair**

12. (1) The Chair and Vice Chair will be:
  - (a) Chosen annually from among Members;
  - (b) The Chair will preside over and be responsible for the conduct of hearings. If the Chair is unable to perform the Chair's duties, the Vice Chair will perform them.
  - (c) Notwithstanding the above, the Chair may in his discretion delegate role of presiding over the conduct of a hearing to another Member.

### **Designated Officer**

13. (1) The Designated Officer shall assign Members to hearings. Any Member assigned to and absent from three consecutive hearings to which the Member has been assigned, unless such absence is authorized by resolution of the Advisory Committee, will automatically forfeit his/her membership as of the date of the third consecutive hearing.
- (2) The Designated Officer may, at the request of the Chair sign orders, decisions and documents issued by the Board.

- (3) The Designated Officer may, at the request of the Chair sign documents issued by the Advisory Committee.
- (4) The Designated Officer will issue instructions to independent legal counsel for the Boards when required.

### **Remuneration**

14. (1) Remuneration for Members and reimbursement of expenses, if any, will be set out in 'Schedule A'.

### **Fees**

15. (1) Filing Fees payable by Applicants and/or Appellants will be set out in 'Schedule B'.
- (2) Fees and charges will be set out in 'Schedule B'.

**PART II  
RED DEER APPEAL AND REVIEW BOARD**

16. (1) The functions and duties of the Red Deer Appeal and Review Board is to hear and to make decisions on appeals for which it is responsible under any City bylaw and in particular, arising under the following bylaws:
- (a) Alarm Bylaw;
  - (b) Business License Bylaw;
  - (c) Chicken Bylaw;
  - (d) Dog Bylaw;
  - (e) Escort Services Bylaw;
  - (f) Firearms Bylaw;
  - (g) Land Use Bylaw;
  - (h) Limousine and Sedan Bylaw;
  - (i) Taxi Bylaw;
  - (j) Utility Bylaw.
- <sup>3</sup>(2) When the Board receives an appeal where the enabling bylaw is silent as to the Board's authority, the Board may confirm, deny or vary the matter being appealed.
- (3) When considering the merits of an appeal or a review, the board shall have regard to:
- (a) The need to maintain the integrity of the policies which the applicable bylaw and statutes are intended to promote;
  - (b) The potential cost implications to The City of Red Deer of the decision of the Board; and
  - (c) The need to treat fairly the persons affected by the order or decision under appeal.

**Delegation of Authority**

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<sup>3</sup> 3619/B-2019

17. (1) In addition, under s. 203(1) of the MGA, the Board is given the authority and shall exercise the power of Council in respect of applications for review arising under s. 547 of the MGA
- (2) Where in the opinion of the Board, a Request to Review under section 547 of the MGA involves a matter of significant public policy to The City of Red Deer, the Board may refer the review to Council.

### **Filing an Appeal or Review**

18. (1) An appeal or a review is commenced by mailing or delivering to the Designated Officer of the Board a Notice of Appeal or a Request to Review in the form established by the Board from time to time, with the applicable fee.
- (2) The Notice of Appeal or Request to Review must be received by the Designated Officer within the time frames set out in the MGA, the bylaw or thing that is being appealed. Where there is no time frame set out, the Notice of Appeal must be received within fourteen (14) days of the date the Appellant was notified of the issue to which an appeal is sought.

**PART III  
SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

**Functions and Duties**

19. (1) The Subdivision and Development Appeal Board will perform the functions and duties of a subdivision and development appeal board in accordance with the MGA.

**Training**

20. (1) Members will meet the training requirements set out in the MGA to be qualified to participate in a hearing.

**Designated Officer**

21. (1) The Legislative Services Manager is the Designated Officer of the Board, and has the duties as set out in the MGA and this Bylaw.
- (2) The Designated Officer will meet the training requirements set out in the MGA and will perform the duties and functions as set out in the MGA.
- (3) A subdivision or development appeal is commenced by mailing or delivering to the Designated Officer a Notice of Appeal in the form established by the Board from time to time, within the time specified in the MGA with the applicable fee.



**PART IV**

**Repeal**

22. (1) Bylaw 3487/2012 is repealed.

**Transitional**

23. (1) Board Members holding office at the date this bylaw comes into full force shall continue to hold office until the expiry of their terms in accordance with their appointment under the Appeal Boards Bylaw.

READ A FIRST TIME IN OPEN COUNCIL this 18 day of March 2019.

READ A SECOND TIME IN OPEN COUNCIL this 18 day of March 2019.

READ A THIRD TIME IN OPEN COUNCIL this 1 day of April 2019.

AND SIGNED BY THE MAYOR AND CITY CLERK this 1 day of April 2019.

“Mayor Tara Veer”  
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MAYOR

“Frieda McDougall”  
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CITY CLERK

## SCHEDULE A

## REMUNERATION

- I. Members receive the following remuneration when attending hearings and legislated training.

Up to 3 hours	3 to 6 hours	Over 6 hours
104.00	203.00	267.00

These amounts will increase to match the percentage salary increase granted to management staff, rounded up to the next dollar. (current as July 2017)

2. Members will be reimbursed for mileage when attending legislated training outside of the City of Red Deer, in accordance with The City's Expenses and Remuneration Policy.

## SCHEDULE B

### FEES:

1. Filing Fee: Seventy-Five (\$75.00) dollars
2. When required by the Board to be advertised: Seventy-Five (\$75.00) dollars
3. There is no fee for applications of the Red Deer Appeal and Review Board for a Review arising under s. 547 of the MGA.
4. Where a person may be affected by a subdivision or development but does not have a legal or equitable claim in the site, or is not the agent of the person having such interest: there is no fee.
5. Fees may be waived or refunded at the discretion of the Designated Officer.

### CHARGES:

The following charges apply:

1. copy of the audio recording from a hearing: \$20 / each piece of digital equipment
2. transcript of the audio from a hearing: actual costs incurred
3. photocopies: Black and white: \$0.25/page  
Color \$0.35/page