

CITY OF GRANDE PRAIRIE

BYLAW C-1444

**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* 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:

“**Act**” means the *Municipal Government Act, RSA 2000, chapter M-26*, as amended or replaced from time to time.

“**Alternate Member**” means an individual that Council has appointed as a member of the Board pursuant to subsection 3.8 of this Bylaw.

“**Appellant**” means a person who has served a notice of appeal on the Subdivision and Development Appeal Board. [s. 678(1) M.G.A.]

“**Board**” means the Subdivision and Development Appeal Board established by this Bylaw ~~and includes an intermunicipal Subdivision and Development Appeal Board.~~ [s. 627(1)(a) M.G.A.] [s. 627(1)(a)(b) M.G.A.]

“**City**” means the City of Grande Prairie.

“**Clerk**” means ~~a one or more~~ designated officer~~s~~ appointed as the Clerk to the Subdivision and Development Appeal Board pursuant to ~~sub~~section 6.1 of this Bylaw. [s. 627.1(1) M.G.A.]

“**Council**” means the duly elected Council of the City of Grande Prairie.

“**Development Appeal**” means an appeal described in Section 10 of this Bylaw.

“**Development Authority**” means the person or persons designated by the City to perform the functions of a Development Authority. [s. 623(b) M.G.A.]

“**Development Permit**” means a document ~~authorizing a development issued in accordance with the that is issued under~~ Land Use Bylaw C-1260 and authorizes a development or use of a site.

“**Land Use Bylaw (LUB)**” means the Bylaw adopted by Council. [s. 640(1) M.G.A.]

“**Subdivision Appeal**” means an appeal described in Section 11 of this Bylaw.

“**Subdivision Authority**” means the person or persons designated by the City to perform the functions of a Subdivision Authority. [s. 623(a) M.G.A.]

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 up to a maximum of eight (8) members appointed by resolution of Council as follows:
- 3.2.1 up to a maximum of three (3) members from Council; and
- 3.2.2 at least five (5) a minimum of three (3) 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. [s. 627(4) M.G.A.]
- 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 Clerk.
- 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 With the exception of members of Council, remuneration for members participating in public hearings and/or mandatory training shall be as follows:
- 3.7.1 Chair
- a) \$219.00 for up to four (4) hours;
 - b) \$383.00 for four (4) hours up to eight (8) hours; or
 - c) \$601.00 for over eight (8) hours.
- 3.7.2 Member
- a) \$164.00 for up to four (4) hours;
 - b) \$290.00 for four (4) hours up to eight (8) hours; or
 - c) \$427.00 for over eight (8) hours.
- ~~3.8 Notwithstanding subsection 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 that are unable 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.~~
- 3.8 Notwithstanding subsection 3.2 of this Bylaw, Council may appoint a person for a specific period or a specific appeal to sit as an Alternate Member, if the Clerk anticipates that there is or may be an issue obtaining quorum.
- 3.9 An Alternate Member of the Board shall have the same powers and duties as members of the Board appointed pursuant to subsection 3.2 of this Bylaw.

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) three (3) consecutive 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.~~

5.1 The Chair will be appointed annually by resolution of Council from the members appointed to the Board.

5.1.1 If the Chair is unavailable for an appeal hearing the members present and constituting a quorum for a public hearing shall have a preliminary meeting to appoint the alternate Chair from amongst the members in attendance.

5.2 The Chair will preside over and be responsible for the conduct of the public hearing.

6. CLERK

6.1 ~~The Clerk shall~~ One or more Clerks must be appointed by resolution of Council and shall not be a member of the Board.

6.2 The Clerk shall have responsibilities and functions including the following:

6.2.1 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;

6.2.2 ensuring statutory notices and decisions of the Board are provided to such persons as the Act requires;

6.2.3 compiling and providing agenda packages to members of the Board and making ~~the same available to the public available for public inspection before the commencement of the hearing all relevant documents and materials respecting the appeal;~~

6.2.4 ~~signing assist in preparing~~ orders, decisions, approvals and notices made, given or directed by the Board ~~on its behalf~~; and

6.2.5 arranging for Alternate Members in accordance with subsections 3.8 ~~and 3.9~~ of this Bylaw.

7. QUORUM

7.1 A quorum shall be no less than three (3) members present for the purpose of conducting a public hearing. No more than one (1) Council member shall sit on a public hearing at the same time.

8. RESPONSIBILITIES OF THE BOARD

8.1 The Board shall meet at such intervals as are necessary to consider and decide appeals filed with it in accordance with the Act.

8.2 The Board may make rules necessary for the conduct the public hearing that are consistent with this Bylaw, the LUB, [Procedure Bylaw C-1299](#) and the Act.

8.3 The decision of the members of the Board present at a duly convened public hearing is deemed to be the decision of the Board.

8.4 In the event of a tie vote, an appeal shall be deemed to be denied.

8.5 A member of the Board, 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.

- 8.6 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.
- 8.7 The Board shall not permit electronic or similar recording devices to be used during a public hearing by anyone in attendance, except the Clerk.
- 8.8 During the hearing, should the Board desire further technical, legal, or other assistance, the Board may adjourn the hearing pending receipt of such information, opinion or assistance.
- 8.9 The granting and duration of an adjournment is at the discretion of the Board.

9. FEES

- 9.1 An Appellant shall pay to the City the fee in accordance with the [Fees, Rates and Charges Bylaw C-1395](#), at the same time a notice of appeal is served on the Clerk.
- 9.2 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.
- 9.3 If the Board makes a decision in favour of the Appellant, the fees paid under Section 9.1 of this Bylaw shall be refunded.
- 9.4 If the Board makes a decision that is not in favour of the Appellant, and on judicial review, the Court of Appeal makes a decision in favour of the Appellant the fee paid by the Appellant, under Section 9.1 of this Bylaw shall be refunded.
- 9.5 The fee referred to in Section 9.1 of this Bylaw shall be refunded if the notice of appeal is withdrawn within five (5) business days of submitting a complete application.
- 9.6 The refund referred to in Sections 9.3, 9.4 and 9.5 shall be issued within forty-five (45) days from the final appeal decision being issued in writing.

10. DEVELOPMENT APPEALS

- 10.1 The Board shall hold a public hearing on an appeal where a Development Authority for the City:
- 10.1.1 fails or refuses to issue a Development Permit to a person;
 - 10.1.2 issues a Development Permit subject to conditions ; or
 - 10.1.3 issues an order under Section 645 of the Act.
- [s. 685(1) M.G.A.]*
- 10.2 The Board shall hold a public hearing respecting any Development Appeal within thirty (30) days of receipt of the notice of appeal.
- [s. 686(2) M.G.A.]*
- 10.3 The Board shall give at least five (5) days notice in writing for the scheduled public hearing:
- 10.3.1 to the Appellant;
 - 10.3.2 to the Development Authority whose order, decision or Development Permit is the subject of the appeal; and
 - 10.3.3 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.
- [s. 686(3) M.G.A.]*

10.4 In determining a Development Appeal, the Board:

- 10.4.1 must hear the Appellant or any person referred to in Section 687(1) of the Act if those persons appear at the public hearing;
- 10.4.2 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) of the Act; except in the case of a Development Permit issued by Council with respect to land in a direct control district;
- 10.4.3 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 if, in its opinion, the proposed development would not:
 - a) unduly interfere with the amenities of the neighbourhood; or
 - b) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land; and
 - c) the proposed development conforms with the use prescribed for that land or building in the LUB. *[s. 687(3)(d) M.G.A.]*
- 10.4.4 shall comply with the land use policies established; and
- 10.4.5 shall have regard to but not be bound to the subdivision and development regulations.
- 10.5 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. *[s. 687(2) M.G.A.]*

11. SUBDIVISION APPEALS

- 11.1 The Board shall hear appeals of decisions of the Subdivision Authority. *[s. 678(1) M.G.A.]*
- 11.2 The Board shall hold a public hearing respecting any Subdivision Appeal within thirty (30) days of receipt of the notice of appeal. *[s. 680(3) M.G.A.]*
- 11.3 The Board shall give at least five (5) days notice in writing for the scheduled public hearing to:
 - 11.3.1 the applicant for subdivision approval;
 - 11.3.2 the Subdivision Authority that made the decision;
 - 11.3.3 if the land that is the subject of the application is adjacent to the boundaries of another municipality, that municipality;
 - 11.3.4 any school board to whom the application was referred; and
 - 11.3.5 every Government department that was given a copy of the application pursuant to the subdivision and development regulations.

~~11.3.6 all adjacent land owners who were given notice under Section 653(4) of the Act;~~

[s. 679(1) M.G.A.]

~~11.4 The board shall give all adjacent landowners five (5) days public notice for the scheduled public hearing in accordance with 653(4.2) of the Act.~~

~~11.4.11.5~~ In determining a Subdivision Appeal, the Board hearing the appeal:

~~11.4.11.5.1 must hear the persons referred to in Section 680(1)(a) of the Act if those persons have been notified of the public hearing; is not required to hear from any person or entity other than a person or entity that was notified under Section 679(1) of the Act and each owner of adjacent land to the land that is the subject of the appeal;~~

~~11.4.211.5.2~~ must have regard to any statutory plan;

~~11.4.311.5.3~~ must conform with the uses of land referred to in the LUB;

~~11.4.411.5.4~~ must be consistent with the land use policies established;

~~11.4.511.5.5~~ must have regard to, but is not bound by, the subdivision and development regulations;

~~11.4.6~~11.5.6 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; and

~~11.4.7~~11.5.7 may, in addition to the other powers it has, exercise the same power as a Subdivision Authority is permitted to exercise pursuant to the Act or the regulations or bylaws under the Act. *[s. 680(2) M.G.A.]*

~~11.5~~11.6 The Board must give its' decision in writing together with reasons for the decision within fifteen (15) days of the conclusion of the public hearing. *[s. 680(3) M.G.A.]*

~~11.6~~11.7 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.

~~11.7~~11.8 The Chair of the Board which heard a Subdivision Appeal is authorized to endorse the Plan of Subdivision or other instrument. *[s. 682(2) M.G.A.]*

12. CONFLICT OF INTEREST

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

12.1.1 affecting a private company of which he or she is controlling shareholder or the beneficial holder of a majority of its' issued shares;

12.1.2 affecting a public company in which he or she holds more than ten (10%) percent of the number of shares issued;

12.1.3 affecting a partnership, proprietorship or firm of which he or she is a member; or

12.1.4 affecting a company of which he or she is a director.

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

13. PECUNIARY INTEREST

13.1 The pecuniary interest provisions of the Act apply to all members while attending public hearings. *[s. 170(1) M.G.A.]*

14. REPEAL

14.1 Bylaw C-1374 and all amendments are hereby repealed.

15. EFFECTIVE DATE

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

READ a first time this _____ day of _____, 2022.

READ a second time this _____ day of _____, 2022.

READ a third time and finally passed this _____ day of _____, 2022.

Mayor

City Clerk