

## BYLAW NO. 832/95

A BY-LAW OF LACOMBE COUNTY, IN THE PROVINCE OF ALBERTA, TO ESTABLISH THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD BY-LAW OF LACOMBE COUNTY.

WHEREAS Section 627 of the Municipal Government Act, S.A. 1994 as amended (“the Act”) requires that the Council establish a by-law a Subdivision and Development Appeal Board;

NOW THEREFORE THE COUNCIL of Lacombe County, duly assembled, enacts as follows:

### 1. NAME

This By-Law shall be cited as the “Subdivision and Development Appeal Board By-Law”.

### 2. DEFINITIONS

The following words and phrases mean:

- 2.1 “Act” means the Municipal Government Act, S.A. 1994, as amended.
- 2.2 “Appellant” means a person who, pursuant to the Act, has served a notice of appeal on the Subdivision and Development Appeal Board.
- 2.3 “Council” means the Reeve and Councillors of Lacombe County elected pursuant to the provisions of the Act, whose terms is unexpired, who have not resigned and who continue to be eligible to hold office as such under the terms of the Act.
- 2.4 “Development Application” means an application made to the Development Authority in accordance with the Land Use By-Law for the purpose of obtaining a development permit.
- 2.5 “Development Authority” means the persons established under Section 3 of the Development Authority By-Law to perform the functions of a Development Authority under the Act.
- 2.6 “Development Permit” means a document authorizing a development issued in accordance with the Land Use By-Law.
- 2.7 “Land Use By-Law” means the By-Law adopted by Lacombe County as a land use by-law pursuant to the Act or the former Act.
- 2.8 “Non Statutory Plans” means local area development plans, outline plans and documents adopted by Council.
- 2.9 “Statutory Plan” means the Lacombe County Municipal Development Plan, and any Intermunicipal Development Plan, Area Structure Plan or Area Redevelopment Plan adopted by Council pursuant to the Act.
- 2.10 “Subdivision Authority” means the persons established under Section 3 of the Subdivision Authority By-Law to perform the functions of a Subdivision Authority under the Act.
- 2.11 “Subdivision and Development Appeal Board” means the Board established to hear subdivision and development appeals pursuant to Section 3 of this By-Law.
- 2.12 “Subdivision and Development Appeal Board Secretary” means the person appointed to the position established under Section 7 herein.

### **3. ESTABLISHMENT AND MEMBERSHIP**

- 3.1 The Subdivision and Development Appeal Board of Lacombe County is hereby established.
- 3.2 The Subdivision and Development Appeal Board shall consist of four (4) members from the public at large appointed annually by resolution of the Council.
- 3.3 Council may appoint one (1) alternate member who shall be a member of the Subdivision and Development Appeal Board only in the event a member is absent, or otherwise cannot hear an appeal.
- 3.4 No person who is an employee of Lacombe County, or who is a member of the Development Authority or the Subdivision Authority for Lacombe County, shall be appointed to the Subdivision and Development Appeal Board.
- 3.5 Any vacancies caused by the death, retirement or resignation of a member may be filled by resolution of the Council.
- 3.6 Council may by resolution remove a member from the Subdivision and Development Appeal Board.

### **4. TERM OF OFFICE**

- 4.1 Subject to Section 3.5, each member of the Subdivision and Development Appeal Board shall be appointed at the pleasure of the Council for a term of one (1) year and may be reappointed upon the expiry of the term at the pleasure of the Council.

### **5. CHAIRPERSON**

- 5.1 At the first meeting of the Subdivision and Development Appeal Board, following the appointment of members each year, a Chairperson shall be elected by vote of the majority of the members.
- 5.2 A member may be re-elected to the position of Chairperson.
- 5.3 A Chairperson shall preside at the meetings of the Subdivision and Development Appeal Board.

### **6. VICE CHAIRPERSON**

A Vice Chairperson shall be elected at the same time and under the same rules as the Chairperson.

A member may be re-elected to the position of Vice Chairperson.

In the absence of the Chairperson, the Vice Chairperson shall preside at the meetings of the Subdivision and Development Appeal Board.

In the absence of the Chairperson and the Vice Chairperson, one of the other members of the Subdivision and Development Appeal Board shall be elected to preside.

### **7. SECRETARY OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

- 7.1 The Chief Administrative Officer for Lacombe County shall be the "Subdivision and Development Appeal Board Secretary".
- 7.2 The Subdivision and Development Appeal Board Secretary shall have responsibilities and duties including the following:

7.2.1 Receives and processes subdivision and development appeals for consideration by the Subdivision and Development Appeal Board and in accordance with policies and procedures adopted by the Board.

- 7.2.2 Makes and keeps a record of the Subdivision and Development Appeal Board's proceedings.
- 7.2.3 Ensures statutory notices and decisions of the Subdivision and Development Appeal Board are provided to such persons as the Act requires.
- 7.2.4 Signs orders, decisions, approval notices, and other items given by the Subdivision and Development Appeal Board on its behalf.

## **8. QUORUM AND MEETINGS**

A quorum of the Subdivision and Development Appeal Board shall be three (3) members of the Subdivision and Development Appeal Board.

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

The Subdivision and Development Appeal Board shall have prepared and maintain and file or written minutes of the business transacted at all meetings and hearings of the Subdivision and Development Appeal Board.

A member of the Subdivision and Development Appeal Board who is for any reason, unable to attend the whole or a part of any hearing of an appeal, shall not participate in the deliberations or decision of the Subdivision and Development Appeal Board upon that appeal.

The Subdivision and Development Appeal Board may make rules as are necessary for the conduct of its meetings, its hearings, and its business that are consistent with this By-Law, the Land Use By-Law, and the Act.

## **9. FEES AND EXPENSES**

- 9.1 The remuneration, traveling, living and other expenses of the members of the Subdivision and Development Appeal Board shall be established by Council resolution from time to time.
- 9.2 Fees associated with the holding of hearings and meetings of the Subdivision and Development Appeal Board may be set by the Council by By-Law.

## **10. DEVELOPMENT APPEALS**

10.1 Subject to Sections 641(4) and 685(3) of the Act, the Subdivision and Development Appeal Board shall hear appeals where the Development Authority for Lacombe County:

refuses or fails to issue and development permit to a person;

issues a development permit subject to conditions; or

issues an order under Section 645 of the Act;

provided appeals are received within the time limitations and in the manner indicated in the Act.

Subject to Section 641(4) and 685(3) of the Act, the Subdivision and Development Appeal Board shall hear appeals from any person affected by an order, decision or development permit issued by the Development Authority, who appeals within the time limitations and in the manner indicated in the Act.

The Subdivision and Development Appeal Board shall hold an appeal hearing respecting any Development Appeal within thirty (3) days of receipt of a notice of appeal.

10.4 The Subdivision and Development Appeal Board shall give at least five (5) days' notice in writing of the appeal hearing to:

10.4.1 the Appellant;

10.4.2 the Development Authority of Lacombe County;

10.4.3 the owners required to be notified under the Land Use By-Law;

and

10.4.4 any other person that the Subdivision and Development Appeal Board considers to be affected by the appeal and should be notified.

10.5 In determining an appeal, the Subdivision and Development Appeal Board:

10.5.1 shall comply with the Land Use Policies established pursuant to Section 622 of the Act;

10.5.2 shall comply with any statutory plan and, subject to clause (5) hereof, the Land Use By-Law;

10.5.3 shall have regard to but not be bound to the Subdivision and Development Regulations established pursuant to Section 694 of the Act and non-statutory plans;

10.5.4 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.

10.5.5 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 Land Use By-Law if, in its opinion,

(i) 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;

(ii) the proposed development conforms with the use prescribed for that land or building in the Land Use By-Law.

10.6 The Subdivision and Development Appeal Board shall give its decision in writing together with reasons for the decision within fifteen (15) days of the conclusion of the public hearing.

## 11. SUBDIVISION APPEALS

Subject to Section 678 of the Act, the Subdivision and Development Appeal Board shall hear appeals of decisions of the Subdivision Authority for Lacombe County provided an appeal is received within the time limitations and in the manner indicated in the Act.

The Subdivision and Development Appeal Board shall hold an appeal hearing respecting any appeal within thirty (30) days of receipt of the notice of appeal.

The Subdivision and Development Appeal Board shall give at least five (5) days' notice in writing of the appeal hearing to:

the applicant for subdivision approval;

the Subdivision Authority of Lacombe County;

any school authority to whom the application for subdivision approval was referred;

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all adjacent land owners who were given notice of the application for subdivision approval pursuant to Section 653(4) of the Act;

every Government department that was given a copy of the application for subdivision approval pursuant to the Act; and

if the land that is the subject of the application for subdivision approval is adjacent to the boundaries of another municipality, that municipality.

In determining an appeal, the Subdivision and Development Appeal Board:

shall be consistent with the Land Use Policies established pursuant to Section 622 of the Act;

shall have regard to any statutory and non-statutory plans which are in effect;

shall conform with the uses of land referred to in the Land Use By-Law;

shall have regard to but not be bound to the Subdivision and Development Regulations established pursuant to Section 694 of the Act;

may confirm, revoke or vary the approval or decision or any condition imposed by the Subdivision Authority or make or substitute a decision or any condition of its own;

may exercise the same power as the Subdivision Authority is permitted to exercise pursuant to the Act or any Regulations or By-Laws adopted pursuant to the Act;

The Subdivision and Development Appeal Board shall give its decision in writing together with reasons for the decision within fifteen (15) days of the conclusion of the public hearing.

## **12. EFFECTIVE DATE**

The Subdivision and Development Appeal Board established pursuant to this By-Law shall take effect December 1, A.D. 1995.

Received first reading this 5<sup>th</sup> day of October, A.D. 1995.

Received second and third readings and finally passed this 12<sup>th</sup> day of October, A.D. 1995.

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Reeve

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County Commissioner