



VILLAGE OF RYCROFT BYLAW NO. 86-08

A BYLAW OF THE VILLAGE OF RYCROFT IN THE PROVINCE OF ALBERTA TO ESTABLISH A SUBDIVISION & DEVELOPMENT APPEAL BOARD PURSUANT TO THE MUNICIPAL GOVERNMENT ACT, CHAPTER M-26 AND AMENDMENTS THERETO.

Whereas, the Municipal Government Act, RSA 2000, Chapter M-26 as amended, provides that a municipality shall by Bylaw establish a Subdivision & Development Appeal Board.

NOW THEREFORE under the authority of the Municipal Government Act RSA 2000, Chapter M-26, the Council of the Village of Rycroft, in the Province of Alberta, duly assembled enacts as follows:

1. **NAME**

This Bylaw shall be cited as the "**Subdivision & Development Appeal Board Bylaw**".

2. **PURPOSE**

The purpose of this Bylaw is to establish a Subdivision & Development Appeal Board pursuant to the Municipal Government Act, R.S.A. 2000.

3. **DEFINITIONS**

In this Bylaw:

- a) "**Act**" means the Municipal Government Act, R.S.A. 2000 c. M-26, and amendments thereto;
- b) "**Adjacent**" means land that is contiguous to a site and includes land that would be contiguous if not for a public roadway, river, stream, pipeline, or railway;
- c) "**Appellant**" means a person, who pursuant to the Act has filed a notice of appeal with reasons, with the Subdivision & Development Appeal Board;
- d) "**Board**" means the Village of Rycroft Subdivision & Development Appeal Board;
- e) "**Council**" means the Council of the Village of Rycroft;
- f) "**Municipality**" means the Village of Rycroft;
- g) "**Administrator**" means the Chief Administrative Officer of the Village of Rycroft;
- h) "**Development Application**" means an application made to the Development Authority in accordance with the Land Use Bylaw for the purposes of obtaining a development permit;
- i) "**Development Authority**" means the authority established by Council to exercise development powers and duties on behalf of the Village of Rycroft;
- j) "**Development Permit**" means a document authorizing a development, issued in accordance with the Land Use Bylaw, the Subdivision and Development Regulations and the Act'

- l) **"Land Use Bylaw"** means the Land Use Bylaw of the Village of Rycroft;
- m) **"Members"** means the members of the Subdivision & Development Appeal Board appointed by Council pursuant to this Bylaw;
- n) **"Secretary"** means the person appointed by Council to act the Secretary of the Subdivision & Development Appeal Board or an alternate person as designated by the Administrator should the Council appointed Secretary be unable to act as secretary;
- o) **"Subdivision Application"** means an application made to the Subdivision Authority in accordance with this Act, the Subdivision & Development Regulations and the Land Use Bylaw, for the purpose of obtaining a Subdivision Approval;
- p) **"Subdivision Authority"** means the authority established by Council to exercise subdivision powers and duties on behalf of the Village of Rycroft;
- q) **"Subdivision & Development Regulations"** means the regulations enacted pursuant to the Act, including the Subdivision & Development Regulations and the Subdivision & Development Forms Regulations;

All other terms used in this Bylaw shall have the meaning assigned to them by the Municipal Government Act, Chapter M-26, R.S.A. 2000, and amendments thereto, to the extent that the said meaning differs from the ordinary meaning of such terms.

4. **ESTABLISHMENT**

The Board is hereby established.

5. **MEMBERSHIP**

The Board shall be composed of not less than three (3) and not more than five (5) persons, all of whom are members-at-large. No person who is a member of the Village Council or an employee of the Village or any person who carries out subdivision and development powers, duties and functions on behalf of the Village shall be appointed to the Board. Any vacancies caused by death, retirement or resignation of a member may be filled by resolution of Council. All members of the Board shall be residents of the Village.

6. **TERM OF OFFICE**

Appointments to the Board shall be for a term commencing the date of the Annual Organizational Meeting or the date of their appointment, to the next Annual Organizational Meeting, subject to Section 5 of this Bylaw. A member of the Board may be re-appointed upon expiry of his/her term by the Council, at its Annual Organizational Meeting. Where a member ceases to be a member before the expiration of his/her term, Council shall appoint another eligible person for the unexpired portion of the term of the retiring member. Council may remove a member from the Board by resolution at any time.

7. **CHAIRMAN**

At the first meeting of the Board following the Council's Organizational Meeting each year, a Chairman shall be elected by vote of the majority of the members present. A member may be re-elected to the position of Chairman. The Chairman shall preside at the meetings of the Board. In the event of the absence or inability of the Chairman to act as Chairman at a meeting of the Board, a Vice-Chairman shall preside as Chairman and if no Vice-Chairman is designated or in the event of the absence or inability to act as the Vice-Chairman, the members of the Board present at the meeting shall elect a member to act as Chairman at the meeting.

8. **DELIBERATION PARTICIPATION**

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

9. RENUMERATION, TRAVELLING AND LIVING EXPENSES

A member of the Board shall be entitled to such remuneration, traveling and living expenses, as may be fixed from time to time by Council and remuneration, traveling and living expenses shall be paid by the Village.

10. SECRETARY

The Council shall appoint a Secretary who shall be an employee of the Village and the Secretary shall attend all meetings and hearings of the Board but shall not vote on any matters before the Board. The functions and responsibilities of the Secretary shall be as follows:

- a) To perform such functions as may be necessary to assist the Board to be in full compliance with its duties as outlined in the Act and this Bylaw;
- b) Upon receipt of a Notice of Appeal duly filed pursuant to the provisions of the Act and of this Bylaw, shall inform all affected parties of the appeal hearing in accordance with the requirements of this Bylaw;
- c) Notify all members of the Board of the arrangements for the holding of each hearing and other meetings of the Board;
- d) Compile all necessary documentation for distribution to Board members;
- e) Shall attend all meetings of the Board and keep the following records with respect thereto;
 - i. The minutes of all meetings and hearings;
 - ii. All applications
 - iii. Records of all notices of hearings and of persons to whom they were sent;
 - iv. Copies of all written representations to the Board;
 - v. Notes as to each representations;
 - vi. The names and addresses of those making representations at the hearing;
 - vii. The decision of the Board;
 - viii. The reasons for the decision of the Board;
 - ix. The vote of the members of the Board on the decision;
 - x. Records of all notices of decision and of persons to whom they were sent;
 - xi. All notices, decisions and orders made on appeal from the decisions for the Board; and
 - xii. Such other matters as the Board may direct or the Secretary may determine.
- f) Communicate decisions of the Board to the affected parties;
- g) Notify Council of the decision of the Board;
- h) Shall make available for public inspection before the commencement of the public hearing all relevant documents and materials respecting the appeal including;
- i) The application for subdivision, the development permit, its approval or refusal or
 - i. The order of the Development Officer
 - ii. Sign orders, decisions, approvals, notices and other items made, given or issued by the Board on its behalf.

11. HEARINGS

The Board shall meet for the hearings of appeals as frequently as is necessary and in any event within thirty (30) days of receipt of a Notice of Appeal duly filed pursuant to the provisions of the Act and of this Bylaw. The hearing of an appeal pursuant to the Act and the provisions of the Land Use Bylaw shall be held in public.

12. QUORUM AND MEETINGS

A quorum of the Subdivision & Development Appeal Board shall be three (3). Only those members of the Board present at the public hearing or special meeting of the Board shall take part in the making of the decision on any matter before it.

The Subdivision & Development Appeal Board shall meet at such intervals as are necessary to consider and decide appeals filed with it in accordance with the Act. If an appeal is recessed or tabled for any reason following the submission of evidence, a special meeting may be called and those members present at the original hearing shall attend the special meeting to render a decision.

Where an Appellant or other interested party makes a request to have an appeal heard at a special meeting of the Board, the Board may direct that the costs for holding the special meeting be borne by the Appellant or other party requesting the special meeting, as the case may be. The Board shall have the discretion to determine whether or not the costs shall be payable in advance of the special hearing. Costs shall consist of the per diem honorariums payable to the Board members as established by Council resolution and shall be payable to the Village.

13. **APPEALS**

a) In the case of a Development Permit Appeal:

Where the Development Authority for the Village

- i. Refuses or fails to issue a development permit to a person, or
- ii. Issues a development permit subject to conditions, or
- iii. Issues an order pursuant to the Act,

The person applying for the permit or affected by the order, decision or development permit or any other person affected by an order, development permit or decision of the Development Officer or Development Authority may appeal to the Board in accordance with this Bylaw.

Subject to the provisions of the Act, the Board shall consider and decide all appeals concerning development permits 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 written notice of the appeal shall be made and signed by the Appellant on the prescribed Subdivision & Development Appeal Form as included in the Village's Land Use Bylaw.

The Appellant may serve the Subdivision/Development Appeal form on the Board by **either** mailing it by registered mail, or by delivering it in person to:

The Secretary
Subdivision & Development Appeal Board
Village of Rycroft
At its administration office

So as to reach the address not later than twelve midnight on or before the fourteen (14th) day, including Saturdays, Sundays and holidays after the date the development permit, order or decision or permit issued by the Development Officer was **either**:

- i. First published in a newspaper circulating in the area, or;
- ii. Posted on the site of the property the subject of the application; or
- iii. Received by the Appellant

Whichever of these shall occur first?

The Board shall hold an appeal hearing respecting any Development Appeal within thirty (30) days of receipt of the notice of appeal. Proof of the said delivering to be the official date stamp of the Village of Rycroft.

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

- i. The Appellant, by registered mail or by hand delivering the same to the address for service noted on the Notice of Appeal or the place of residency of the Appellant;
- ii. The Applicant;
- iii. The Development Authority and the Development Officer of the Village;
- iv. The owners required to be notified pursuant to the Land Use Bylaw of the Village; and
- v. Any other person that the Board considers to be affected by the appeal and should be notified.

At the hearing of the appeal, should the Board desire further technical information, legal opinions or other assistance, it may table the hearing pending receipt of such information, opinion or other assistance.

Where a hearing is adjourned or the decision is reserved and the Board does not at the time of adjournment fix a time and place for the further hearing of the application and announce it to those

that notice of the time and place for further hearing will be sent to only those persons who leave their name and address with the Secretary and thereafter only such persons as do leave their name and address shall be entitled to notice of the further hearing.

The Board shall give its decision in writing together with reasons for the decision within 15 days of the conclusion of the public hearing.

b) In the case of a Subdivision Appeal:

Where the Subdivision Authority:

- i. Refuses or fails to issue a decision on an application for a subdivision or
- ii. Issues an approval for a subdivision subject to conditions the person applying for approval or a Government department circulated to, or a school authority with respect to reserves, may apply to the Board by serving a written notice of the appeal to the Board within fourteen (14) days of receipt of the written decision of the Development Authority or deemed refusal under the provisions of the Act.

The Appellant may serve the Subdivision/Development Appeal Form on the Board by **either** mailing it by registered mail, or by delivering it in person to:

The Secretary
Subdivision & Development Appeal Board
Village of Rycroft
At its administration office

At its administration office so as to reach the address not later than twelve midnight on the fourteen (14th) day, including Saturdays, Sundays and holidays after the receipt of the written decision or deemed refusal, such receipt of the written decision or deemed refusal to be determined pursuant to the Interpretation Act.

The Board shall hold an appeal hearing respecting any appeal within thirty (30) days of receipt of the notice of appeal. Proof of said delivering to be the official date stamp of the Village of Rycroft.

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

- i. The Appellant by registered mail or by hand delivering the same to the address for service noted on the Notice of Appeal or the place of residency of the Appellant;
- ii. The Subdivision Authority of the Village;
- iii. The adjacent landowners who were given notice of the application for subdivision approval pursuant to the Act or required to be notified under the Land Use Bylaw of the Village;
- iv. Every Government department that was given a copy of the Subdivision Application;
- v. Any school authority to whom the application was referred; and
- vi. Any other person or entity that the Board considers to be affected by the appeal and should be notified.

The Board shall make available for public inspection, prior to the hearing, all relevant documents and materials respecting the appeal.

In accordance with the Act, the Board shall hear:

- i. The Appellant or any person acting on his/her behalf;
- ii. Any other person or entity wishing to be heard who was served with notice of the hearing or a person acting on behalf of the person or entity;
- iii. The Subdivision Authority.

At the hearing of the appeal, should the Board desire further technical information, legal opinions or other assistance, it may table the hearing pending receipt of such information, opinion or other assistance.

Where a hearing is adjourned or the decision is reserved and the Board does not at the time of adjournment fix a time and place for the further hearing of the application and announce it to those in attendance it shall be the duty of the Chairman of the Board to announce to those in attendance

their name and address with the Secretary and thereafter only such persons as do leave their name and address shall be entitled to notice of the further hearing.

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

14. **DECISION**

In determining a Development Appeal, the Board:

- a) Shall comply with the Land Use policies established pursuant to the Act;
- b) Shall comply with any statutory plan and subject to the Land Use Bylaw of the Village;
- c) Shall have regard to but is not bound to the Subdivision & Development Regulations established pursuant to the Act;
- d) 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;
- e) 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 Bylaw if, in its opinion:
 - i. The proposed development would not
 - 1) Unduly interfere with the amenities of the neighbourhood, or
 - 2) Materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land, and
 - ii. The proposed development conforms to the use prescribed for that land or building in the Land Use Bylaw of the Village.

In determining a Subdivision Appeal the Board:

- a) Shall be consistent with the Land Use Policies established pursuant to the Act;
- b) Shall have regard to any statutory plan which is in effect;
- c) Shall conform with the uses of land referred to in the Land Use Bylaw of the Village;
- d) Shall have regard to but is not bound to the Subdivision & Development Regulations established pursuant to the Act;
- e) 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; and
- f) May exercise the same power as the Subdivision Authority is permitted to exercise pursuant to the Act or any Regulations or Bylaws adopted pursuant to the Act.

The decision of the majority of the members of the Board present at a meeting shall be deemed to be the decision of the whole Board. In the event of a tied vote of the Board, the appeal is lost.

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 to the Appellant and any other person who was in attendance at the public hearing and made submissions to the Board in respect of that hearing and to any person or entity notified of the Appeal Hearing. The Board may make its decision and approvals and issue notices with or without conditions.

The Secretary of the Board or the Chairman of the Board may make a verbal announcement of the decision upon an appeal at the conclusion of the public hearing, but in that event shall notify the parties that the verbal decision is not final or binding, and that the parties should not act upon it until it has been reduced to writing and signed.

The Board shall make and keep a written record of its proceedings which may be in the form of a summary of the evidence presented to it at the hearing.

15. **GENERAL**

THE Board may make rules as are necessary for the conduct of its business and its meetings that are consistent with the Land Use Bylaw and the Act.

16. **SEVERABILITY**

Should any provision of this Bylaw become invalid, void, illegal or otherwise not enforceable, it shall be considered separate and severable from the Bylaw and the remainder shall remain in force and be binding as though such provision had not been included.

17. **REPEAL**

The previous SDAB Bylaw No. 37-95 is hereby repealed effective the date of final passing hereof.

18. **EFFECTIVE DATE**

This Bylaw shall come into effect as of the final date of passing.

Received first reading this 22 day of December, 2008.

Received second reading this 22 day of December, 2008.

Received third and final reading by unanimous consent of all members of Council present this 22 day of December, 2008.

Village of Rycroft

Original signed by the Mayor and CAO on this 14 day of January, 2009.

Mayor
Matt Dika

CAO
Monique Jeffrey