

**TOWN OF REDCLIFF
BYLAW NO. 1857/2018**

A BYLAW OF THE TOWN OF REDCLIFF to establish the Subdivision and Development Appeal Board and prescribe its role and responsibilities.

WHEREAS pursuant to section 627 of the *Municipal Government Act* Council must by Bylaw establish a Subdivision and Development Appeal Board;

AND WHEREAS pursuant to section 627.1 of the *Municipal Government Act* a council that established a subdivision and development appeal board must appoint one or more clerks of the subdivision and development appeal board;

AND WHEREAS pursuant to section 628 of the *Municipal Government Act* a bylaw under section 627 must provide for the applicable matters described in section 145 (b), and prescribe the functions and duties of the Subdivision and Development Appeal Board;

AND WHEREAS pursuant to section 145 of the *Municipal Government Act* Council may pass bylaws in relation to the procedures followed by Council, council committees and other bodies established by the Council;

NOW THEREFORE THE MUNICIPAL CORPORATION OF REDCLIFF, IN COUNCIL ASSEMBLED, ENACTS AS FOLLOWS:

CITATION

1. This Bylaw shall be known as the "Town of Redcliff Subdivision and Development Appeal Board Bylaw".

DEFINITIONS

2. In this Bylaw the following terms (unless the context specifically requires otherwise) shall have the following meaning:
 - a) "Act" means the *Municipal Government Act*, as amended from time to time.
 - b) "Alternate" means a duly appointed member of the Subdivision and Development Appeal Board that is specifically named and titled as an alternate and such alternate shall assume all duties and rights of a full-time member should any full-time member be:
 - i) unable to attend a hearing of the Subdivision and Development Appeal Board; or
 - ii) declares he/she is abstaining from participation in a specific hearing to be held by the Subdivision and Development Appeal Board.
 - c) "Appellant" means the person who has served written notice of an appeal on the Subdivision and Development Appeal Board from a decision, order or development permit issued by the Redcliff Subdivision Approving Authority or Development Authority.



- d) "Clerk" means the designated officer appointed as clerk of the Subdivision and Development Appeal Board in accordance with the Municipal Government Act.
- e) "Community at large" means the persons residing within the corporate boundaries of the Town of Redcliff.
- f) "Council" means the Council of the Town of Redcliff.
- g) "Development" shall be defined as outlined in the current Land Use Bylaw of the Town of Redcliff.
- h) "Development Application" means an application made to the Town in accordance with the Land Use Bylaw for the purpose of obtaining a Development Permit.
- i) "Development Authority" means a person appointed to the office of development officer pursuant to the Land Use Bylaw, or the Municipal Planning Commission.
- j) "Development Permit" means a document authorizing a development proposal in accordance with the Land Use Bylaw.
- k) "Land Use Bylaw" means a Bylaw of the Town of Redcliff adopted by Town Council as a Land Use Bylaw and all amendments thereto, in accordance with the *Act*.
- l) "Member" means a member of the Subdivision and Development Appeal Board duly appointed by Town Council pursuant to this Bylaw.
- m) "Municipal Planning Commission", "Planning Commission" or "Commission" means the Town of Redcliff Municipal Planning Commission established by Council pursuant to the *Act*.
- n) "Stop Order" means a written notice pursuant to section 645 of the Act issued by the development authority, which may order the stoppage of all works or activities on the land and/or require compliance with actions required by the notice to ensure the use of structures on the lands in question are in accordance with the requirement of the Act, the land use bylaw, development permit or a subdivision approval.
- o) "Subdivision" means a subdivision application submitted to the Redcliff Subdivision Approving Authority that has had a decision made.
- p) "Subdivision Authority" means the Town of Redcliff Subdivision Authority established pursuant to the *Act*.
- q) "Subdivision and Development Appeal Board" means the Subdivision and Development Appeal Board established by Council pursuant to this Bylaw in accordance with the *Act*.



ESTABLISHMENT AND COMPOSITION

3. A Subdivision and Development Appeal Board is hereby established under the name of Redcliff Subdivision and Development Appeal Board.

4. The Subdivision and Development Appeal Board shall consist of five (5) members as well as two (2) alternates as follows:

Members

- a) one (1) Councillor as appointed by Redcliff Town Council;
- b) four community at large persons as appointed by Redcliff Town Council.

Alternate Members

- a) one (1) Councillor appointed by Redcliff Town Council;
- b) one (1) community at large person as appointed by Redcliff Town Council.

5. The following persons are ineligible to be members:

- a. An employee of the municipality;
- b. A person who carries out subdivision or development powers, duties and functions on behalf of the municipality;
- c. A member of a municipal planning commission;
- d. Persons who are not residents in the Town of Redcliff; and
- e. Any Councilor of Redcliff Town Council other than the appointed member or their alternate. The number of Councillors sitting on any appeal shall not exceed one (1).
- f) Any other person who is not eligible to be a member as set out in the Act.

6. Members appointed who are Councillors of the Town of Redcliff shall be appointed at the Organizational Meeting of Redcliff Town Council, for a term of one (1) year and may be reappointed at the annual Organizational Meeting of Redcliff Town Council

7. A community at large member(s) shall be appointed for a term of up to three (3) years to expire on December 31 of the year which shall be established when they are appointed.

8. Members will meet the training requirements as set out in the Act to be qualified to participate in a hearing promptly after appointment or re-appointment and, in any event, must do so prior to participating in a hearing.

9. The Subdivision and Development Appeal Board may make its rules as are necessary for the conduct of its meetings and its business in accordance with the *Act*, applicable Regulations and this Bylaw.

TERMINATION OF APPOINTMENTS

10 Subject to Section 11(b) below, the rules of conduct relating to pecuniary interest contained in the Act, and the Town of Redcliff Code of Ethics and Conduct of members appointed to Redcliff Committees, Boards and Commissions Policy shall be deemed to apply to members of the Subdivision and Development Appeal Board.



11. Council may by resolution terminate the appointment of any member of the Subdivision and Development Appeal Board if:
 - a) the member is absent from three (3) consecutive meetings of the Subdivision and Development Appeal Board;
 - b) the member violates the rules of conduct referred to in Section 10 above;
 - c) the member uses information gained through his position as a member of the Subdivision and Development Appeal Board to gain a pecuniary benefit in respect of any matter in which he/she has a pecuniary interest, or;
 - d) the member otherwise conducts himself in a manner that Council considers to be improper.
12. A member of the Subdivision and Development Appeal Board's appointment shall automatically terminate if the member ceases to be a member of the Community at large.
13. The appointment of a member of the Subdivision and Development Appeal Board may at any time be revoked by resolution of Council.

CHAIRMAN

14. The members of the Subdivision and Development Appeal Board shall at each meeting elect by majority a member who shall act as the Chairman of the Subdivision and Development Appeal Board for that hearing.
15. The Chairman or such other person authorized by the Subdivision and Development Appeal Board, shall sign all notices of decisions and other documents on behalf of the Board relating to any jurisdiction or power of the Board.
16. Any document that has been signed by the Chairman or the authorized person shall be deemed to have been signed on behalf of and with the approval of the Subdivision and Development Appeal Board.

APPOINTMENT AND DUTIES OF CLERK

17. Council appoints the Manager of Legislative and Land Services, as a designated officer, as Clerk of the Subdivision and Development Appeal Board.
18. The Clerk must successfully complete the training requirements pursuant to the Act and applicable regulations.
19. The Clerk shall perform such functions as may be necessary to assist the Subdivision and Development Appeal Board to fulfill its duties under the Act, applicable regulations, and this Bylaw.



20. The Clerk shall maintain a written record with respect to:
- a) the minutes of all meetings and public hearings;
 - b) all applications for appeals;
 - c) copies of all written representation to the Subdivision and Development Appeal Board;
 - d) a summary of any verbal evidence presented to the Subdivision and Development Appeal Board;
 - e) the names and addresses of those persons making representation to the Subdivision and Development Appeal Board;
 - f) the decisions together with the reasons of the Subdivision and Development Appeal Board;
 - g) copies of all notices of decisions and to whom they were sent.
21. The Clerk shall:
- a) notify all members of the Subdivision and Development Appeal Board of the arrangements for holding each hearing and other meetings
 - b) make available for public inspection all relevant documents and materials respecting appeals and all appeal decisions.
 - c) notify the appellant and any other required parties of the decision of the Subdivision and Development Appeal Board. The Clerk is authorized to sign such correspondence.

DUTIES OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

22. The Subdivision and Development Appeal Board shall meet at such intervals as are necessary to hear all appeals from decisions and stop orders of the Development Authority and Redcliff Subdivision Authority pursuant to the requirements of the Act, applicable regulations, the Land Use Bylaw and this Bylaw.
23. The Subdivision and Development Appeal Board shall conduct itself in accordance with all provisions set out in Part 5 and Part 17 of the Act.
24. In determining an appeal the Subdivision and Development Appeal Board must consider the Subdivision and Development Regulation, the Provincial Land Use Policies, the Alberta Land Stewardship Act and applicable regional plans, the Town's Municipal Development Plan and other Town statutory plans, the Town's Land Use Bylaw, and other pieces of legislation, regulations or policies when applicable.



25. Every member in attendance at a Subdivision and Development Appeal Board hearing shall participate in the deliberations and vote on every matter placed before the Subdivision and Development Appeal Board:
- a) unless in a specific case, the Chairman or member is excused by resolution of the Subdivision and Development Appeal Board from voting, or
 - b) unless recused from voting by reason of pecuniary interest.
 - c) unless recused as the member is proved or perceived to not act in an impartial manner pursuant to section 32.c.
 - d) a member, who for any reason is unable to attend the entire hearing of an appeal, shall not participate in the Subdivision and Development Appeal Boards deliberations for the decision made by the Subdivision and Development Appeal Board on that appeal.

RIGHT OF APPEAL

26. Pursuant to the Act, applicable regulations, or the Land Use Bylaw a person may appeal to the Subdivision and Development Appeal Board.
27. The written notice of the appeal shall be made on the Subdivision and Development Appeal Form as prescribed by Council resolution from time to time and signed by the Appellant and accompanied by a fee as prescribed in the Town of Redcliff Rates Policy adopted by Council. The fee is to be paid at time of appeal.
28. The Appellant may serve the Subdivision and Development Appeal Form to the Subdivision and Development Appeal Board by either:
- a) registered or certified mail addressed to:

Clerk of the Subdivision & Development Appeal Board
Town of Redcliff
1 - 3 Street N.E., Box 40
Redcliff, Alberta, T0J 2P0

or

 - b) delivering it in person to the Office of the Clerk of the Subdivision and Development Appeal Board in the Town Hall to reach/deliver no later than the fourteenth (14th) day (including Saturdays, Sundays and holidays) after the person is notified in accordance with the Land Use Bylaw, development permit issued by the Development Authority or Redcliff Subdivision Approving Authority as the case may be.

NOTICE OF PUBLIC HEARING

29. Upon receipt of notice of appeal duly filed pursuant to the provisions of this Bylaw, the Land Use Bylaw, and the *Act*, the Clerk of the Subdivision and Development Appeal Board shall :
- a) set a date, time, and place for a public hearing to be held within the time limit prescribed under the *Act*, and
 - b) ensure that the requirements of the *Act*, applicable regulations, Land Use Bylaw and this Bylaw are complied with.

QUORUM

30. Quorum is met by attendance of three (3) members eligible to vote on the matter after clause 25 is considered. If during the hearing a Member of the Board declares themselves ineligible to vote and Quorum can no longer be met then hearing must be closed without a decision rendered and a new meeting set with a new Board.

HEARING PROCEDURES

31. The Clerk will call the meeting to order, confirm a quorum is present, and open the floor for nominations of a Chairperson.
32. The Chair will:
- a) outline the procedure to be followed at the hearing;
 - b) will read the details of the appeal,
 - c) ask if there is anyone present who has any objection to any of the members hearing the appeal;
 - d) will accept, mark and enter any exhibits presented by the parties
 - a. contained in the agenda of the meeting
 - b. asking if there are any additional exhibits to be to be presented;
33. The typical hearing process will be as follows:
- a) Introduction by the Chairperson
 - b) Presentations by Development Authority, Redcliff Subdivision Approving, and/or Administration as applicable;
 - c) Presentation by the Appellant;
 - d) Presentation by the Applicant (if Applicant is different from the Appellant)
 - e) Presentation by other persons in favor of the appeal;
 - f) Presentations from any person(s) opposed to the appeal;
 - g) Summation and responses from all participants
 - h) Recess
 - i) In Camera Discussion
 - j) Decision
 - k) Adjournment

34. The Subdivision and Development Appeal Board has the discretion to modify the order of the hearing as it sees fit.
35. Members will have an opportunity to question any person who makes a presentation before the Subdivision and Development Appeal Board at any point during or following his/or her presentation.
36. The Subdivision and Development Appeal Board shall hear appeals in public, but it may at any time recess and deliberate in private.
37. Should the Subdivision and Development Appeal Board choose to request technical information, legal opinions, or other assistance, it may recess the hearing pending receipt of such information.
38. Electronic devices shall not be used to record or livestream during the hearing by anyone in attendance except the Clerk.

DECISIONS

39. The Subdivision and Development Appeal Board may confirm, revoke or vary the order, decision or development permit, subdivision or any condition attached to any of them or make or substitute an order, decision or permit of its own,
40. The Subdivision and Development Appeal Board shall give its decision upon an appeal in writing together with reasons for the decision within fifteen (15) days of the conclusion of the hearing.
41. The decision of the majority of the members of the Subdivision and Development Appeal Board present at the hearing duly convened shall be deemed to be the decision of the Subdivision and Development Appeal Board.
42. In the event of a tie vote, the motions shall be deemed to be decided in the negative.
43. Where the hearing is adjourned and the Subdivision and Development Appeal Board does not at the time of adjournment fix a time and place for a further hearing of the application and announce it to those in attendance, the Chairman of the Subdivision and Development Appeal Board shall announce to those in attendance that notice of the time and place for a further hearing will be sent only to those persons who leave their name and addresses and to whom notice is required pursuant to the Act.
44. Where the Subdivision and Development Appeal Board allows an appeal against the refusal of a permit by the Development Authority, the Development Officer shall issue a Development Permit in conformity with the Board's decision.
45. Where the Subdivision and Development Appeal Board allows an appeal against the refusal of a subdivision application by the Redcliff Subdivision Approving Authority, the



Authorized Signing Officer for the Redcliff Subdivision Approving Authority shall issue an approval in conformity with the Board's decision.

46. In accordance with the Act the Subdivision and Development Appeal Board may deliberate and make its decision in meetings closed to the public.
47. A member, who for any reason is unable to attend the entire hearing of an appeal, shall not participate in the Subdivision and Development Appeal Boards deliberations for the decision made by the Subdivision and Development Appeal Board on that appeal.

APPEALS TO COURT OF LAW

48. A decision made by the Subdivision and Development Appeal Board on a development appeal or subdivision application is final and binding on all parties and persons subject only to a judicial review upon a question of jurisdiction or law pursuant to the *Act*.
49. The Clerk shall keep on file all notices of application made for leave to appeal to the Appellant Division from the decisions of the Subdivision and Development Appeal Board in accordance with the *Act*.

CONFIDENTIALITY

50. The Subdivision and Development Appeal Board shall withhold the following information, within the possession of the Town unless its disclosure is required by this or any other enactment or by an order of the court or its disclosure is consented to by the person to whom the information relates:
 - a) commercial information, the disclosure of which would:
 - i) likely prejudice the commercial position of the person who supplied it,
 - ii) reveal a trade secret,
 - iii) likely prejudice the Town's ability to carry out its activities or negotiations,
or
 - iv) allow the information to be used for improper gain or advantage;
 - b) information that is subject to obligations of confidence, the disclosure of which would:
 - i) likely prejudice the future supply of similar information or advice,
 - ii) likely prejudice the Town's ability to carry out its activities or negotiations,
 - iii) place Board members, Councillors, or employees of the Town at risk of improper pressure or harassment,
 - iv) breach legal professional privilege, or
 - v) prejudice measures protecting health and safety;
 - c) personal information, including personnel information, unless its disclosure:
 - i) is for the purpose for which the information was obtained or for a consistent purpose,
 - ii) is required so that the Town can carry out its duties and functions, or
 - iii) is in a statistical or other form so that the name of persons are not

revealed or made identifiable;

- d) information of a deliberative kind and draft reports that are likely to be released to the public in a final form in due course except when the information or draft report is placed before a meeting held in public;
- e) information the disclosure of which could prejudice security and the maintenance of the law;
- f) information placed before a meeting that is closed to the public, except when the information is later placed before a meeting held in public;
- g) information that is prohibited from being released by this or any other enactment.

REPEAL

- 51. Bylaw No. 1811/2015 is hereby repealed upon this Bylaw coming into effect.
- 52. This Bylaw shall come into effect on third reading and signing of this bylaw.

READ a first time this 12th day of March 2018.

READ a second time this 26th day of March 2018.

READ a third and final time this 26th day of March 2018.

SIGNED and PASSED this 28th day of MARCH 2018.



MAYOR



MANAGER OF LEGISLATIVE & LAND SERVICES