

**TOWN OF REDCLIFF
BYLAW NO. 1501/2007**

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

WHEREAS Section 627 (1) of the Municipal Government Act, Chapter M26.1, Revised Statutes of Alberta 1994, provides that a municipality shall by Bylaw establish a **Subdivision and Development Appeal Board**;

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

1. SHORT TITLE

This Bylaw may be cited as the **Town of Redcliff Subdivision and Development Appeal Board Bylaw No. 1395/2004.**

2. INTERPRETATION

In this Bylaw:

- (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 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, Development Officer or the Municipal Planning Commission.
- (D) **Community at large** means the persons residing within the corporate boundaries of the Town of Redcliff
- (E) **Council** means the Council of the Town of Redcliff.
- (F) **Development** means
 - (i) an excavation or stockpile and the creation of either of them,
 - (ii) a building or an addition to or replacement or repair of a building and the construction or placing in, on, over or under land of any of them,

- (iii) a change of use of land or a building or an act done in relation to land or a building that results in or is likely to result in change in the use of the land or building, or
- (iv) a change in the intensity of use of land or a building or an act done in relation to land or building that results in or is likely to result in a change in the intensity of use of the land or building;
- (G) **Development Application** means an application made to the Town in accordance with the Land Use Bylaw for the purpose of obtaining a Development Permit.
- (H) **Development Officer** means a person appointed to the office of development officer pursuant to the Land Use Bylaw, or the Municipal Planning Commission.
- (I) **Development Permit** means a document authorizing a development proposal in accordance with the Land Use Bylaw.
- (J) **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.
- (K) **Member** means a member of the **Subdivision and Development Appeal Board** duly appointed by Town Council pursuant to this Bylaw.
- (L) **Municipal Manager** means a person appointed by Town Council as Municipal Manager in accordance with the Municipal Government Act.
- (M) **Municipal Planning Commission, Planning Commission or Commission** means the Town of Redcliff Municipal Planning Commission established by Council pursuant to the Act.
- (N) **Secretary** means the Municipal Manager or the individual the Municipal Manager has directed to perform the secretarial duties of the Board.
- (O) **Subdivision** means a subdivision application submitted to the Redcliff Subdivision Approving Authority that has had a decision made.
- (P) **Subdivision and Development Appeal Board** means the **Subdivision and Development Appeal Board** established by Council pursuant to this Bylaw in accordance with the Act.

3. ESTABLISHMENT AND COMPOSITION

- A) A **Subdivision and Development Appeal Board** is hereby established under the name of Redcliff **Subdivision and Development Appeal Board**, or the **Subdivision and Development Appeal Board**.

- B) The **Subdivision and Development Appeal Board** shall be composed of a minimum of five (5) members and a maximum of seven (7) and two (2) alternates being:

Members

- 1) two (2) Councillors as appointed by Redcliff Town Council;
- 2) minimum of three (3) and a maximum of five (5) citizens at large as appointed by Redcliff Town Council

Alternate Members

- 1) one (1) Councillor appointed by Redcliff Town Council;
- 2) one (1) Citizen at large as appointed by Redcliff Town Council.

- C) Members appointed who are Councillors of the Town of Redcliff shall be appointed annually at the Organizational Meeting of Redcliff Town Council.
- D) A citizen at large member or alternate 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 he is appointed.
- E) 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 and this Bylaw.

4. TERMINATION OF APPOINTMENTS

- A) Subject to Section (ii) below, the rules of conduct relating pecuniary interest contained in the Municipal Government Act, as amended from time to time, shall be deemed to apply mutatis mutandis to members of the **Board**.
- B) **Council** may by resolution terminate the appointment of any member of the **Board** if:
- (i) the member is absent from more than three (3) consecutive meetings of the **Board**;
 - (ii) the member violates the rules of conduct referred to in Section 4A above;
 - (iii) the member uses information gained through his position as a member of the **Board** to gain a pecuniary benefit in respect of any matter in which he has a pecuniary interest, or;
 - (iv) the member otherwise conducts himself in a manner that **Council** considers to be improper.
- C) A member of the **Board's** appointment shall automatically terminate if the member ceases to be a member of the **Community at large**.

- D) The appointment of a member of the **Board** may at any time be revoked by resolution of **Council**

5. **APPOINTMENT OF CHAIRMAN**

- A) The members of the **Subdivision and Development Appeal Board** shall at each meeting shall elect by majority vote a member who shall act as the Chairman of the **Subdivision and Development Appeal Board** for that hearing.
- B) The Chairman or such other person authorized by the Development Appeal Board for the purpose, shall sign all notices of decisions and other documents on behalf of the Board relating to any jurisdiction or power of the Board.
- C) 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**.
- D) Every member shall vote on every matter placed before the **Subdivision and Development Appeal Board**:
- (i) unless in a specific case, the Chairman or member is excused by resolution of the Board from voting, or
 - (ii) unless disqualified from voting by reason of pecuniary interest.

6. **APPOINTMENT AND DUTIES OF SECRETARY**

- A) The **Secretary** shall perform such functions as may be necessary to assist the **Subdivision and Development Appeal Board** to fulfill its duties under the Act and this Bylaw.
- B) The **Secretary** shall maintain a written record with respect to:
- (i) the minutes of all meetings and public hearings;
 - (ii) all applications for appeals;
 - (iii) copies of all written representation to the **Subdivision and Development Appeal Board**;
 - (iv) a summary of any verbal evidence presented to the **Subdivision and Development Appeal Board**;
 - (v) the names and addresses of those persons making representation to the **Subdivision and Development Appeal Board**;

- (vi) the decisions together with the reasons of the Subdivision and Development Appeal Board;
 - (vii) copies of all notices of decisions and whom they were sent.
- C) The **Secretary** shall:
- (i) notify all members of the **Subdivision and Development Appeal Board** of the arrangements for holding each hearing and other meetings
 - (ii) make available for public inspection all relevant documents and materials respecting appeals and all appeal decisions.

7. **DUTIES OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

- A) The **Subdivision and Development Appeal Board** shall meet at such intervals as are necessary to:
- i) hear subdivision and development appeals in accordance with the Act, this bylaw and the land use bylaw; and
 - ii) carry out reviews of any remedial orders under Section 7 of the Nuisance and Unsightly Premises Bylaw.
- B) The **Subdivision and Development Appeal Board** shall hold a public hearing within thirty (30) days of receipt of a notice of appeal duly filed in accordance with this Bylaw, the Land Use Bylaw, a subdivision application and the Act.
- C) The **Subdivision and Development Appeal Board** shall make available for public inspection, before the commencement of the public hearing, all relevant documents and materials respecting the appeal.
- D) The **Secretary**, shall give at least five (5) days notice in writing of the public hearing to:
- (i) the appellant;
 - (ii) the Development Officer (or the Municipal Planning Commission) from whose/its order, decision or development permit the appeal is made;
 - (iii) staff, Redcliff Subdivision Approving Authority;
 - (iv) any property owners and/or other person who the Municipal Manager, or his designate, considers to be affected by the appeal.
- E) At the Public Hearing, the **Subdivision and Development Appeal Board** shall hear:
- (i) the appellant or any person acting on his behalf;

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- (ii) the Development Officer or a representative of the Municipal Planning Commission from whose/its order, decision or development the appeal is made;
- (iii) a staff member of the Redcliff Subdivision Approving Authority;
- (iv) any other person who has served with notice of the hearing;
- (v) any other person or his agent who claims to be affected by the order, decision, or permit and that the Subdivision and Development Appeal Board agrees to hear.

8. **RIGHT OF APPEAL**

- A) A person may appeal to the **Subdivision and Development Appeal Board** where:
 - (i) the Development Officer, Municipal Planning Commission or Redcliff Subdivision Approving Authority as the case may be,
 - refuses or fails to issue a development permit or subdivision approval, or
 - issues a development permit or subdivision approval subject to conditions, or
 - issues an order under the Act.
 - (ii) no decision on the application for a development permit or subdivision application is made within forty (40) days of receipt of the completed application.
- B) A person affected by an order, decision or development permit made or issued by the Development Officer, Municipal Planning Commission or Redcliff Subdivision Approving Authority as the case may be, other than a person having a right of appeal under section 11(a) of this Bylaw may appeal to the **Subdivision and Development Appeal Board** in accordance with the Act and this Bylaw.
- C) An appeal to the **Subdivision and Development Appeal Board** shall be commenced by serving a written notice of the appeal on the Board within fourteen (14) days after:
 - (i) in the case of an appeal made by a person referred to in Section 11(a), the date on which:
 - the person is notified of the order, decision, the issuance of the development permit or subdivision approval, or

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- if no decision is made within respect to the application for a development permit or subdivision, the forty (40) day period and any extension of that period referred to in Section 11(a)(ii) of this Bylaw.
- (ii) in the case of an appeal by a person referred to in Section 11(b) of this Bylaw, the date on which the notice of the issuance of the development permit was given in accordance with the Land use Bylaw.
- D) 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 of \$50.00 to be paid at time of appeal.
- E) The Appellant may serve the Subdivision and Development Appeal Form on the Board by either:
- (i) by registered or certified mail addressed to:

Municipal Manager
Town of Redcliff
1 - 3 Street N.E., Box 40
Redcliff, Alberta, T0J 2P0

or
 - (ii) delivering it in person to the Office of the Municipal Manager 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 Office or the Municipal Planning Commission, or Redcliff Subdivision Approving Authority as the case may be.

9. NOTICE OF PUBLIC HEARING

- A) Upon receipt of notice of appeal duly filed pursuant to the provisions of this Bylaw, the Land Use Bylaw, and the Act, the Municipal Manager, or his designate shall:
- (i) set a date, time, and place for a public hearing to be held within the time limit prescribed under this Bylaw, and
 - (ii) ensure that the requirements of Section 7(d) of this Bylaw are fully complied with.

10. QUORUM

- A) The members of the **Subdivision and Development Appeal Board** who are Town of Redcliff Councillors shall not form the majority of members at any hearing;

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- B) Subject to 10 (a) the majority of the appointed full time members of the **Subdivision and Development Appeal Board** shall constitute a quorum at any meeting of the Board.
- C) Only the members present during the entire length of the discussion pertaining to a matter being considered at a public hearing or meeting of the Subdivision Development Appeal Board shall be allowed to vote on the appeal.

11. **COMPLIANCE WITH STATUTORY PLANS AND LAND USE BYLAW**

- A) In determining an appeal, the **Subdivision and Development Appeal Board**:
 - i) shall comply with any regional plan, statutory plan and subject to Clause (b), the Land Use Bylaw in effect;
 - ii) may make an order, decision, issue or confirm the issue of a Development Permit or Subdivision Approval notwithstanding that the proposed development does not comply with the Land Use Bylaw, if in its opinion,
 - (a) the proposed development would not unduly interfere with the amenities of the neighbourhood, or
 - (b) materially interfere with or affect the use, enjoyment or value of neighbouring properties,
 - (c) the proposed development conforms with the use prescribed for that land or building in the Land Use Bylaw; and.

12. **DECISIONS**

- A) 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,
- B) 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.
- C) The decision of the majority of the members of the Board present at a public hearing or meeting duly convened shall be deemed to be the decision of the Board.
- D) In the event of a tie vote, the motions shall be deemed to be decided in the negative.
- E) Where hearing is adjourned and the Board does not at the time of adjournment fix a time and place for further hearing of the application and announce it to those in attendance, the Chairman of the Board shall announce to those in attendance that notice of the time and place for further hearing will be sent only to those persons who leave their name and addresses shall be entitled to notice of the further meeting.

- F) Where the **Subdivision and Development Appeal Board** allows an appeal against the refusal of a permit by the Development Officer or the Municipal Planning Commission, as the case may be, the Development Officer shall issue a Development Permit in conformity with the Board's decision.
- G) 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 permit in conformity with the Board's decision.
- H) In accordance with the Municipal Government Act, section 197 (2.1) the **Subdivision and Development Appeal Board** may deliberate and make its decision in meetings closed to the public.

13. **APPEALS TO COURT OF LAW**

- A) 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 Municipal Government Act.
- B) The **Secretary** 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.

14 **CONFIDENTIALITY**

- A) The **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:
 - i) commercial information, the disclosure of which would:
 - a) likely prejudice the commercial position of the person who supplied it,
 - b) reveal a trade secret
 - c) likely prejudice the **Towns** ability to carry out its activities or negotiations, or
 - d) allow the information to be used for improper gain or advantage;
 - ii) information that is subject to obligations of confidence, the disclosure of which would:
 - a) likely prejudice the future supply of similar information or advice,
 - b) likely prejudice the **Towns** ability to carry out its activities or negotiations,
 - c) place **Board members**, Councillors, or employees of the **Town** at risk of improper pressure or harassment,

- d) breach legal professional privilege, or
- e) prejudice measures protecting health and safety;
- iii) personal information, including personnel information, unless its disclosure:
 - a) is for the purpose for which the information was obtained or for a consistent purpose,
 - b) is required so that the **Town** can carry out its duties and functions, or
 - c) is in a statistical or other form so that the name of persons are not revealed or made identifiable;
- vi) 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;
- v) information the disclosure of which could prejudice security and the maintenance of the law;
- vi) information placed before a meeting that is closed to the public, except when the information is later placed before a meeting held public;
- ii) information that is prohibited from being released by this or any other enactment.

15. **REPEAL**


Bylaw No. 1395/2004 is hereby repealed.

READ a first time this 26th day of March, 2007.

READ a second time this 26th day of March, 2007.

READ a third and final time this 26th day of March, 2007.

SIGNED and PASSED this 27th day of March, 2007.



MAYOR



MUNICIPAL SECRETARY