

BYLAW NO. 3009

CONSOLIDATION OF A BYLAW OF THE CITY OF MEDICINE HAT to establish a subdivision and development appeal board.

WHEREAS the *Municipal Government Act* S.A. 1994 Chapter M-26.1 provides that a council must by bylaw establish a subdivision and development appeal board;

NOW THEREFORE THE MUNICIPAL CORPORATION OF THE CITY OF MEDICINE HAT, IN COUNCIL ASSEMBLED, ENACTS AS FOLLOWS:

1. **TITLE**

This Bylaw may be cited as the Subdivision and Development Appeal Board Bylaw.

2. **PURPOSE**

The purpose of this Bylaw is to establish a subdivision and development appeal board, prescribe its functions and duties and establish its rules of procedure and conduct.

3. **DEFINITIONS**

In this Bylaw:

- (a) "Act" means the *Municipal Government Act* S.A. 1994 Chapter M-26.1;
- (b) "Appeal Board" means the subdivision and development appeal board established under this Bylaw;
- (c) "Council" means the Council of the City of Medicine Hat;
- (d) "elector" means a person who is eligible to vote in the election for a councillor under the *Local Authorities Election Act* R.S.A. 1980, c. L-27.5;
- (e) "Land Use Bylaw" means the land use bylaw passed by Council under the Act or the *Planning Act* R.S.A. 1980, c. P-9;

- (f) "Municipal Planning Commission" means the municipal planning commission established by Council under the Act.

4. ESTABLISHMENT AND COMPOSITION

- (1) A subdivision and development appeal board for the City of Medicine Hat is hereby established.
- (2) The Appeal Board shall consist of five (5) members as follows:
 - (a) Four (4) electors of the City of Medicine Hat who shall not be employees or officers of the City of Medicine Hat or members of Council; and
 - (b) One (1) member of Council.
- (3) A person who carries out subdivision or development powers, duties and functions on behalf of the City or who is a member of the Municipal Planning Commission may not be appointed as a member of the Appeal Board.
- (4) Each member of the Appeal Board shall be appointed by resolution of Council for a specified term not exceeding three (3) years.
- (5) Notwithstanding Section 4(4), a member of the Appeal Board may be reappointed following the expiration of his term of appointment.
- (6) A vacancy on the Appeal Board may be filled by resolution of Council.
- (7) In the event of the absence or inability to act of a member of the Appeal Board, Council may appoint a member of Council or an elector of the City of Medicine Hat as a member of the Appeal Board to act in the place of the member who is absent or unable to act for such period of time as that member is absent or unable to act.
- (8) The members of the Appeal Board may be entitled to such remuneration and travelling and other expenses as may be fixed by Council by resolution.

5. TERMINATION OF APPOINTMENT

- (1) The rules of conduct relating to pecuniary interest which are contained in the Act, and which are applicable to members of the Appeal Board who are members of Council, shall be deemed to apply *mutatis*

mutandis to members of the Appeal Board referred to in Section 4(2)(a) of this Bylaw.

- (2) Council may by resolution terminate the appointment of a member of the Appeal Board referred to in Section 4(2)(a) if
 - (a) the member violates the rules of conduct referred to in Section 5(1);
 - (b) the member uses information gained through his position as a member of the Appeal Board to gain a pecuniary benefit in respect of any matter in which he has a pecuniary interest; or
 - (c) the member otherwise conducts himself in a manner that Council considers to be improper.
- (3) Council may by resolution terminate the appointment of a member of the Appeal Board if the member is absent from more than three (3) consecutive meetings of the Appeal Board.
- (4) The appointment of a member of the Appeal Board who is a member of Council shall automatically terminate if the member ceases to be a member of Council.

6. APPOINTMENT OF CHAIRMAN AND VICE-CHAIRMAN

- (1) At its first regular meeting held in each twelve month period commencing on the first day of November, the Appeal Board shall elect, by a majority vote of the members present, one member for the office of Chairman and one member for the office of Vice-Chairman.
- (2) The Vice-Chairman shall act as Chairman of the Appeal Board in the event of the absence or inability to act of the Chairman.
- (3) If the Chairman and Vice-Chairman are absent from or unable to act at a meeting of the Appeal Board, the members present shall elect, by a majority vote, a member to act as Chairman at that meeting.
- (4) A Chairman or Vice-Chairman may be re-elected for successive terms as Chairman or Vice-Chairman, as the case may be.
- (5) The Chairman or Vice-Chairman, in the absence of the Chairman, shall preside over and be responsible for the conduct of meetings of the Appeal Board.

Amended by 7.
Bylaw 3167
May 5, 1998

FUNCTIONS AND DUTIES OF THE APPEAL BOARD

The Appeal Board shall:

- (a) hear subdivision appeals and development appeals in accordance with the Act and this Bylaw; and
- (b) carry out reviews of Orders in accordance with section 8 of the Unsightly Property Bylaw, Bylaw No. 3117.

8. PROCEDURE

- (1) The Appeal Board may establish procedures governing the conduct of its meetings that are consistent with the provisions of the Act and this Bylaw.
- (2) The Appeal Board shall hold such meetings as are required to hear appeals in accordance with the provisions of the Act.

9. QUORUM

Three members shall constitute a quorum for meetings of the Appeal Board.

10. ADJOURNMENTS

When a hearing is tabled or adjourned and a time is not fixed for its continuation, the Chairman shall announce to those present that notice of the continuation of the hearing shall be sent to those persons who leave their names and addresses with the City Clerk and only those persons who leave their names and addresses shall be entitled to notice of the continuation of the hearing.

11. DELIBERATION AND DECISIONS

- (1) A member who is absent from part of a hearing shall not take part in the Appeal Board's deliberations or any decisions made by the Board with respect to the appeal.
- (2) After hearing an appeal, the Appeal Board may deliberate and make its decision in a meeting closed to the public.

- (3) The decision of the majority of the members present at the hearing of an appeal shall be deemed to be the decision of the Appeal Board.
- (4) In the event of a tie vote, a motion shall be deemed to have been decided in the negative.
- (5) A decision of the Appeal Board is not final until it has been given in writing together with reasons for the decision.

12. CITY CLERK

- (1) The City Clerk shall act as secretary to the Appeal Board.
- (2) The City Clerk may delegate any or all of his functions or duties under this Bylaw to another employee of the City.
- (3) In his capacity as secretary to the Appeal Board, the City Clerk shall:
 - (a) receive notices of subdivision appeals and development appeals;
 - (b) upon receipt of a notice of appeal, set a date, time and place for an appeal hearing in consultation with the Chairman or Vice-Chairman;
 - (c) notify all members of appeal hearings;
 - (d) give notice of appeal hearings to all persons to whom the Appeal Board is required to give notice under the Act;
 - (e) make available for public inspection all relevant documents and materials respecting the appeal as required by the Act;
 - (f) record the minutes of all appeal hearings including the names and addresses of all persons making representations to the Appeal Board and a summary of the evidence presented to the Appeal Board;
 - (g) prepare or cause to be prepared written decisions of the Appeal Board together with the reasons for the decisions;
 - (h) sign such documents on behalf of the Appeal Board as he may be required to sign in order to carry out his

functions and duties under this Section or as he may be required to sign by the Appeal Board; and

- (i) carry out such other functions or duties as may be assigned to him by the Appeal Board.

13. NOTICE OF APPEAL

- (1) A notice of subdivision appeal shall be in the form set out in Schedule "A" to this Bylaw.
- (2) A notice of development appeal shall be in the form set out in Schedule "B" to this Bylaw.
- (3) A person filing a notice of appeal under this Section shall pay the fee established by resolution of Council.
- (4) A notice of appeal shall be deemed to be filed with the Appeal Board by filing it with the City Clerk at his office located at 580-First Street S.E., Medicine Hat, T1A 8E6.
- (5) A notice of appeal may be filed with the City Clerk by
 - (a) mailing the notice to the City Clerk at the address set out in subsection (4);
 - (b) hand delivering the notice to the City Clerk or a person working for the City in the City Clerk's office, at the address set out in subsection (4); or
 - (c) sending the notice by facsimile transmission to the City Clerk at a fax number designated by the City Clerk.
- (6) A notice of appeal is deemed to be filed with the Appeal Board on the date that it is received by the City Clerk or a person working for the City in the City Clerk's office.

14. TRANSITIONAL

The appointment of a member of the Development Appeal Board under Bylaw No. 1961, the Medicine Hat Development Appeal Board Bylaw, shall continue as an appointment of a member of the Appeal Board for the unexpired portion of the term of appointment.

15. CONSEQUENTIAL

Bylaw No. 2823, the City of Medicine Hat Land Use Bylaw, is amended as follows:

- (1) The definition of "Development Appeal Board" in Section 8(1) is repealed and the following definition is inserted immediately following the definition of "Storey" in Section 8(1):

"Subdivision and Development Appeal Board" means the subdivision and development appeal board established under the Subdivision and Development Appeal Board Bylaw;

- (2) The words "Development Appeal Board" are repealed and replaced by the words "Subdivision and Development Appeal Board" wherever they appear in the Bylaw; and
- (3) Sections 25 and 26 are repealed.

16. REPEAL

Bylaw No. 1961, the Medicine Hat Development Appeal Board Bylaw, is repealed.

READ A FIRST TIME in open Council on November 6, 1995.

READ A SECOND AND THIRD TIME in open Council on November 20, 1995.

SIGNED AND PASSED on November 22, 1995.

I HEREBY CERTIFY that this is a true and correct copy of Bylaw No. 3009 consolidated pursuant to Section 69 of the *Municipal Government Act* RSA 2000 c. M-26 to incorporate all subsequent amendments thereto, printed under the authority vested in me by the said Section 69 and by the City of Medicine Hat Bylaw No. 1957.

CERTIFIED THIS _____ DAY OF _____, 20____.

LARRY P. GODIN, MMC
MUNICIPAL SECRETARY AND CITY CLERK
CITY OF MEDICINE HAT

CITY OF MEDICINE HAT
NOTICE OF SUBDIVISION APPEAL
Pursuant To
THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD BYLAW
(BYLAW NO. 3009)

APPEAL NO.
FILE NO.....
RECEIPT NO.

TO: The Secretary of the
Subdivision and Development Appeal Board
c/o The City Clerk
City Hall
580 - 1 Street S.E.
Medicine Hat, Alberta T1A 8E6

I/WE _____

of (mailing address) _____
(which is my/our address for service of any notice you may serve on me/us) hereby give notice of an appeal from the decision of the Subdivision Authority dated _____.

The land / property affected by the subject matter of this appeal is:

(Municipal Address / Location)

Lot _____ Block _____ Plan _____

The reasons for my/our appeal including the issues in the decision or the conditions imposed on the approval that are the subject of the appeal are as follows:

Enclosed herewith are relevant plans and other material in support of my/our appeal.

Date _____ 19____

Signature of Appellant(s)

CITY OF MEDICINE HAT
NOTICE OF DEVELOPMENT APPEAL
Pursuant To
THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD BYLAW
(BYLAW NO. 3009)

APPEAL NO.

FILE NO.....

RECEIPT NO.

TO: The Secretary of the
Subdivision and Development Appeal Board
c/o The City Clerk
City Hall
580 - 1 Street S.E.
Medicine Hat, Alberta T1A 8E6

I/WE _____

of (mailing address) _____
(which is my/our address for service of any notice you may serve on me/us) hereby give notice of an appeal
from the decision of the Development Authority dated _____.

The land/property affected by the subject matter of this appeal is:

(Municipal Address / Location)

Lot _____ Block _____ Plan _____

The reasons for my/our appeal are as follows:

Enclosed herewith are relevant plans and other material in support of my/our appeal.

Date _____ 19____

Signature of Appellant(s)

