

OFFICE CONSOLIDATION

BYLAW NUMBER 25P95

**BEING A BYLAW OF THE CITY OF CALGARY
TO ESTABLISH A SUBDIVISION AND
DEVELOPMENT APPEAL BOARD

(Amended by 18P2000, 4P2001, 8P2002, 22P2002, 22P2005, 17P2007, 33M2008, 35P2009, 25P2010, 37M2013, 35M2015, 28M2016, 24M2017, 43M2018)

WHEREAS Section 627 of the *Municipal Government Act*, as amended, requires the establishment of a Subdivision and Development Appeal Board for The City of Calgary, and

WHEREAS Section 145 and 626 of the said Act require Council to provide for the procedure and conduct of bodies established by Council;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF CALGARY ENACTS AS FOLLOWS:

1. This Bylaw may be cited as "The Subdivision and Development Appeal Board Bylaw".
2. In this Bylaw, unless the context otherwise requires:
 - (a) "Act" means the *Municipal Government Act*, R.S.A. 2000, c.M-26, as amended or replaced from time to time;
 - (b) "Board" means the Subdivision and Development Appeal Board established by virtue of this Bylaw;
 - (c) "*Calgary Planning Commission*" means the Calgary Planning Commission established by bylaw of the City;
 - (c.01) "*City Clerk*" means the position of City Clerk as established by Bylaw 73M94;
 - (c.1) "*City Manager*" means the individual appointed by Council to the position of Chief Executive Officer from time to time;
 - (d) "*Council*" means the municipal council of the City;
 - (e) "*City*" means The City of Calgary;
 - (f) "*Designated Officer*" means a designated officer as defined in the Act;
 - (g) "*Development Authority*" means a development authority as provided for in Part 17 of the Act; and

- (h) "*Subdivision Authority*" means a subdivision authority as provided for in Part 17 of the Act.

(4P2001, 2001 January 15)
(22P2002, 2002 December 02)
(22P2005, 2005 October 03)
(17P2007, 2007 June 01)

- 2.1 All schedules attached to this Bylaw form part of this Bylaw.

(37M2013, 2013 July 29)

- 3. (a) There is hereby established a Subdivision and Development Appeal Board.
- (b) The Board shall, subject to Section 4, be composed of a minimum of fifteen (15) to maximum of twenty-five (25) members, who shall be appointed by resolution of Council.

(33M2008, 2008 June 23)
(37M2013, 2013 July 29)
(24M2017, 2017 May 09)

- (c) DELETED BY 24M2017, 2017 MAY 09.

- 4. (1) No person shall be appointed as a member of the Board:

- (a) who is an employee of the City,
- (b) who carries out subdivision or development powers, duties and functions on behalf of the City,
- (c) who is a member of the Calgary Planning Commission, or
- (d) who is a member of Council.

(35M2015, 2015 July 27)

- (1.1) DELETED BY 24M2017, 2017 MAY 09.

- (2) DELETED BY 35M2015, 2015 JULY 27.

- (3) DELETED BY 35M2015, 2015 JULY 27.

- (4) (a) Council shall appoint members of the Board by resolution;
- (b) Members of the Board shall be appointed for either:

(35M2015, 2015 July 27)

- (i) one-year terms that commence on January 1 and end on December 31; or
- (ii) two-year terms that commence on January 1 and end on December 31 of the following year.

(35P2009, 2009 July 27)
(37M2013, 2013 July 29)

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- (c) A member of the Board shall not serve more than a cumulative maximum of ten (10) years.
(24M2017, 2017 May 09)
- (d) Despite subsection (c), if a member reaches the maximum number of years of service, they may conclude the current term for which they have been appointed.
- (e) Despite subsection (c), Council may appoint a member who has reached the maximum number of years of service for one (1) additional term of up to two (2) years, if Council determines that it is in the interest of the Board to do so.
- (f) Any years served by a member of the Board prior to 2016 January 1 will not be included in the calculation of the maximum cumulative years in subsection (c).
- (g) Council shall annually appoint by resolution a Chair after considering the recommendations of the Board.
- (h) DELETED BY 24M2017, 2017 MAY 09.
- (5) DELETED BY 35P2009, 2009 JULY 27.
- (6) DELETED BY 35P2009, 2009 JULY 27.
- (7) In the event that a member of the Board is absent from two (2) meetings of the Board at which he or she was scheduled to attend without first providing the Chair with notice of and reasons for the member's absence (the sufficiency of such reasons to be determined by the Chair in his or her sole discretion), that member of the Board shall be deemed to have resigned his or her position as a member of the Board.
(37M2013, 2013 July 29)
(35M2015, 2015 July 27)
- (8) Vacancies on the Board, regardless of how the vacancy occurs, may be filled by resolution of Council at any time. A member of the Board who is appointed to fill a vacancy shall be appointed for a term which expires on December 31 of the year in which the appointment takes effect. In the event of a vacancy or vacancies, the Board may continue to operate and conduct business until the vacancy or vacancies are filled provided that quorum requirements are fulfilled.
(37M2013, 2013 July 29)
(28M2016, 2016 May 16)
- (9) Each Board member, shall be paid an honorarium as determined by the City Clerk and City Manager in consultation with the Chair.
(18P2000, 2000 October 16)
(22P2002, 2002 December 02)
(22P2005, 2005 October 03)
(37M2013, 2014 January 01)
(35M2015, 2015 July 27)

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- 4.1 (a) In the event that a Subdivision and Development Appeal Board appointed pursuant to Sections 3 and 4 is unable to reach quorum on a specific appeal, Council shall appoint a Board to hear only that specific appeal or appeals, as the case may be, for which quorum could not be reached.
- (b) The Board appointed pursuant to subsection (a), shall be composed of a minimum of five (5) to a maximum of seven (7) members, who shall be appointed by a resolution of Council.
- (b.1) Of the members appointed pursuant to subsection (b), Council shall appoint a Chair of the Board.
(35M2015, 2015 July 27)
- (c) Any appointment made pursuant to subsection (a) shall comply with the requirements of Sections 4(1).
(35M2015, 2015 July 27)
- (d) DELETED BY 35P2009, 2009 JULY 27.
- (e) Prior to hearing the appeal or appeals for which it is appointed, the members of a Board appointed pursuant to subsection (a) shall appoint a Vice-Chair of the Board.
(35M2015, 2015 July 27)
- (f) Notwithstanding Section 9(1), a Board established pursuant to subsection (a) shall meet regularly and as many times as necessary to complete the appeal hearings for which it was appointed.
(8P2002, 2002 March 18)
(33M2008, 2008 June 23)
(25P2010, 2010 April 26)
(37M2013, 2013 July 29)
5. (1) The quorum of the Board, or of a panel of the Board, is three (3) members of the Board.
- (2) Despite subsection (1), the quorum of the Board, or of a panel of the Board, is one (1) member of the Board for procedural and jurisdictional matters in relation to an appeal.
(43M2018, 2018 October 09)
- 5.1 (1) The members of the Board may hear appeals in panels of no more than seven (7) members, so long as the quorum requirements set out in section 5 are satisfied.
- (2) Two or more panels may meet simultaneously to hear appeals.
- (3) A panel of the Board has all the powers, duties and responsibilities of the Board.
- (4) A decision of a panel is a decision of the Board.
(25P2010, 2010 April 26)
(33M2008, 2008 June 23)
(37M2013, 2013 July 29)

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(43M2018, 2018 October 09)

6. (1) The members of the Board must annually appoint a first Vice-Chair and a second Vice-Chair prior to the first hearing of an appeal of a calendar year.
 - (2) DELETED BY 24M2017, 2017 MAY 09.
 - (3) If the Chair is incapacitated or otherwise unable to act, the first Vice-Chair may exercise any of the Chair's powers.
 - (4) If both the Chair and the first Vice-Chair are incapacitated or otherwise unable to act, the second Vice-Chair may exercise any of the Chair's powers.
(18P2000, 2000 October 16)
(25P2010, 2010 April 26)
(37M2013, 2013 July 29)
(35M2015, 2015 July 27)
- 6.1 (1) The Chair must chair all meetings of the Board.
(37M2013, 2013 July 29)
 - (2) Notwithstanding Subsection (1), the Chair may appoint a presiding officer to chair a meeting of the Board or of a panel of the Board.
(43M2018, 2018 October 09)
 - (3) The Chair may assign the members to sit in panels to hear appeals.
(25P2010, 2010 April 26)
(37M2013, 2013 July 29)
(43M2018, 2018 October 09)
7. (1) The City Clerk is hereby appointed as the designated officer for the purposes of subsection 630(1) of the Municipal Government Act R.S.A. 2000, c.M-26, as amended.
 - (2) An order, decision, approval, notice or other thing made or given by the Board may be signed on behalf of the Board by the City Clerk.
 - (3) The City Clerk shall not sign an order, approval or decision made by the Board unless the order, approval or decision has been first approved in writing:
 - (a) by the Chair or other member of the Board who chaired the hearing of the appeal to which the order, approval or decision relates, or
 - (b) in the absence or inability to act of the person who chaired such hearing, any other member of the Board who was present at such hearing.
(4P2001, 2001 January 15)
(22P2005, 2005 October 03)
(17P2007, 2007 June 01)
(37M2013, 2013 July 29)
- 7.1 (a) A person who files a notice of appeal with the Board shall, at the time such notice of appeal is filed, pay to the City a fee of one hundred dollars (\$100.00) in respect of each such notice of appeal.

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- (b) A notice of appeal will not be considered as having been filed unless the notice of appeal and fee referred to in subsection (a) above have been received by the City Clerk within the time period for filing a notice of appeal prescribed by the Act.
 - (c) The fee referred to in subsection (a) above shall be refunded if the notice of appeal is withdrawn prior to the commencement of the hearing.
 - (c.1) The Board may refund the fee referred to in subsection (a) if the notice of appeal is withdrawn after the commencement of the hearing.

(22P2002, 2002 December 02)
(17P2007, 2007 June 01)
(37M2013, 2014 January 01)
 - (d) A person who requests a transcript of a hearing of the Board must pay to the City:
 - (i) the actual cost of the preparation of the transcript; and
 - (ii) a twenty-five dollar (\$25.00) administration fee.

(25P2010, 2010 April 26)
8. Subject to and in accordance with the provisions of the Act, the Board shall hear and make determinations in respect of appeals brought in respect of:
- (a) decisions of a Subdivision Authority which are to be heard by the Board pursuant to Section 678 (2) of the Act,
 - (b) orders, decisions or development permits made or issued by a Development Authority as contemplated by Section 685 of the Act, and
 - (c) such other matters as the Board may now or may hereafter be required to hear by the Act or by bylaw of the City.
9. (1) The Board shall meet regularly, not less frequently than once each calendar month and as otherwise determined necessary by the Chair, in his or her sole discretion.

(37M2013, 2013 July 29)
- (2) Each member of the Board present at a meeting of the Board shall have a vote except for the person chairing the meeting who shall not vote except to break a tie amongst the remaining members of the Board.

(37M2013, 2013 July 29)
 - (3) The Board shall have the power to establish such other rules relating to matters of the procedures, operation and conduct of business of the Board as are deemed appropriate by the Board.

(33M2008, 2008 June 23)
(25P2010, 2010 April 26)
 - (4) The decision of the majority of the members present at the hearing of an appeal constitutes the decision of the Board.

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- (5) The Board may deliberate and make its decisions in meetings closed to the public.

(25P2010, 2010 April 26)

10. The Development Appeal Board Bylaw, being Bylaw Number 4P80 of the City, is hereby repealed.
11. DELETED BY 37M2013, 2013 July 29.
12. This Bylaw shall come into force on the date it is passed.

READ A FIRST TIME THIS 13TH DAY OF NOVEMBER, 1995.

READ A SECOND TIME AS AMENDED THIS 13TH DAY OF NOVEMBER, 1995.

READ A THIRD TIME AS AMENDED THIS 13TH DAY OF NOVEMBER, 1995.

(Sgd.) A. Duerr
MAYOR

(Sgd.) D. Widdes
DEPUTY CITY CLERK

SCHEDULE "A"

DELETED BY 43M2018, 2018 OCTOBER 09.