

BYLAW NO. 19/001

A BYLAW OF THE REGIONAL MUNICIPALITY OF WOOD BUFFALO TO ESTABLISH A COMMUNITY STANDARDS APPEAL COMMITTEE

WHEREAS, section 145 of the *Municipal Government Act*, R.S.A. 2000, c. M-26 provides that a Council may pass bylaws in relation to the establishment and functions of Council Committees, and the procedure and conduct of Council Committees;

AND WHEREAS section 203 of the *Municipal Government Act* authorizes a Council to delegate its powers, duties or functions to a Council Committee, including its duty to decide appeals imposed on it by this or another enactment or bylaw;

AND WHEREAS Council wishes to establish the Community Standards Appeal Committee to review Municipal Government Act Orders under Section 547 of the *Municipal Government Act* and exercise Council's power to grant extensions of time under Section 657(4) of the *Municipal Government Act*;

NOW THEREFORE the Council of the Regional Municipality of Wood Buffalo enacts the following:

Short Title

1. This Bylaw may be cited as the "Community Standards Appeal Committee Bylaw".

Definitions and Interpretation

2. The following definitions shall apply in interpreting this Bylaw, unless the context otherwise requires:
 - (a) "Act" means the *Municipal Government Act*, R.S.A. 2000, c.M-26;
 - (b) "Appeal" means an appeal of an MGA Order;
 - (c) "Applicant" means a person who has submitted a Notice of Appeal or a Subdivision Extension Application;
 - (d) "Application" means a Notice of Appeal or Subdivision Extension Application.
 - (e) "Clerk" means the designated officer appointed by Council to act as clerk to the Municipality's Subdivision and Development Appeal Board or their designate, and who shall also act as clerk to the Committee.
 - (f) "Committee" means the Community Standards Appeal Committee established under this Bylaw;

- (g) “Council” means the Municipal Council of the Municipality;
- (h) “Council Committees Bylaw” means Council’s *Committees Bylaw, Bylaw No. 17/024*;
- (i) “Extension Applicant” means a person who has submitted a Subdivision Extension Application to the Chief Administrative Officer;
- (j) “Hearing” means a hearing before the Committee of an Application;
- (k) “Interested Party” means a person who is, or may be, directly affected by a matter before the Committee;
- (l) “Interim Stay” means a temporary suspension of enforcement of an MGA Order pending a further decision of the Committee;
- (m) “MGA Order” means an order or decision issued to a person pursuant to section 545 or 546 of the Act;
- (n) “Mayor” is the chief elected official of the Municipality;
- (o) “Member” means a person appointed to the Committee pursuant to this Bylaw and the Council Committees Bylaw;
- (p) “Municipality” means the Regional Municipality of Wood Buffalo;
- (q) “Notice of Appeal” means a written request, in a form acceptable to the Clerk, seeking review of an Order granted pursuant to Section 545 or 546 of the Act;
- (r) “Council Procedures Bylaw” means Council’s *Procedures Bylaw, Bylaw No. 18/020*;
- (s) “Respondent” means the Municipality and any other a person who responds to an Application; and
- (t) “Subdivision Extension Application” means an application, in a form acceptable to the Clerk, for an extension of time to submit a plan of subdivision or other instrument to the subdivision authority, pursuant to section 657(4) of the Act.

Establishment of Committee

3. The Community Standards Appeal Committee is hereby established as a committee of Council.

4. Unless otherwise specified herein, the Committee is subject to and governed by the Council Committees Bylaw and Council Procedures Bylaw. If there is a conflict between this Bylaw and any other Bylaw of the Municipality, including the Council Committee Bylaw and the Council Procedures Bylaw, this Bylaw governs.

Committee Mandate

5. The Committee is delegated the powers, duties, and functions to:
 - (a) hear and adjudicate Appeals; and
 - (b) determine whether a Subdivision Approval Extension should be granted and impose any terms, requirements or deadlines the Committee considers appropriate.

Members

6. The Mayor is not a Member of the Committee.
7. The Committee is composed of five Members from the public-at-large who are appointed by resolution of Council pursuant to the Council Committees Bylaw.
8. Members of Council may not sit as voting Members on the Committee, but may be appointed as a non-voting liaison, at Council's discretion. In such cases, participation of the Council member does not impact quorum of the Committee.
9. Members shall not be an employee of the Municipality.
10. All Members shall be residents of the Municipality.
11. Despite sections 7 and 10, Council may appoint Members on a temporary basis:
 - (a) who are not residents of the Municipality; or
 - (b) resulting in more than 5 Members on the Committee;for the purpose of hearing an appeal if there are extraordinary circumstances or if there are insufficient Members to form a quorum.
12. The Members' remuneration will be determined by Council.

Panels

13. Members of the Committee may meet in panels of at least three (3) Members.
14. A panel may perform the same functions as the Committee, and a decision of a panel is deemed to be a decision of the Committee.

15. A panel must elect a presiding officer who has all of the powers and responsibilities of Chairperson for dealing with the matter which the panel was formed to address.

Member Conduct

16. Members must comply with the Council Code of Conduct Bylaw for the Municipality.

Resignation by Member or Removal by Council

17. A Member may resign by providing signed, written notice to the Clerk.
18. The resignation of a Member is effective on the date it is received by the Clerk, even if a later date is set out in the letter of resignation.
19. Council may revoke the appointment of a Member by Council resolution.

Role of The Clerk

20. The Clerk will:
 - (a) receive Applications;
 - (b) determine the sufficiency of Applications, including whether an Application was received within the prescribed time period;
 - (c) establish forms for Notices of Appeal and Extension Applications;
 - (d) send notice of Hearings;
 - (e) answer inquiries and provide information to Applicants, Respondents, Interested Parties, and the public, in accordance with applicable legislation;
 - (f) schedule Hearings;
 - (g) keep a written record of all Committee proceedings and Hearings that includes:
 - (i) the Application;
 - (ii) the notice of hearing;
 - (iii) the records submitted by a party to an Application;
 - (iv) a summary of the evidence presented at a Hearing; and
 - (v) the Committee's decision and reasons.

21. The Clerk may exercise any powers necessary for the operation of this Committee.

Applications

22. Only a person who is the subject of an MGA Order may seek an Appeal and must do so by filing a Notice of Appeal to the Clerk.
23. Notwithstanding section 22, if an MGA Order is issued in respect of a premises, the owner of the premises, the occupant of the premises or the person responsible for the contravention may appeal the MGA Order.
24. All Applications, including a Notice of Appeal, must be in the form prescribed by the Clerk and must contain:
 - (a) the Applicant's full name, address for service, and phone number;
 - (b) a copy of the order or decision that is the subject of the Application;
 - (c) the municipal address of the property to which the Application relates;
 - (d) the reasons for the Application; and
 - (e) a fee of \$100.00 for each Application.
25. The fees required under this Bylaw will not be waived or refunded under any circumstances.
26. Upon receiving an Application, the Clerk must determine the sufficiency of the Application, including whether the Application and applicable fee were received within the prescribed time period.
27. If the Clerk determines the Application is insufficient, the Clerk must either:
 - (a) request the Applicant to correct the deficiencies within a specified time period; or
 - (b) determine that the deficiencies cannot be corrected.
28. If the Clerk determines that the deficiencies cannot be corrected, or if the Applicant fails to correct the deficiencies within the time period specified, the Clerk must send a notice to the Applicant's address for service that the Application will not be heard.

Interim Stays for Appeals

29. If the Clerk determines that a Notice of Appeal is sufficient, an Interim Stay of the MGA Order under appeal will automatically be granted until a final decision on the Appeal is issued by the Committee.
30. Notwithstanding section 29, an Interim Stay granted pursuant to this Bylaw may be revoked by the Committee if the Committee is satisfied that:
 - (a) there has been a material change in circumstances that warrants revoking the Interim Stay;
 - (b) the conduct of the Applicant warrants revoking the Interim Stay; or
 - (c) the operation of the Interim Stay creates or contributes to a situation of imminent danger to public safety.
31. The person applying to revoke an Interim Stay must submit a written request to the Clerk, in a form acceptable to the Clerk, specifying the circumstances or conduct warranting a revocation of the Interim Stay.

Scheduling Hearings

32. If the Clerk determines an Application is sufficient, the Clerk must schedule a Hearing as soon as reasonably practicable.
33. Multiple Applications may be heard by the Committee on the same date.
34. Upon scheduling a Hearing, the Clerk must send a notice of hearing to all parties specifying the date, time, and location of the Hearing and enclosing a copy of all records the parties provided the Clerk.
35. A party to a Hearing may request, in writing, to the Clerk to reschedule a Hearing. If the Clerk agrees to reschedule a Hearing, the Clerk must send a revised notice of hearing to all parties.

Written Materials

36. The notice of hearing shall include deadlines for the parties to submit any written materials and evidence that they wish the Board to consider at the Hearing.
37. Where a party fails to comply with the deadlines contained in the notice of hearing for submitting written materials and evidence, the Committee may:
 - (a) grant an adjournment to the Hearing;

- (b) proceed with the Hearing without accepting the argument or evidence; or
- (c) proceed with the Hearing accepting all or part of the argument or evidence.

Hearing Procedure

38. While Hearing an Application, the Committee:
- (a) must allow the Applicant twenty minutes to speak;
 - (b) may, by majority vote, allow an Interested Party in favour of the position of the Applicant up to five minutes to speak;
 - (c) must allow the Respondent twenty minutes to speak;
 - (d) may, by majority vote, allow an Interested Party in favour of the position of the Respondent up to five minutes to speak;
 - (e) must allow the Applicant and the Respondent up to five minutes to respond to any new information that has been presented.
39. The Committee may, by majority vote, extend the period of time a person is allowed to speak or respond to new information.

Decision of Committee

40. Subject to the Act, any other enactment or bylaw of Council, all Applications heard by the Committee will be hearings *de novo*.
41. The Committee may discuss matters with respect to an Application in private in accordance with the Act.
42. After hearing an Application, the Committee may confirm, vary, substitute or cancel the order or decision under review.
43. The Committee must vote in public.
44. The majority vote of the Members present at the Hearing constitutes the decision of the Committee.
45. A decision of the Committee delivered orally is a decision served pursuant to section 548 of the Act.
46. The Committee may furnish a written statement of its decision. If the Committee furnishes a written statement of its decision, a copy of its decision must be

delivered or sent by mail to all parties at the addresses for service provided to the Clerk.

47. Service is presumed to be effected under this Bylaw:
- (a) seven days from the date of mailing if the document is mailed in Alberta to an address in Alberta; or
 - (b) subject to (a), fourteen days from the date of mailing if the document is mailed in Canada to an address in Canada;

unless the document is returned to the sender other than by the addressee, or the document was not received by the addressee, the burden of proof of which lies with the addressee.

Rules of Evidence

48. Nothing in this Bylaw:
- (a) requires that any evidence or allegations of fact made to the Committee be made under oath; or
 - (b) requires the Committee to adhere to the Rules of Evidence applying to courts of criminal or civil jurisdiction.
49. Cross-examination of witnesses is not permitted.
50. Despite section 49, any Member may ask questions to any person giving evidence before the Committee.
51. The Committee has the authority to determine the admissibility, relevance, and weight of evidence given at a Hearing.

Amendments

52. The Committees Bylaw is amended by adding the following as Appendix F:

Appendix F – Community Standards Appeal Committee

Membership: 5 Members, appointed from the public-at-large

Term of Appointment: 2 years

Mandate: The Community Standards Appeal Committee is delegated the powers, duties, and functions to:

1. hear and adjudicate appeals brought by any person who has received an order under section 545 or 546 of the *Municipal Government Act* and other related proceedings;
2. determine whether a subdivision approval extension should be granted and impose any terms, requirements or deadlines the Committee considers appropriate, pursuant to s. 657(4) of the *Municipal Government Act*.

Meetings: The Community Standards Appeal Committee shall meet as-needed to decide applications but, in any event, shall meet on, at a minimum, a semi-annual basis.

Reporting: Decisions from the Community Standards Appeal Committee shall be added to a Council agenda for Council's information.

53. This Bylaw comes into force when passed.

READ a first time this _____ day of _____, 2019.

READ a second time this _____ day of _____, 2019.

READ a third time this _____ day of _____, 2019.

SIGNED and PASSED this _____ day of _____, 2019.

Mayor

Chief Legislative Officer