



**CITY OF FORT SASKATCHEWAN**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD BYLAW**

**BYLAW NO. C11-11**

**WHEREAS**, Section 627 of the *Municipal Government Act*, R.S.A. 2000, c. M-26 as amended or repealed and replaced from time to time requires Council to establish a Subdivision and Development Appeal Board;

**NOW THEREFORE**, the Council of the City of Fort Saskatchewan, duly assembled enacts as follows:

This Bylaw is cited as the City of Fort Saskatchewan "Subdivision and Development Appeal Board Bylaw".

**1. DEFINITIONS**

For the purposes of this Bylaw, the following words shall mean:

- (a) "Act" means the *Municipal Government Act*, R.S.A. 2000, Chapter M-26 as amended or repealed and replaced from time to time ;
- (b) "Appellant" means the person who may appeal to the Board in accordance with the Act;
- (c) "Applicant" means a person who made the initial development or subdivision application upon which an appeal is based, or a person authorized to act on their behalf;
- (d) "Board" means the Subdivision and Development Appeal Board established by Section 2 of this Bylaw;
- (e) "City" means the City of Fort Saskatchewan;
- (f) "Council" means the Council of the City of Fort Saskatchewan;
- (g) "Development Authority" means the Development Authority for the City established by the City's *Development Authority Bylaw*, as amended or repealed and replaced from time to time;
- (h) "Member" means a Member of the Subdivision and Development Appeal Board appointed pursuant to this Bylaw;
- (i) "Subdivision Authority" means the Subdivision Authority for the City of Fort Saskatchewan established by the City's *Subdivision Authority Bylaw* as, as amended or repealed and replaced from time to time .

**2. ESTABLISHMENT OF AUTHORITY**

A Subdivision and Development Appeal Board is hereby established.

**3. MEMBERSHIP**

- (a) Council shall appoint Members of the Board by resolution.
- (b) The Board shall consist of five (5) Members, as follows:
  - (i) Two (2) Members of Council;
  - (ii) Three (3) Members of the public-at-large;
  - (iii) Council shall also appoint, by resolution, two (2) alternate Members of the public-at-large;
  - (iv) The appointment of members of Council to the Board terminates when he ceases to be a member of Council; and

- (v) All Members of the public-at-large must be of the full age of 18 years, Canadian citizens or landed immigrants, residents of the City for six (6) consecutive months immediately prior to application submission and shall remain Members only during such time as they continue to be residents of the City.

#### 4. TERM OF OFFICE

- (a) No person shall be appointed as a Member of the Board:
  - (i) who is a City employee; or
  - (ii) who carries out Subdivision or Development powers, duties and functions on behalf of the City;
- (b) Each public-at-large Member, or alternate Member shall be appointed for a term of two (2) years. Each Council Member shall be appointed for a one (1) year term at the City's annual Organizational Meeting.
- (c) Board Members shall serve no more than two (2) consecutive terms; however, such person may re-apply after an absence of one (1) year.
- (d) If any Member of the Board is absent from three (3) consecutive regular meetings, Council may, upon recommendation of the Board, declare the position vacant and fill the position.
- (e) In the event of a vacancy, Council may, by resolution, appoint a new Member to serve for the remainder of the vacating Member's term.
- (f) Any Member of the Board may be removed from the Board at the sole discretion of Council.

#### 5. QUORUM, CHAIR AND RULES OF PROCEDURE

- (a) A quorum at any Board meeting will not be less than three (3) Members for hearing and deciding appeals. The majority of the Board shall not be Members of Council.
- (b) At the first meeting following the City's annual Organizational meeting, the Board, by resolution, shall appoint a Chairman who will be responsible for the conduct of the meetings.
- (c) In the absence of the Chairman, the Members present will appoint an Acting Chairman to serve in this capacity during such absence.
- (d) For those matters not covered in Part 17 of the *Municipal Government Act*, the Regulations thereto, or this Bylaw, the Board will determine the procedures for the conduct of the hearings.

#### 6. DUTIES OF THE BOARD

- (a) The Board shall hear appeals from:
  - (i) a decision of the Subdivision Authority, or designate; or
  - (ii) a decision of the Development Authority, or designate.
- (b) At the Public Hearing on a Development Appeal; the Board shall hear:
  - (i) the Appellant or any other person acting on their behalf;
  - (ii) the Development Officer or designate, from whose order, decision or development permit the appeal is made, or a person acting on behalf of the Development Authority;
  - (iii) any other person who was given notice of the Hearing and who wishes to be heard, or a person acting on their behalf; and



- (iv) any other person who claims to be affected and that the Board agrees to hear.
- (c) At the Public Hearing on a Subdivision Appeal, the Board is not required to hear from any person other than:
  - (i) the Applicant or any person acting on their behalf;
  - (ii) the Subdivision Authority or designate, from whose order, decision or development permit the appeal is made, or a person acting on behalf of the Subdivision Authority;
  - (iii) a person who is given notice of the Hearing and wishes to be heard, or a person acting on their behalf; and
  - (iv) those persons representing government departments if the application is required by the Subdivision and Development regulations to be referred to that department.
- (d) An order, decision or approval made, given or issued by the Board will be used by the Board as a statement of the Board under the signature of the Secretary.
- (e) The granting and duration of an adjournment is at the discretion of the Board.
- (f) During the hearing, should the Board desire further technical information, legal opinions or other assistance, it may adjourn the hearing pending receipt of such information, opinion or other assistance.

#### 7. APPEALS

- (a) A person shall appeal to the Board in the manner provided in the Act.
- (b) At the time of service of the Notice of Appeal, the Appellant shall pay to the City, a fee calculated in accordance with the City's current *Fees & Charges Bylaw*.
- (c) Appeal fees shall be returned in accordance with the City's current *Fees & Charges Bylaw*.
- (d) In the event that an appeal is abandoned by the Appellant, the Board shall not be obliged to hold the public hearing referred to in the Act unless another Notice of Appeal has been served upon the Board in accordance with the Act.

#### 8. DUTIES OF THE CHAIRMAN

The Chairman:

- (a) shall be responsible to see that all things required to be carried out by the Board under the Act are carried out in accordance with the provisions of the Act;
- (b) shall be empowered to rule if evidence presented is irrelevant to the matter in issue and to direct the Members to disregard the evidence;
- (c) may limit a submission if it is determined to be repetitious or irrelevant; and
- (d) shall, when a hearing is adjourned and time is not fixed for its continuation, announce that notice of continuation of the meeting will be sent to those persons leaving their name and address with the Recording Secretary. Only those persons leaving their name and address will be entitled to notice of the continuation of the hearing.

#### 9. DUTIES OF THE SECRETARY

- (a) The office of the Secretary to the Board is established and shall be filled by an employee of the City, unless otherwise resolved by resolution.
- (b) The Secretary of the Board shall receive, on behalf of the Board, appeals which have been served upon the Board.

- (c) The Secretary shall carry out such duties as may be designated by the Board from time to time. An order, decision, approval, notice or other thing made or given by the Board shall be signed on its behalf by the Secretary of the Board.

10. DUTIES OF THE RECORDING SECRETARY

- (a) The office of the Recording Secretary to the Board is established and shall be filled by an employee of the City, unless otherwise resolved by resolution.
- (b) The Recording Secretary shall cause to be kept minutes of each meeting of the Board and shall prepare an agenda for each meeting of the Board.

11. CONFLICT OF INTEREST

- (a) Any Member of the Board who has a pecuniary interest in a matter being considered by the Board shall comply with the provisions of Sections 169 through 173 of the Act.
- (b) Any Member of the Board, who fails to comply with Section 11 (a) above, is disqualified from remaining a Member of the Board.

12. REMUNERATION AND EXPENSES

Council may by resolution set the level of remuneration for expenses to be paid to Members.

13. NUMBER AND GENDER REFERENCES

All references in this Bylaw will be read with such changes in number and gender as may be appropriate according to whether the reference is to a male or female person, or a corporation or partnership.

14. SEVERABILITY

If any portion of this Bylaw is declared invalid by a court of competent jurisdiction, then the invalid portion must be severed and the remainder of the Bylaw is deemed valid.

15. REPEAL

Bylaw No. C23-95 and all amendments thereto are hereby repealed.

16. EFFECTIVE DATE

This Bylaw becomes effective upon third and final reading.

READ a first time this	26 <sup>th</sup>	day of	April	A.D. 2011.
READ a second time this	10 <sup>th</sup>	day of	May	A.D. 2011.
READ a third and finally passed this	10 <sup>th</sup>	day of	May	A.D. 2011.

CITY OF FORT SASKATCHEWAN			
APPROVED		DATE	INTL
Dir. Leg. Svcs.	Legal & Form.	May 11 2011	VM
Dep't	Content	May 13/11	RD
City Mgr.	Principle	May 16/11	20

  
MAYOR

  
DIRECTOR, LEGISLATIVE SERVICES

Date Signed: May 11, 2011