

## BYLAW NO. XX-YYYY

A BYLAW OF THE CITY OF LLOYDMINSTER IN THE PROVINCES OF ALBERTA AND SASKATCHEWAN TO ESTABLISH A SUBDIVISION AND DEVELOPMENT APPEAL BOARD

WHEREAS the Council of the City of Lloydminster deems it necessary to establish a Bylaw to deal with the peace, order and good government of the City;

AND WHEREAS *The Lloydminster Charter* provides authority to City Council to pass bylaws for municipal purposes;

AND WHEREAS *The Lloydminster Charter* provides authority to the City to pass bylaws respecting the enforcement of bylaws.

AND WHEREAS *The Lloydminster Charter* declares that Part 17 of the *Municipal Government Act* and all regulations under that part are approved enactments and apply to the whole City except in respect of subdivisions and replotting in respect of land situated in the part of the City located in Saskatchewan.

NOW THEREFORE the Council of the City of Lloydminster deems it necessary to establish a Bylaw to establish a Subdivision and Development Appeal Board; and

NOW THEREFORE, the Council of the City of Lloydminster, pursuant to the authority granted in Section 15 of *The Lloydminster Charter*, enacts as follows:

### 1. SHORT TITLE

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

### 2. DEFINITIONS

2.1. The definitions listed in Schedule "A" attached to this Bylaw shall apply, unless context otherwise requires.

### 3. APPOINTMENT, AUTHORITY AND DUTIES OF THE CITY MANAGER

3.1. Except where specific authority is reserved to Council, in the Bylaw the administration and enforcement of this Bylaw is hereby delegated to the City Manager.

3.2. Without restricting any other power, duty or function granted by this Bylaw, the City Manager may carry out anything required for the administration of this Bylaw, including but not limited to the following:

3.2.1. delegate any powers, duties or functions under this Bylaw to an employee of the City;

3.2.2. carry out any inspections that are reasonably required to determine compliance with this Bylaw;

3.2.3. establish any forms required for the administration of this Bylaw.

### 4. ESTABLISHMENT AND MEMBERSHIP

4.1. A Subdivision and Development Appeal Board (Appeal Board) for the City is hereby established pursuant to Section 627 of the *Municipal Government Act*.

4.2. A Development Appeal Board for the City is hereby established pursuant to *The Planning and Development Act, 2007*, and shall be the Appeal Board established

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by Section 4.1 of this Bylaw. The Appeal Board shall hear subdivision appeals in respect of land situated in the part of the City located in the Province of Saskatchewan, pursuant to Part XI, Division 2 of *The Planning and Development Act, 2007*.

- 4.3. A panel of the Appeal Board must not have more than one Council member as a Member.
- 4.4. The Appeal Board shall consist of seven (7) members as follows:
  - 4.4.1. one (1) member of Council; and
  - 4.4.2. six (6) public members.
- 4.5. Appeal Board Members:
  - 4.5.1. shall be Canadian Citizens and over the age of eighteen (18) years;
  - 4.5.2. shall be City residents or members of the Intermunicipal Subdivision and Development Appeal Board; and
  - 4.5.3. cannot be a City employee or an individual that carries out subdivision and development powers, duties, and functions on behalf of the City.

### 5. TERM OF OFFICE

- 5.1. Each Appeal Board Member shall be appointed by resolution of Council for a specified term not exceeding three (3) years.
- 5.2. Notwithstanding Section 5.1, an Appeal Board Member may be reappointed following the expiration of their term of appointment.
- 5.3. A vacancy on the Appeal Board may be filled by resolution of Council and the resolution shall specify the term of the appointment.
- 5.4. Council may, by resolution, terminate the appointment of an Appeal Board Member if the Appeal Board Member:
  - 5.4.1. violates the rules of conduct established for conduct by Appeal Board Members;
  - 5.4.2. conducts himself in a manner Council finds inappropriate;
  - 5.4.3. uses information gained through the position to obtain a financial benefit in respect to any matter in which the Appeal Board Member has financial interest; or
  - 5.4.4. is absent from three (3) or more consecutive Appeal Board hearings.
- 5.5. An Appeal Board Member may resign at any time by sending written notice to Council.

### 6. POWERS & DUTIES

- 6.1. The Appeal Board shall hear appeals from:
  - 6.1.1. a decision of the Subdivision Authority; or
  - 6.1.2. a decision of the Development Authorityas provided for in *Municipal Government Act* or *The Planning and Development Act, 2007* as applicable.

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- 6.2. The Appeal Board shall deal with development appeals in accordance with the *Municipal Government Act* and with subdivision appeals in accordance with the applicable provisions of the *Municipal Government Act* or *The Planning and Development Act, 2007* and shall exercise any other powers, duties and functions given to it by any other bylaw of Council.
- 6.3. The Appeal Board shall have the power to establish such other rules relating to matters of the operation of the Appeal Board and conduct of hearings of the Appeal Board as are found appropriate by the Appeal Board and consistent with the applicable provisions of the *Municipal Government Act, The Planning and Development Act, 2007*, and this Bylaw.
- 6.4. All Appeal Board Members shall receive training as required by the City from time to time.

### 7. PROCEDURES

- 7.1. The Appeal Board shall hold such meetings as are required to hear appeals in accordance with applicable provisions of the *Municipal Government Act* or *The Planning and Development Act, 2007*.
- 7.2. Meetings of the Appeal Board shall be held at the times and places determined by the Appeal Board.

### 8. QUORUM

- 8.1. Three (3) Appeal Board Members shall constitute quorum for a hearing.
- 8.2. The Appeal Board may open a meeting where a quorum of Appeal Board Members is not present for the sole purpose of making a decision to adjourn the meeting to a later date and time.

### 9. DECISIONS AND DELIBERATION

- 9.1. An Appeal Board Member who is absent from all or any part of a hearing for any reason, shall not take part in the Appeal Board's deliberations or any decisions made by the Appeal Board with respect to the appeal.
- 9.2. After hearing an appeal in public session, the Appeal Board shall close the hearing and deliberate and make its decision in private.
- 9.3. The decision of the majority of the Appeal Board Members present at the hearing of an appeal shall be deemed to be the decision of the Appeal Board.
- 9.4. In the event of a tie vote, an appeal shall be deemed to have been dismissed.
- 9.5. An order, decision, or approval, notice or other thing made, given, or issued by the Appeal Board shall be signed on its behalf by the chair and Clerk of the Appeal Board.
- 9.6. The Appeal Board shall give its decision in writing within fifteen (15) calendar days of the hearing being closed. A decision of the Appeal Board is not final until it has been given in writing together with reasons for the decision.

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- 9.7. The Appeal Board shall give its written decision and reasons in accordance with the applicable provisions of the *Municipal Government Act* or *The Planning and Development Act, 2007* to:
- 9.7.1. the Applicant;
  - 9.7.2. the Appellant;
  - 9.7.3. those affected persons who gave their name and address to the Clerk of the Appeal Board during the public hearing; and
  - 9.7.4. the Development Authority or the Subdivision Authority, as applicable.

### 10. APPOINTMENT & DUTIES OF THE OFFICERS

- 10.1. The Appointment of a chair and vice-chair shall be decided by the Appeal Board Members **prior to the commencement of the first hearing occurring in each calendar year of the Appeal Board.**
- 10.2. The chair:
- 10.2.1. shall preside at Appeal Board meetings when present and the vice-chair shall chair such meetings when the chair is not present; and
  - 10.2.2. shall be entitled to limit oral submissions at a hearing if such submissions are repetitious or irrelevant.

### 11. DUTIES OF THE CLERK

- 11.1. City Council shall appoint a designated officer as Clerk for the Appeal Board.
- 11.2. The Clerk is hereby appointed as the secretary of the Appeals Board for the purposes of the *The Planning and Development Act, 2007*.
- 11.3. The powers and duties of the Clerk shall be:
- 11.3.1. to carry out all obligations upon the Clerk pursuant to the applicable provisions of the *Municipal Government Act* and *The Planning and Development Act, 2007*;
  - 11.3.2. to prepare an agenda for each meeting of the Appeal Board and record the minutes of all hearings;
  - 11.3.3. to carry out all duties delegated to the Clerk by bylaw or resolution of Council or by any other provincial statute, regulation or order of, either prior to or subsequent to the passage of this bylaw; and
  - 11.3.4. to delegate the performance of any duties, powers, or obligations of the Clerk to such person or corporations as the Clerk finds appropriate.
- 11.4. The Clerk shall carry out such other duties as may be designated by the Appeal Board from time to time.
- 11.5. Audio recordings of meetings of the Appeal Board may be made by the Clerk for minute-taking purposes. Recordings of the hearing shall be retained for at least six (6) months following the approval of the minutes and after that time may be destroyed subject to legal and/or legislative requirements.

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**12. APPEALS**

- 12.1. A person may appeal to the Appeal Board in the manner provided in Section 678 or 686(1) of the *Municipal Government Act* or section 220 of *The Planning and Development Act, 2007*, as applicable.
- 12.2. A notice of appeal shall be deemed to be filed with the Appeal Board on the date that the complete application and appeal fee is received by the Clerk.
- 12.3. The Appeal Board shall hear all those persons from whom it is required to hear by the applicable provisions of the *Municipal Government Act* or *The Planning and Development Act, 2007*.

**13. FEES AND REMUNERATION**

13.1. Each Appeal Board Member shall be paid remuneration as follows:

0 – 4 Hour Hearing	\$150
4 – 8 Hour Hearing	\$250
8+ Hour Hearing	\$400
Training	\$150

13.2. An Appeal Board Member who chairs a meeting or hearing shall be paid remuneration as follows:

0 – 4 Hour Hearing	\$200
4 – 8 Hour Hearing	\$300
8+ Hour Hearing	\$450

13.3. Appeal Board Members shall be paid remuneration for training requirements as set forth in item 13.1.

13.4. A Member of Council acting as an Appeal Board Member shall be paid as per the *Council Remuneration Policy* and is not eligible for compensation as set forth in item 13.1.

13.5. The fee to be paid by an Appellant for filing an appeal with the Board shall be the fee established as per the *Fees and Charges Bylaw*.



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**14. NUMBER AND GENDER REFERENCES**

14.1. 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.

**15. SEVERABILITY**

15.1. Every provision of this Bylaw is independent of all other provisions and if any provision of this Bylaw is declared invalid for any reason by a court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.

This Bylaw shall come into force and effect upon the final passing thereof.

The following bylaws and all amendments thereto are hereby repealed:

- Bylaw No. 07-2021

INTRODUCED AND READ a first time this \_\_\_\_ day of \_\_\_\_\_, 20XX, A.D.

READ a second time this this \_\_\_\_ day of \_\_\_\_\_, 20XX, A.D.

READ a third time this this \_\_\_\_ day of \_\_\_\_\_, 20XX, A.D.

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
CITY CLERK

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SCHEDULE "A"

**Definitions**

<b>Municipal Government Act</b>	The <i>Municipal Government Act</i> , RSA 2000, c.26 as amended.
<b>Appeal Board</b>	The Subdivision and Development Appeal Board.
<b>Appeal Board Member</b>	A Council member or member of the public trained to hear appeals for the Subdivision and Development Appeal Board and sits on the board for a set term.
<b>Appellant</b>	The person who may appeal to the Subdivision and Development Board in accordance with the Act.
<b>Applicant</b>	The person who made the initial development or subdivision application upon which an appeal is based, or a person authorized to act on the Applicant's behalf.
<b>Charter</b>	Refers to <i>The Lloydminster Charter</i> .
<b>City</b>	The City of Lloydminster and the area contained within the corporate boundaries of the City.
<b>City Manager</b>	The Commissioner of the City of Lloydminster as appointed by Council or designate.
<b>Clerk</b>	The Designated Officer position of Clerk to the Subdivision and Development Appeal Board and who has received and successfully completed the required training.
<b>Council</b>	The Municipal Council of the City of Lloydminster.
<b>Development Authority</b>	The Development Authority is the person or persons designated as the Development Officer by the City pursuant to Section 624 of the Act, to perform the functions and duties on behalf of the City.
<b>Hearing</b>	A meeting of the Subdivision and Development Appeal Board or a meeting to hear an appeal.
<b>Person</b>	Any individual, a group of individuals, a corporation, firm, partnership, proprietorship, association, society or co-operative organization
<b>The Planning and Development Act, 2007</b>	An Act respecting planning and development in Saskatchewan municipalities.
<b>Subdivision Authority</b>	The person or persons designated by the City pursuant to Section 623 of the Act, to perform the functions of a Subdivision Authority.