

TOWN OF HIGH RIVER

BY-LAW 3830/95

Being a By-law of the Town of High River to establish a Subdivision and Development Appeal Board.

WHEREAS

the Municipal Government Act, Chapter M-26.1, 1994 as amended, provides that a Council of a municipality must, by by-law, establish a Subdivision and Development Appeal Board; and

WHEREAS

the Council of the Corporation of the Town of High River must pass a Subdivision and Development Appeal Board By-law;

NOW THEREFORE

the Council of the Corporation of the Town of High River enacts as follows:

1. This By-law may be cited as the Town of High River Subdivision and Development Appeal Board By-law.

2. In this By-law:

(a) "Act" means the Municipal Government Act, Chapter M-26.1, 1994.

(b) "Town Manager" means the person authorized to exercise duties and responsibilities on behalf of the Municipality in the administration of the affairs of Council.

(c) "Council" means the Council of the Town of High River.

(d) "Development Officer" means the person, agency or authority authorized to exercise power and duties on behalf of the Municipality in the issuance of permits for development in accordance with statutory plans and bylaws of the Town of High River.

(e) "Municipality" means:

(i) the Corporation of the Town of High River;

(ii) where the context requires, means the area of land contained within the boundaries of the Municipality's corporate limits.

(f) "Subdivision Officer" means the person(s) or firm designated and authorized to act on behalf of the Municipality in those matters delegated to that person or firm in the performance of processing applications for subdivision approval.

(g) "Subdivision and Development Authority" means the authority authorized to exercise power and duties on behalf of the Municipality in the approval or refusal of applications for subdivision.

(h) "Subdivision and Development Appeal Board" means the authority authorized to hear appeals on decision of the Subdivision and Development Authority or Development Officer on applications for subdivision and development.

Bylaw No. 3830/95
Page Two:

**ESTABLISHMENT OF SUBDIVISION AND DEVELOPMENT
APPEAL BOARD**

3. The Subdivision and Development Appeal Board for the Town of High River (*hereinafter referred to as the Board*) is hereby established and shall consist of the following:

(a) The Board shall be composed of not less than three (3) members who shall be appointed by Resolution of Council upon the adoption of the By-law.

(b) The majority of the Board shall be citizen members.

(c) Each member of the Board shall be appointed for a term specified by Resolution of Council, but in no case shall the appointment be for more than three (3) years.

(d) Notwithstanding clause (c), a person may be re-appointed upon the expiry of his term.

(e) No person who is the designated Subdivision or Development Officer or a Member of the Subdivision and Development Authority shall be appointed to the Board.

(f) Vacancies shall be filled by Resolution of Council.

(g) Vacancies shall be considered to have occurred upon:

- (i) a member ceasing to reside in the Municipality;
- (ii) death of a member;
- (iii) resignation of a member or upon ceasing to hold office as a Councillor;
- (iv) retirement of a member;
- (v) being absent for three (3) consecutive meetings;
- (vi) for cause.

(h) The members of the Board shall elect from its membership a Chairman and a Vice-Chairman.

(i) Elections of the Chairman and Vice-Chairman shall occur at the first meeting of the Board after the adoption of this By-law, and every first meeting of the Board following Council's organization meeting of each calendar year thereafter.

(j) In the event of absence or inability of the Chairman to preside at a meeting, the Vice-Chairman shall preside.

(k) In the event of absence or inability of both the Chairman and Vice-Chairman to preside at a meeting, the members present, in constitution a quorum shall elect one of its members to preside as Chairman for that meeting.

(l) All appointees shall be required to disclose any conflict of interest in the same manner as required of an elected official under the provisions of the Act.

(m) If a conflict is declared, that member shall not sit or vote on that item before the Board.

(n) Council, by resolution, shall appoint a Secretary to the Board, who shall not have a vote.

(o) Three (3) members of the Board present shall constitute a quorum.

(p) The setting of fees for any matter coming before the Board shall be established by resolution of Council.

DUTIES AND RESPONSIBILITIES

4. The Board.

(a) Shall hold a public hearing on an appeal by persons or agencies identified in the Act as eligible to file an appeal on a decision of the Subdivision and Development Authority or Development Officer on a subdivision application or development permit.

(b) Shall hold a public hearing on an appeal by a person affected by an order issued by the Development Authority under Section 645 of the Act.

(c) May meet as frequently as is necessary, but it shall meet and hold a public hearing within thirty (30) days from the receipt of written notice of appeal.

(d) Upon receipt of a written notice of appeal, the Chairman shall meet and establish a date, time and place for the public hearing and shall give at least five (5) days notice in writing of the public hearing to:

(i) the appellant;

(ii) the Subdivision and Development Authority or the Development Officer;

(iii) the applicant, or the person acting on his behalf, if not the appellant;

(iv) those persons required to be notified under the Land Use By-law;

Bylaw No. 3830/95
Page Four:

(v) those owners of land that are adjacent to the subject land and that were notified during the circulation of the subdivision application;

(vi) those government departments or agencies that the application for subdivision or development were referred to for comment;

(vii) any other persons that the Board considers to be affected by the appeal and should be notified;

(e) Shall make available for public inspection during office hours all relevant documents and materials respecting the appeal including the application for the subdivision or development permit, the Subdivision and Development Authority's or Development Officer's decision, the letter of appeal, or the order of the Development Officer.

(f) At the Public Hearing, shall hear:

- (i) the appellant or any person acting on his behalf;
- (ii) the Chairman or Vice-chairman of the Subdivision and Development Authority on subdivision applications or development permits;
- (iii) the Development Officer on development permits or orders;
- (iv) the Subdivision Officer on subdivision applications;
- (v) the municipality's designated planning advisor;

(vi) the applicant or his agent acting on his behalf for the subdivision or development permit, if he is not the appellant;

(vii) any person who was served with notice of the hearing;

(viii) any other person who claims to be affected by the order or decision and that the Board agrees to hear;

(ix) consider any written submissions from any person referred to in sub-clauses (i) to (viii);

(g) Hear appeals in public, but it may at any time deliberate in camera.

(h) Give its decision in writing together with reasons for the decision within fifteen (15) days of the conclusion of the hearing.

(i) Shall make and keep written records of proceedings and a summary of the evidence presented at the hearing.

(j) In determining an appeal, shall comply with Provincial Acts and Regulations, the Municipal Development Plan with respect to land use, the Land Use By-law, or other statutory plans affecting the land.

Bylaw No. 3830/95

Page Five:

(k) May confirm, revoke or vary the order, decision or any condition attached to them or make or substitute an order, decision or condition of its own.

(l) May make an order or decision or issue or confirm the issue of a subdivision decision or development permit notwithstanding that the proposed subdivision or development does not comply with the land use regulations, if in its opinion, the proposed subdivision or development would not:

(i) unduly interfere with the amenities of the neighbourhood, or

(ii) materially interfere with or affect the use, enjoyment or value of the neighbouring properties.

(m) Shall however, not allow the permanent use of land or a building not listed as a "Permitted Use" or "Discretionary Use" in the district in which the building or land is situated in accordance with the Town's Land Use Bylaw.

5. The Secretary shall:

(a) Notify all members of the Board of the arrangements for the holding of the hearings and other meetings of the Board.

(b) Ensure that notices of the hearings of the Board are given to all affected parties.

(c) Prepare and maintain a file of written minutes of business transacted at all meetings of the Board, copies of which shall be regularly filed with Council.

(d) Issue all notices of decision of the Board.

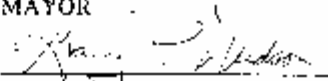
(e) Carry out such other administrative duties as the Board may specify.

6. Development Appeal Board By-law No. 3557/86 is hereby repealed.

7. This By-law comes into full force and effect upon Third and Final Reading.

READ A FIRST, SECOND AND BY UNANIMOUS CONSENT OF ALL COUNCIL, PRESENT, THIRD AND FINAL TIME THIS 11th DAY OF DECEMBER, 1995 A.D.


MAYOR


TOWN MANAGER