



## BYLAW 2019-06

Office Consolidation Current as of August 17, 2022

### **A BYLAW OF THE TOWN OF CANMORE, IN THE PROVINCE OF ALBERTA, FOR THE PURPOSE OF ESTABLISHING SUBDIVISION AND DEVELOPMENT APPEAL BOARD**

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The Council of the Town of Canmore, in the Province of Alberta, duly assembled, enacts as follows:

#### **TITLE**

1. This bylaw shall be known as the “Town of Canmore Subdivision and Development Appeal Board Bylaw”

#### **INTERPRETATION**

2. In this bylaw:
  - a) “Act” means the Municipal Government Act, RSA 2000, Chapter M-26, as amended;
  - b) “Board” means the Town of Canmore Subdivision and Development Appeal Board as established pursuant to this bylaw;
  - c) “Clerk” means a designated officer appointed by resolution of council as a Clerk pursuant to section 627.1 of the Act;
  - d) "Development Authority" means the Town of Canmore Development Authority as established by bylaw;
  - e) “Member” means a voting member of the Town of Canmore Subdivision and Development Appeal Board appointed pursuant to this bylaw;
  - f) “Pecuniary Interest” means pecuniary interest as defined by section 170(1) of the Act;
  - g) “Subdivision Authority” means the Town of Canmore Subdivision Authority as established by bylaw;
  - h) “Town” means the Town of Canmore.
3. Where a bylaw references a Town staff position, department or committee, the reference is deemed to be to the current name that the staff position, department or committee is known by.

#### **ESTABLISHMENT**

4. The Town of Canmore Subdivision and Development Appeal Board is hereby established.

**AUTHORITY**

5. 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 pursuant to 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 Town.
6. The Board, when hearing an appeal respecting a subdivision application or order relating to a subdivision matter, must act in accordance with section 680 of the Act.
7. The Board, when hearing an appeal respecting a development permit or order related to a development matter, must act in accordance with Section 687 of the Act.

**MEMBERSHIP AND TERM**

8. The Subdivision and Development Appeal Board shall consist of a minimum of five and a maximum of eleven Members:
  - (a) a minimum of four and a maximum of ten Members shall be public members appointed to the Board by resolution of council; and
  - (b) only one Member shall be a member of Council appointed by resolution of Council.
9. Council shall appoint Members at council's annual organizational meeting.
10. Members shall be appointed for either:
  - a) one-year terms that commence on January 1 and end on December 31; or
  - b) two-year terms that commence on January 1 and end on December 31 of the following year.
11. The number of consecutive years served by a public Member shall not exceed six.
12. Despite subsection (5.4), if a public Member reaches the maximum number of years of service, they may conclude the current term for which they have been appointed.

2022-19

**ELIGIBILITY**

13. To be eligible for public membership on the Board, a person must:
  - (a) *Repealed 2021-19*

- (b) be a resident of Canmore; and
  - (c) be at least eighteen years of age.
14. A public Member is not eligible for continuing a term on the Board and/or for reapplying for the next subsequent term on the Board if the Member:
- (a) fails to attend three consecutive meetings of the Board, unless that absence is caused by illness or is authorized in advance by 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); or
  - (b) ceases to meet the eligibility requirements set out in this bylaw.
15. Town employees and members of the Canmore Planning Commission are ineligible to be Members.

**REMUNERATION**

16. Members are eligible to claim per diems for attending the following municipal business:
- a) training required under the Subdivision and Development Appeal Board Regulation; and
  - b) meetings of the Board.
17. Members shall be compensated per diem rates at the rate set out for councillors in the Council Remuneration Policy adopted by resolution of Council.

**RESIGNATIONS AND REMOVALS**

18. Any public Member may resign from the Board at any time by sending written notice to the Clerk who shall inform Council and the Board Chair.
19. If a vacancy occurs before Council's annual organizational meeting, Council may appoint a replacement for the remainder of the term.
20. Council may remove a Member at any time.

**QUORUM AND APPOINTMENT OF CHAIR AND VICE CHAIR**

21. Three voting Members shall constitute a quorum.
22. A chair and two vice-chairs shall be selected each calendar year by a majority vote of Members at the first meeting in the new year. 2022-19
23. In the event of absence or inability of the chair to preside at a meeting, a vice-chair shall preside. 2022-19
24. In the event of absence or inability of both the chair and vice-Chair to preside at a meeting, the Members present shall elect one of its Members to preside as chair for that meeting.

**MEETING PROCEDURES**

- 25. Public notice of a meeting will be provided on the Town’s website at least 24 hours prior to the meeting.
  
- 25.1 Appeals shall be heard by a panel consisting of a minimum of 3 and maximum of 5 Members. 2022-19
  
- 25.2 Panels have any or all the powers, duties, and responsibilities of the Board and a decision of a panel is the decision of the Board. 2022-19
  
- 26. The Board may postpone a decision to a specific date and time where the circumstances require it.
  
- 26.1 If a notice to withdraw an appeal is received after the hearing date has been set, the Board shall open the hearing to determine whether or not the appeal will continue. 2021-16; 2022-01
  
- 27. The chair shall be responsible with respect to all things required to be carried out by the Board under the Act to see that they are carried out in accordance with the provisions of the Act, and:
  - a) is empowered to rule that evidence presented is irrelevant to the matter in issue and to direct the members to disregard the evidence;
  - b) may limit a submission if the chair determines it to be repetitious; 2021-16
  - c) when a meeting is postponed, may announce the date, time and place for the continuation of the meeting and such announcement shall be deemed adequate notice thereof; and
  - d) when a meeting is postponed but the time and place for the continuation of the meeting is not fixed, shall announce that notice of the continuation of the meeting will be sent to those persons leaving their name and address with the Clerk. Thereafter, only those persons leaving their name and address shall be entitled to notice of the continuation of the meeting.
  
- 28. The chair shall:
  - (a) Maintain order and decorum and may, if necessary call a member to order;
  - (b) Determine who has a right to speak;
  - (c) Ensure all members who wish to speak to a motion have spoken, ensure that the members are ready to vote, and subsequently call the vote;
  - (d) Rule when a motion is out of order; and
  - (e) Ensure persons in the gallery maintain quiet and order and may, if necessary, provide for the removal of those who do not comply.

29. Members shall not:
  - (a) Speak with the appellant or any other parties prior to the appeal; or
  - (b) Discuss the item being appealed with anyone, including other Members, outside the hearing.
30. When a Member has a Pecuniary Interest with respect to an appeal under consideration, the Member must disclose the nature of the Pecuniary Interest prior to any discussion on the matter, abstain from voting on the matter, and leave the room in which the meeting is being held until discussion and voting on the matter are concluded.
31. A Member who, for any reason, is unable to attend the whole of the hearing of an appeal shall not participate in the Board's deliberations or decision on that appeal.
32. When a Member does not vote on a matter pursuant to section 10.6 or 10.7, the abstention and reasons therefore shall be recorded in the minutes.
33. After hearing all submissions, the Board may deliberate and reach its decision in a meeting closed to the public.
34. No member of the Development Authority shall be present at a Board meeting closed to the public.
35. A decision of the majority vote of Members present shall be deemed to be a decision of the whole Board.
36. A tied vote is defeated.
37. A member shall not make any public statements (including verbally, in writing or via electronic media), on matters relating to an appeal before the Board, either before or after a hearing, except those statements authorized by the Board through the Chair.
38. Council shall authorize the appointment of one or more Clerks, who shall:
  - a) be authorized to sign on behalf of the Board any order or decision issued by the Board;
  - b) notify all members of the Board of the arrangements for the holding of each meeting and other meetings of the Board;
  - c) prepare and maintain a record of the proceedings;
  - d) prepare the Board's written orders for signature and transmittal; and
  - e) issue any order or decision of the Board to all affected parties and persons.

39. The Clerk or Chair may make a verbal announcement of the Board decision at the conclusion of the meeting of an appeal, but the verbal decision is neither final nor binding on the Board, and no rights are conferred upon any party by the Board's decision until notice of the decision has been given in accordance with the Act.

**MEETING RECORDS**

40. Agendas shall be made available to Board members at least three days prior to a meeting and made available to the public at least one day prior to a meeting.
41. The Clerk shall keep a record of each meeting that includes:
- (a) the notice of appeal;
  - (b) the date, time and location of the meeting;
  - (c) the names of all Members present;
  - (c.1) the names of all Town staff present; 2022-01
  - (d) a list of witnesses that gave written evidence at the meeting; 2022-01
  - (e) all written arguments presented at the meeting;
  - (f) a list of witnesses that gave verbal evidence presented at the meeting; 2022-01
  - (g) any motions made at the meeting, along with the results of the vote on the motion, and
  - (h) the evidence the Board considered and that which it did not, also known as the findings of facts; and
  - (i) the decision of the Board, including reasons.
- 41.1 Questions and debate shall not be recorded in the minutes. 2022-01
- 41.2 Minutes of the meeting shall be adopted by motion at the next hearing convened. 2022-01
- 41.3 Any member may request a correction to the minutes before they are adopted; corrections are deemed adopted when the motion to adopt the minutes has carried. 2022-01
- 41.4 Approved minutes shall be signed by the chairperson and the recording secretary who were present at the meeting where the minutes were taken, wherever practicable. Where not practicable, the minutes shall be signed by the current presiding officer and recording secretary. 2022-01
42. The chief administrative officer is authorized to provide for streaming video and video recording of any meeting.
43. The video recording provided by the chief administrative officer may be used to determine the accuracy of a portion of the minutes.

**WITHDRAWING AN APPEAL**

43.1 A notice made by the appellant to withdraw an appeal must be made in writing and submitted to the SDAB Clerk:

(a) before the hearing begins, or

(b) after the close of the hearing but before the Board issues its decision.

2022-01

43.2 A notice made by the appellant to withdraw an appeal may be made verbally if the notice is made during the hearing.

2022-01

43.3 *Repealed 2022-01.*

43.4 A withdrawal of an appeal must be unequivocal and unconditional.

43.5 Withdrawals submitted by e-mail will be accepted in accordance with the timing outlined in section 43.1.

2021-16

**REFUNDING AN APPEAL FEE**

43.6 A refund of the appeal fee shall only be granted if the appeal is withdrawn prior to the scheduling of the hearing.

2021-16

**ENACTMENT/TRANSITION**

44. If any clause in this bylaw is found to be invalid, it shall be severed from the remainder of the bylaw and shall not invalidate the whole bylaw.

45. Bylaws 18-2011 and 2017-32 are repealed.

46. This bylaw comes into force on the date it is passed.

FIRST READING: January 8, 2019

SECOND READING: January 8, 2019

THIRD READING: January 8, 2019

**OFFICE CONSOLIDATION**

This document is a consolidation of a bylaw with one or more amending bylaws. Anyone making use of this consolidation is reminded that it has no legislative sanction. Amendments have been included for convenience of reference only. The approved bylaws should be consulted for all purposes of interpreting and applying the law.

Bylaws included in this consolidation:

2019-06 Subdivision and Development Appeal Board Bylaw 2019-06

Town of Canmore Bylaw 2018-21 Subdivision and Development Appeal Board Bylaw

2021-16 Subdivision and Development Appeal Board Bylaw Amendment Appeal Withdrawals

2021-19 Committee Omnibus Amendment 2021-19 Citizenship Requirement

2022-01 Subdivision and Development Appeal Board Bylaw Amendment Meeting Procedures and Records

2022-19 Subdivision and Development Appeal Board Bylaw Amendment – Membership Increase