

VILLAGE OF INNISFREE

BYLAW NO. 661-20

Subdivision and Development Appeal Board

WHEREAS Section 627 of the *Municipal Government Act* (MGA), R.S.A. 2000, Chapter M-26 as amended or replaced from time to time, requires that a Municipal Council establish a Subdivision and Development Appeal Board by bylaw.


NOW THEREFORE the Council of the Village of Innisfree, duly assembled, enacts as follows:

1. This Bylaw may be cited as the "**Subdivision and Development Appeal Board Bylaw**".

**Definitions**

2. In this bylaw:

- a. "**Appellant**" means a person who, pursuant to the *MGA*, has served a notice of appeal on the Subdivision and Development Appeal Board.
- b. "**Council**" means the Council of the Village of Innisfree.
- c. "**Development Application**" means an application made to the Development Authority in accordance with the Village of Innisfree Land Use Bylaw, as amended or replaced from time to time, for the purpose of obtaining a development permit.
- d. "**Development Authority**" means the persons established under the Development Authority Bylaw No. 542-19 to perform the functions of a development authority under the *MGA*.
- e. "**Development Permit**" means a document authorizing a development issued in accordance with the Village of Innisfree Land Use Bylaw.
- f. "**Land Use Bylaw**" means the Village of Innisfree Land Use Bylaw, as adopted and amended from time to time;
- g. "**MGA**" means the *Municipal Government Act*, R.S.A. 2000, being Chapter M-26, as amended.
- h. "**Minister**" means the Minister of Alberta Municipal Affairs.



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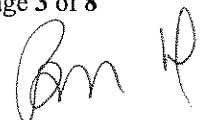
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- i. **"Subdivision Authority"** means the persons established under the Village of Innisfree Subdivision Authority Bylaw No. 643-19 to perform the functions of a subdivision authority under the *MGA*.
- j. **"Subdivision and Development Appeal Board"** means the board established to hear development and subdivision appeals, pursuant to this Bylaw.
- k. **"Subdivision and Development Appeal Board Clerk"** means the person appointed to the position of Clerk as established under this Bylaw.
- l. **"Village"** means the Village of Innisfree, in the Province of Alberta.

#### Establishment and Membership

3. The Subdivision and Development Appeal Board of the Village of Innisfree is hereby established.
4. The Subdivision and Development Appeal Board shall consist of three (3) members appointed by resolution of Council. A maximum of one (1) members shall be appointed from Council. A minimum of two (2) members shall be appointed from the public at large.
5. No person who is an employee of the Village or who is a Development Authority or a Subdivision Authority for the Village, or who is appointed as a Clerk of the Subdivision and Development Appeal Board, or who is a member of a Municipal Planning Commission shall be appointed to the Subdivision and Development Appeal Board.
6. Any vacancies caused by the death, retirement or resignation of a member may be filled by resolution of the Council.
7. Council may remove a member from the Subdivision and Development Appeal Board by resolution at any time.
8. Under extraordinary circumstances, such as when a large number of members of the Subdivision and Development Appeal Board may have a potential conflict of interest, the Council may appoint additional members of the Subdivision and Development Appeal Board for a specific, short period of time, as the Council sees fit, in order to attempt to ensure that the Subdivision and Development Appeal Board will have a quorum for a meeting or a hearing.



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9. If a member misses three consecutive meetings or hearings of the Subdivision and Development Appeal Board, Council will be notified.

**Term of Office**

10. Subject to Sections 6, 7, 8 and 9 of this bylaw, each member of the Subdivision and Development Appeal Board shall be appointed at the pleasure of the Council for a term to be determined by Council and may be reappointed upon the expiry of the term at the pleasure of the Council.
11. Where a member of Council is appointed as a member of the Subdivision and Development Appeal Board, their appointment shall terminate upon their ceasing to be a member of the Council.

**Chairperson**

12. The Subdivision and Development Appeal Board shall appoint a Chairperson by vote of the majority of the members.
13. A member may be re-elected to the position of Chairperson.
14. The Chairperson shall preside at the meetings of the Subdivision and Development Appeal Board.

**Vice-Chairperson**

15. A Vice-Chairperson shall be elected at the same time and under the same rules as the Chairperson.
16. A member may be re-elected to the position of Vice-Chairperson.
17. The Vice-Chairperson shall preside at the meetings of the Subdivision and Development Appeal Board in place of the Chairperson if the Chairperson, for any reason, does not preside at the meeting.
18. In the absence of the Chairperson and the Vice-Chairperson, one of the other members of the Subdivision and Development Appeal Board shall be elected to preside.

**Clerk of the Subdivision and Development Appeal Board**

19. Pursuant to Section 210(1) of the *MGA*, the position of designated officer for the limited purpose of carrying out the function of the Clerk to the Subdivision and Development

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Appeal Board is hereby established ("Subdivision and Development Appeal Board Clerk").

20. The Subdivision and Development Appeal Board Clerk shall be appointed by resolution of Council and shall not be a member of the Subdivision and Development Appeal Board.
21. The Subdivision and Development Appeal Board Clerk shall have responsibilities and functions including the following:
  - a. Makes and keeps a record of the Subdivision and Development Appeal Board proceedings which may be in the form of a summary of the evidence presented at a hearing.
  - b. Ensures statutory notices and decisions of the Subdivision and Development Appeal Board are provided to such persons as the *MGA* requires.
  - c. Compiles and provides Agenda and meeting packages to members and make available to the public.
  - d. Signs orders, decision, approval, notices, and other items given by the Subdivision and Development Appeal Board on its behalf.

#### Quorum and Meetings

22. A quorum of the Subdivision and Development Appeal Board shall be two (2) members of the Subdivision and Development Appeal Board.
23. Unless an order of the Minister authorizes otherwise, a panel of the Subdivision and Development Appeal Board hearing an appeal must not have more than one (1) Councillor as a member.
24. The Subdivision and Development Appeal Board shall meet at such intervals as are necessary to consider and decide appeals filed with it in accordance with the *MGA*, the Village of Innisfree Land Use Bylaw and Municipal Development Plan and any Intermunicipal Development Plan that the Village of Innisfree has adopted.
25. The Clerk of the Subdivision and Development Appeal Board shall have prepared and maintain a file of written Minutes of the business transacted at all meetings and hearings of the Subdivision and Development Appeal Board. These Minutes may be in the form of a summary of the activities undertaken, together with the motions made, at the meetings and hearings. The minutes of the Subdivision and Development Appeal Board may be approved without reconvening a meeting. Members of the Subdivision and Development

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Appeal Board may approve the minutes in writing to the Clerk or at the next meeting of the Subdivision and Development Appeal Board.

26. A member of the Subdivision and Development Appeal Board who, for any reason, is unable to attend the whole or a part of any hearing of an appeal, shall not participate in the deliberations or decision of the Subdivision and Development Appeal Board upon that appeal.
27. The Subdivision and Development Appeal Board may make rules as are necessary for the conduct of its meetings, its hearings and its business that are consistent with this Bylaw, the Village's Land Use Bylaw, the Municipal Development Plan, Intermunicipal Development Plan and the *MGA*.

#### Fees and Expenses

28. The remuneration, travelling, and other expenses of the members of the Subdivision and Development Appeal Board and the Subdivision and Development Appeal Board Clerk, shall be established by Council from time to time.
29. The fees associated with the launching of appeals, holding of hearings, and meetings of the Subdivision and Development Appeal Board may be set by the Council in their Master Rates Bylaw, as amended from time to time.

#### Development Appeals

30. Subject to Section 678 and 685 of the *Act*, the Subdivision and Development Appeal Board shall hear appeals where the Development Authority for the Village:
  - a. refuses or fails to issue a development permit to a person.
  - b. issues a development permit subject to conditions, or;
  - c. issues an order under Section 645 of the *MGA*,

and appeals are launched within the time limitations and in the manner indicated in the *MGA*.



31. Subject to Sections 678 and 685 of the *MGA*, the Subdivision and Development Appeal Board shall hear appeals from any person affected by an order, decision or development permit issued by the Development Authority, who appeals within the time limitations and in the manner indicated in the *MGA*.

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32. The Subdivision and Development Appeal Board shall hold an appeal hearing respecting any Development Appeal within 30 days of receipt of the notice of appeal.
33. The Subdivision and Development Appeal Board shall give at least 5 days notice in writing of the appeal hearing to:
- a. the Appellant;
  - b. the Development Authority;
  - c. the owner(s) of the property under appeal, if applicable;
  - d. any other person that the Subdivision and Development Appeal Board Clerk considers to be affected by the appeal.
34. In determining an appeal, the Subdivision and Development Appeal Board:
- a. shall comply with the Land Use Policies established pursuant to Section 622 of the *MGA*;
  - b. shall comply with any statutory plan and, the Land Use Bylaw of the Village of Innisfree.
  - c. may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
  - d. may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the Land Use Bylaw if, in its opinion,
    - (i) the proposed development would not
      - (a) unduly interfere with the amenities of the neighbourhood, or
      - (b) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land, and;
    - (ii) the proposed development conforms with the use prescribed for that land or building in the Land Use Bylaw.

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35. The Subdivision and Development Appeal Board shall give its decision in writing together with reasons for the decision within 15 days of the conclusion of the public hearing.

**Subdivision Appeals**

36. Subject to Section 678 of the *MGA*, the Subdivision and Development Appeal Board shall hear appeals of decisions of the Subdivision Authority provided an appeal is received within the time limitations and in the manner indicated in the *MGA*.
37. The Subdivision and Development Appeal Board shall hold an appeal hearing respecting any appeal within 30 days of receipt of the notice of appeal.
38. The Subdivision and Development Appeal Board shall give at least 5 days notice in writing of the appeal hearing to:
- a. the appellant;
  - b. applicant for subdivision approval;
  - b. the Subdivision Authority;
  - c. any school authority to whom the application for subdivision approval was referred;
  - d. all adjacent land owners who were given notice of the application for subdivision approval pursuant to Section 653(3)(b) of the *MGA*;
  - e. every Government department that was given a copy of the application for subdivision approval pursuant to the *MGA*; and
  - f. any other municipality that is adjacent to the land that is the subject of the appeal.
39. In determining an appeal, the Subdivision and Development Appeal Board:
- a. shall be consistent with the Land Use Policies established pursuant to Section 622 of the *MGA*;
  - b. shall have regard to any statutory plans which are in effect;

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- c. shall conform with the uses of land referred to in the Village of Innisfree Land Use Bylaw, Municipal Development Plan and Intermunicipal Development Plan;
  - d. may confirm, revoke or vary the approval or decision or any condition imposed by the Subdivision Authority or make or substitute a decision or any condition of its own;
  - e. may exercise the same power as the Subdivision Authority is permitted to exercise pursuant to the *MGA* or any Regulations or Bylaws adopted pursuant to the *MGA*.
40. The Subdivision and Development Appeal Board shall give its decision in writing together with reasons for the decision within 15 days of the conclusion of the public hearing.
41. Bylaw 508-95 and any amendments are hereby repealed.

Read a FIRST time this 20<sup>th</sup> day of October 2020.

Read a SECOND time this 17<sup>th</sup> day of November 2020.

Read a THIRD and FINAL time this 17<sup>th</sup> day of November 2020.



Mayor



Chief Administrative Officer

