

BY-LAW NO. 05/95

A By-Law of the Village of Bentley, in the Province of Alberta, pursuant to provisions of the Municipal Government Act, being Chapter M-26.1 of the Revised Statutes of Alberta 1994 and amendments thereto, to provide for the establishment of a Subdivision and Development Appeal Board.

WHEREAS the Municipal Council wishes to establish a Subdivision and Development Appeal Board as required by the Municipal Government Act, Chapter M-26.1 of the Revised Statutes of Alberta 1994 and amendments thereto;

NOW THEREFORE the Municipal Council of the Village of Bentley, duly assembled, enacts as follow:

Title:

1. This By-Law may be cited as the "Subdivision and Development Appeal Board By-law".

Definitions:

2. The following words and terms are defined as follows:
 - a. "Act" means the Municipal Government Act, S.A. 1994, c.M-26.1, as amended;
 - b) "Board" means the Subdivision and Development Appeal Board of the Village of Bentley established pursuant to this By-Law;
 - c) "Council" means the Council of the Village of Bentley;
 - d) "Development Authority" means the person or persons appointed pursuant to Development Authority By-Law 03/95.
 - e) "Land Use By-Law" means the Land Use By-Law No. 486;
 - f) "Member" means a member of the Subdivision and Development Appeal Board appointed pursuant to this By-law.
 - g) "Subdivision Authority" means the Subdivision Authority as established pursuant to Subdivision Authority By-Law No. 02/95.
 - h) "Village" means the Village of Bentley.

Establishment of Authority:

3. The Subdivision and Development Appeal Board is hereby established:

Membership and Term:

4. The Board shall consist of at least three persons, the majority of which shall be Citizens-at-large.
5. A Member of the Board shall not include:
 - a. a Member of the Municipal Planning Commission;
 - b. a person who carries out development or subdivision powers on behalf of the Village;
 - c. an employee of the Village.
6. Each member of the Board shall be appointed for a term specified by Resolution of Council, but in no case shall the appointment be more than one year.
7. Notwithstanding Section 6, a person may be reappointed to the Board upon the expiration of that person's term.
8. In the event of a vacancy, Council may appoint by Resolution of Council a new member to serve for the remainder of the vacating Member's term.
9. If a Member misses three (3) consecutive meetings without the authorization of the Board, the person is disqualified and the position becomes vacant; otherwise, a Member of the Board shall not be discharged without cause.
10. The Chairman and Vice-Chairman of the Board shall be appointed annually by Resolution of Council.

Procedure Matters:

11. A quorum of the Board shall consist of a majority of the Members, but Councillors may not form the majority of the quorum.
12. In accordance with Part 17 of the Act, the Board may establish committees of the Board, but where it does, at least one of the Chairman or Vice-Chairman shall be a member.
13. A quorum for a committee of the Board shall consist of a majority of the Members of the committee, but councillors may not form the majority of the quorum.
14. In the event of absence or inability of the Chairman to preside at a Board meeting, the Vice-Chairman shall preside, and in the event of the absence or inability of both the Chairman and Vice-Chairman to preside at a meeting of the Board, the Members present in constituting a quorum shall elect one of its members to act as Chairman.
15. In the event of the absence or inability of the Chairman, Vice-Chairman, or both, to preside as Chairman of a Committee meeting, the members present in constituting a quorum shall elect one of its members to act as Chairman for the meeting.
16. Council shall appoint by Resolution of Council a person or persons to serve as Secretary to the Board, who shall:

- a) not have a vote;
 - b) give at least five (5) days written notice of a hearing of an appeal to:
 - i) in the case of an appeal against an order, decision or a failure to make a decision by a development authority, the appellant, the development authority whose decision, order or permit is the subject of the appeal, those owners required under the Land Use By-Law and any other person the Board considers to be affected;
 - ii) in the case of an appeal against a decision or a failure to make a decision by the subdivision authority, the applicant for subdivision approval, the subdivision authority, if the land that is the subject of the application is adjacent to the boundaries of another municipality, the municipality, any school authority to whom the application was referred, an adjacent owner who was given notice of the application, and every Government department that was given a copy of the application pursuant to the Subdivision and Development Regulations;
 - c) notify all Members of the Board of the meetings of the Board, including hearings;
 - d) prepare and maintain a file of written minutes of the business transacted at all meetings, including hearings, of the Board;
 - e) for each hearing, record and issue a decision of the Board and its findings, with reasons, to all affected parties;
 - f) be authorized to sign on behalf of the Board any order, decision, approval, notice, or any other thing made, given or issued by the Board;
 - g) undertake such other duties as Council or the Board may require.
17. Only those Members of the Board present at a whole hearing of an appeal shall be able to vote on the appeal, wherein those voting form a quorum.
 18. A decision of the Members forming a quorum at a duly convened meeting of the Board or committee thereof shall be deemed to be the decision of the whole Board.
 19. In the event of a tie vote, the appeal shall be deemed to be denied.
 20. For any procedures not covered in Part 17 of the Act or by by-law of the Village, the Board may establish procedures for the conduct of meetings.

Functions and Duties:

21. Within thirty (30) days of receiving written notice of an appeal that is in accordance with the provisions of the Act, the Board shall hold a public hearing to hear an appeal of:
 - a. a decision of the Subdivision Authority or Development Authority;
 - b. the Subdivision Authority or Development Authority's refusal or failure to make a decision within the time allowed for a decision established in the Act;
 - c. a stop work order issued by a Development Authority.
22. The hearings of the Board shall be in public, but the Board may at any time recess and deliberate in private.
23. A request for adjournment of a hearing may be granted at the discretion of the Board, but any adjournment must be to a specific time and date.
24. The Board may adjourn to a specific time and date upon its own violation to request technical information, legal opinions or other information desired by the Board.
25. Upon conclusion of a hearing the Board shall deliberate and reach its decision in private and in doing so shall determine an appeal in accordance with the provisions of Part 17 of the Act.
26. The Chairman or acting chairman:
 - a. shall be responsible for the conduct of a meeting;
 - b. may limit a submission if it is determined to be repetitious or inappropriate in any manner.
27. If a Member has direct pecuniary interest in a matter before the Board, or if a Member is aware of any reason which may lead to a possible bias when hearing the matter, the Member shall declare an interest or likelihood of bias to the Commission and shall abstain from discussion and voting on the matter, and such abstention shall be recorded in the minutes.
28. The Board shall issue its decision in writing, together with reasons for the decision, within fifteen (15) days of the conclusion of a hearing.
29. A decision of the Board is not final until notification of the decision is given in writing.
30. Notwithstanding Section 16.f, an order, decision or approval made, given or issued by the Board may be signed by the Chairman or Vice-Chairman of the Board.
31. If the Subdivision Authority fails or refuses to endorse a plan of subdivision or other instrument as approved by the Board on appeal, the Chairman or Vice-Chairman of the Board is authorized to endorse the subdivision instrument.

Transition:

25. Upon the coming into force of the By-Law, the Members of the Development Appeal Board appointed pursuant to the Development Appeal Board By-Law No. 488, who meet the conditions of membership set out in Section 5 of this By-Law, are continued as Members of the Subdivision and Development Appeal Board until new members are appointed by Council in accordance with the provisions of this By-Law.
26. Municipal Planning Commission By-Law No. 488 is hereby repealed.

READ a first time this 26 day of September, 1995.

READ a second time this 26 day of September, 1995.

READ a third and final time this 10 day of October, 1995.

MAYOR

CHIEF ADMINISTRATIVE OFFICER