

**SUMMER VILLAGE OF HORSESHOE BAY
PROVINCE OF ALBERTA**

BY-LAW NO. 43/1995

Being a Bylaw of the Summer Village of Horseshoe Bay to Establish the Subdivision and Development Appeal Board of the Summer Village of Horseshoe Bay

WHEREAS Section 627 of the Municipal Government Act, 1994, Chapter M-26.1 (“the Act”) requires that a Municipal Council establish a Subdivision and Development Appeal Board By-Law,

NOW THEREFORE, the Council of the Summer Village of Horseshoe Bay duly assembled enacts as follows:

1. Name

- 1.1 This By-Law may be cited as the “Subdivision and Development Appeal Board By-Law”.

2. Definitions

The following words and phrases mean:

- 2.1 “Act” means the Municipal Government Act, 1994, Chapter M-26.1.
- 2.2 “Appellant” means a person who, pursuant to the Act, has served a notice of appeal on the Subdivision and Development Appeal Board.
- 2.3 “Council” means the Mayor and Councillors of the Summer Village of Horseshoe Bay for the time being elected pursuant to the provisions of the Act, whose term is unexpired, who have not resigned and who continue to be eligible to hold office as such under the terms of the Act.
- 2.4 “Development Application” means an application made to the Development Authority in accordance with the Land Use By-Law for the purpose of obtaining a development permit.
- 2.5 “Development Authority” means the persons established under Section 3 of the Development Authority By-Law to perform the functions of a development authority under the Act.
- 2.6 “Development Permit” means a document authorizing a development issued in accordance with the Land Use By-Law of the Summer Village of Horseshoe Bay.

- 2.7 “Land Use By-Law” means a By-Law adopted as a Land Use By-Law pursuant to the Act or the former Act.
- 2.8 “Subdivision Authority” means the persons established under Section 3 of the Subdivision Authority By-Law to perform the functions of a subdivision authority under the Act.
- 2.9 “Subdivision and Development Appeal Board” means the board established to hear development and subdivision appeals, pursuant to Section 3 of this By-Law.
- 2.10 “Subdivision and Development Appeal Board Secretary” means the person appointed to the position established under Section 7 of this By-Law.

3. Establishment and Membership

- 3.1 The Subdivision and Development Appeal Board of the Summer Village of Horseshoe Bay is hereby established.
- 3.2 The Subdivision and Development Appeal Board shall consist of three (3) members appointed annually by resolution of the Council. One (1) member shall be appointed from the Council. Two (2) members shall be appointed from the public at large.
- 3.3 No person who is an employee of the Summer Village of Horseshoe Bay who is a Development Authority or a Subdivision Authority for the Summer Village of Horseshoe Bay, who is a member of a Municipal Planning Commission shall be appointed to the Subdivision and Development Appeal Board.
- 3.4 Any vacancies caused by the death, retirement or resignation of a member may be filled by resolution of the Council.
- 3.5 Council may remove a member from the Subdivision and Development Appeal Board by resolution at any time.
- 3.6 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 quorum for a meeting and a hearing.

4. Term of Office

- 4.1 Subject to Sections 3.5, 3.6, and 4.2 of this By-Law, each member of the Subdivision and Development Appeal Board shall be appointed at the pleasure of the Council for a term of one (1) year and may be reappointed upon the expiry of the term at the pleasure of the Council.
- 4.2 Where a member of Council is appointed as a member of the Subdivision and Development Appeal Board, his appointment shall terminate upon his ceasing to be a member of the Council.

5. Chairman

- 5.1 At the first meeting of the Subdivision and Development Appeal Board following the appointment of members each year, a Chairman shall be elected by vote of the majority of the members.
- 5.2 A member may be re-elected to the position of Chairman.
- 5.3 A Chairman shall preside at the meetings of the Subdivision and Development Appeal Board.

6. Vice-Chairman

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

7. Secretary of the Subdivision and Development Appeal Board

- 7.1 The position of designated officer for the limited purpose of carrying out the function of the Secretary to the Subdivision and Development Appeal Board is hereby established ("Subdivision and Development Appeal Board Secretary").
- 7.2 The Subdivision and Development Appeal Board Secretary shall be appointed by resolution of the Council and shall not be a member of the Subdivision and Development Appeal Board.

- 7.3 The Subdivision and Development Appeal Board Secretary shall have responsibilities and functions including the following:
- 7.3.1. 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.
 - 7.3.2. Ensures statutory notices and decisions of the Subdivision and Development Appeal Board are provided to such persons as the Act requires.
 - 7.3.3. Compiles and provides Agenda and meeting packages to members and make available to the public.
 - 7.3.4. Signs orders, decision, approval, notices, and other items given by the Subdivision and Development Appeal board on its behalf.

8. Quorum and Meetings

- 8.1 A quorum of the Subdivision and Development Appeal Board shall be two (2) members of the Subdivision and Development Appeal Board.
- 8.2 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 Act.
- 8.3 The Subdivision and Development Appeal Board shall have prepared and maintain a file of written minutes of the business transacted at all meetings and hearing of the Subdivision and Development Appeal Board, copies of which shall be regularly filed with the Council. These minutes may be in the form of a summary of the activities undertaken, together with the motions made, at the meetings and hearing.
- 8.4 A member of the Subdivision and Development Appeal Board who is for any reason, 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.
- 8.5 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 By-Law, the Summer Village of Horseshoe Bay Land Use By-Law, and the Act.

9. Fees and Expenses

- 9.1 The remuneration, travelling, living and other expenses of the members of the Subdivision and Development Appeal Board and the Subdivision and Development Appeal Board Secretary, shall be established by Council from time to time.
- 9.2 The fees associated with the holding of hearings, and meetings of the Subdivision and Development Appeal Board may be set by the Council by By-Law.

10. Development Appeals

- 10.1 Subject to Sections 641 (4) and 685 (3) of the Act, the Subdivision and Development Appeal Board shall hear appeals where the Development Authority for the Summer Village of Horseshoe Bay
- 10.1.1 refuses or fails to issue a development permit to a person
- 10.1.2 issues a development permit subject to conditions, or
- 10.1.3 issues an order under Section 645 of the Act, and appeals are launched within the time limitations and in the manner indicated in the Act.
- 10.2 Subject to Sections 641 (4) and 685 (3) of the Act, 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 Act.
- 10.3 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.
- 10.4 The Subdivision and Development Appeal Board shall give at least 5 days notice in writing of the appeal hearing to:
- 10.4.1 the Appellant;
- 10.4.2 the Development Authority of the Summer Village of Horseshoe bay;
- 10.4.3 the owners required to be notified under the Land Use By-Law of the Summer Village of Horseshoe Bay, and
- 10.4.4 any other person that the Subdivision and Development Appeal Board considers to be affected by the appeal and should be notified.

- 10.5 In determining an appeal, the Subdivision and Development Appeal Board;
- 10.5.1 shall comply with the Land Use Policies established pursuant to Section 622 of the Act;
- 10.5.2 shall comply with any statutory plan and, subject to subsection 10.5.5 of this By-Law, the Land Use By-Law of the Summer Village of Horseshoe Bay;
- 10.5.3 shall have regard to but not be bound to the Subdivision and Development Regulations established pursuant to Section 694 of the Act;
- 10.5.4 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;
- 10.5.5 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 By-Law 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 By-Law.
- 10.6 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.

11. Subdivision Appeals

- 11.1 Subject to Section 678 of the Act, the Subdivision and Development Appeal Board shall hear appeals of decisions of the Subdivision Authority for the Summer Village of Horseshoe Bay provided an appeal is received within the time limitations and in the manner indicated in the Act.
- 11.2 The Subdivision and Development Appeal Board shall hold an appeal hearing respecting any appeal within 30 days of receipt of the notice of appeal.
- 11.3 The Subdivision and Development Appeal Board shall give at least 5 days notice in writing of the appeal hearing to:

- 11.3.1 applicant for subdivision approval;
 - 11.3.2 the Subdivision Authority of the Summer Village of Horseshoe Bay;
 - 11.3.3 any school authority to whom the application for subdivision approval was referred;
 - 11.3.4 all adjacent landowners who were given notice of the application for subdivision approval pursuant to Section 653 (4) of the Act;
 - 11.3.5 every Government department that was given a copy of the application for subdivision approval pursuant to the Act; and
 - 11.3.6 if the land that is the subject of the application for subdivision approval is adjacent to the boundaries of another municipality, that municipality.
- 11.4 In determining an appeal, the Subdivision and Development Appeal Board:
- 11.4.1 shall be consistent with the Land Use Policies established pursuant to Section 622 of the Act;
 - 11.4.2 shall have regard to any statutory plan which is in effect;
 - 11.4.3 shall conform with the uses of land referred to in the Land Use By-Law;
 - 11.4.4 shall have regard to but not be bound to the Subdivision and Development Regulations established pursuant to Section 694 of the Act;
 - 11.4.5 may confirm, revoke or vary the approval or any condition imposed by the Subdivision Authority or make or substitute a decision or any condition of its own;
 - 11.4.6 may exercise the same power as the Subdivision Authority is permitted to exercise pursuant to the Act.
- 11.5 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.

Read a first time in Council this 13th day of November, A.D. 1995.

Read a second time in Council this 13th day of November, A.D. 1995.

Read a third time and finally passed in this 13th day of November, A.D. 1995.

Original signed by
A. Jackson
MAYOR

Original signed by
Ken Parsons
ADMINISTRATOR