

BYLAW 564/95

TOWN OF ELK POINT, ALBERTA

**A BYLAW OF THE TOWN OF ELK POINT, IN THE PROVINCE OF ALBERTA. AUTHORIZING THE TOWN TO ESTABLISH THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD FOR THE TOWN OF ELK POINT.**

PURSUANT to the provisions of Section 627 of the Municipal Government Act, S.A. 1994, as amended ("the Act") requires that a Municipal Council establish a Subdivision and Development Appeal Board by bylaw.

AND WHEREAS, the Council for the Town of Elk Point, in the Province of Alberta, deems it proper and expedient to enact such a Bylaw,

NOW THEREFORE, the Council in session duly assembled, enacts as follows:

1. **TITLE:**

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

2. **DEFINITIONS:**

The following words and phrases mean;

2.1 "Act" means the Municipal Government Act, S.A. 1994, as amended.

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 Town of Elk Point 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 Bylaw for the purpose of obtaining a development permit.

2.5 "Development Authority" means the persons established under Section three of the Development Authority Bylaw 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 Bylaw of the Town of Elk Point.

2.7 "land Use Bylaw" means a Bylaw adopted as a land use bylaw pursuant to the Act or the former Act.

2.8 "Subdivision Authority" means the persons established under Section three of the Subdivision Authority Bylaw 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 three of this bylaw and the Board shall be referred to as the "SDAB" in this bylaw.

- 2.10 "Subdivision and Development Appeal Board Secretary" means the person appointed to the position established under Section seven of this bylaw.

3. **ESTABLISHMENT AND MEMBERSHIP:**

- 3.1 The Subdivision and Development Appeal Board of the Town of Elk Point is hereby established.
- 3.2 The SDAB shall consist of 5 members appointed annually by resolution of Council. 2 members shall be appointed from Council. 3 members shall be appointed from the public-at-large.
- 3.3 No person who is an employee of the Town of Elk Point, who is a Development Authority or a Subdivision Authority for the Town of Elk Point, who is a member of the Municipal Planning Commission shall be appointed to the SDAB.
- 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 member from the SDAB by resolution of Council at any time.
- 3.6 Council may appoint members for a temporary period for extraordinary circumstances.

4. **TERM OF OFFICE:**

- 4.1 Subject to Sections 3.5 and 4.2 of this bylaw, each member of the SDAB shall be appointed at the pleasure of Council for a term of one year and may be reappointed upon the expiry of the term at the pleasure of Council.
- 4.2 Where a member of Council is appointed as a member of the SDAB, his/her appointment shall terminate upon ceasing to be a member of Council.

5. **CHAIRMAN:**

- 5.1 At the first meeting of the SDAB, 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 SDAB.

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 SDAB 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 SDAB shall be elected to preside.



7. SECRETARY FOR THE SDAB:

- 7.1 The position of designated officer for the limited purpose of carrying out the function of the Secretary to the SDAB is hereby established.
- 7.2 The SDAB Secretary shall be appointed by resolution of Council and shall not be a member of the SDAB.
- 7.3 The SDAB Secretary shall have responsibilities and functions including the following:
  - 7.3.1 Makes and keeps a written record of the SDAB 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 SDAB 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, decisions, approvals, notices, and other items given by the SDAB on its behalf.
  - 7.3.5 The SDAB Secretary shall have the power to delegate except the signing authority.
  - 7.3.6 And any other duties required of the SDAB that are necessary to assist in the decision making of the appeals before the SDAB.

8. QUORUM AND MEETINGS:

- 8.1 A quorum of the SDAB shall be 3 members of the SDAB, except that if there are only three members of the SDAB at a meeting or a hearing of the SDAB, no more than one of those members shall be a member of the SDAB who is appointed from the Council.
- 8.2 The SDAB shall meet at such intervals as are necessary to consider and decide appeals filed with it in accordance with the Act.
- 8.3 The SDAB shall have prepared and maintain a file of written minutes of the business transacted at all meetings and hearings of the SDAB, copies of which shall be regularly filed with the Council. Except where items may be of a nature that in accordance with section 197 (2) of the Act shall remain confidential.
- 8.4 A member of the SDAB 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 SDAB upon that appeal.
- 8.5 The SDAB may make rules as are necessary for the conduct of its meetings, its hearings and its business that are consistent with this Bylaw, the Town of Elk Point Land Use Bylaw, and the Act.





9. FEEES AND EXPENSES:

9.1 The remuneration, travelling, living and other expenses of the members of the SDAB and the SDAB Secretary, shall be established by a resolution of Council from time to time.

10. DEVELOPMENT APPEALS:

10.1 Subject to Section 641 (4) and 685 (3) of the Act, the SDAB shall hear appeals where the Development Authority for the Town of Elk Point

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 SDAB shall hears 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 SDAB shall hold an appeal hearing respecting any Development Appeal within 30 days of receipt of the notice of appeal.

10.4 The SDAB 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 Town of Elk Point,

10.4.3 the owners required to be notified under the Land Use Bylaw of the Town of Elk Point; and

10.4.4 any other person that the SDAB considers to be affected by the appeal and should be notified.

10.5 In determining an appeal, The SDAB;

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 section 10.5.5 of this bylaw, the Land Use Bylaw of the Town of Elk Point,

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 a decision 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.

10.6 The SDAB shall give its decision in writing together with reasons for the decision within 15 days of the conclusion of the public hearing.

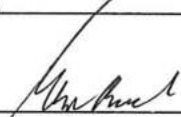
11. **SUBDIVISION APPEALS:**

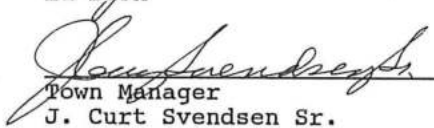
- 11.1 Subject to Section 678 of the Act, the SDAB shall hear appeals of decisions of the Subdivision Authority for the Town of Elk Point provided an appeal is received within the time limitations and in the manner indicated in the Act.
- 11.2 The SDAB shall hold an appeal hearing respecting any appeal within 30 days of receipt of the notice of appeal.
- 11.3 The SDAB shall give at least 5 days notice in writing of the appeal hearing to;
- 11.3.1 applicant for the subdivision approval,
  - 11.3.2 the Subdivision Authority of the Town Of Elk Point,
  - 11.3.3 any school authority to whom the application for subdivision approval was referred,
  - 11.3.4 all adjacent land owners 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 SDAB
- 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 for any statutory plan which is in effect,
  - 11.4.3 shall conform with the uses of the land referred to in the Land Use Bylaw,



- 11.4.4 shall have regard to but not bound to the Subdivision Development Regulations established pursuant to Section 694 of the Act,
- 11.4.5 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,
- 11.4.6 may exercise the same power as the Subdivision Authority is permitted to exercise pursuant to the Act or any Regulations or Bylaws adopted pursuant to the Act,
- 11.4.7 The SDAB 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 THIS 5<sup>th</sup> DAY OF SEPTEMBER, 1995  
READ A SECOND TIME THIS 5<sup>th</sup> DAY OF SEPTEMBER, 1995  
READ A THIRD TIME AND FINALLY PASSED BY A MAJORITY OF THOSE  
PRESENT THIS 5<sup>th</sup> DAY OF SEPTEMBER, 1995

  
\_\_\_\_\_  
Mayor  
Ed Buck

  
\_\_\_\_\_  
Town Manager  
J. Curt Svendsen Sr.

