

BYLAW NO. 3680/2022

Being a bylaw of The City of Red Deer to establish Red Deer Tribunals.

COUNCIL OF THE CITY OF RED DEER ENACTS AS FOLLOWS:

PART I – ESTABLISHMENT

1. The short title of this bylaw is “The Red Deer Tribunals Bylaw”.
2. The headings in this bylaw are for reference purposes only.
3. References to enactments and bylaws in this bylaw include amendments and replacement enactments and bylaws, and regulations and orders made in accordance with them.

Definitions

4. In this bylaw:
 - (I) “Advisory Committee” is a committee comprised of all Members, that meets as the Subdivision Development Appeal Board directs or as necessary.
 - (II) “Appellant” means a person with an interest in the outcome of an appeal who files a written Notice of Appeal as set out in part II of this bylaw, the *Municipal Government Act*, the *Weed Control Act*, the *Agricultural Pests Act*, the City of Red Deer Bylaws, or subordinate legislation.
 - (III) “Boards” means all the boards established pursuant to this bylaw.
 - (IV) “Citizen Representative” means a person appointed to the Boards by Council.
 - (V) “City” means the City of Red Deer municipal corporation.
 - (VI) “Council” means Red Deer city council.

- (VII) “Designated Officer” means
 - (a) a person appointed as the clerk of the Subdivision and Development Appeal Board in accordance with section 627.1 of the *Municipal Government Act*,
 - (b) the Chief Administrative Officer for the purpose of appeals filed under the *Weed Control Act*, and
 - (c) the municipal secretary for the purpose of appeals filed under the *Agricultural Pests Act*.
- (VIII) “Mayor” means the chief elected official for the City of Red Deer.
- (IX) “Member” means a member of the Subdivision and Development Appeal Board.
- (X) “MGA” means the *Municipal Government Act* R.S.A. 2000 ch. M-26 as amended.
- (XI) “Agricultural Pests Act” means the *Agricultural Pests Act* R.S.A. 2000 ch. A-8 as amended.
- (XII) “Weed Control Act” means the *Weed Control Act* R.S.A. 2008 ch. W-5.1 as amended.

Establishment of Boards

- 5. The Subdivision and Development Appeal Board is hereby established.
- 6. The Licensing and Community Standards Board (formerly known as the “Red Deer Appeal and Review Board”) is hereby established.
- 7. The Review Board is hereby established.
- 8. The Administrative Penalties Board is hereby established.

Functions and Duties

- 9. The Boards are bound by their governing legislation and any bylaw relating to the matter under appeal.
- 10. The Subdivision and Development Appeal Board is a subdivision and development appeal board as required by the MGA and its authority is set out in the MGA, regulations established pursuant to the MGA, this bylaw, and the City’s Land Use bylaw.
- 11. (I) The Licensing and Community Standards Board hears and make decisions on appeals for which it is responsible under any City bylaw and, in particular, arising under the bylaws referenced in Schedule A.

(II) Where a bylaw authorizes an appeal to the Licensing and Community Standards Board but is silent about the Board's authority to resolve the matter, the Board may confirm, deny or vary a previous decision on the matter.

- (III) When the Licensing and Community Standards Board receives an appeal where the enactment or bylaw giving rise to the appeal is silent as to the time in which the appeal must be heard, the board will hold an appeal hearing within 30 days after receipt of a notice of appeal.
12. Under s. 203 of the MGA, the Review Board is given the authority of Council in respect of applications for review arising under s. 547 of the MGA.
 13. The Administrative Penalties Board is the panel responsible to determine appeals of inspector's notices, local authority's notices and debt recovery notices under the Weed Control Act and is the committee responsible for hearing and reviewing appeals in accordance with the Agricultural Pests Act.

Membership

14. The Subdivision and Development Appeal Board consists of up to five Citizen Representatives.
15. For the duration of their term as Members, in virtue of their appointment to the Subdivision and Development Appeal Board, Members are also appointed as members of the Licensing and Community Standards Board, the Review Board, and the Administrative Penalties Board.

Appointments

16. The Nomination Committee, established by the *Committees Bylaw*, will review applications for the Boards and make recommendations to Council with respect to Member appointments.
17. Council has authority to appoint Members. When selecting Members, Council may give preference to local residents; however, non-residents may also be appointed in recognition that property, business and other interests may create a substantial connection to the city and community.
18. A person is ineligible for appointment to the Boards where that appointment would give rise to a reasonable perceived conflict of interest.
19. Unless exempted by Council, a person who previously served as a Member, Council member or City employee is ineligible for appointment to the Boards for a period of two years after leaving any of those roles.
20. The Mayor is not a Member.
21. Council has discretion to set the terms of appointment for Members, but all Members are appointed for three-year terms and serve on hearings for appeals filed during their term unless Council specifies otherwise.

22. Where a Member's position is vacant for any reason, Council may appoint a new Member. The term of the new Member shall be as specified by Council.
23. A Member may be re-appointed at the expiration of the Member's term but may not serve more than three consecutive terms unless exempted by Council.
24. A Member may resign at any time by written notice to the Designated Officer.
25. Council may revoke an appointment for cause or misconduct.

Chair and Vice Chair

26. The Subdivision and Development Appeal Board shall appoint a chair and vice chair annually from among Members.
27. The chair of the Subdivision and Development Appeal Board is the chair for all of the Boards.
28. The Subdivision and Development Appeal Board vice chair is the vice chair for all the Boards.
29. The chair:
 - (I) acts as presiding officer for hearings;
 - (II) in consultation with the Designated Officer, sets the agenda for, and chairs Advisory Committee meetings,
 - (III) may delegate the duties of chair to the vice chair or any other Member,
 - (IV) is responsible for managing the conduct of Members.
30. Unless delegated to another Member, the vice chair performs the duties of the chair in the chair's absence.

Advisory Committee

31. (I) Collectively, the Members may sit and act as an Advisory Committee for the purpose of collaborating with the Designated Officer on all matters affecting the Boards including but not limited to:
 - (a) Developing guidelines regarding board matters;
 - (b) monitoring and evaluating board performance.
- (II) A majority of Members constitute a quorum when Members meet as an Advisory Committee.

Conduct and Procedures at Hearings

32. Members must conduct themselves in accordance with:
 - (a) the express provisions of any applicable enabling legislation,
 - (b) the *Municipal Government Act* and related regulations;
 - (c) principles of natural justice and procedural fairness; and
 - (d) any board guidelines.

33. The Boards are not bound by rules of evidence and may make their own rules governing the practice and procedure applicable to proceedings including, but not limited to, the admission and distribution of evidence.

34. The Boards may hold hearings in person, via electronic means or via written submissions.

35. More than one panel of the Boards may meet simultaneously.

36. A decision of the majority of a board hearing panel is a decision of that board.

37. All preliminary matters arising in respect of a hearing of the Boards may be heard and determined by a single person panel.

38. A hearing panel for the Subdivision and Development Appeal Board, Licensing and Community Standards Board or the Review Board, is comprised of either three or five Members

39. An Administrative Penalties Board hearing panel is comprised of one Member.

40. Where an enactment or bylaw authorizes an appeal to a board established pursuant to this bylaw but is silent about the composition of the panel, the board has authority to determine how many Members are appointed to the hearing panel.

Designated Officer

41. (I) The City Legal and Legislative Services Manager is appointed as the Designated Officer of the Boards:
 - (II) The Designated Officer:
 - (a) is the clerk of the Boards and the Subdivision and Development Appeal Board;
 - (b) must satisfy training requirements set out in the *Municipal Government Act*;

- (c) performs the duties and functions as required by the *Municipal Government Act*;
- (d) determines the time and place for hearings and assigns Members to hearing panels;
- (e) may, at the request of a board, sign orders, decisions and documents on behalf of the board;
- (f) may, at the request of the chair of the Subdivision and Development Appeal Board, sign documents on behalf of the Advisory Committee;
- (g) will communicate a board's instructions to independent legal counsel when required;
- (h) may waive or refund an appeal fee; and
- (i) has responsibility for managing the Boards' finances including, but not limited to, setting remuneration for Members and reimbursement of expenses.

PART II – FILING APPEALS & HEARINGS

Filing an Appeal

- 42. Where there is a right to appeal to a board established pursuant to this bylaw, a person may commence an appeal by mailing or delivering a Notice of Appeal to the Designated Officer.
- 43. A Notice of Appeal must include the name and address of the person commencing the appeal, a copy of the notice or decision being appealed, the grounds for the appeal and the filing fee, deposit, or charge if required.
- 44. Notice of Appeal filing fees and charges are set out in Schedule B.
- 45. Except where an enactment or bylaw provides an alternate deadline, a Notice of Appeal must be filed within fourteen days of the date the Appellant was notified of the order or decision being appealed.

Preliminary Issues

- 46. The Chair may direct, or an Appellant may request, a preliminary hearing for:
 - I. a procedural matter, including, without limitation, the scheduling of a hearing, the granting or refusal of a postponement or adjournment or an issue involving the disclosure of evidence;

- II. an administrative matter; or
- III. any other matter that, in the board's opinion, is suitable for resolution in advance of a hearing on the merits of the appeal.

Hearings in Public

- 47. Hearings of a board established pursuant to this bylaw are conducted in public except where the MGA, the *Freedom of Information and Protection of Privacy Act* or another act authorizes a hearing or portion of a hearing to be held in absence of the public, in which case the board has discretion to hold a hearing or part of a hearing in absence of the public.
- 48. Pursuant to s.197(2.1) of the *Municipal Government Act*, the Subdivision and Development Appeal Board may deliberate and make its decisions in meetings closed to the public.
- 49. The License and Community Standards Board, the Review Board and the Administrative Penalties Board may only deliberate and make decisions in meetings closed to the public in accordance with s. 18(1)(e) of the *Freedom of Information and Protection of Privacy Regulation*.

Repeal

- 50. Bylaw 3619/2019 the Appeal Boards Bylaw is repealed.

Transitional

- 51. Members appointed pursuant to the Appeal Boards Bylaw on the day this bylaw comes into force shall hold office as Members under this bylaw until the expiry of the term of their appointment under the Appeal Boards Bylaw.

READ A FIRST TIME IN OPEN COUNCIL this 28 day of March, 2022.

READ A SECOND TIME IN OPEN COUNCIL this 11 day of April, 2022.

READ A THIRD TIME IN OPEN COUNCIL this 11 day of April, 2022.

AND SIGNED BY THE MAYOR AND CITY CLERK this 11 day of April, 2022.

MAYOR

CITY CLERK

SCHEDULE A – LICENSE AND COMMUNITY STANDARDS BOARD

The functions and duties of the License and Community Standards Board (formerly the Red Deer Appeal and Review Board) is to hear and to make decisions on appeals for which it is responsible under any City bylaw and in particular, arising under the following bylaws:

1. Alarm Bylaw;
2. Business License Bylaw;
3. Chicken Bylaw;
4. Community Standards Bylaw;
5. Dog Bylaw;
6. Escort Services Bylaw;
7. Firearms Bylaw;
8. Land Use Bylaw;
9. Utility Bylaw;
10. Vehicle for Hire Bylaw
11. Weed Control Bylaw

SCHEDULE B – FEES AND CHARGES

FILING FEES AND DEPOSITS

Subdivision and Development Appeal Board Appeals	License and Community Standards Board	Administrative Penalties Appeals	Review Board Appeals
<p>\$75 at time of filing</p> <p>Additional \$75 if required by the Board to be advertised</p> <p>Where a person may be affected by a subdivision or development but does not have a legal or equitable claim in the site, or is not the agent of the person having such interest there is no fee</p>	<p>\$75 at time of filing</p>	<p>As per the Acts:</p> <p>\$500 under the Weed Control Act</p> <p>\$100 under the Agricultural Pests Act</p>	<p>There is no fee for appeals arising under s. 547 of the MGA</p>

CHARGES:

The following charges apply:

1. To obtain a copy of the audio recording from a hearing: \$20 for each piece of digital equipment.
2. To obtain a transcript of the audio from a hearing: actual costs incurred.
3. To obtain printed copies or photocopies of Exhibits:

Black and white: \$0.25/page

Color \$0.35/page