

BYLAW NO. 1447-23

INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD BYLAW

BEING A BYLAW OF SMOKY LAKE COUNTY IN THE PROVINCE OF ALBERTA, TO ESTABLISH AN INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD FOR SMOKY LAKE COUNTY, THE TOWN OF SMOKY LAKE, THE VILLAGE OF WASKATENAU, AND THE VILLAGE OF VILNA

WHEREAS, section 627 of the *Municipal Government Act* authorizes a municipality to enter into an agreement with one or more municipalities to establish an intermunicipal subdivision and development appeal board;

AND WHEREAS the Council of Smoky Lake County deems it necessary to establish an intermunicipal subdivision and development appeal board to hear subdivision and development appeals within the municipal boundaries of Smoky Lake County, the Town of Smoky Lake, the Village of Waskatenau, and the Village of Vilna;

NOW THEREFORE the Council of Smoky Lake County duly assembled enacts as follows:

TITLE:

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

ESTABLISHMENT:

2. Smoky Lake County is authorized to enter into an agreement with the Village of Vilna, Village of Waskatenau, and Town of Smoky Lake, to establish an Intermunicipal Subdivision and Development Appeal Board (the "Board") and provide for the:
 - (a) hearing of subdivision and development appeals within the boundaries of the municipalities;
 - (b) function and duties of the Board; and
 - (c) procedure and conduct of the Board and its members.

ELECTRONIC HEARINGS:

3. For the purposes of the Board, "Electronic Means" means participation using a virtual platform such as Zoom or other virtual platform approved by the Board, whereby the individual attending virtually can hear, can be clearly heard, and can be clearly seen when speaking.
4. The Board may hold hearings in-person, by Electronic Means or using a hybrid of in-person and Electronic Means, as determined by the Board.
5. If the Board is holding a hearing using Electronic Means or using a hybrid, the notice of hearing shall include information on how individuals who wish to participate by Electronic Means can access the hearing and make submissions.
6. If the Board is holding a hearing using Electronic Means or using a hybrid, the notice of hearing shall include information on where information publicly available for the hearing will be available.

GENERAL:

7. This Bylaw repeals and replaces Bylaw No. 1347-19.
8. This Bylaw comes into force when it has received third and final reading and has been duly signed.

READ a first time this 1st day of June, 2023.

READ a second time this 29th day of June, 2023.



READ a third and final time this 29th day of June, 2023.

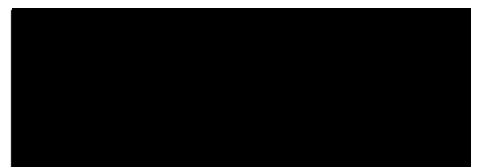


Reeve
Lorne Halisky

SEAL



Interim Chief Administrative Officer
Lydia Celin



**INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD
AGREEMENT**

AN AGREEMENT DATED THIS 29th DAY OF June, 2023

BETWEEN:

SMOKY LAKE COUNTY

- and -

TOWN OF SMOKY LAKE

- and -

VILLAGE OF WASKATENAU

- and -

VILLAGE OF VILNA

(collectively, the "**Municipalities**")

WHEREAS, section 627 of the *Municipal Government Act* authorizes municipalities to enter into an agreement to establish an Intermunicipal Subdivision and Development Appeal Board;

AND WHEREAS, the Councils of the Municipalities have determined it is appropriate to establish an Intermunicipal Subdivision and Development Appeal Board for the purpose of hearing appeals from decisions made by the subdivision authority and development authority of each respective Municipality;

NOW THEREFORE in consideration of the promises, mutual terms, conditions and covenants to be observed and performed by each of the parties, the Municipalities agree as follows:

DEFINITIONS

1(1) In this Agreement:

- (a) "**Act**" means the *Municipal Government Act* and its regulations;
- (b) "**Board**" or "**Intermunicipal Subdivision and Development Appeal Board**" means the appeal board established by the Municipalities by this Agreement under section 627(1)(b) of the Act;
- (c) "**Clerk**" means the individual appointed to be the clerk of the Board;
- (d) "**Council**" means the individual Council of each Municipality;

- (e) **"Electronic Means"** means participation using a virtual platform such as Zoom or other virtual platform approved by the Board, whereby the individual attending virtually can hear, can be clearly heard, and can be clearly seen when speaking.
- (f) **"Member"** means a member of the Board; and
- (g) **"Municipality" or "Municipalities"** means any Municipality that is a party to this Agreement.

(2) All other terms used in this Agreement shall have the same meaning as in the Act.

ESTABLISHMENT

- 2(1) The Intermunicipal Subdivision and Development Appeal Board is hereby established.
- (2) The Board has all the powers, duties and responsibilities of a subdivision and development appeal board under the Act.
- (3) The Board Procedures and Rules of Conduct as set out in **Schedule "A"** and **Schedule "B"** are incorporated into and form part of this Agreement.

FUNCTION AND DUTIES

- 3(1) The Board shall hear all subdivision and development appeals of the Municipalities in accordance with this Agreement and Division 10 of Part 17 of the Act.
- (2) The Board cannot hear any matters that must be decided by the Land and Property Rights Tribunal.

MEMBERSHIP

- 4(1) The Board shall consist of no less than five Members and no more than ten Members, which shall be appointed by Smoky Lake County.
- (2) Members must be 18 years or older and a resident of the Province of Alberta. Each Municipality shall make reasonable efforts to attract candidates with qualifications, skills, and experience which will assist the Board in determining the appeals before it.
- (3) No person shall be appointed as a Member of the Board who is a Councillor of a Municipality, an employee of a Municipality, carries out subdivision or development powers, duties and functions on behalf of a Municipality, or is a member of a municipal planning commission of a Municipality.
- (4) A Member ceases to be a Member if:
 - (a) the Member ceases to be a resident of the Province of Alberta;

- (b) the Member becomes an employee of or a Councillor for any of the Municipalities; or
 - (c) the Member is removed from the Board by a resolution of Council.
- (5) Each Municipality has the right to rescind the appointment of a Member, at their sole discretion.
- (6) If a Municipality's appointed Member has their membership rescinded, resigns for any reason, or ceases to be a Member, that Municipality may appoint a new Member by resolution of Council.
- (7) Members shall adhere to the Board Procedures as set out in **Schedule "A"** and the Rules of Conduct as set out in **Schedule "B"**.
- (8) Only Members who are qualified in accordance with the Act may participate in Board hearings. Members must participate in training programs approved by the Minister of Municipal Affairs in accordance with the Act.
- (9) In the event there are insufficient Members for a hearing, the Clerk may recruit trained subdivision and development appeal board members from outside the boundaries of the Municipalities (an "**Alternate Member**"). An Alternate Member's appointment shall be:
 - (a) ratified by a resolution of the Council of Smoky Lake County;
 - (b) limited to a specific hearing; and
 - (c) terminated automatically at the conclusion of the specific hearing to which the Alternate Member was appointed.

TERM OF APPOINTMENT

- 5(1) The term of appointment for a Member shall be three years.
- (2) Regardless of the date of appointment, a Member's term of appointment shall expire on December 31st of the last year of the Member's term of appointment.
- (3) Members may be reappointed by resolution of Council for one or more additional terms.
- (4) A Member may resign from the Board by sending written notice to the Clerk and the Municipality that appointed the Member.

CLERK

- 6(1) The Chief Administrative Officer for Smoky Lake County shall appoint an employee of Smoky Lake County as the Clerk and the Chief Administrative Officer for one of

the other Municipalities, as agreed upon by the Municipalities, shall appoint an employee of that Municipality to act as an alternate Clerk.

- (2) The Clerk shall participate in training programs approved by the Minister of Municipal Affairs in accordance with the Act.
- (3) The responsibilities of the Clerk are as follows:
 - (a) ensure all statutory requirements of the Board are met;
 - (b) inform all parties of the appeal hearing in accordance with the Act;
 - (c) inform all affected parties of the appeal hearing in accordance with the Act;
 - (d) compile all necessary documentation for distribution to the Members;
 - (e) attend all Board hearings;
 - (f) make and keep a record of the proceedings, which may be in the form of a summary of the evidence presented, and retain all exhibits, including all written submissions to the Board;
 - (g) communicate decisions of the Board in accordance with the Act; and
 - (h) such other matters as the Board may direct.
- (4) If the Board decides to conduct a hearing by Electronic Means or a hybrid of in-person and Electronic Means, the Clerk shall ensure the notice of hearing includes the following information:
 - (a) how individuals who wish to participate by Electronic Means can access the hearing and make submissions; and
 - (b) where information publicly available for the hearing will be available.

MEMBER REMUNERATION

- 7 Members shall be reimbursed \$180.00 per hearing day. A hearing day shall be no more than 7 hours.
- 8 Members may make a claim for mileage at \$0.58/km. Members must submit mileage claims to the Clerk within 5 days of the close of the hearing.

APPEAL FILING

- 8(1) Notices of appeal must be filed with the Clerk at the Smoky Lake County office.
- (2) A notice of appeal is not complete and will not be accepted without payment of the appeal fee.

ADMINISTRATION FOR HEARINGS

- 9(1) The fee for an appeal is \$250.00.
- (2) If a written withdrawal of the appeal is received by the Clerk prior to notifications of the appeal hearing being sent out, \$200.00 of the appeal fee will be refunded to the person who paid the appeal fee.
- (3) Board hearings will be held in the Municipality from where the appeal originates at a location as determined by the Municipality and advertised in accordance with the Act.
- (4) The Municipality from where the appeal originates will provide any additional administrative resources required for the Board hearings.

TRAINING COSTS

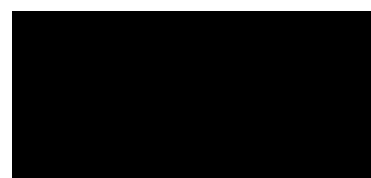
- 10(1) The costs of training the Clerk and Members, including reasonable travel, mileage, meals, and accommodations, shall be paid by shall be equally shared by the Municipalities.

HEARING COSTS

- 11(1) The Municipality from which an appeal originates shall pay all Board costs and expenses related to the appeal, including the following:
 - (a) Member remuneration;
 - (b) Member reimbursement for meals and mileage, if any;
 - (c) Clerk reimbursement for meals and mileage, if any;
 - (d) all administrative costs and expenses incurred in holding a hearing, including any facility rental costs; and
 - (e) any legal fees, including legal fees for legal counsel for the Board, if legal counsel is retained.
- (2) The Municipality from which the appeal originates shall be invoiced by the Municipality which employs the Clerk for the costs of the Clerk, including pre-hearing duties, attending the hearing, and post-hearing duties. Invoices must be paid within 30 days of the date of the invoice.
- (3) The Clerk may, in consultation with the Chief Administrative Officer of the Municipality from where the appeal originates, retain legal counsel on behalf of the Board for a particular appeal.
- (4) If a Board decision is appealed to the Court of Appeal, the Municipality from which an appeal originates shall be responsible for all costs associated with the appeal.

DISPUTE RESOLUTION

12(1) In the event of a dispute regarding this Agreement, the Chief Administrative Officers of the Municipalities shall meet to consider the matter. A majority decision of the Chief Administrative Officers shall be final and binding on the Municipalities.



GENERAL

- 13(1) Should any Municipality wish to withdraw from this Agreement, they may do so by serving written notice of their intent to withdraw on each Municipality providing no less than 60 days' notice.
- (2) If an appeal is filed during the 60-day notice of intent to withdraw, the 60 day clock stops on the date of the notice of appeal and restarts when a decision is issued on the appeal.
- (3) This Agreement may be signed in counterparts that, when taken together, constitutes a fully signed and legally binding Agreement.

IN WITNESS WHEREOF, the Municipalities have executed this Agreement as evidenced by the duly authorized signatures below:

SMOKY LAKE COUNTY

Per:

[Redacted Signature]

Mayor *REEVE*

TOWN OF SMOKY LAKE

Per:

[Redacted Signature]

Mayor

Per:

[Redacted Signature]

Chief Administrative Officer

Per:

[Redacted Signature]

Chief Administrative Officer

VILLAGE OF WASKATENAU

Per:

[Redacted Signature]

Mayor

VILLAGE OF VILNA

Per:

[Redacted Signature]

Mayor

Per:

[Redacted Signature]

Chief Administrative Officer

Per:

[Redacted Signature]

Chief Administrative Officer

[Redacted Signature]

SCHEDULE "A"

INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD PROCEDURES

DEFINITIONS

- 1 In addition to the terms defined in the Agreement and the Act, the following definitions apply to this Schedule:
 - (a) **"Administration"** means a member or members of administration from the Municipality;
 - (b) **"Appellant"** means a person who, pursuant to the Act, has filed a notice of appeal with the Board;
 - (c) **"Applicant"** means the person, who has applied for a permit or approval, and whose permit or approval is being appealed;
 - (d) **"Board"** means the Board established by the Municipalities by this Agreement and includes Panels;
 - (e) **"Chair"** means a Member appointed to chair a Panel;
 - (f) **"Closed Session"** means the part of the Board hearing that is closed to the public in accordance with section 197(2.1) of the Act; and
 - (g) **"Panel"** means the specific panel of Members assigned to hear a specific appeal.

APPLICATION

- 2 These procedures shall apply to all hearings of the Intermunicipal Subdivision and Development Appeal Board.

HEARING PANEL AND CHAIR

- 3(1) The Board shall hold hearings as necessary to consider and decide appeals in accordance with the Act.
- (2) Hearings will be heard by the Board in panels of three Members.
- (3) Panels shall have all the same powers, duties and responsibilities of the Board.
- (4) When a hearing is required in accordance with the Act, the Clerk shall canvass Members for availability. Reasonable efforts will be made to assign Members to the Panel who are not from the Municipality from where the appeal originates.
- (5) The Members of a Panel shall select a Chair.

- (6) The Chair shall be responsible for the conduct of the hearing and for ensuring the hearing is conducted in a fair and impartial manner, in accordance with the rules for such hearings as set out in the Act and the rules of natural justice.
- (7) Two or more Panels may conduct separate hearings simultaneously.

DECISIONS OF THE PANEL

- 4(1) A decision of the Panel is deemed to be a decision of the Board.
- (2) Only Members present for the entire hearing shall participate in the making of a decision on any matter before the Panel. The Clerk shall not participate in making a decision on any matter before the Panel.
- (3) If a hearing is recessed for any reason following the submission of evidence, the hearing may be recessed to the next or other date when all original Members of the Panel are available. Only Members present at the original hearing shall render a decision of the matter.
- (4) The Panel shall issue a written decision together with the reasons for the decision in accordance with the Act.
- (5) An order, decision, approval, notice or other thing made, given or issued by the Panel shall be signed by the Chair or, in the Chair's absence, another Member of the Panel who heard the matter as designated by the Chair in writing.

GENERAL APPEAL PROCEDURES

- 5(1) The Board shall consider and decide subdivision and development appeals and section 645 Stop Order appeals which have been properly filed with the Municipality in accordance with the Act.
- (2) The Board shall give notice of the hearing in accordance with the Act.
- (3) The Board shall make available for public inspection prior to the hearing all relevant documents and materials respecting the appeal.
- (4) The Board shall hear from parties in accordance with the Act.
- (5) Any information previously submitted to a Municipality's subdivision or development authority will not be considered by the Board unless resubmitted for the hearing. The author of the submission must be identified on the document.
- (6) The Board shall hear appeals in public, but it may at any time recess and deliberate in Closed Session.
- (7) If the Board requires further technical information, legal opinions, or other assistance, the Board may recess the hearing pending receipt of such information.

- (8) Electronic or similar recording devices shall not be used during the hearing by anyone in attendance except the Clerk.
- (9) Prior to advertising the hearing date, a preliminary request to adjourn the hearing may be made by the Appellant, the Applicant or Administration, in writing to the Clerk. This request may also address filing timelines.

ELECTRONIC HEARINGS

- 6(1) The Board may hold hearings in-person, by Electronic Means, or using a hybrid of in-person and Electronic Means.
- (2) If the Board is a hearing by Electronic Means or using a hybrid, individuals who wish to attend by Electronic Means must register with the Clerk in advance and provide their full name.
- (3) Individuals who wish to attend by Electronic Means are solely responsible for ensuring their connection is secure, reliable and clear.
- (4) Individuals who wish to attend by Electronic Means and who wish to make submissions must confirm their identity and be visible during their submissions.
- (5) If the Applicant, Appellant, Development Authority or Subdivision Authority or their representative is attending by Electronic Means and the connection is lost, the Chair will recess the hearing. If the connection cannot be resolved, the Chair will adjourn the hearing to another time or another date and time.
- (6) Unless the hearing is held by Electronic Means only, Members are expected to attend hearings in-person.
- (7) Members may only attend by Electronic Means in unusual or extraordinary circumstances with the prior consent of the Chair.
- (8) If a Member has permission to attend by Electronic Means, the Member must ensure their Electronic Means are secure, reliable and clear and they must maintain visual connection for the entire hearing.
- (9) If the connection with the Member attending by Electronic Means is lost, the Chair will recess the hearing to allow for reconnection. If the connection cannot be resolved, the Chair will adjourn the hearing to another time or another date and time.
- (10) Prior to Closed Session, the Members must confirm they are in a secure setting where the discussion cannot be overheard.

HEARING PROCEDURE

- 7(1) The Chair will call the hearing to order, ask the Clerk to introduce the matter and ask for a motion to open the hearing.
- (a) The Clerk will confirm that the notice of appeal has been provided to all parties in accordance with the Act.
 - (b) The Chair will introduce the Members on the Panel and outline how the hearing will be conducted.
 - (c) The Chair will ask if anyone objects to any Member of the Panel hearing the appeal.
 - (d) Administration or their representative will outline the matter under appeal and make submissions.
 - (e) The Applicant or their representative, if different from the Appellant, will make their submissions, if any.
 - (f) The Appellant or their representative will make submissions, if any.
 - (g) The Chair will then call upon any persons in favour of the appeal and who are entitled to be heard by the Board in accordance with the Act to speak. The Board reserves the right to abbreviate repetitious oral submissions.
 - (h) The Chair will then call upon any persons opposed to the appeal and who are entitled to be heard by the Board in accordance with the Act to speak. The Board reserves the right to abbreviate repetitious oral submissions.
 - (i) The Chair will then call upon the Applicant to provide closing comments, if any.
 - (j) The Chair will then call upon Administration to provide closing comments, if any.
 - (k) The Chair will then call upon the Appellant to provide closing comments, if any.
 - (l) Members may ask presenters questions through the Chair at any time during the hearing.
 - (m) The Appellant, Applicant and Administration or their representatives may ask questions, through the Chair, of each other prior to closing comments.
 - (n) Once Members have asked all questions, the Chair will close the hearing.
 - (o) The Board may deliberate and make its decision in Closed Session.

- (p) The Board may, at any time, modify or adjust the foregoing procedure as required to comply with the Act and the rules of natural justice.

SUBMISSION OF APPEAL MATERIALS

- 8(1) All presentation submissions, including written submissions, must be provided to the Clerk at least 5 days before the hearing date. Notwithstanding the foregoing, the Board retains the discretion to accept late submissions.
- (2) The use of slides, maps, videos, photographs and power point presentations are allowed and these materials along with any written submissions will become the property of the Board as exhibits to the hearing and will not be returned.
- (3) The Chair, in consultation with the Clerk, may set alternate timelines for providing submissions, including staggered timelines for submissions by each party.
- (4) All materials submitted to the Board will be made public.

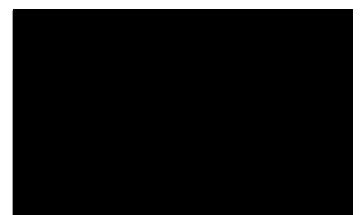
CONDUCT AT HEARINGS

- 9(1) Members of the public in attendance at a hearing shall:
- (a) address the Board through the Chair;
 - (b) maintain order and decorum; and
 - (c) not applaud or otherwise interrupt any speech or action of the Members or any other person addressing the Board.
- (2) The Chair may order members of the public who disturb or act improperly at a hearing by words or actions to be removed or disconnected. The Chair may request assistance from a Peace Officer to remove the individual.
- (3) Persons addressing the Board shall give their full name, location of residence or business, indicate whether they are speaking on their own behalf or on behalf of others, indicate whether they are for or against the appeal, and address the Chair when responding to questions or providing information.
- (4) A person who does not identify themselves will not be given the opportunity to address the Board.

MEMBER CONDUCT

- 10(1) A Member wishing to speak at a hearing shall obtain the approval of the Chair before speaking.
- (2) When a Member or member of the public is addressing the Chair, every other Member shall:
- (a) remain quiet and seated;

- (b) not interrupt the speaker except on a point of order;
- (c) not carry on a private conversation; and
- (d) not cross between the speaker and the Chair.



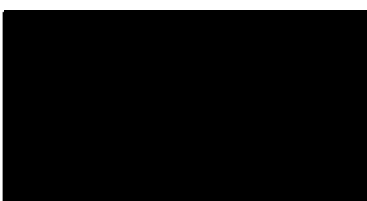
SCHEDULE "B"

BOARD MEMBER RULES OF CONDUCT

PECUNIARY INTEREST AND BIAS

- 1(1) No Member shall participate in the hearing of any matter before the Board in which that Member has a pecuniary interest.
- (2) For the purposes of determining whether a Member has a pecuniary interest in the matter before the Board, all provisions of section 170 of the Act shall apply, substituting the term "Member" for the term "Councillor".
- (3) No Member shall participate in the hearing of any matter before the Board in which that Member has an actual or perceived bias for or against the Appellant, Applicant or any parties that appear before the Board.
- (4) Where a Member has a pecuniary interest in the matter before the Board, or an actual or perceived bias for or against the Appellant, Applicant or any parties that appear before the Board, that Member shall disclose that interest or bias to the Board and Clerk as soon as possible and remove himself/herself from participating as a Member in the hearing of the appeal.

GENERAL MATTERS

- 2(1) Members shall not discuss any matter under appeal with any party to that appeal or any other persons outside of the formal hearing process nor shall Members conduct any independent investigations of matters under appeal outside the formal hearing process.
 - (2) Members shall keep matters discussed in Closed Session and legal advice provided to the Board confidential, except where required to disclose that information by law.
 - (3) Members shall attend all Board hearings to which they are assigned and Members shall make every effort to diligently prepare in advance for hearings.
 - (4) Members shall make every effort to actively participate in the hearing, deliberation and decision-making process on all appeals to which they have been assigned.
 - (5) Members shall conduct themselves in a professional manner and treat all parties, including the Clerk and other Members, with dignity and respect.
 - (6) Members shall perform their functions and duties in a conscientious and diligent manner.
 - (7) Where a Municipality becomes aware of a breach of these rules by a Member, Council for the Municipality from where the Member is appointed may review the facts and make a determination as to whether the Member, in the sole opinion
- 

of Council, has breached the rules and if so, Council may rescind the Member's appointment.

