

# **CITY OF YORKTON BYLAW NO. 2/2010**

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**A BYLAW OF THE CITY OF YORKTON IN THE  
PROVINCE OF SASKATCHEWAN TO PROVIDE  
FOR THE ESTABLISHMENT OF A  
DEVELOPMENT APPEALS BOARD**

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**Disclaimer:**

**This information has been provided solely for research convenience. Official bylaws are available for the Office of the City Clerk and must be consulted for purposed of interpretation and application of the law.**

BYLAW NO. 2/2010

**A BYLAW OF THE CITY OF YORKTON IN THE PROVINCE  
OF SASKATCHEWAN PROVIDING FOR THE  
ESTABLISHMENT OF A DEVELOPMENT APPEALS BOARD**

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**WHEREAS**, pursuant to Section 26 of *The Planning and Development Act, 2007*, which provides for the establishment of a Development Appeals Board to adjudicate planning and development appeals,

The Council of the City of Yorkton in Council assembled hereby enacts as follows:

**A. STRUCTURE**

**1. Composition and Membership**

- a) The Development Appeals Board is an autonomous body appointed by resolution of City Council, pursuant to Section 14 ~~214~~ of *The Planning and Development Act, 2007 (The Act)* and is established in accordance with Zoning Bylaw No. 14/2003, subject to the provisions contained herein.
- b) Pursuant to Section 3.16.1 of Zoning Bylaw No. 14/2003, that a Development Appeals Board of the City of Yorkton be established consisting of **a minimum of three (3) and a maximum of five (5)** members who shall be appointed by resolution of Council as specified herein at their sole discretion. The following persons are not eligible to be appointed as a member of the Board:
- i) A member of City of Yorkton Council;
  - ii) An employee of the City of Yorkton;
  - iii) A member or employee of the Municipal Planning Commission or Yorkton Planning District Commission; **unless exempted from this requirement subject to a resolution passed by Council.**
- c) In order to be appointed to a Commission or Board of Council, individuals must qualify as electors meeting the following requirements:
- i) Canadian citizen;
  - ii) full age of eighteen (18) years;
  - iii) resides in the municipality, or on land now in the municipality, for at least three (3) months; or
  - iv) is the owner of assessable land situated in the municipality, or of land now situated in the municipality, for at least three (3) months; and
  - v) has resided in Saskatchewan for at least six (6) months.

Amended  
by Bylaw  
No. 2/2019

Individuals who do not meet all of the eligibility requirements may be appointed to the Board subject to Council passing a resolution exempting them from the requirement.

- d) The members of the Development Appeals Board shall be appointed at a Regular Meeting of the Council of the City of Yorkton in accordance with the City of Yorkton's Procedure Bylaw as amended from time to time.
- e) As part of the condition of accepting an appointment, the appointee shall agree to abide by the mandate, objectives and terms of reference of the Board.
- f) Appointees shall be responsible for advising the Secretary of the Board if they are unable to attend a meeting.
- g) Appointees shall be responsible for adhering to the Code of Ethics Policy and shall sign the acknowledgement form annually.
- h) All members shall hold office for one calendar year, unless they are reappointed or until their successors are appointed. Prior to December 1<sup>st</sup> each member shall advise the Chairperson if they wish to be considered for reappointment. Prior to December 15<sup>th</sup> of each year, the Chairperson shall provide notice to the Mayor of the Commission members wishing to be reappointed and propose any new members that are interested in serving on the Board.
- i) Any member of the Commission may resign at any time upon sending a written notice to the Chairperson of the Board who shall advise the Mayor.
- j) If, before the end of the term for which he/she was appointed, any member of the Board appointed from City Council should cease to reside in the City of Yorkton, his/her term of office as member of the Board shall cease.
- k) Any member of the Board who is absent from three (3) consecutive, regular scheduled meetings of the Board shall, unless authorized by resolution of the Commission, forfeit his/her membership and the Chairperson of the Board shall advise the Mayor of the vacancy. Council may, by resolution and at their discretion, revoke the membership of any individual appointed to this Board.
- l) Any vacancies that occur on the Board, during the appointed term, may be filled by resolution of the Council.

## 2. Jurisdiction

Pursuant to Sections **19, 58, 60, 67, 71, 72, 73, 86, 91, 219, 228 and 242** of *The Act*, a person affected may appeal to the Development Appeals Board where:

- ~~i) There is an alleged misapplication of the Zoning Bylaw in the issuance of a Development Permit;~~

Amended  
by Bylaw  
No. 2/2019

- ~~ii) There is a refusal to issue a Development Permit because it would contravene the Zoning Bylaw;~~
- ~~iii) A Notice of Contravention has been issued for a property;~~
- ~~iv) A Minor Variance has been denied or revoked;~~
- ~~v) A Discretionary Use has been approved with prescribed development standards or conditions;~~
- ~~vi) Terms and conditions are issued for a Direct Control District;~~
- ~~vii) An application to demolish a building has been approved with conditions or refused within a Demolition Control District, as may be established by Council;~~
- ~~viii) There is a refusal to issue a Development Permit because it would contravene established Architectural Controls;~~
- ~~ix) A subdivision application has been refused, revoked, or approved with terms and conditions; or~~
- ~~x) Any other matter, as provided for under *The Act*.~~

- a) **Misapplication of zoning bylaw in issuance of permit;**
- b) **Development permit wrongly refused;**
- c) **Request variance to specific development standards;**
- d) **Development standards for Discretionary Use are excessive;**
- e) **Failure to remove holding symbol;**
- f) **Interim Development Control Bylaw refused or development standards placed upon agreement;**
- g) **Enforcement order has been issued;**
- h) **Permit for architectural or demolition control district refused or decision not made within 30 days;**
- i) **Site plan control conditions on development;**
- j) **Alterations to non-conforming building refused;**
- k) **Failure to enter development / servicing;**
- l) **Demolition Control District decision refused or not made within 30 days;**
- m) **Minor variance revoked, refused or conditions;**
- n) **Subdivision appeal.**

### 3. Fees

**The appeal application must be accompanied by the appeal fee of \$300 in accordance with Section 220 of *The Act*.**

### 4. Chairperson

- a) The Chairperson for the Development Appeals Board is elected by the other members of the Board, on an annual basis.
- b) **A member may be re-elected to the position of Chairperson, but not for a term of longer than two consecutive years.**

Amended  
by Bylaw  
No. 2/2019

- c) In addition to the duties and responsibilities of members, the Chairperson:
- i) Works with the Secretary to arrange meetings of the Board;
  - ii) Chairs Board Meetings, appeal hearings, and decision meetings, in accordance with the hearing and meeting procedures adopted by the Board;
  - iii) Administers oaths and affirmations, when required;
  - iv) Facilitates a fair decision-making process at decision meetings, which allows for the input and vote of each member present;
  - v) Reviews and signs all decisions;
  - vi) Is responsible for making decisions, on behalf of the Board concerning the need for legal opinions;
  - vii) Shall advise the Mayor, prior to the end of the calendar year, of the activities of the Board and the performance of Board members based on the duties required of this Bylaw.

## 5. Vice-Chairperson

- a) The Vice-Chairperson is elected by other members of the Board on an annual basis.
- b) It is the duty of the Vice-Chairperson to act in the capacity of Chairperson in his or her absence.

## 6. Members

- a) The duties and responsibilities of the members include:
  - i) Attend hearings and meetings of the Board;
  - ii) Provide the Secretary as much notice as possible of any absences or conflicts with attendance at hearings or meetings;
  - iii) Follow Board policies and procedures, as established by this Bylaw and any other Board Policies and Procedures;
  - iv) Thoroughly review all appeal information upon receipt of the appeal package, including copies of approved decisions;
  - v) Perform a site inspection on each property under appeal, prior to the scheduled hearing;
  - vi) Declare any conflict of interest regarding appeals and inform the Chairperson of any potential conflict of interest in advance of the hearing;
  - vii) Contribute at hearings by taking accurate notes, asking relevant questions, participating in discussion/deliberation and by respecting the role of the Chairperson;
  - viii) ~~Write appeal decisions, as assigned, including the analysis and summary, based on evidence considered at the hearing, for review and consideration by other Board members at the decision meeting;~~
  - ix) Take part in the decision-making process by contributing to the debate on each decision and by voting on each decision.

Amended  
by Bylaw  
No. 2/2019

## 7. Remuneration

Council shall set, by resolution, remuneration rates for the Chairperson and other Board members. Revisions to the remuneration rates may be considered and re-evaluated at such time that annual appointments are made to the Board membership.

## 8. Secretary

a) Pursuant to Section 216(3) of *The Act*, the City Clerk or his/her designate shall be appointed as Secretary of the Development Appeals Board.

b) The duties and responsibilities of the Secretary include:

- i) Facilitates the orientation/training of Board members on legislative requirements, hearing protocol, and decision writing;
- ii) Receives appeal applications and collects the \$50 application fee. ~~in accordance with Section 220 of *The Act*;~~
- iii) Schedules appeal hearings within the legislative time frames and the hearing schedule adopted by the Board;
- iv) Prepares and circulates the notice of appeal in accordance with Section 222 of *The Act*, not later than 10 days before the date fixed for appeal hearing by ordinary mail or personal delivery to:
  - the Appellant;
  - the owner, where the owner and the appellant are not the same person;
  - City of Yorkton Council;
  - the assessed owners of property within 75 metres of the boundary of the appellant's land that is the subject of the appeal.
- v) Provides the Appellant, the Respondent (Development Officer), and any other interested parties with information on the appeal and the process in general;
- vi) Handles general inquiries prior to the appeal hearings from the public on hearing protocol;
- vii) Prepares and circulates appeal dockets and agendas for Board hearings and meetings;
- viii) Greets all Appellants and interested parties as they arrive at the hearings and provides copies of the information sheet;
- ix) Receives documents as submitted from the Appellant, Respondent, or other parties, provides them to the Chairperson for review, and labels as evidence on instruction from the Chairperson;
- x) Takes notes as required, during hearings and meetings;
- xi) Communicates with Appellants and Respondents, as required, on any interim orders or proceedings, associated with hearings;
- xii) Arranges for appeal decisions to be typed and signed by the Chairperson;
- xiii) Signs all decisions;

Amended  
by Bylaw  
No. 2/2019

- xiv) Distributes decisions to parties within 10 days of the date the decision is made, with instructions regarding appeals to the Saskatchewan Municipal Board Planning Appeals Committee (SMBPAC);
- xv) Ensures that the file for each appeal is complete and in good order;
- xvi) Provides copies of the notice of hearing and decisions related to SMBPAC appeals to the Board and the Planning and Engineering Department;
- xvii) Responsible for staff and budget related to Board operations;
- xviii) Makes changes to the Development Appeals Board Bylaw, as required.
- xix) Write appeal decisions based on member directions, including the analysis and summary, based on evidence considered at the hearing, for review and consideration of Board members at the decision meeting.**

Amended  
by Bylaw  
No. 2/2019

## 9. Board Meetings

- ~~a) Formal Board meetings can be scheduled by the Secretary on instruction of the Chairperson, or by resolution of the Board. Formal meetings shall be held in response to an application for appeal within the legislated time frame.~~
- a) The meetings of the Board shall be open to the public and held every third Thursday of the month at 5:00 p.m. in Council Chambers, City Hall, located at 37 Third Avenue North, as required. The meetings shall be held in response to an application for appeal as per the legislation.
- b) An alternate date for meeting subject to subsection 9(a) may be chosen on approval of the Board.**
- c) The Secretary shall provide, whenever possible, written or e-mail notice of the date, time and place of the meeting to all members at least 24 hours prior to the meeting. The notice shall also include information on the business to be transacted at the meeting.
- d) The Secretary shall attend all formal meetings of the Board to record the decisions of the Board.
- e) Procedures used at formal meetings shall be in accordance with Council's procedure Bylaw. These provisions include decisions being made by motion, which is debated and considered carried by majority vote of those members present. All members, including the Chairperson, must vote on each decision; however, a seconder is not required.
- f) The Board may hold informal meetings at any time for orientation, training or other purposes, when no decisions are required to be made and recorded for the Board. Such meetings will be called by the Secretary, in consultation with the Chairperson.

Amended  
by Bylaw  
No. 37/2010

Amended  
by Bylaw  
No. 2/2019

## **B. HEARINGS**

### **1. General**

- o) Hearings of the Development Appeals Board are open to the public and the media may attend. The purpose of a hearing is to consider the evidence and facts of appeals in a forum that allows all parties a fair hearing. The hearing does not include the decision-making process, which is conducted at a separate private session meeting.
- p) The Board must consider the appeal based on evidence and arguments put forward by all parties at the appeal hearing. Hearings will be conducted according to the rules of natural justice and procedural fairness.

### **2. Location**

The Development Appeals Board will hold hearings at City Hall, 37 Third Avenue North, either in Council Chambers, Meeting Room A, 2<sup>nd</sup> Floor or other locations as may be required from time to time.

### **3. Quorum**

A majority of the Board members constitutes a quorum for the purpose of a hearing, decision meeting or formal meeting (at least three out of five members). If a quorum is not present, the hearing shall be deemed to be cancelled, due to lack of quorum. For decision meetings, the quorum of three must be formed from those members who were in attendance for the hearing of the appeals being decided.

### **4. Conflict of Interest**

- a) Pursuant to Section 218 of *The Act*, that where any member of the Board is in any way interested in a matter before the Board, whether directly or indirectly, he/she shall declare his/her interest and take no further part in the proceedings and he/she is not entitled to vote on the matter.
- b) Where the possibility of a conflict exists, a member must not sit during the portion of the hearing for that appeal. The member should excuse himself/herself from the remainder of the hearing and take no part in deliberations of the Board.
- c) If the Chairperson has a conflict of interest with respect to an appeal, the same rules apply as in parts a) and b) above, and the Vice-Chairperson will assume the duties of the Chairperson, for that portion of the hearing and the signing of the decision for that appeal.



## 5. Decisions

- a) The Board shall render its decision, in writing, together with reasons for the decision, within 30 days of the conclusion of the hearing.
- b) Pursuant to Section 225(3) of *The Act*, a decision of the majority of the members of the Board present and constituting a quorum is a decision of the Board, but in the case of a tie vote, the vote is deemed to be a negative vote.
- c) Members of the Board who were not in attendance for the hearing of an appeal, must not take part in the decision making process for that appeal.
- d) Decisions of the Board, shall be forwarded by registered mail or personal delivery to the Appellant, City of Yorkton Council, the Minister of Municipal Affairs and all persons who made representation at the hearing, within 10 days of the date on which the decision was made.
- e) Decisions of the Board shall include information and directions on how the decision can be appealed to the Saskatchewan Municipal Board Planning Appeals Committee.

### C. EFFECTIVE DATE

This Bylaw shall come into force and take effect on the date of final passing thereof.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

Introduced and read a first time this 22<sup>nd</sup> day of March, A.D., 2010.

Read a second time this 22<sup>nd</sup> day of March, A.D., 2010.

Read a third time and adopted this 22<sup>nd</sup> day of March, A.D., 2010.