



## MUNICIPAL DISTRICT OF OPPORTUNITY NO. 17 BYLAW 2025-01

BEING A BYLAW TO ESTABLISH THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD OF THE MUNICIPAL DISTRICT OF OPPORTUNITY NO. 17

WHEREAS section 627 of the *Municipal Government Act*, RSA 2000, c M-26 as amended, requires Council to establish a Subdivision and Development Appeal Board;

NOW THEREFORE the Council of the Municipal District of Opportunity No. 17 enacts as follows:

### 1 Title

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

### 2 Definitions

2.1 When used in this Bylaw:

- a) “**Act**” means the *Municipal Government Act*, RSA 2000, c M-26, as amended;
- b) “**Alternate Clerk**” means the person who acts as Clerk when the person appointed as the Clerk is unavailable;
- c) “**Appeal**” means an appeal of a decision of the Municipality’s development authority or the Municipality’s subdivision authority;
- d) “**Appellant**” means the person who, pursuant to the Act, has filed a notice of appeal with the Board;
- e) “**Applicant**” means the person who applied for a permit or approval and whose permit or approval is being appealed;
- f) “**Board**” means the Subdivision and Development Appeal Board established by this Bylaw;
- g) “**CAO**” means the chief administrative officer of the Municipality or their designate;
- h) “**Clerk**” means the individual or individuals appointed to be the clerk of the Board;
- i) “**Council**” means the Council of the Municipality;
- j) “**Councillor**” means an individual elected to Council and includes the Reeve;
- k) “**Electronic Means**” means a virtual electronic communication platform or a telephonic communication platform;
- l) “**Member**” means a member of the Board; and
- m) “**Municipality**” means the Municipal District of Opportunity No. 17;
- n) “**Panel**” means a panel of three Members assembled to conduct a hearing.

### 3 Establishment

- 3.1 The Subdivision and Development Appeal Board is hereby established.
- 3.2 The Board has all of the powers, duties and responsibilities of a subdivision and development appeal board under the Act and the *Matters Related to Subdivision and Development Regulation* passed pursuant to the Act.

## **4 Membership**

- 4.1 The Board shall consist of two Councillors and at least three and not more than five Members at Large who are appointed by resolution of Council.
- 4.2 A Member at Large shall not be:
  - a) a Councillor,
  - b) an employee of the Municipality,
  - c) a person who carries out subdivision or development powers, duties and functions on behalf of the Municipality, or
  - d) a member of a municipal planning commission.
- 4.3 Members at Large shall be adult residents of the Municipality.
- 4.4 Each Member at Large may be appointed to a term of up to three years, with the exact term being specified upon their appointment to the Board by Council.
- 4.5 The Member who is a Councillor shall be appointed to the Board during the annual organizational meeting of Council and shall remain on the Board for a period of one year until the organizational meeting in the following year.
- 4.6 All Members may be appointed for more than one term.
- 4.7 Any vacancy on the Board may be filled by resolution of Council at any time.
- 4.8 A Member at Large ceases to be a Member if they:
  - a) resign by giving written notice to the Clerk and CAO which takes effect on the date of the notice;
  - b) cease to reside within the municipal boundaries of the Municipality;
  - c) become an employee of the Municipality;
  - d) miss three consecutive hearings without authorization of the Board; or
  - e) are removed from the Board by a resolution of Council.
- 4.9 A disqualified Member at Large may re-apply to be a Member.
- 4.10 A Member must successfully complete a training program in accordance with the Act before participating in a hearing.
- 4.11 In the event there are insufficient Members for a hearing, the Clerk may recruit a trained subdivision and development appeal board member from outside the Municipality and that individual's appointment shall be:
  - a) ratified by a resolution of Council;
  - b) limited to a specific hearing; and
  - c) terminated automatically at the conclusion of the specific hearing to which the individual was appointed.

## **5 Clerk**

- 5.1 The position of Clerk is established for the purpose of carrying out the powers, duties and functions of the Clerk as set out in the Act and this Bylaw.
- 5.2 The CAO shall appoint one individual to hold the position of Clerk and a second individual to hold the position of Alternate Clerk.
- 5.3 The Clerk shall have the following functions and duties:
  - a) ensure that all statutory requirements of the Board are met;
  - b) receive all appeals;

- c) inform all requisite parties of the appeal hearing;
- d) convene a Panel as required by this Bylaw;
- e) compile all relevant documents and materials for distribution to the Members;
- f) make available for public inspection, in advance of the commencement of the hearing, all relevant documents and materials respecting the appeal;
- g) attend all Board hearings;
- h) make and keep a written record of the proceedings of the Board which shall include:
  - i. the decision of the Development Authority or Subdivision Authority;
  - ii. the Notice of Appeal and the Notice of Hearing;
  - iii. a summary of evidence presented at the hearing; and
  - iv. a list of names and addresses of persons who participated in person or in writing at the hearing;
- i) provide the written decision of the Board to affected parties; and
- j) such other matters as the Board may direct.

5.4 The Clerk is the designated officer for the purpose of signing a decision of the Board.

## **6 Appeals**

- 6.1 The Board shall hold hearings as necessary to consider and decide subdivision and development appeals in accordance with the Act.
- 6.2 Appeals shall be heard by the Board in a Panel.
- 6.3 Only one Councillor may sit on a Panel.
- 6.4 Only Members of the Panel present for the hearing shall participate in the making of a decision on any matter before the Panel. The Clerk shall not participate in decision making on any matter before a Panel.
- 6.5 A Panel has all of the same powers, duties, and responsibilities of the Board and a decision of a Panel is deemed to be a decision of the Board.
- 6.6 The Members of a Panel shall elect a Chair who 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.
- 6.7 The Panel shall issue a written decision together with the reasons for the decision in accordance with the Act, which shall be signed by the Chair, or in the Chair's absence, the Clerk.
- 6.8 All appeal submissions must be provided to the Clerk at least three business days before the hearing date. Notwithstanding the foregoing, the Board has the discretion to accept late submissions.

## **7 Hearing Procedures**

- 7.1 The Board may modify, waive or supplement any hearing procedure set out in this Bylaw during any hearing.
- 7.2 At a hearing, the following procedures shall be followed, subject to section 7.1:
  - a) The Members shall elect a Chair;
  - b) The Chair will open the hearing, introduce the Members of the Panel and the Clerk, and outline how the hearing will proceed;

- c) The Clerk will introduce the appeal and confirm that notice of appeal has been provided to all parties in accordance with the Act.
  - d) The Chair shall ask if anyone objects to any Member of the Panel hearing and appeal and any objections may be addressed as a preliminary matter, if necessary.
  - e) The Chair shall then call upon:
    - i. Administration to outline the matter under appeal and make submissions, if any;
    - ii. The Applicant, to make submissions, if any; and
    - iii. The Appellant, if different from the Applicant, to make submissions, if any.
  - f) The Chair shall then call upon any individuals who are entitled to be heard or the Board agrees to hear in accordance with the Act.
  - g) The Chair shall then call upon:
    - i. Administration to provide closing comments, if any,
    - iv. The Applicant to provide closing comments, if any, and
    - v. The Appellant, if different from the Applicant, to make submissions, if any.
  - h) Members may ask questions after each presentation.
  - i) At the conclusion of the presentations and questions, the Chair will close the hearing.
- 7.3 All presentation submissions will become the property of the Board, will be made available to the public, and will not be returned.
- 7.4 At a hearing, if the Panel desires further technical information, legal opinions, or other assistance, it may recess the hearing pending receipt of such information, opinion, or other assistance.
- 7.5 The Panel shall deliberate and make its decision in private in accordance with the Act.
- 7.6 The Panel shall provide a written decision and reasons for the decision to the Applicant, the Appellant, and any affected persons who give their name and address to the Clerk during the hearing.

## **8 Electronic Hearing**

- 8.1 Members of the public and Members of the Panel may participate in a hearing by Electronic Means.
- 8.2 Members of the Panel must advise the Clerk if they intend to participate by Electronic Means and they may only participate by virtual electronic communications. The Member must be in a secure location, the Member can ensure confidentiality and they must keep their video on for the duration of the hearing.
- 8.3 Members of the public who wish to participate by Electronic Means must register with the Clerk in advance.
- 8.4 Due to the potential for connectivity issues, including but not limited to internet or telephone connection issues or technical problems, no guarantee can be provided for continued connectivity or participation by Electronic Means; therefore, members of the public who choose to participate by Electronic Means must:
  - a) provide a written copy of their oral submissions or notes by the deadline for submissions; and

- b) connect and test their connection to the hearing by Electronic Means at least 15 minutes prior to the start time.

- 8.5 If at any time during a hearing, a member of the public who registered to participate by Electronic Means loses the electronic connection to the hearing, the Panel shall pause for at least 5 minutes to provide an opportunity to reconnect. If a reconnection is not possible within 5 minutes, the Panel may continue the hearing and rely, in addition to any oral submissions that were made, on the written copy of the oral submissions or notes provided by the member of the public.
- 8.6 If at any time during a hearing, the appellant, the respondent, the applicant, or their representative, or a Member of the Panel or their legal counsel loses the electronic connection to the hearing, the Panel shall pause for at least 5 minutes to provide an opportunity to reconnect. If reconnection is not possible within 5 minutes, the Panel shall adjourn the hearing to a future date.

## 9 Conduct

- 9.1 If a Member has any interest, whether direct or indirect, in any matter before a Panel to which they have been assigned, the Member will promptly declare such interest to the Clerk such that the Clerk has time to appoint a replacement Member. Once the Member has declared their interest, they shall not participate in the hearing, or discuss or vote upon the matter.
- 9.2 Members shall not discuss the appeal with any parties to the appeal, members of the public or Municipal staff prior to or after the hearing. Members may discuss the appeal with the Clerk or the Board's legal counsel.
- 9.3 Deliberations of the Panel are confidential and may not be discussed or shared.

## 10 Fee Schedule

- 10.1 Any and all fees related to this Bylaw shall be listed in the Schedule of Rates and Fees Bylaw.
- 10.2 Appeal fees shall only be returned to the Appellant if the Appellant provides a notice of withdrawal in writing to the Clerk before the Clerk sends out the notice of appeal.

## 11 Transition

- 11.1 Bylaw 95-6 is hereby repealed.
- 11.2 This Bylaw shall come into force upon third and final reading of this Bylaw.

Read a first time this 8<sup>th</sup> day of January, 2025.

Read a second time this 8<sup>th</sup> day of January, 2025.

Read a third time this 8<sup>th</sup> day of January, 2025.

  
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REEVE  
CHIEF ADMINISTRATIVE OFFICER