CITY OF SPRUCE GROVE

BY-LAW NO. C-150-91

DEVELOPMENT APPEAL BOARD BY-LAW

A By-Law to establish the Development Appeal Board for the City of Spruce Grove.

WHEREAS the Planning Act, being the Revised Statutes of Alberta, 1980, Chapter P-9, Section 33 (1) provides that a Council of a Municipality having a population of 1,000 or more shall by By-Law establish a Development Appeal Board.

NOW THEREFORE the Council of the City of Spruce Grove hereby enacts as follows:

TITLE

1. This By-Law may be cited as "The City of Spruce Grove Development Appeal Board By-Law".

DEFINITIONS

2. The following words and terms are defined as follows:

1. "Act" means the Planning Act, Revised Statutes of Alberta, 1980, Chapter P-9, as amended;

2. "Appellant" means a person who may appeal to the Development Appeal Board in accordance with the Act or the Land Use By-Law;

3. "Board" means the Development Appeal Board of the City of Spruce Grove established pursuant to this By-Law;

4. "City" means the Municipal Corporation of the City of Spruce Grove and where the context requires, means the area within the legal boundaries of the City of Spruce Grove;

5. "Council" means the Council of the City of Spruce Grove;

6. "Development Officer" means one of the persons appointed by Council to act as Development Officer pursuant to the Act;

7. "Member" means a member of the Development Appeal Board appointed pursuant to this By-Law;

8. "Secretary" means a person designated by the City of Spruce Grove to act as the secretary of the Devlopment Appeal Board; and

9. All other terms used in this By-Law shall have the meaning assigned to them by the Act to the extent that said meaning differs from the ordinary meaning of such terms.

ESTABLISHMENT OF THE BOARD

3. The Development Appeal Board of the City of Spruce Grove is hereby established.

PART I BOARD MEMBERSHIP AND TERMS OF OFFICE

MEMBERSHIP

4. 1. The Board shall consist of not less than three (3) members and no greater than seven (7) members appointed by resolution of Council of which one member shall be a member of Council.

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TERM

2. Each member of the Board shall be appointed for a term not more than three (3) years, but a person may be reappointed on the expiry of his term.

   a. The member of Council shall be appointed at the Annual Organizational Meeting.

   b. The terms of the other members shall commence on January 1st following appointment and shall terminate on December 31st of the final year.

MAXIMUM TERM

3. The term of any member shall not exceed six (6) consecutive years;

COUNCIL MEMBER/CHANGE IN RESIDENCE

4. The appointment of a member of Council as a member of the Board terminates when the member ceases to be a member of Council;

5. Providing the Council member referred to in Section 4(1) is otherwise eligible, he may be reappointed by resolution of Council;

6. Any member of the Board who is chosen from the public at-large, upon ceasing to be a resident of the City of Spruce Grove, ceases to be a member of the Board;

INELIGIBILITY OF DEVELOPMENT OFFICER

7. No person who is a Development Officer may be appointed as a member of the Board;

FILLING OF VACANCIES

8. Council may be resolution appoint new members to fill vacancies on the Board;

REMUNERATION OF MEMBERS

9. Board members shall be paid such remuneration and miscellaneous expenses as may be fixed from time to time by Council by resolution;

DISCHARGE OF MEMBERS

10. Council shall be at liberty to remove by resolution and replace any member of the Board at any time prior to the expiry date of the member's term of office.

PART II CHAIRMAN, VICE-CHAIRMAN AND SECRETARY

CHAIRMAN

5. 1. The Board shall designate one member as Chairman who shall not be a member of Council.

VICE-CHAIRMAN

2. The Board shall designate one member as Vice-Chairman.

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ABSENCE OF CHAIRMAN OR VICE-CHAIRMAN

3. In the absence of the Chairman or Vice-Chairman, the members of the Board present at the meeting shall elect a member to act as Chairman of that meeting.

SIGNING AUTHORITY

4. An order, decision or approval made, given or issued by the Board may be signed on its behalf by the Chairman, the Vice-Chairman or the acting Chairman.

DUTIES OF SECRETARY

5. The Board Secretary shall:

   a. notify all affected parties of the hearings of the Board,

   b. keep on file and available for public inspection before the commencement of the hearing of an appeal all documents and material respecting the appeal,

   c. make and keep on file written Minutes of the proceedings of each meeting, which Minutes shall include:

      i. a summary of the evidence presented upon the hearing of an appeal,

      ii. the Board's decision on each appeal, and

      iii. the reasons for the Board's decision on each appeal,

   d. notify all required parties of the decision of the Board,

   e. after adoption of the Minutes of each meeting of the Board, transmit a copy of the Minutes to the City Clerk for forwarding to Council.

APPOINTMENT OF AUTHORIZED PERSONS FOR RIGHT OF ENTRY

6. The Board may appoint any or all of its members as authorized persons for persons pursuant to Section 43(5)(f) of the Act;

PART III MEETINGS

FREQUENCY

7. 1. The Board shall hold meetings at the times and places determined by the Board to fulfill the Board's responsibilities and at such other times as the Board or Chairman consider necessary;

QUORUM

2. A quorum at any Board meeting shall be three (3) members;

ABSENCE

3. A member who, for any reason, is unable to attend the whole of the hearing of an appeal shall not participate in the Board's deliberations or the decision made by the Board on that appeal;

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DECLARATION OF INTEREST OR BIAS

4. If a member has a direct or indirect pecuniary interest in any matter before the Board, or if a member is aware of any reason which may likely lead him to entertain a bias when hearing any matter, the member shall declare such interest or likelihood of bias to the Board and shall abstain from discussion or voting upon such matter, and such abstention shall be recorded in the Minutes.

PART IV APPEALS

RIGHT OF APPEAL

8. 1. An appellant may appeal to the Board by serving written notice of appeal on the Board within fourteen (14) days after:

   a. in the case of an appeal made by a person applying for the permit or affected by the order under Section 81 of the Act:

      i. the date on which the person is notified of the order or decision or issuance of the development permit, or

      ii. the date on which the forty (40) day period and any extension of that period referred to in Section 83(2) of the Act has expired.

   b. in the case of an appeal made by a person affected by the issuance of a development permit other than a person referred to under Subsection (1)(a), the date on which the notice of the issuance of the permit was given in accordance with the Land Use By-Law.

APPEAL FEE

2. The setting of fees for any matter coming before the Board shall be established by resolution of Council as it considers necessary.

NOTIFICATION OF HEARING

3. Within thirty (30) days of receipt of a Notice of Appeal, the Board shall hold a public hearing respecting the appeal and the Secretary shall give at least five (5) days notice in writing before the date of the hearing by ordinary mail or otherwise to:

   a. the appellant, or applicant if they are different parties,

   b. the Development Officer who issued the order, decision or permit,

   c. those owners required to be notified under the Land Use By-Law and any other person that the Board considers to be affected by the appeal and should be notified.

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INSPECTION OF DEVELOPMENT SITE

4. With the consent of the owner or person in possession, a member may inspect the site in respect of which an appeal is being made.

HEARING OF APPEAL

5. At the hearing of the appeal, the Board shall hear:

   a. the appellant, or any person acting on his behalf,

   b. the Development Officer who issued the permit or order, and/or any other person designated by the City,

   c. any person who was served notice of the hearing and who wishes to be heard, or a person acting on his behalf, and

   d. any other person who claims to be affected by the order, decision or permit and that the Board agrees to hear or a person acting on his behalf.

6. The proceedings of the Board shall be informal and the Board:

   a. may accept any oral or written evidence as the Chairman in his discretion, considers proper whether admissible in a Court of Law or not, and

   b. is not bound by the laws of evidence applicable to judicial proceedings.

DUTIES OF CHAIRMAN AT HEARING

7. The Chairman or Acting Chairman:

   a. shall ensure that the appellant and all affected persons appearing at a hearing are given an opportunity of hearing all oral submissions made to the Board, and an opportunity of reviewing any written submissions which the Board may receive,

   b. is empowered to rule that evidence presented is irrelevant to the matter at issue and direct that members disregard this evidence,

   c. may limit a submission if it is determined to be repetitious or in any manner inappropriate, and

   d. shall, when a hearing is tabled or adjourned and a time is not fixed for its continuation, announce that notice of the continuation of the meeting shall be sent to those persons leaving their name and address with the Secretary. Thereafter, only those persons leaving their name and address shall be entitled to notice of the continuation of the hearing.

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FURTHER ASSISTANCE

8. At the hearing of the appeal, should the Board desire further technical information, legal opinions or other assistance, the hearing may be tabled pending receipt of such material. In addition, the appellant or any affected party may request an adjournment of the hearing. Any matter adjourned may be placed upon a future meeting Agenda at the decision of the Board with notice given pursuant to Section 8(3)(c), or Section 8(7)(d).

ARRIVING AT DECISIONS AND ORAL ANNOUNCEMENT OF DECISION

9. a. After hearing all submissions and rebuttal, if any, the Board shall deliberate and reach its decision in private,

   b. In arriving at its decision the majority vote of those members present shall constitute the decision of the Board,

   c. The Chairman may make a verbal announcement of the Board's decision at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board, and the parties to the appeal should not act upon it until notification of the decision is received in writing.

10. In determining an appeal, the Board:

   a. shall comply with the Regional Plan, the General Municipal Plan, and Land Use By-Law in effect and any other Statutory Plans,

   b. may confirm, revoke or vary the order, decision or development permit or any condition attached thereto, or

   c. may make an order or decision or confirm the issue of a development permit, with or without conditions.

WAIVER OF THE REQUIREMENTS OF THE LAND USE BY-LAW

11. The Board may act pursuant to Section 8(10) notwithstanding that a proposed development does not comply with the Land Use By-Law, if the Board is of the opinion that:

   a. the proposed development will not:

      i. unduly interfere with the amenities of the neighbourhood, or

      ii. materially interfere with or affect the use, enjoyment or value of neighbouring properties, and

   b. the proposed development conforms with the use prescribed for that land or building in the Land Use By-Law.

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NOTIFICATION OF DECISION AND REASONS

12. a. In allowing or denying an appeal, the Board by ordinary mail shall give its decision in writing, together with reasons for the decision, within fifteen (15) days of the conclusion of the hearing to:

i. the applicant,

ii. the appellant, and

iii. the Development Officer

iv. those affected persons who gave their name and address to the Board's Secretary during the hearing of the appeal;

b. The reasons for the decision shall be such as to enable an affected person to determine why an appeal was allowed or denied and whether there exists grounds for appeal under Section 152 of the Act;

c. Notification shall be deemed received three (3) days after the postmark on the decision letter.

PART V BY-LAW PASSAGE

9. This By-Law takes effect on the date of its final reading.

10. This By-Law shall rescind By-Law No. 693-83.

First Reading Carried 28 October 1991

Second Reading Carried 28 October 1991

Third Reading Carried 25 November 1991

MAYOR

CITY CLERK