



Subdivision and Development Appeal Board

Procedures and Guidelines

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1. Definitions

- 1.1. Board - means the Subdivision and Development Appeal Board established by Subdivision and Development Appeal Board Bylaw 18307.
- 1.2. Chair - means the person who has been appointed by City Council as Chair under Subdivision and Development Appeal Board Bylaw 18307.
- 1.3. Clerk - means the person appointed as Clerk of the Subdivision and Development Appeal Board under *Municipal Government Act* section 627.1.
- 1.4. Development Authority - means those persons provided by bylaw who exercise development powers and perform duties on behalf of the municipality (*Municipal Government Act* section 623(b)).
- 1.5. *Municipal Government Act (MGA)* - means *Municipal Government Act*, RSA 2000, c M-26.
- 1.6. Subdivision Authority - means those persons provided by bylaw who exercise subdivision powers and duties on behalf of the municipality (*Municipal Government Act* section 623(b)).

2. Hearing Procedures Review and Amendment

- 2.1. The Clerk will review the Hearing Procedures annually.
- 2.2. The Chair will approve or amend the Hearing Procedures as recommended by the Clerk.

3. Notification

3.1. Where the Clerk is required to send a notification, the Clerk will notify the following persons:

a. **Subdivision appeals** - Section 679(1) of the *Municipal Government Act*:

- i. the applicant for subdivision approval,
- ii. the subdivision authority that made the decision,
- iii. if land that is the subject of the application is adjacent to the boundaries of another municipality, that municipality,
- iv. any school board to whom the application was referred,
- v. every Government department that was given a copy of the application pursuant to the subdivision and development regulations, and
- vi. the owners of adjacent land.

b. **Development / Stop Order Appeals - Section 686(3) of the Municipal Government Act:**

- i. to the appellant,
- ii. to the development authority whose order, decision or development permit is the subject of the appeal, and
- iii. to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified.

4. Scheduling

- 4.1. The Clerk will schedule a hearing date that falls within 30 days of the day that the appeal was properly filed.
- 4.2. The Clerk will develop and implement procedures for the scheduling of hearings that achieve a balance between the following objectives:
 - a. Ensuring that all legal requirements are met, including principles of natural justice;
 - b. Ensuring that hearings are scheduled as soon as reasonably possible;
 - c. The format of the hearing; and
 - d. Making the most efficient use of resources including hearing rooms, Members, and Board Administration.
- 4.3. When scheduling hearings the Clerk will, where possible, schedule appeals into the same day when they are similar with regard to:
 - a. The location of the property;
 - b. The representative of the City; and
 - c. The Appellant or agency representing the Appellant, if any.
- 4.4. The Clerk may request input from parties or their Agents on the most efficient scheduling and may take that input into account when scheduling hearings, along with the availability of Board Members.
- 4.5. Board Members will be scheduled in panels of three members unless the Chair, with input from the Clerk, determines that a particular appeal warrants a five member panel.

5. Written Submission Deadlines - Development Appeals

- 5.1. To ensure fairness to all parties, written materials must be submitted based upon the following disclosure dates:
 - a. Eight business days prior to the scheduled hearing date, the Development Authority is required to provide their written submissions to the Board.
 - b. Six business days prior to the scheduled hearing date, the Appellant is required to upload or email written submissions to the Board.
 - c. Four business days prior to the scheduled hearing date, the Respondent (if applicable), is required to upload or email their written submissions to the Board.
 - d. Four business days prior to the scheduled hearing date, any affected party can upload or email their comments or written submissions to the Board.
 - e. Two business days prior to the scheduled hearing, the Appellant is required to provide a response in writing to any submissions provided by other parties. This response is to be uploaded or emailed to the Board.
- 5.2. Late submissions may not be accepted.
- 5.3. The Board may still proceed with the hearing even in the absence of written submissions or attendance during the hearing.
- 5.4. Written submission deadlines may be modified at the discretion of the Chair or the Clerk for any appeal filed with the Board.
- 5.5. Any written submissions or other evidence provided to the Board is considered a public record and is available for public viewing upon request.

6. Written Submission Deadlines - Subdivision Appeals

- 6.1. To ensure fairness to all parties, written materials must be submitted based upon the following disclosure dates:
 - a. Eight business days prior to the scheduled hearing date, the Subdivision Authority is required to provide their written submissions to the Board.
 - b. Six business days prior to the scheduled hearing date, the Appellant is required to upload or email written submissions to the Board.
 - c. Four business days prior to the scheduled hearing date, any adjacent landowner can upload or email their comments or written submissions to the Board.
 - d. Two business days prior to the scheduled hearing, the Appellant is required to provide a response in writing to any submissions provided by other parties. This response is to be uploaded or emailed to the Board.
- 6.2. Late submissions may not be accepted.
- 6.3. The Board may still proceed with the hearing even in the absence of written submissions or attendance during the hearing.
- 6.4. Written submission deadlines may be modified at the discretion of the Chair or the Clerk for any appeal filed with the Board.
- 6.5. Any written submissions or other evidence provided to the Board is considered a public record and is available for public viewing upon request.

7. Postponement Requests and Decisions

- 7.1. When filing an appeal of a permit refusal or a conditional approval, the Appellant may request, in writing, a postponement of the hearing to a later date and waiving their right to be heard within 30 days. The Board may grant a later hearing date after reviewing the written submissions or the Appellant may be required to speak to the postponement request on the originally scheduled hearing date. The postponement request will be decided by the Board according to the principles of procedural fairness and natural justice.
- 7.2. After an appeal of a permit approval is filed, the Appellant or the Respondent may request, in writing, a postponement of the hearing to a later date.
 - a. The Clerk will solicit from the opposing party and the City a written opinion with respect to the postponement request.
 - b. The Board may grant a later hearing date on the basis of the written request of the Appellant or Respondent together with the written consent of the opposing party and the City.
 - c. If the opposing party or the City does not provide written consent, the Board may grant a later hearing date after reviewing the parties' written submissions or the parties may be required to speak to the postponement request on the originally scheduled hearing date.
 - d. The postponement request will be decided by the Board according to the principles of procedural fairness.
- 7.3. Requests for postponements at the outset of a hearing or in the midst of a hearing will be decided by the Board according to the principles of procedural fairness and natural justice.
- 7.4. A written request for a postponement should state the reason(s) for the request.
- 7.5. A written response to a postponement request should state whether or not the party consents and, if the party does not consent, the reason(s) for not consenting.

8. Withdrawals or Cancellations

- 8.1. An Appellant may withdraw their appeal at any time prior to the start of the hearing.
- 8.2. If an appeal is withdrawn, there will be no hearing of the matter and no opportunity for other interested or affected parties to make submissions before the Board.
- 8.3. The Applicant of the Development Permit may request cancellation of their development permit pursuant section 17.2.1(e) of the *Edmonton Zoning Bylaw*.
- 8.4. If a Development Permit is cancelled, the SDAB hearing will also be cancelled as there is no Development Permit to be appealed.
- 8.5. The Clerk will refund Appellant filing fees if the appeal is withdrawn before Notices are sent out.
- 8.6. The Clerk will refund Appellant filing fees to the person who paid them.

9. Format of Hearings

- 9.1. Subdivision and Development Appeal Board hearings are open to the public.
- 9.2. Subdivision and Development Appeal Board hearings can be held by a variety of formats or a combination of formats, such as written submission, in person, video conference, telephone conference, or other electronic means of communication.
- 9.3. Parties will be advised in the Notice of Hearing, of the format of the hearing and about how they can participate in the hearing.
- 9.4. If the Notice of Hearing indicates that the matter is scheduled to proceed with a combination of formats, parties may choose how they wish to join the hearing, recognizing that other parties to an appeal may join via an alternative format.
 - a. Parties may not claim procedural unfairness, if other parties join the hearing in an alternative format.
 - b. Requests for postponement by reason of 9.4(a), may not be granted by the Board.
- 9.5. If the Notice of Hearing indicates that the matter is scheduled to proceed in person, the Board Members will attend in person. If a circumstance prevents a Board Member from attending the hearing in person, an alternative Board Member will be scheduled to attend the hearing in person.
- 9.6. If the Notice of Hearing indicates that the matter is scheduled to proceed with a combination of formats, the Board Members will attend in person. However if a circumstance prevents a Board Member from attending the hearing in person, they may join the hearing through an electronic format as long as the majority of the Board members attend in person.
- 9.7. If the Notice of Hearing indicates that the matter is scheduled to proceed through electronic means, the Board Members will attend via video conference.
- 9.8. Parties should arrive in-person or join the video conference hearing at least 20 minutes prior to the start of the hearing.

- a. The Board will determine if parties that attend the hearing late (after the hearing start time) have an opportunity to present orally to the Board.
- 9.9. The Chair or Presiding Officer will introduce the members of the Board and will identify their names and the method by which the members are participating in the hearing.
- a. Member biographies are available on the Edmonton Tribunals website at <https://edmontontribunals.ca/subdivision-and-development-appeal-board/about-board>.
- 9.10. Any members of the public wishing to observe or attend a hearing, may contact the Subdivision and Development Appeal Board office for further instruction.

10. Continuation of a Hearing

- 10.1. If, after a hearing has closed, the Board is of the opinion that further submissions are required, the Board may continue that hearing by requesting further submissions from the parties.
- 10.2. A hearing can be continued only if the Board has not yet issued a written decision.
- 10.3. When a hearing is continued, the Clerk will inform the parties of the reason for the continuation with any directions from the Board.
- 10.4. When a hearing is continued, notice will be re-issued to all parties that were notified of the original hearing date.

11. Management of Improper Conduct

- 11.1. Improper conduct during a hearing includes:
 - a. Inappropriate behaviour in the course of the hearing or in communication with the Board or the other parties;
 - b. Persistent refusal to comply with the Board's instructions or rulings; or
 - c. Repeated actions that adversely affect the fairness and efficiency of the hearing process.
- 11.2. Inappropriate behaviour includes, but is not limited to, the following:
 - a. Engaging in abusive, disorderly, delaying or threatening behaviour which directly or indirectly disrupts or obstructs the progress of the hearing;
 - b. Engaging in any disruptive conduct, gesture, or verbal exchange which a reasonable person would believe shows contempt or disrespect for the hearing, the other party or the panel, or which a reasonable person would perceive as intimidating;
 - c. Disregarding the authority of a member of a hearing panel or Board administration, for example, refusing to comply with directions; or
 - d. Making or causing to be made an electronic recording, photograph, screenshot or court reporter transcription of any hearing, unless the Board authorizes these activities.
- 11.3. To remedy prohibited conduct, the Chair may take such steps as it deems reasonable, including, but not limited to, the following:
 - a. Verbally warn the offending party that their actions are not acceptable and must stop;
 - b. Take a recess to reduce any tension or emotion;
 - c. Expelling the party from the hearing;
 - d. Set time limits for making submissions at each stage of the hearing; or
 - e. Direct that the hearing proceeds with written submissions only (no oral hearing).

12. Re-hearings

- 12.1. Unless otherwise directed by a court, when a decision of a Board is returned to the Board to rehear, the Clerk will schedule the re-hearing as a hearing *de novo*, with new disclosure dates and notification periods.
- 12.2. The Clerk will endeavor to schedule the rehearing before Members who have not heard the matter before unless the court directs otherwise.

13. Decisions

- 13.1. The Board shall give its written decision and reasons, within 15 days after concluding the hearing, to the Applicant, the Appellant, and those affected persons who gave their name and address to the Board's administrative staff.
- 13.2. In addition to issuing written decisions to the parties to a hearing, and in the interests of transparency and public access, the Clerk will publish Subdivision and Development Appeal Board decisions electronically through the Canadian Legal Information Institute (CanLii.org).
- 13.3. Subdivision and Development Appeal Board decisions that are not available online may be accessed by request to the Clerk.

14. Access to Records

- 14.1. The Clerk will permit access to Board records in accordance with this procedure and *Municipal Government Act* Section 686(4).
- 14.2. Records may be accessed by contacting Board Administration and making a request.
- 14.3. Hearing recordings (if available) may be accessed by contacting Board Administration and making a request.
 - a. Board Administration will determine if the hearing recording is available and, if so, will provide a copy of the recording in audio format only.
- 14.4. Electronic access is the default manner in which access to records and hearing recordings will be provided. If any other method of access is requested, the Clerk may assess reasonable fees to the person making the request, taking into consideration:
 - a. The resources required to process the request; and
 - b. The type and size of the records requested.