



TOWN OF OKOTOKS

SUBDIVISION AND DEVELOPMENT APPEAL HANDBOOK

A Guide to the Appeal Process

Updated 2017

The Town of Okotoks as part of a public information service prepares this handbook.

This handbook has no legal status and cannot be used as an official interpretation of the various acts and bylaws currently in effect. Users are advised to contact the Secretary to the Subdivision and Development Appeal Board for assistance, as the Town of Okotoks accepts no responsibility to persons relying solely on this information.

SUBDIVISION AND DEVELOPMENT APPEAL BOARD
INFORMATION BOOKLET

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SUBDIVISION AND DEVELOPMENT APPEAL BOARD

INFORMATION BOOKLET

A. ESTABLISHMENT OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

Provincial - The Municipal Government Act

The Municipal Government Act, as amended, establishes the requirement for a Subdivision and Development Appeal Board and the parameters of the appeal process.

Municipal - The Town of Okotoks

The Town of Okotoks Committee Bylaw 20-16, as amended, empowers the Board to establish such rules of operation and conduct as are deemed appropriate.

The Subdivision and Development Appeal Board comprises seven (7) members of the public-at-large. Council appoints the members for a three-year term (renewable).

B. PURPOSE AND OPERATION OF THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD

To consider all subdivision and development appeals within its jurisdiction as outlined in the Municipal Government Act.

Meetings are held within thirty (30) days of the receipt of a completed "Notice of Appeal" by the Secretary of the Board.

C. WHAT CAN BE APPEALED

1. Decisions of the Development Authority or Subdivision Authority.
2. Conditions of approval attached to such decisions.
3. An Order of the Development Authority when they find that a development, land use or use of a building contravenes:
 - a) The Municipal Government Act
 - b) A Development Permit or Subdivision Approval
 - c) The Land Use Bylaw or Regulations
4. A deemed refusal – when a decision is not made by the Development Authority within forty (40) days or the Subdivision Authority within sixty (60) days of receipt of a complete application.

D. WHO CAN APPEAL

1. *Subdivision Appeals*

The decision of a Subdivision Authority on an application for subdivision approval may be appealed:

- a) by the applicant,
- b) by a Government department if the application is required by the subdivision and development regulations to be referred to that department,
- c) by the Council of the Municipality in which the land to be subdivided is located if the Council, a Designated Officer of the Municipality or the Municipal Planning Commission of the Municipality is not the Subdivision Authority, or
- d) by a School Authority with respect to
 - i. the allocation of municipal reserve and school reserve or money in place of the reserve,
 - ii. the location of school reserve allocated to it, or
 - iii. the amount of school reserve or money in place of the reserve.

2. *Development Appeals*

The decision of a Development Authority on an application for development permit approval may be appealed

- a) If a Development Authority
 - i. fails or refuses to issue a development permit to a person,
 - ii. issues a development permit subject to conditions, or
 - iii. issues an order

the person applying for the permit or affected by the order may appeal to the Subdivision and Development Appeal Board.

- b) In addition to an applicant, any person affected by an order, decision or development permit made or issued by a Development Authority may appeal to the Subdivision and Development Appeal Board.
- c) Despite subsections (a) and (b) above, no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted.

E. NOTICE OF HEARING

1. *Subdivision Appeals*

The Board hearing an appeal must give at least five (5) days' written notice of the hearing to:

- a) the applicant for subdivision approval,
- b) the Subdivision Authority that made the decision,
- c) if land that is the subject of the application is adjacent to the boundaries of another municipality, that municipality,

- d) any school authority to whom the application was referred, and
- e) every Government department that was given a copy of the application pursuant to the subdivision and development regulations.

2. *Development Appeals*

The Board hearing an appeal must give at least five (5) days' written notice of the hearing to:

- a) the appellant,
- b) the Development Authority whose order, decision or development permit is the subject of the appeal, and
- c) 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.

All relevant documents and material respecting the appeal are available for public inspection prior to the day of the appeal at the Planning Services Office. Please contact the Secretary to the Board to arrange a time to inspect any of the documents or materials.

F. PROCEDURE FOR APPEALING

1. Notice of Appeal Form

Appeals must be lodged with the Secretary to the Board using the Town's formal "Notice of Appeal" form obtainable from the Town of Okotoks and must include valid planning reasons for the appeal.

2. Appeal Witnesses

- a) The appellant or any person acting on behalf of the appellant,
- b) The development authority from whose order, decision or development permit the appeal is made, or a person acting on behalf of the development authority,
- c) Any other person who was given notice of the hearing and who wishes to be heard, or a person acting on behalf of that person, and
- d) Any other person who claims to be affected by the order, decision or permit and that the subdivision and development appeal board agrees to hear, or a person acting on behalf of that person.

3. Appeal Costs

Council determines appeal fees. Please refer to the current fee schedule.

4. Hearing Procedure

a) Written Submissions

Written submissions should be typewritten and must be received by the Town of Okotoks Planning Services by 12:00 noon on the day of the hearing to be distributed by the Secretary. Fifteen (15) duplicate copies should accompany any written submissions presented at the hearing.

b) Oral Presentations

Persons wishing to speak at the hearing are requested:

- i. To advise the Secretary by stating their name and address at the hearing,
- ii. To indicate whether speaking on their own behalf or that of another named person, group of citizens, organization or clients, such as a corporation, and,
- iii. Not to engage in questions or take recourse to open commentary so as to constitute or lead to argument but all matters should be to the point of the hearing and directed to the Chair.

Oral Presentations will be heard from:

- i. A person who has submitted a written submission as a private citizen on his own behalf,
- ii. A person who has not submitted a written submission and who wishes to be heard as a private citizen on his own behalf,
- iii. A person speaking on behalf of another person not intending or able to address the hearing,
- iv. One person speaking on behalf of a group of citizens or an association or corporation or other organization, but not from several persons or members of the group or organization on its behalf whether or not a written submission is made, and
- v. From any other person deemed to be affected who wishes to be heard.

The Chair may stop repetitive presentations, therefore it is recommended a representative speak on behalf a group, rather than each member of the group speaking and repeating the same information or reasons for the appeal.

Abusive and intemperate language will not be permitted.

Evidence and submissions must be relevant to the appeal.

G. DECISIONS OF THE BOARD

In determining an appeal, the Subdivision and Development Appeal Board:

1. Must have regard to any statutory plan,
2. Must conform with the uses of land referred to in a land use bylaw,
3. Must be consistent with the land use policies,
4. Must have regard to but is not bound by the subdivision and development regulations,
5. May confirm, revoke or vary the approval or decision or any condition imposed by the subdivision authority or make or substitute an approval, decision or condition of its own, and
6. May, in addition to the other powers it has, exercise the same power as a Subdivision Authority is permitted to exercise.

All evidence must be presented in public. The Board may then go “in camera” (closed to the public) to deliberate.

In accordance with Provincial legislation, the Board is required to hand down a decision within 15 days from the date of the conclusion of the hearing. No decision is binding on the Board until it issues a written decision. The decision will be posted within the 15 days on the Town of Okotoks website.

H. RECOURSE FROM BOARD DECISION

The decision of the Subdivision and Development Appeal Board may be appealed on a question of law or jurisdiction to the Court of Appeal. If it is felt that the requirements of the Municipal Government Act were not met or that the Subdivision and Development Appeal Board did not have the jurisdiction or acted outside their jurisdiction a leave to appeal must be made to a judge of the Court of Appeal within thirty (30) days after the issuance of the decision to be appealed.

I. SECRETARY'S OFFICE

Located at Town of Okotoks Municipal Centre Building, 5 Elizabeth Street, PO Box 20, Okotoks, AB T1S 1K1. Regular business hours are Monday through Friday, 8:30 a.m. to 4:00 p.m.

Secretary to the Board: Planning Secretary

J. LOBBYING

The Subdivision and Development Appeal Board is a quasi-judicial body and therefore the members, including the Council members must enter the hearing without bias or prejudgement. Lobbying of the Board members is not permitted, as the case must be heard in public, not in private meeting or through phone calls.

K. QUESTIONS

The Town of Okotoks Planning Services staff is available to assist in the completion of the Notice of Appeal form, and to provide further explanation on the appeal process. Please do not hesitate to ask for our assistance.