

# RESORT VILLAGE OF CHITEK LAKE

## BYLAW 107/2013

### A BYLAW TO ESTABLISH A DEVELOPMENT APPEALS BOARD

The Council of the Resort Village of Chitek Lake in the Province of Saskatchewan enacts as follows:

Interpretation:

1. In this bylaw the following definitions shall apply:
  - a. "Development Officer" shall mean the Administrator for the Resort Village of Chitek Lake.
  - b. "Council" shall mean the Council of the Resort Village of Chitek Lake.
  - c. "Board" shall mean the local Development Appeals Board.
  - d. "Act" shall mean *The Planning and Development Act, 2007*.
2. Appointment of the Board
  - a. The Council shall appoint not less than three persons to constitute the board for the municipality.
  - b. The Council shall appoint a board within 90 days after the zoning bylaw comes into effect.
3. Membership of the Board
  - a. Subject to clause (2)a, the following persons are not eligible to be appointed as a member of a development appeals board for the municipality or to continue as a member of that board:
    - i. A member of the Council,
    - ii. An employee of the municipality
    - iii. A member or employee of a municipal planning commission, district planning commission or district planning authority of which the municipality is a member.
4. Board organization
  - a. The Council shall determine:
    - i. The term of office of each member of the board;
    - ii. The manner in which vacancies are to be filled; and
    - iii. The remuneration and expenses, if any, payable to each member.
  - b. The members of the board shall choose a chairperson from among themselves.
  - c. The Council shall:
    - i. Appoint a secretary of the board; and
    - ii. Prescribe the term of office, the remuneration, and duties of the secretary of the board.
  - d. The board may, subject to the approval of Council, appoint any consultants that may be necessary to assist it in the discharge of its responsibilities and Council is

responsible for any costs incurred by the board with respect to those appointments.

- e. Subject to the other provisions of the Act, the board may adopt rules of procedure to be followed in carrying out its functions.
- f. The Lieutenant Governor in Council may make regulations prescribing rules of procedure for the boards.
- g. Every Board shall comply with any rules of procedure prescribed by the Lieutenant Governor in pursuant to subsection (e).

#### 5. Meetings

- a. Meetings and hearings by the board are at the call of the secretary in consultation with the chairman of the board.

#### 6. Conflict of Interest

- a. No member of the board may hear or vote on any decision that relates to a matter with respect to which the member has a pecuniary interest as described in subsection 2(2) of the Act.

#### 7. Right of appeal on Zoning Bylaw

- a. In addition to any other right of appeal provided by the Act or any other Act, a person affected may appeal to the board if there is:
  - i. An alleged misapplication of a zoning bylaw in the issuance of a development permit;
  - ii. A refusal to issue a development permit because it would contravene the zoning bylaw; or
  - iii. An order issued pursuant to subsection 242(4) of the Act.
- b. Notwithstanding subsection 7(a), there is no appeal pursuant to clause 7(b) if a development permit was refused on the basis that the use in the zoning district for which the development permit was sought:
  - i. Is not a permitted use or a permitted intensity of use;
  - ii. Is a discretionary use or a discretionary intensity of use that has not been approved by resolution of Council; or
  - iii. Is a prohibited use.
- c. In addition to the right of appeal provided by section 58 of the Act, there is the same right of appeal from a discretionary use as from a permitted use.
- d. An appellant shall make the appeal pursuant to subsection 7 within 30 days after the date the issuance of or refusal to issue a development permit, or of the issuance of the order, as the case may be.
- e. Nothing in this section authorizes a person to appeal a decision of the council:
  - i. Refusing to rezone the person's land; or
  - ii. Rejecting an application for approval of a discretionary use.

#### 8. Application to appeal

- a. An application to appeal to the secretary of the board must be in writing and must:
  - i. State the reason for the appeal;
  - ii. Summarize the supporting facts for each reason;
  - iii. Indicate the relief sought; and

- iv. Include:
    - i. If no fee is prescribed pursuant to sub clause 8(iv)1, any sum that the board may specify not exceeding \$50.00.
  - b. For the purposes of sub clause 8(iv)(i), the Lieutenant Governor in Council make regulations:
    - i. Prescribing the fee for an appeal to the board; and
    - ii. For that purpose, establishing categories of appeals and prescribing different fees for different categories.
9. Determining an appeal
- a. In determining the appeal, the board hearing the appeal:
    - i. Is bound by any official community plan in effect;
    - ii. must ensure that its decisions conforms to the uses of land, intensity of use and density of development in the zoning bylaw;
    - iii. must ensure that its decisions are consistent with any provincial land use policies and statements of provincial interest; and
    - iv. may, subject to clauses (i) to (iii), confirm, revoke or vary the approval, decision, any development standard or condition, or order imposed by the approving authority, the Council or the development officer, as the case may be, or make or substitute any approval, decision or condition that it considers advisable if, in its opinion, the action would not:
      - i. grant the applicant a special privilege inconsistent with the restrictions on the neighboring properties in the same zoning district;
      - ii. amount to a relaxation so as to defeat the intent of the zoning bylaw; or
      - iii. Injurious affect the neighboring properties.
10. Requirements of the board in sitting down appeal
- a. Subject to section 10(b), within 30 days after the receipt of a notice of appeal, the board shall hold a public hearing respecting the appeal.
  - b. The board shall, not later than 10 days before the date fixed for hearing the appeal, give notice by personal service, ordinary mail or registered mail to:
    - i. The appellant;
    - ii. The owner, if the owner and the appellant are not the same person;
    - iii. The Council;
    - iv. The assessed owners of the property within 75 metres of the boundary of the appellant's land that is subject to the appeal; and
    - v. Other owners of property required to be notified pursuant to the zoning bylaw of the municipality.
  - c. Unless the person to whom the notice is sent proves otherwise, any notice served by ordinary mail pursuant to subsection 10(b) is deemed received.
    - i. If the delivery is within the municipality, on the third day following the day on which the letter or envelope containing the notice was mailed; or
    - ii. If the delivery is not within the municipality, on the fourth day following the day on which the letter or envelope containing the notice was mailed.

- d. In proving service pursuant to subsection 10(c), the secretary of the board shall file with the board a statutory declaration stating:
  - i. That the letter or envelope containing the notice was properly addressed and mailed with the postage paid; and
  - ii. The date on which the notice was mailed.

#### 11. Additional information considered on appeal

- a. The appellant shall, not later than five days before the date fixed for hearing the appeal, file with the secretary of the board all supporting documentation, which may include items such as maps, plans, drawings, written material, photos and videos that are intended to be submitted in support of the appeal.
- b. If required by the board, the Council, or anyone acting for and on behalf of the Council, shall transmit to the board, not later than five days before the date fixed for hearing the appeal, the original or true copies of supporting documentation in its possession relating to the subject-matter of the appeal.
- c. The board shall make available for public inspection before the commencement of the hearing of the appeal all relevant documents and materials respecting the appeal, including all of the material required to be submitted pursuant to subsections 11(a) and (b).

#### 12. Conduct of meeting

- a. The hearing of the appeal must be open to the public, and the board shall hear any of the parties mentioned in subsection 11(c) and any other person affected by the appeal who wishes to be heard in favor of or against the appeal.
- b. The chairperson of the board or, in the chairperson's absence, the acting chair may administer oaths and affirmations.
- c. The board may adjourn any hearing or reserve its decision as it considers advisable.
- d. The board shall make and keep a written record of its proceedings, which may be in form of a summary of the evidence presented to it at the hearing.
- e. The written record mentioned in subsection 12(d) is a public record.

#### 13. Decisions of the board

- a. The board shall render its decision in writing, together with reasons for the decision, within 30 days after the conclusion of the hearing.
- b. Every decision of the board approving a proposed development is subject to the following terms:
  - i. The board's approval lapses on the expiration of the period for which the development permit is valid unless the municipality issues a new development permit in accordance with the board's decision.
  - ii. The Board's decision is specific to the proposed development as outlined in the material and plans submitted to the board.
- c. 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.
- d. A decision of the board must be signed by:
  - i. The chairperson; or

- ii. In the chairperson's absence, any other board member and the secretary.
- iii. Within 10 days after the date on which the decision is made, the board shall forward a copy of its decision by personal service, registered mail to the appellant, the municipality, the minister and all persons who made representations at the public hearing.
- iv. Subject to section 14, a decision of the board does not take effect until the expiration of 30 days from the date on which the decision was made.

14. Appeal from decision of the board

- a. The minister, the Council, the appellant or any other person may, within 20 days after the date of receipt of a copy of the decision, appeal a decision of the board, by written notice, to the Saskatchewan municipal Board, with a copy of the notice to the board.
- b. If a decision of the board is appealed pursuant to this section, the Saskatchewan Municipal Board may:
  - i. Dismiss the appeal; or
  - ii. Make a decision with respect to the appeal that the board could have made.
- c. The terms and conditions set out in subsection 13(b) apply, with any necessary modification, to a decision of the Saskatchewan Municipal Board made pursuant to clause (b) (ii).

15. Board to submit material

- a. Within 10 days after the date that the board receives a copy of the notice of appeal, the secretary of the board shall forward to the Saskatchewan Municipal Board a certified copy of all the records of the board pertaining to the case.

16. This bylaw shall come into force on the date of its final passing.

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Mayor

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Administrator

Certified to be a true and accurate copy of Bylaw 107/2013 which was passed by the Council of the Resort Village of Chitek Lake on November 12<sup>th</sup>, 2013.

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Administrator