

BYLAW NO. 138-19

BEING A BYLAW OF THE SUMMER VILLAGE OF BIRCH COVE IN THE PROVINCE OF ALBERTA, TO ESTABLISH AN INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD

WHEREAS Section 627 of the *Municipal Government Act*, RSA 2000, c. M-26, as amended, authorizes a municipality to enter into an agreement with one or more municipalities to establish an intermunicipal subdivision and development appeal board;

AND WHEREAS the agreement must provide for the function, duties, procedures and conduct of the intermunicipal subdivision and development appeal board and its members;

AND WHEREAS the Council of Lac Ste. Anne County deems it necessary to establish an intermunicipal subdivision and development appeal board to hear subdivision and development appeals within the municipal boundaries of Lac Ste. Anne County and other participating municipalities.

NOW THEREFORE the Council of the Summer Village of Birch Cove duly assembled hereby enacts as follows:

1. TITLE

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

2. ESTABLISHMENT

- 2.1. Lac Ste. Anne County is hereby authorized to enter into an agreement, in a form similar to the form attached in Schedule “A” to this Bylaw, to establish an Intermunicipal Subdivision and Development Appeal Board and provide for the following:
 - a. The hearing of subdivision and development appeals within the boundaries of the participating municipalities;
 - b. The function and duties of the Intermunicipal Subdivision and Development Appeal Board, and;
 - c. The procedure and conduct of the Intermunicipal Subdivision and Development Appeal Board and its members.

3. GENERAL PROVISIONS

- 3.1. Bylaw No. 118-13 and all amendments thereto are hereby repealed.
- 3.2. Should any provision of this Bylaw become invalid, void, illegal or otherwise unenforceable, it shall be considered separate and severable from the Bylaw and the

remainder shall remain in force and be binding as though such provision had not been invalid.

3.3. This Bylaw shall come into force and effect upon the date it is passed.

READ a first time this _____ day of _____, 2019.

Mayor Eugene Dugan

CAO Dennis Evans

READ a second time this _____ day of _____, 2019.

Mayor Eugene Dugan

CAO Dennis Evans

READ a third time and finally passed this _____ day of _____, 2019.

Mayor Eugene Dugan

CAO Dennis Evans

Schedule A

AN AGREEMENT DATED THIS 6th DAY OF February, 2019.

BETWEEN

LAC STE. ANNE COUNTY

(the "County")

- and -

Summer Village of Val Quentin

("Participating Municipality ")

and

Summer Village of Ross Haven

("Participating Municipality ")

and

Summer Village of Sandy Beach

("Participating Municipality ")

and

Summer Village of Yellowstone

("Participating Municipality ")

and

Summer Village of Birch Cove

("Participating Municipality ")

And

Summer Village of Sunset Point

("Participating Municipality ")

(hereinafter collectively referred to as the " Municipalities")

INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD AGREEMENT

WHEREAS Section 627 of the *Municipal Government Act*, RSA 2000, Chapter M-26, as amended, authorizes municipalities to enter into an agreement to establish an Intermunicipal Subdivision and Development Appeal Board;

AND WHEREAS the Councils for the Municipalities have determined that it is appropriate to establish an Intermunicipal Subdivision and Development Appeal Board;

NOW THEREFORE in consideration of the premises and mutual terms, conditions and covenants to be observed and performed by each of the parties hereto, the Municipalities agree as follows:

1. DEFINITIONS

- a. **"Act"** means the *Municipal Government Act*, RSA 2000, c. M-26 as amended from time to time.
- b. **"Council"** means the individual Councils of the Participating Municipalities.
- c. **"Clerk"** means the person appointed to act as Clerk for the ISDAB.
- d. **"Intermunicipal Subdivision and Development Appeal Board" ("ISDAB")** means the appeal board established by this Agreement pursuant to s. 627 and 628 of the Act.
- e. **"Member"** means a member of the ISDAB.

All other terms used in this Agreement shall have the meaning assigned to them in the "Act".

2. ESTABLISHMENT

- a. The Intermunicipal Subdivision and Development Appeal Board is hereby established.
- b. The ISDAB has all the powers, duties and responsibilities of a Subdivision Development and Appeal Board under the Act.
- c. The ISDAB Procedures set out in Schedule "A" are incorporated into and shall form part of this Agreement.

3. PARTICIPATING MUNICIPALITIES

- a. The Intermunicipal Subdivision and Development Appeal Board shall be comprised of:
 - i. the Municipalities named as parties to this Agreement, and;
 - ii. any other municipality designated as a participating municipality by the County (upon request of the Council of the other municipality) from time to time

(collectively the “Participating Municipalities”).
- b. The County shall give the existing Participating Municipalities written notice of the designation of any additional municipality as a Participating Municipality pursuant to subsection (a)(ii).
- c. Every Participating Municipality shall be subject to and comply with the terms and conditions of this Agreement regardless of whether the Participating Municipality is a party to this Agreement or was designated as a Participating Municipality in accordance with subsection (a)(ii).

4. FUNCTION AND DUTIES

- a. The ISDAB shall hear all subdivision and development appeals (as set out in Part 17, Division 10 of the Act) for the Participating Municipalities, in accordance with the requirements of the Act and this Agreement.

5. MEMBERSHIP

- a. The ISDAB shall consist of a minimum of ten (10) Members appointed by resolution of the Council for the County.
- b. Council for the County shall make reasonable efforts to attract candidates and appoint Members who are residents in each of the Participating Municipalities.
- c. No person shall be appointed as a Member of the ISDAB who is an employee of a Participating Municipality, carries out subdivision and development powers, duties and functions on behalf of a Participating Municipality (subject to clause 5(d) below) or is a member of a municipal planning commission of a Participating Municipality.
- d. Notwithstanding clause 5(c) above, a person who carries out subdivision and development powers, duties and functions on behalf of a Participating Municipality may be appointed as a Member of the ISDAB, on the condition such Member shall not participate as a Member on a panel hearing an appeal from the Participating Municipality for which he or she carries out

subdivision and development powers, duties and functions or where the subdivision or development application being appealed was referred to the Participating Municipality for which he or she carries out subdivision and development powers, duties and functions.

- e. In the event of a vacancy on the ISDAB the Council for the County may appoint a person to fill the vacancy for the remainder of the term of the Member.
- f. Council for the County may, by resolution and in its sole discretion, remove a Member from the ISDAB at any time if:
 - iii. in the majority opinion of Council for the County or the majority opinion of the ISDAB, a Member is not performing their duties satisfactorily in accordance with this Agreement and the Act;
 - iv. a Member is absent for more than three (3) consecutive meetings of the ISDAB without reasonable excuse; or
 - v. Council for the County for any other reason considers it appropriate or necessary to remove the Member from the ISDAB.
- g. Council for the County may, by resolution, appoint additional Members to the ISDAB for a specific short period of time, as the Council for the County sees fit, in order to ensure that the ISDAB will have a quorum for an appeal hearing.
- h. Members shall participate in any training offered by the Participating Municipalities or the Province to assist them in carrying out their duties as Members of the ISDAB.

6. TERM OF OFFICE

- a. The term of office for Members shall be two (2) years.
- b. Members may be reappointed by Council for the County for additional terms subject to their written application for reappointment submitted in accordance with an advertised request for Members.
- c. Any Member may resign from his/her position on the ISDAB by sending written notice to Council for the County.

7. ISDAB CLERK

- a. The Clerk shall be appointed by resolution of the Councils of the Municipalities.

b. A subdivision or development authority of any one of the Participating Municipalities is not eligible as appointment as Clerk of the ISDAB.

c. The responsibilities of the Clerk for the ISDAB are as follows:

- i. receive and process all Notices of Appeal filed with the ISDAB;
- ii. schedule panels of the ISDAB to hear Notices of Appeal;
- iii. inform all statutory and affected parties of an appeal hearing in accordance with the Act;
- iv. make all necessary documentation available for inspection by the public prior to an appeal hearing;
- v. compile all necessary documentation for distribution to the Members;
- vi. attend all ISDAB appeal hearings;
- vii. provide services for the recording of the proceedings of the ISDAB and for retention of exhibits, including all written submissions to the ISDAB;
- viii. make and keep a record of the proceedings of the ISDAB, which may be in the form of minutes for the ISDAB appeal hearing and shall include the names and addresses of all parties making representations to the ISDAB;
- ix. assist in the preparation of decisions of the ISDAB;
- x. communicate decisions of the ISDAB to the affected parties in accordance with the Act;
- xi. ensure all statutory requirements of the ISDAB are met, and;
- xii. such other matters as the ISDAB may direct.
- xiii. attend required training.

8. MEMBER REMUNERATION

- a. Members shall be entitled to such remuneration, travelling and other expenses, as may be established by resolution of Council for the County from time to time.

9. ADMINISTRATION

- a. The fee for an appeal will be the fee established by resolution of Council for the County from time to time.
- b. Council for the County may, in its sole discretion, refund an appeal fee.
- c. ISDAB Appeal hearings will be held at the County Administration Building or other such location as determined by the County and advertised in accordance with the Act from time to time.
- d. The County will provide the administrative resources for ISDAB Appeal hearings.

10. ISDAB COSTS AND EXPENSES

- a. Each Participating Municipality shall pay to the County an administrative fee in the amount of five hundred (\$500.00) dollars per annum throughout the term of this Agreement (the "Annual Fee"), as contribution to the County's administrative and other costs and expenses with respect to the general operations of the ISDAB. The Annual Fee shall be payable by each of the Participating Municipalities within thirty (30) days of receipt of an invoice from the County with respect to same, regardless of whether or not an appeal has been filed in a Participating Municipality in any given year, and is in addition to and does not replace the costs and expenses referred to in paragraphs (b) and (c) below.
- b. All ISDAB costs and expenses, including the administrative costs of holding an appeal hearing and any legal or other fees the ISDAB may incur for training and legal advice, shall be paid by each of the Participating Municipalities to the County on a cost-recovery basis, with the appeal fee applied to offset the costs and expenses. The County will not offset the cost and expenses so as to pay any portion of the appeal fee to the respective Participating Municipality.
- c. The administrative costs and expenses referred to in paragraph (b), above, shall be payable based on Schedule "B" to this Agreement. Any additional ISDAB costs and expenses, including legal or other fees the ISDAB may incur for training and legal advice, shall be payable based on the County's actual expenditures with respect to same. The costs and expenses referred to herein and in paragraph (b), above, shall be payable by the Participating Municipalities within thirty (30) days of receipt of an invoice from the County with respect to same.
- d. For further clarity, ISDAB costs and expenses which relate to a particular appeal shall be payable by the Participating Municipality within which the appeal was filed. All other ISDAB costs and expenses, which do not relate to a particular appeal, shall be payable by all the Participating Municipalities on a pro rata basis, with each Participating Municipality paying an equal share of such costs.

11. TERMINATION

- a. A Participating Municipality may withdraw from the ISDAB at any time by providing thirty (90) days' written notice to each of the other Participating Municipalities and the County. In the event of the withdrawal of a Participating Municipality pursuant to this subsection, the ISDAB shall continue and this Agreement shall remain in full force and effect with respect to the remaining Participating Municipalities.
- b. The County may terminate this Agreement at any time by providing thirty (90) days' written notice to each of the other Participating Municipalities.

12. GENERAL

- a. Headings in this Agreement are for reference purposes only.
- b. Words in the masculine gender will include the feminine gender whenever the context so required and vice versa.
- c. Words in the singular shall include the plural or vice versa whenever the context so requires.

IN WITNESS WHEREOF, the Municipalities have executed this Agreement as evidenced by the duly authorized signatures below.

Lac Ste. Anne County

Summer Village of Ross Haven

Summer Village of Sandy Beach

Summer Village of Sunset Point

Summer Village of Yellowstone

Summer Village of Birch Cove

Summer Village of Val Quentin

SCHEDULE "A"

INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD PROCEDURES

1. DEFINITIONS

Unless otherwise specified herein, all terms shall have the meaning assigned to them in the Agreement or, where not specified in the Agreement, in the *Municipal Government Act*, RSA. 2000, Chapter M-26, as amended (the "Act").

- 1.1 **"Agreement"** means the Intermunicipal Subdivision and Development Appeal Board Agreement dated _____, 2019.
- 1.2 **"Closed Session"** means a meeting of the Board which is closed to the public pursuant to ss.197(2.1) of the Act.
- 1.3 **"Staff"** means an employee of a Participating Municipality.

2. APPLICATION

- 2.1 These procedures shall apply to all meetings of the ISDAB.

3. TRAINING

- 3.1 All Members shall receive training as ISDAB Members in accordance with the requirements of the Act.
- 3.2 The ISDAB may retain legal counsel to provide training or advice before, during or after an appeal hearing as the case may be.

4. PANEL AND CHAIR

- 4.1 When an appeal hearing is required, the Clerk shall schedule a panel of Members to hear the appeal based on Member availability and experience. The Clerk will use his/her best efforts to appoint to the panel a Member residing in the Participating Municipality from which the appeal originated.
- 4.2 The Board will elect a Chairperson from amongst the Members of the panel at the beginning of an appeal hearing. A Member may be re-elected to the position of Chairperson at a subsequent appeal hearing.
- 4.3 The Chairperson shall preside over the appeal hearing and shall be responsible for ensuring the appeal hearing is conducted in a fair and impartial manner, in accordance with the requirements of the Act and the principles of natural justice.
- 4.4 The Chairperson shall sign decisions, orders, notices and other documents issued by the ISDAB on its behalf.

5. QUORUM

5.1 A minimum of three (3) Members shall constitute a quorum of the ISDAB.

6. DECISIONS

6.1 Only Members present for the entire appeal hearing shall participate in the making of a decision on any matter before the ISDAB. The Clerk shall not participate in the making of a decision on any matter before the ISDAB.

6.2 The decision of the majority of Members present at the appeal hearing shall be deemed to be the decision of the whole ISDAB. In the event of a tie vote, the appeal shall be denied.

6.3 The ISDAB may make its decision with or without conditions in accordance with the Act.

6.4 If an appeal hearing is adjourned for any reason following the submission of evidence, only those Members present at the original appeal hearing shall render a decision of the matter.

7. APPEAL HEARINGS

7.1 The ISDAB shall consider and decide all subdivision and development appeals which have been properly filed with the ISDAB in accordance with the Act.

7.2 The ISDAB shall hold a public hearing respecting the appeal within thirty (30) days from the date of receipt of the written notice of appeal.

7.3 The ISDAB shall give notice of the appeal hearing in accordance with the Act.

7.4 The ISDAB shall make available for public inspection prior to the appeal hearing all relevant documents and materials respecting the appeal.

7.5 The ISDAB shall hear from parties in accordance with the Act.

7.6 Electronic or similar recording devices shall not be used during an appeal hearing by anyone in attendance other than the Clerk. The ISDAB shall make and keep a written record of its proceedings which may be in the form of a summary of the evidence presented at the appeal hearing.

7.7 The ISDAB shall give a written decision together with the reasons for the decision in accordance with the Act.

8. APPEAL HEARING PROCEDURE

- 8.1. The Chairperson for the meeting will call for a motion to go into public hearing and ask if Appellant is present to speak to the appeal.
 - 8.1.1. If the Appellant indicates his/her presence to speak to the appeal, then the Chairperson will outline the public hearing procedures.
 - 8.1.2. The Clerk will confirm that the notice of appeal has been provided to all parties in accordance with the Act.
 - 8.1.3. The Chairperson will ask if anyone objects to any Member hearing the appeal.
 - 8.1.4. A member of Staff will introduce the appeal and present the administrative report outlining the background to the appeal.
 - 8.1.5. The Chairperson shall call upon the Appellant to present his/her appeal submission.
 - 8.1.6. After identifying him/herself, the Appellant will be requested to present his/her appeal within a reasonable time period.
 - 8.1.7. The Chairperson shall then call upon any persons in attendance at the appeal hearing who are entitled to be heard by the ISDAB under the Act and who wish to speak in favour of the appeal.
 - 8.1.8. After identifying themselves, persons or representatives of any group or persons in favour of the appeal may address the ISDAB in turn. The ISDAB reserves the right to abbreviate repetitious oral submissions.
 - 8.1.9. The Chairperson shall then call upon any persons in attendance at the appeal hearing who are entitled to be heard by the ISDAB under the Act and who wish to speak in opposition to the appeal.
 - 8.1.10. After identifying themselves, persons or representatives of any group or persons, in opposition of the appeal may address the ISDAB in turn. The ISDAB reserves the right to abbreviate repetitious oral submissions.
 - 8.1.11. The Chairperson shall then call upon the appellant and those persons in attendance at the public hearing who spoke in favour of the appeal for any rebuttal to the points raised by those who spoke in opposition to the appeal. Rebuttal comments are restricted to addressing new points raised by those who spoke in opposition to the appeal.
 - 8.1.12. After a presentation is concluded, any Board Member may ask the presenter relevant questions.

- 8.1.13 After all presentations from the public have been completed, any Board Member may ask Staff relevant questions.
- 8.1.14 following the public presentation and Member questions, the Chairperson shall ask for closing comments and then close the appeal hearing.
- 8.1.15 The ISDAB may, at any time, modify or adjust the foregoing procedure as required to comply with the Act and the rules of natural justice.

8.2. **Presentation Materials**

- 8.2.1 The use of slides maps, videos, and Power Point presentations are permitted and these materials along with any written submissions become the property of the ISDAB as exhibits to the public appeal hearing.
- 8.2.2 Written submissions shall be received by the Clerk at least three (3) days in advance of the commencement of the appeal hearings. Notwithstanding the foregoing, the ISDAB retains the discretion to accept late submission where deemed appropriate.

8.3. **Introduction of Speakers**

- 8.3.1 Persons addressing the ISDAB shall give their name, location of residence, and indication as to whether they are speaking on their own behalf or for another person or for a group, and address the Chairperson when responding to questions or providing information.
 - 8.3.2 A person who does not identify him/herself will not be given the opportunity to address the ISDAB.
- 8.4. Following the close of the public portion of the appeal hearing, the ISDAB shall deliberate and make its decision. The ISDAB may deliberate and make its decision in closed session.

9. **CONDUCT AT APPEAL HEARINGS**

- 9.1 Members of the public in attendance at an appeal hearing:
 - 9.1.1. shall address the ISDAB through the Chair;
 - 9.1.2. shall maintain order and quiet; and
 - 9.1.3. shall not applaud or otherwise interrupt any speech or action of the Members or any other person addressing the ISDAB.

- 9.2 The Chairperson may order a member of the public who disturbs or acts improperly at an appeal hearing by words or actions be removed. The Chairperson may request assistance from a Peace Officer to remove the person.

10. MEMBER CONDUCT

- 10.1 A Member wishing to speak at an appeal hearing shall obtain the approval of the Chairperson before speaking.
- 10.2 When a Member or member of the public is addressing the Chair, every other Member shall:
- 10.2.1. remain quiet and seated;
 - 10.2.2. not interrupt the speaker except on a Point of Order;
 - 10.2.3. not carry on a private conversation; and
 - 10.2.4. not cross between the speaker and the Chair.
- 10.3 Members shall adhere to the Code of Conduct attached as Appendix "A" to this Schedule "B".

APPENDIX “A”
ISDAB MEMBER CODE OF CONDUCT

Recognizing that as Members of a quasi-judicial body, Members must not be inhibited from performing their duties of fairness and fullness in conduct of any Hearing.

Therefore Members shall:

1. Conduct themselves in such a way as to endeavor to ensure that those persons appearing before them receive a full and fair hearing and that such persons receive the knowledgeable and unbiased application of the laws of the Province of Alberta and the bylaws and policies of Lac Ste Anne County and all member municipalities of the ISDAB.
2. Approach every Hearing with an open mind with respect to every issue and shall avoid doing or saying anything that could cause any one to think otherwise. Members shall, however, endeavor to conduct all Hearings expeditiously, preventing unnecessary delay, while ensuring the opportunity of all parties to present their case.
3. At all times show respect for the parties and their representatives appearing before them and show respect for the Board and the Hearing process through his or her demeanor, timeliness, dress and conduct throughout any Hearing.

Members **shall not**:

1. Use or disclose confidential information obtained by them in any Hearing for personal gain nor for the gain of any other person.
2. Disclose any confidential information obtained by them by virtue of acting as a member of the ISDAB.
3. Use their position for private gain or to secure privileges, favours or exemptions for themselves or any other person.
4. Participate in any way whatsoever in a Hearing in respect of which the Member has or may appear to have a personal or commercial bias or a pecuniary interest, except where the Member has disclosed any such potential bias or interest to all participants present at the hearing and all agree that the Member may continue to participate in the Hearing. This provision does not apply in the case of an objection raised by a party appearing before the Board alleging that a Member is biased or has the appearance of bias and the Member, on a good faith basis, disagrees with the party making such objection.
5. Attempt to influence the outcome of any Hearing in which a member has a personal or commercial interest by discussing the matter with other ISDAB members outside of a Hearing.

6. Give preferential treatment to any person or communicate directly or indirectly with any person with an interest in a Hearing except in the presence of the Board panel and the parties appearing at the Hearing.

7. Impede the Board from carrying out its purpose or adversely affect the integrity of the Board.

The Chair and Presiding Officers shall ensure that decisions are made and written in accordance with their subjective good faith understanding of generally accepted administrative law practices and procedural rules as required by law.

Members agree that preservation of these guiding principles is of utmost importance and agree that they will continue to abide by the confidentiality provisos in perpetuity.

ISDAB Member's Signature
Date

SCHEDULE "B"

**INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD
SCHEDULE OF ADMINISTRATIVE COSTS AND EXPENSES**

1. Annual Membership fee: \$500.00
2. Withdrawing Complaints: in instances where a complaint is filed and withdrawn; the Partner Municipality will be obligated to pay a \$64.00/hour administration fee.
3. Board Member Honorariums: in instances where a complaint proceeds to a hearing and decision; the Partner Municipality will be obligated to pay Board Members Honorariums in accordance with the following:

	Up to 4 hours		4 to 8 hours	
Chairperson	\$174.73 member	per	\$263.91 member	per
Board Member	\$174.73 member	per	\$263.91 member	per

4. Board Support: \$64.00/hour for time spent by the clerk to prepare and distribute legislated documents, receive and record disclosure, prepare the agenda, attend the hearing and assist the board with deliberations and decision writing.
5. Meals and Expense: will be charged to the Partner Municipality in accordance with policies and procedures prescribed by the clerk. In the absence of a policy or procedure prescribed by the clerk, Lac Ste. Anne County policies and procedure will be applied.
6. Office/print supplies: will be charged to the Partner Municipality on a cost recovery basis.
7. Legal Services: will be charged to the Partner Municipality on a cost recovery basis.

