



Subdivision
& Development
APPEAL BOARD

Calgary Subdivision and Development Appeal Board

Code of Conduct

Approved by the Calgary SDAB

Effective May 1st, 2024

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1.0 PREAMBLE

1.1.1 The Subdivision and Appeal Board (“Board”) has created this Code of Conduct (“Code”) to provide guidance to the members of the Subdivision and Appeal Board (“Board Members”) about the expectations for their discharge of their office as Board Members. The aim of this Code is to improve the quality of governance of the Board and maintain the necessary standards of conduct of Board Members.

1.1.2 The intent of this Code is to:

- (i) Provide guidance to the Board Members respecting their engagement with the Board.
- (ii) Assist Board Members in optimizing the Board’s efficacy during hearings and deliberations.
- (iii) Maintain the quality of the Board’s decisions.

2.0 BOARD MEMBERS BOUND BY THIS CODE OF CONDUCT

2.1.1 Board Members are bound by this Code. Board Members have a duty to follow this Code when discharging their roles and responsibilities as a Board Member in adjudication appeals before the Board.

2.1.2 The Chair will take measures which the Chair deems appropriate to endeavor to ensure this Code is adhered to.

2.1.3 The Chair is the sole arbiter in respect of all matters relating to or arising from this Code and its applicability and operation, except where specifically stated otherwise.

2.1.4 A Board Member shall be bound by any decision or ruling made by the Chair respecting this Code and its operations.

2.1.5 A Board Member shall not represent the Board in any matter save with eth authorization of the Chair.

3.0 ADMINISTRATIVE

3.1.1 All Board Members report to the Chair of the Board respecting any Board matter.

3.1.2 Confidentially shall adhere to obtaining a legal opinion respecting any appeal, matter, issue, or subject related to a hearing before the Board and the obtaining of that opinion must initially be approved by the Chair or designate.

3.1.3 Only the Board Solicitor has the authority to provide a legal opinion or advice to the Board.

3.1.4 A Board Member assigned by the Chair to a panel of the Board established to hear an appeal is expected to review the Board Report prior to the hearing.

3.1.5 A Board Member should be available at the offices of the Board no less than 15 minutes prior to the scheduled commencement of an in-person hearing or virtually for an online hearing.

3.1.6 Board Members are expected to be available for a minimum number of hearing days, as determined by the Chair. Board Members may be assigned additional duties such as assisting with decision writing or other duties associated with Board matters.

- 3.1.7 No original Board record or exhibit from any proceeding before the Board, may be removed from the office of the Board without the authorization of the Chair.
- 3.1.8 Board Members are expected to attend year-round training and development meetings and be willing to take courses as may be recommended from time to time.
- 3.1.9 At all times, Board Members are expected to exercise their role and duties in their capacity as a member of the Board with integrity.
- 3.1.10 A Board Member who becomes aware of any conduct by another Board Member in contravention of this Code of Conduct shall report immediately to the Chair.
- 3.1.11 A Board Member who becomes aware of any conduct by the Chair in contravention of the Code shall report said conduct immediately to the First and Second Vice- Chairs. The Vice-Chairs shall review the conduct with the Board Solicitor and determine the appropriate course of action.

4.0 COMMUNICATIONS

- 4.1.1 A Board Member shall not communicate directly or indirectly with any party, witness, or representative of a party in respect of a Board proceeding, except during the hearing of an appeal in the presence of all parties and their representatives.
- 4.1.2 Any correspondence, email, or other communication from a party to a Board Member regarding an appeal shall forthwith be provided to the Chair, and/or if applicable, the Presiding Officer of the Board panel, and the Clerk, and shall be dealt with in accordance with the policies and procedures of the Board.
- 4.1.3 The Board speaks through its written decisions only. Board Members shall not publicly comment on, or discuss orally or in writing, any aspect of an appeal, matter, or issue that is before the Board or has been before the Board. A Board Member shall not provide any explanation to any person about decisions of the Board regarding an appeal, matter, or issue that has been before the Board.
- 4.1.4 A Board Member shall not comment on or discuss the outcome of any appeal or decision of the Board with any person.
- 4.1.5 A Board Member shall not comment on or provide an opinion or advice regarding any appeal, matter or issue that is or has been before the Board or regarding any Board decision, except as necessary in the discharge of their office.
- 4.1.6 A Board Member shall not comment on or discuss any matter or issue which potentially could be the subject of an appeal before the Board or regarding any Board decision, except as necessary in the discharge of their office.
- 4.1.7 A Board Member shall not communicate with the media regarding any Board matter and shall direct all media inquiries to the Coordinator of the SDAB Administration (City Appeal Boards) or the Leader of Municipal Boards and Governance, City Clerk's Office. A Board Member contacted by the media shall advise the Chair immediately.

5.0 BIAS AND CONFLICTS OF INTEREST

5.1.1 In this Part 5 – Bias and Conflicts of Interest, the term “Bias” means a predisposition towards one side of an appeal or towards a particular result of an appeal such that the Board Member is not able to decide the appeal impartially. Bias also includes a reasonable apprehension of bias, which means that an informed person would conclude that it is more likely than not that the Board Member, consciously or unconsciously, would not be able to decide the appeal impartially. Examples of bias may include but are not limited to:

(i) Any party to the appeal or any application underlying the appeal or any agent or representative of such a party is a family member of the Board Member, or any other person, organization or entity with whom the Board Member has a personal or business relationship (casual acquaintances may not be included depending on the circumstances of the case);

(ii) The Board Member is a party to the appeal or any application underlying the appeal;

(iii) The Board Member is affected personally or professionally by the appeal or any application underlying the appeal; or

(iv) The Board Member has a pecuniary (financial) interest in the outcome of the appeal to the same extent that a councilor would have a pecuniary interest in the matter as determined in accordance with section 170 of the Municipal Government Act.

5.1.2 A Board Member shall inform the Chair, at the earliest opportunity, of any basis on which the Board Member reasonably anticipates that an allegation of bias might be raised with respect to the participation of the Board Member in an appeal.

5.1.3 If a Board member determines that they are biased or identifies reasonable grounds for an allegation of bias during or after a hearing, the Board Member shall request a recess (if applicable) and shall notify the Presiding Officer. If bias is identified, the Board Member may voluntarily recuse themselves or the Chair or Presiding Officer directs the Board Member to recuse themselves. A Board Member who has been recused shall leave the hearing room and shall not be present in the deliberation room during the deliberation or voting.

5.1.4 If a Board Member is recused from the hearing of an appeal, if appropriate the Chair or Presiding Officer shall explain such recusal on the record, in the written decision, or both.

5.1.5 If a Board Member is unsure whether the Board Member should not participate in an appeal due to bias, the Board Member should contact the Chair for direction.

5.1.6 A Board Member shall not participate as a panel member on any hearings in which the Board Member would reasonably be considered to be biased.

5.1.7 A Board Member shall not act as a professional or legal consultant, directly or indirectly, in the preparation of a matter to be heard by the Board, nor shall they otherwise assist any party to an appeal in the preparation of any material or argument on an appeal to the Board.

6.0 BOARD MEMBERS SEEKING POLITICAL OFFICE

6.1.1 Any Board Member who files to run for political office for any level of governance in any election or by-election shall immediately resign from the Board.

- 6.1.2 A Board member considering running for political office for any level of government or for any other elected public position shall immediately advise the Chair of his or her intentions in this regard.
- 6.1.3 A Board Member who moves away from the City of Calgary shall immediately resign from the Board.

7.0 CONFIDENTIALITY

- 7.1.1 Board members shall not disclose or release by any means, directly or indirectly, to any member of the public, or to any member of City Council or City Administration, any information acquired by virtue of their service on the Board, in either oral or written form, except when required by law, or authorized to do so by the Board Chair.
- 7.1.2 Board Members shall not use confidential information (see 9.2) for personal or private gain, or for the gain of relatives or any person or corporation, either directly or indirectly.
- 7.1.3 Board Members shall not speak with the public, authority, appellants, applicants, parties to an appeal, or respondents or any of their agents or representatives before or during hearings, during adjournments of hearings, or after the hearing. This applies to all appeals before the Board whether they have been decided upon by the Board.
- 7.1.4 Board Members shall always maintain, the confidentiality of the Board's deliberations regarding decisions on all appeals, matters or issues that are before or have come before the Board.
- 7.1.5 Board Members shall not, directly, or indirectly, disclose or discuss with any other party their position or the Board's position on any appeal, matter or issue heard or to be heard by the Board.
- 7.1.6 Board Members shall not, directly, or indirectly, disclose or discuss with the public, or any member of City Council or City Administration, the position of the Board or any of its Board members or the results of any vote by the Board or any of the Board Members on any appeal, matter, or issue before, heard, decided, or yet to be heard or decided by the Board.
- 7.1.7 Confidentiality regarding an appeal shall always remain in effect during and after any decision made by the Board regarding any appeal, matter, or issue.
- 7.1.8 Any attempt by the public or any member of City Council or City administration, to discuss any appeal, matter or issue before the Board with a Board member shall be immediately reported or otherwise brought to the attention of the Chair.

8.0 CONFIDENTIAL INFORMATION

- 8.1.1 Confidential information is information in the possession of or received in confidence by the Board, that the Board is either prohibited from disclosing, or is required to refuse to disclose under the Freedom of Information and Protection of Privacy Act, RSA 2000, c F-25, as amended, and any other applicable legislation including but not limited to the MGA.
- 8.1.2 Confidential Information includes but is not necessarily limited to:
 - (i) All information pertaining to appeals before the Board or appeals for which the Board has conducted hearings and/or rendered a decision; (and which is not public information i.e., Board reports).

- (ii) Content, outcome, expressed opinions, or subject matter discussed during deliberations and decisions regarding appeals before the Board or decided by the Board.
- (iii) Advice or comments received from the Board Solicitor or Board Chair; and/or
- (iv) Any other non-public information Board Members may have received or been privy to in their capacity as a Board Member.

9.0 CONDUCT DURING BOARD MEETINGS

9.1.1 Board Members shall conduct themselves with decorum at meetings and hearings of the Board. Where the Board's procedures do not address or do not appear to address an issue, Board Members shall consult with the Chair.

9.1.2 In addition, the following standards are expected to always be adhered to by Board Members during meetings and hearings:

- (i) Follow the directions and guidance of the Chair or Presiding Officer, as the case may be.
- (ii) Refrain from side conversations and use a respectful tone during questioning.
- (iii) Remain engaged and actively listening to all speakers or presenters.
- (iv) Strive to avoid interrupting a speaker or presenter. Allow those speaking (panel members, Chair or Presiding Officer, other speakers, presenters, or participants) to finish before continuing with questions. Allow the Chair or Presiding Officer to interject if the speaker or presenter is taking longer than necessary to make submissions or presentations or answer a question.
- (v) Strive to refrain from any body language, facial expressions, demeanor, or gestures that convey or may convey inappropriate or unprofessional thoughts and emotions, such as boredom, disrespect, sarcasm, anger, strong agreement, impatience, etc.
- (vi) Strive to refrain from indicating approval or disapproval of any presentation or submission to the Board.
- (vii) Strive to avoid prejudging or appearing to prejudge any statement, submission or revelation provided at the meeting or hearing.
- (viii) Strive to avoid reacting to any speaker or presenter's appearance, demeanor, or behavior even if the speaker or presenter's appearance, demeanor or behaviour during the meeting or hearing is in your view inappropriate. Strive to avoid any emotional response if you feel baited or drawn in by a speaker or presenter.
- (ix) Be respectful and courteous to all persons during the meeting or appeal hearing.

- (x) If necessary, assist the Chair or Presiding Officer to chair and conduct the meeting or hearing and deal with disruptive behaviour or other situations during the meeting or hearing.
- (xi) Regardless of anyone's personal characteristics or background, deal with the matter without bias, and in an open, orderly, impartial manner.

10.0 CONDUCT DURING DELIBERATIONS

10.1.1 The Presiding Officer will ensure fair, orderly and time sensitive deliberations as required for each appeal or other matter. The following behaviour is expected during meetings, hearings, and deliberations.

- (i) Generally, the same guidelines provided for conduct of members during a meeting or hearing shall apply to Board deliberations; and
- (ii) Each member should show respect towards other members, the Chair and Presiding Officer's authority, respect the amount of time they use in contributing to deliberations and allow time for other members to share their thoughts and opinions without interruption; and
- (iii) Board Members shall respect differences of opinion and remain open-minded throughout the deliberation process. Board Members shall remain respectful and receptive to Board Members who carry opposing views on matters of legal interpretation. Board Members shall defer to the Chair or Vice Chairs who will advise as to whether an opinion from the Board Solicitor should be sought; and
- (iv) Board Members shall always remain open to facts including evidence that may have been overlooked. Board Members shall consider all relevant written and oral evidence and arguments of the parties, and
- (v) Board Members shall accept the Board's decision regarding appeals gracefully and with deference, and shall support the Board's written decision, as issued by the Board; and
- (vi) After a Board decision is made, Board members should remain respectful and receptive to Board Members who carried opposing views and shall refrain from conjecture or comments to or of those members regarding the Board's decision.

11.0 IMPROPER USE OF INFLUENCE

11.1.1 Board Members shall not, directly, or indirectly, use the influence of their position or capacity as Board Member, or by any other means, for any other purpose than for the discharge of his or her official duties as a Board member.

11.1.2 Examples of prohibited conduct in respect to the use of influence include but not limited to:

- (i) The use of one's status as a Board member to improperly influence the decision of another person to the private advantage of oneself, one's parents, children, children's family, partner or spouse, staff at a Board Member's place of employment, friends, associates, business or otherwise, or any other person with whom the Board Member has a relationship that would lead a reasonable person to believe the Board Member's judgment may be influenced in any

way. This would include attempts to secure preferential treatment beyond activities in which Board Members normally engage in the carriage of their official duties; or

- (ii) Seeking preferential treatment from persons, organizations or entities that were involved in or are party to an appeal or other matter that is, was, or likely will come, before the Board; or
- (iii) The holding out of the prospect or promise of future advantage through a Board Member's supposed influence within the Board, in return for present actions or inactions.

11.1.3 In this Code, "private advantage" does not include a matter that is of general application, or concerns regarding the remuneration, honouraria or benefits of a Board Member.

12.0 CONDUCT RESPECTING BOARD STAFF

12.1.1 Board Members shall be respectful of the role of the Board staff to provide advice based on political neutrality and objectivity, and without undue influence from any individual Board Member or faction of the Board.

12.1.2 Board members shall not use, or attempt to use, directly or indirectly, their authority, influence, or position on the Board, for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity.

12.1.3 Board Members should familiarize themselves with and adhere to the City of Calgary Respectful Workplace and Violence in the Workplace policies.

13.0 PROHIBITION FROM ACCEPTING GIFTS AND/OR BENEFITS

13.1.1 Board Members shall not accept a fee, advance, gift, or personal benefit of any kind that is connected directly or indirectly with the performance of their duties on the Board, unless permitted by the exceptions listed below.

13.1.2 The following are recognized as exceptions.

- (i) Compensation authorized by law.
- (ii) A suitable memento of function honouring the Board Member.
- (iii) Food, lodging, transportation, and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the Federal government, or by a conference, seminar or event organizer where the Board Member is either speaking or attending in an official capacity, and
- (iv) Communications that are educational, or training materials received from professional associations related to similar boards, tribunals, or adjudicative bodies.

14.0 SANCTIONS AND DISCIPLINARY ACTIONS

14.1.1 If a Board Member is found to be in contravention of the Code, he or she may be subject to disciplinary action.

- 14.1.2 If a contravention is identified, the Board Chair, in consultation with the Vice Chairs, shall determine whether the contravention is of a minor or severe nature, based on factors such as the potential impact of the contravention on the Board.
- 14.1.3 If the Board Chair, in consultation with the Vice Chairs, determines that the contravention is minor, the Board Chair may deal with the contravention directly with the Board Member. In doing so, the Chair may suspend the privileges of the Board Member to serve on panels for a period determined by the Board Chair.
- 14.1.4 If the Board and the Vice Chairs determine that the contravention is severe, the Board Chair and the Vice Chairs shall meet with the Board Member to discuss the contravention and impose any or all the following disciplinary actions:
- (i) Suspend the privileges of the Board Member to serve on panels for a period determined by the Board Chair.
 - (ii) Request the resignation of the Board Member.
 - (iii) Request that City Council revoke the appointment of the Board Member or:
 - (iv) Any other action deemed appropriate and necessary by the Board Chair.
- 14.1.5 In the event that a Board Solicitor should be consulted by the Board Chair and Vice Chairs that information is confidential to the Chair and Vice Chairs.

15.0 INTERPRETATION OF THIS CODE OF CONDUCT

- 15.1.1 Any dispute about the interpretation of this Code or the application of any of the provisions herein by or to any Board Member shall be referred to the Board Chair. The Board Chair shall decide the issue in consultation with the Board Solicitor and the Vice Chairs if necessary.
- 15.1.2 Any matters arising from applying the provisions of this Code shall be referred to the Board Chair.