

BANFF LAND USE BYLAW

3.3.0 DEVELOPMENT APPEAL BOARD (DAB)

- 3.3.1 The Development Appeal Board (DAB) is hereby established and shall hear all appeals in respect of orders made under s.627 of the Act, development permit applications and subdivision applications.
- 3.3.2 The DAB shall consist of a minimum of five members being two Councillors, a minimum of two members of the public and one person, or 20% of the Board Members, nominated by the Minister. The appointment of a Councillor as a member of the DAB ceases when the member ceases to be a member of Council.
- 3.3.3 The members of the DAB shall be appointed by resolution of Council at the annual organizational meeting of Council. A person may be reappointed on the expiry of the annual term, provided the person is otherwise eligible.
- 3.3.4 If at any time, through resignation, death or otherwise, a vacancy occurs on the DAB, the Council shall appoint a person to fill that vacancy for the balance of the term. When appointing a person to fill a vacancy on the DAB, the Council shall be bound by the restrictions placed upon the original appointment.
- 3.3.5 No person who is a Town employee shall be appointed a member of the DAB.
- 3.3.6 A member of the DAB is not disqualified from participating in deciding an appeal before the DAB by reason only of his being an employee of the Government of Canada, or an agency thereof, and that the land that is the subject of the appeal is owned by Her Majesty the Queen in Right of Canada.
- 3.3.7 The DAB shall elect its own chairman and another member as vice-chairman. In the absence of the chairman, the vice-chairman shall act as chairman. In the absence of both, the DAB shall elect a chairman for that meeting.
- 3.3.8 The DAB will meet at the call of the chairman or vice-chairman.
- 3.3.9 Three members present at the meeting shall constitute a quorum.
- 3.3.10 Notwithstanding any vacancy or abstention on the DAB, the remaining members may exercise and perform the duties of the DAB, provided the quorum is maintained.
- 3.3.11 At the hearing of the appeal, the DAB shall hear all those persons that it is required to hear under the Act.
- 3.3.12 At the hearing of the appeal, should the DAB desire legal opinions it may adjourn the hearing pending receipt of such information, opinion or other assistance.
- 3.3.13 The Chairman shall be responsible with respect to all things required to be carried out by the DAB under the Act to see that they are carried out in accordance with the provisions of the Act, and:
- (a) is empowered to rule that evidence presented is irrelevant to the matter in issue and to direct the members to disregard the evidence;
 - (b) may limit a submission if he determines it to be repetitious;

BANFF LAND USE BYLAW

- (c) when a hearing is adjourned, may announce the date, time and place for the continuation of the hearing and such announcement shall be deemed adequate notice thereof; and
 - (d) when a hearing is adjourned but the time and place for the continuation of the hearing is not fixed, shall announce that notice of the continuation of the meeting will be sent to those persons leaving their name and address with the Secretary. Thereafter, only those persons leaving their name and address shall be entitled to notice of the continuation of the hearing.
- 3.3.14 After hearing all submissions, the DAB shall deliberate and reach its decision in private. In arriving at its decision the majority vote of those members present shall constitute the decision of the DAB. If the vote results in a tie, the appeal is lost.
- 3.3.15 The Secretary or Chairman may make a verbal announcement of the DAB's decision at the conclusion of the hearing of an appeal, but the verbal decision is neither final nor binding on the DAB, and no rights are conferred upon any party by the DAB's decision until notice of the decision has been given in accordance with the Act.
- 3.3.16 The DAB shall give its decision and reasons in accordance with the Act to the applicant, the appellant, and those affected persons who gave their name and address to the Secretary during the hearing.
- 3.3.17 The Secretary shall, under the direction of the DAB:
 - (a) notify all members of the meetings of the DAB;
 - (b) keep available for public inspection before the commencement of the public hearing all relevant documents and materials respecting an appeal under the Act, including the application for the development permit or subdivision, and the appeal therefore, or the order of a Development Officer under s.645 of the Act, as the case may be;
 - (c) make and keep a written record of the proceedings of the DAB which shall include:
 - (i) a summary of the evidence presented at the hearing,
 - (ii) the decision of the Development Approving Authority,
 - (iii) the Notice of Appeal and Hearing of the Appeal,
 - (iv) the DAB's decision, including reasons, for each appeal,
 - (v) keep a list of names and addresses of persons who leave their names and addresses with the Secretary.
 - (d) keep a record of all business coming before the DAB and after the adoption of the minutes of each meeting of the DAB, transmit a copy of the minutes to Council.