

**SMOKY LAKE COUNTY
IN THE PROVINCE OF ALBERTA
BYLAW NO. 1240-12**

A BYLAW OF THE MUNICIPALITY OF SMOKY LAKE COUNTY IN THE PROVINCE OF ALBERTA BEING A BYLAW OF SMOKY LAKE COUNTY TO ESTABLISH THE AGRICULTURAL SERVICE BOARD INDEPENDENT APPEAL PANEL FOR WEED CONTROL FOR SMOKY LAKE COUNTY.

WHEREAS the *Municipal Government Act*, R.S.A. 2000, c.M-26, as amended or repealed and replaced from time to time, provides the Council of Smoky Lake County the authority to pass bylaws respecting enactments other the *Municipal Government Act*.

WHEREAS Section 19 of the *Weed Control Act*, as amended or repealed and replaced from time to time, provides the Council of Smoky Lake County the authority to establish an Agricultural Service Board Independent Committee Appeal Panel to hear and determine appeals related to the *Weed Control Act*.

NOW THEREFORE the Council of Smoky Lake County, in the Province of Alberta, hereby enacts as follows:

1. This Bylaw may be cited as the **“Agricultural Service Board Independent Appeal Panel for Weed Control”**.

2. **DEFINITIONS**

- 2.1 **“Act”** means the *Weed Control Act*, Revised Statutes of Alberta 2008, Chapter W-5.1, as amended from time to time.
- 2.2 **“Appellant”** means a person who, pursuant to the Act, has served a Notice of Appeal, with reasons, with the Agricultural Service Board Appeal Board for Weed Control in accordance to the Act.
- 2.3 **“Chief Administrative Officer”** means the chief administrative officer of the municipality appointed under the *Municipal Government Act*.
- 2.4 **“Council”** means the municipal Council of Smoky Lake County.
- 2.5 **“Member at Large”** means a member or members of the public appointed to the Board by Council, pursuant to this Bylaw.
- 2.6 **“Municipality”** means Smoky Lake County formed under the *Municipal Government Act*.
- 2.7 **“Panel”** means the Smoky Lake County Agricultural Service Board Independent Appeal Panel.

3. **ESTABLISHMENT AND MEMBERSHIP**

- 3.1 The Agricultural Service Board Independent Appeal Panel for Smoky Lake County is hereby established.
- 3.2 The Panel shall deal with Agricultural Service Board Appeals regarding Weed Control in accordance with the provisions of the *Weed Control Act* and this Bylaw.
- 3.3 The Panel shall consist of three (3) Members at Large appointed by Council resolution.

- 3.4 The Council shall appoint a minimum of five (5) Members at Large to serve as alternates on the Panel in the event a Member is unavailable or otherwise cannot hear the Appeal.
- 3.5 Each Member shall be appointed annually at the County Council Organizational Meeting or from time to time should vacancies occur.
- 3.6 No person who is an elected officer or an employee of the County shall be appointed as a member of the Panel.
- 3.7 Any Member of the Panel may be removed by resolution of Council where, in the opinion of Council, that Member has contravened the standards for Member conduct as set out in this Bylaw or as may be established by resolution of Council from time to time. This provision does not negate the sole and unfettered ability of Council to appoint or reappoint members at their discretion according to section 3.5 of this Bylaw

4. CHAIRPERSON AND VICE-CHAIRPERSON

- 4.1 The panel shall elect from its' membership the Chairperson and Vice-Chairperson, and those elections shall occur at the first hearing following Council's Organizational Meeting.
- 4.2 A Member may be re-elected to the position of Chairperson or Vice-Chairperson.
- 4.3 The Chairperson:
 - 4.3.1 shall preside at the hearings of the Agricultural Service Board Independent Appeal Panel.
 - 4.3.2 shall ensure that all Appeals for the Panel are conducted in a fair and impartial manner, in accordance with the rules for such Appeals as set out in the Act or established by Council from time to time.
 - 4.3.3 is authorized to rule that evidence presented at a Appeal Panel is irrelevant to the matter in issue and to direct the Members to disregard the evidence.
- 4.4 In the event of absence or inability of the Chairperson to preside at a Meeting, the Vice-Chairperson shall preside.
- 4.5 In the event of absence or inability of both the Chairperson and Vice-Chairperson to preside at a Meeting, the members present constituting a quorum shall elect one of its Members to preside as Acting Chairperson for that Meeting.

5. OPERATION OF THE APPEAL PANEL

- 5.1 The Appeal Panel shall hold hearings as necessary to consider and decide upon Appeals filed with the Municipality, in accordance with the requirements of the Act.
- 5.2 A Member who for any reason is unable to attend the whole of the Hearing of an Appeal, shall not participate in the Panel's deliberations or the decision made by the Panel on that Appeal.
- 5.3 If a Member has any interest, whether direct or indirect, in any matter before the Panel, the Member shall declare such interest to the Panel before discussion of the matter, and shall not participate in the Hearing, or discuss or vote upon the matter, and such abstention shall be recorded in the minutes.

- 5.4 The Panel shall sit with three (3) members on each Appeal.
Alternate members shall be selected by the CAO in his/her sole discretion.
- 5.5 Any decision issued by the Panel shall be signed on its behalf by the Chairperson.

6. FEES AND EXPENSES

- 6.1 The remuneration, travelling and other expenses of the Members of the Panel, shall be established by Council resolution from time to time.
- 6.2 The fees associated with the hearing of Appeals, holding of Hearings, and meetings of the Committee Panel may be set by the Council.

7. APPEALS

- 7.1 Subject to Sections 17(1) and Section 19 of the Act, the Agricultural Service Board Independent Appeal Panel hears appeals regarding to Weed Control for Smoky Lake County:
 - 7.1.1 Persons given an inspector's notice, municipality's notice or debt recovery notice, in accordance with the regulations.
 - 7.1.2 Appeal Panel may confirm, reverse, or vary the inspector's notice, municipality's notice or debt recovery notice.

provided appeals from the Applicant are received within the required time and in the manner indicated in the Act.
- 7.2 Subject to Section 685(2) of the Act, any person affected by an Weed Inspection Notice, Decision made or issued by the Inspector may appeal to the Agricultural Service Board Independent Appeal Panel, provided appeals are received within the required time and in the manner indicated in the Act.
- 7.3 The Appeal Panel shall hold an Appeal Hearing respecting any Appeal within five (5) working days of receipt of the Notice of Appeal.
- 7.4 The Appeal Panel shall give no less than twenty four (24) hours notice in writing of the Appeal Hearing to:
 - 7.4.1 the Appellant;
 - 7.4.2 the Authority or Inspector who is the subject of the appeal;
 - 7.4.3 the owners required to be notified, if other than the Appellant of the land;
- 7.5 In accordance to the Act, the Committee Panel shall hear:
 - 7.5.1 The Appellant or any person action on his/her behalf.
 - 7.5.2 The Authority or Inspector whose Order or Decision the appeal is made or a person acting on behalf of the Authority.
 - 7.5.3 Any other person who was served notice of the Hearing and who wishes to be heard or a person acting on his/her behalf.
 - 7.5.4 Any other person who claims to be affected by the Order or Decision and the Panel agrees to hear or person acting on behalf of that person.

- 7.6 The Panel shall hold all Appeal Hearings in public, but the Panel may recess the Hearing at any time and deliberate in private.
- 7.7 Electronic or similar record devices shall not be used during the Hearings by anyone in attendance.

8. APPEALS DECISIONS

- 8.1 In determining an Appeal, the Panel:
 - 8.1.1 shall comply with the Weed Control Act established.
 - 8.1.2 shall comply with the Weed Control Regulations established.
 - 8.1.3 shall comply with the By-Laws of Smoky Lake County;
 - 8.1.4 shall have regard for but not be bound by the Weed Control Regulations established.
- 8.2 The Panel may confirm, rescind or vary the Notice or Decision.
- 8.3 The Panel must give its Decision in writing, together with reasons for the Decision, within forty eight (48) hours after concluding the Hearing.
- 8.4 The Chief Administrative Officer shall send a copy of the decision together with the written reasons, if any, to the appellant by certified or registered mail or have the copy of decision hand delivered to the appellant.

9. GENERAL

- 9.1. The Decision of the majority of the Members of the Panel present at a meeting shall be deemed to be the Decision of the whole Panel. In the event of a tie vote, any motion before the Panel shall be deemed to be defeated.
- 9.2. The Chairperson of the Committee Panel, may make a verbal announcement of the Decision on an Appeal at the conclusion of the Panel's deliberations, but in that event shall notify the parties that the verbal decision is not final and binding, and that the parties should not act upon it until the Decision has been written and signed.
- 9.3. The Committee Panel 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 Hearing.
- 9.4. In the event that an Appellant withdraws his/her appeal, the Panel will not proceed with the Hearing.

10. SEVERABILITY

Should any provision of this Bylaw be invalidated by any means, then the invalid provision shall be severed and the remaining provisions of this Bylaw shall be maintained and in full effect.

11. REPEAL AND EFFECTIVE DATE

This Bylaw comes into effect on the date of final passing.

READ A **FIRST TIME** IN COUNCIL THIS 5 day of March, AD 2012.

READ A **SECOND TIME** IN COUNCIL THIS 5 day of March, AD 2012.

READ A **THIRD AND FINAL TIME** IN COUNCIL THIS 5 day of March, AD 2012.



Dareld Cholak
Reeve

SEAL



Cory Ollikka
Chief Administrative Officer