

Subdivision and Development Appeal Board Information Guide

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Subdivision and Development Appeal Board

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Subdivision and Development Appeal Board

The Subdivision and Development Appeal Board (SDAB) hears and makes decisions on appeals of decisions made by the City of Spruce Grove's Subdivision Authority and Development Authority related to Stop Orders, Development, and Subdivisions. The SDAB is appointed by City Council and consists of residents living in Spruce Grove. The SDAB meets as required. Once you have met the requirements and filed a proper appeal, the SDAB presides over your hearing.

The SDAB is a statutory, quasi-judicial body that performs an independent adjudicative function hearing complaints and functioning like a court. It is an administrative board mandated by the *Municipal Government Act* and created by a municipality to carry out appropriate functions and procedures related to its mandate.

The SDAB exercises quasi-judicial functions. The SDAB hears appeals from persons affected by a decision of the Development Authority and/or the Subdivision Authority under C-824-12 - [Land Use Bylaw](#), and renders a decision based on the evidence presented at the hearing. The SDAB decisions are final and cannot be overturned unless the SDAB makes an error in some aspect of law or jurisdiction, in which case the decision of the SDAB may be appealed to the Alberta Court of Appeal.

Filing a Subdivision or Development Appeal

The SDAB hears and makes decisions on appeals related to Stop Orders, Developments, and Subdivisions.

Considering an appeal

An appeal can be filed on a decision of the Subdivision Authority concerning a subdivision application, a decision of the Development Authority concerning a development permit application, or a stop order issued by the Development Authority. To determine whether you have the right to appeal, please refer to the *Municipal Government Act*.

Appeal Period

An appeal must be filed within the relevant appeal period of receipt of written notice on a decision from the Development Authority or the Subdivision Authority:

Development Permit Decision Appeal	21 days
Stop Order Appeal	21 days
Subdivision Decision Appeal	14 days

How do I file an Appeal?

Before filing an appeal, talk to the applicant and consult the City's Planning and Development [Department](#) to ensure that you have all the information about the proposed development or subdivision. The [SDAB Clerk](#) is available to answer questions about the appeal process. If you require further assistance, it is recommended that you seek legal advice.

You have the right to appeal the Subdivision Authority's or Development Authority's decision to the SDAB prior to 4:30 p.m. of the appeal expiry date. The [appeal form](#) can be found on the City's Appeal to Subdivision and Development Appeal Board [webpage](#). The appeal form is also available from the City of Spruce Grove Reception.

Please note:

- If you mail the appeal documentation, it must be received on or before the final date of the appeal period.
- Your appeal is not considered to be filed until payment is received in full. A delay in making payment can result in the expiration of the appeal period. Appeals will be processed during regular business hours.

All documentary or photographic evidence and a summary of testimonial evidence must be submitted by noon the Wednesday prior to the hearing for inclusion in the hearing package to the Board. It is at the discretion of the Board to accept any evidence filed beyond the deadline date at the hearing. All submissions will become part of the public record and are posted on the City's [website](#).

The SDAB hearing an appeal on a subdivision or development matter must hold the hearing within 30 days of receiving a Notice of Appeal.

On behalf of the Board, the SDAB Clerk shall, give at least five (5) days written notice of an appeal hearing on a subdivision or development matter to the Appellant, the Applicant, the Development Authority or Subdivision Authority, and those landowners affected, pursuant to Section 679 and 686(3), Part 17 of the *Municipal Government Act*.

Appeal Fees

An appeal fee is required for each of the following appeals to the SDAB as per the City's Development Fees and Fines [Bylaw](#).

Development Permit or application complete decision	\$200
Stop Order	\$425
Subdivision Appeal Fee	\$425

The appropriate fee must accompany your appeal, or it is not considered complete and will not be processed.

Appeal fees may be paid by using VISA, MasterCard, Debit, or Cash in person at City Hall, 315 Jespersen Avenue, Spruce Grove, Alberta.

Agendas

The SDAB Clerk shall make available for public inspection before the commencement of the hearing all relevant documents and materials respecting the Appeal. The SDAB hearing package is distributed by email to the SDAB, the Development Authority or Subdivision Authority (Respondent), the Appellant, and the Applicant by 4 p.m. on the Friday preceding the scheduled hearing date and is posted to the City's [website](#). Affected parties may receive a hard copy SDAB hearing package by making a request to the [SDAB Clerk](#). Appellant(s) and/or Applicant(s) must provide their full contact information in the [appeal form](#) to ensure that they receive communication.

Preparing for your Hearing

Listed below are some suggestions for preparing your presentation for the SDAB hearing:

- Determine the relevant planning issues associated with the appeal. Examples include compliance or non-compliance with the Land Use Bylaw, site context, site layout, parking, traffic, building mass, privacy, shadowing, landscaping, intensity of use, and noise. Examples of non-relevant issues that are outside the SDAB's jurisdiction and cannot be considered by the SDAB include precedence, business competition, comments regarding someone's character, financial impact on the applicant, financial status of the applicant and whether the development is occupied by renters or owners.
- It is the responsibility of the applicant to present evidence to support their application or respond to the issues raised by the Appellant(s) or affected parties. The applicant should not rely on the Development/Subdivision Authority to make the case for them.
- At the beginning of your presentation introduce yourself for the record and state your position (in favor or opposition of the appeal).
- Speak to the presiding Chair or through the Chair. (For example: Through you Chair, I will now provide evidence to support my appeal, my application.)
- Speak to the planning facts and support them with quantifiable (measurable) data.
- Present your opinion regarding any errors in fact or interpretation.
- Be prepared to summarize your presentation and answer questions of clarity.
- In order to assist the SDAB in understanding your position, including photographs, well prepared drawings, or a written submission to the hearing as documentary evidence should be part of the submission that is included in the agenda package. This information should be received via email, mail, or in person by the SDAB Clerk by noon, the Wednesday preceding the date of the scheduled hearing.
- The Board will accept written submissions during the hearing; however, you must provide 10 copies of the materials to the SDAB Clerk at the hearing for circulation.
- Ask neighbours affected by the proposed development to speak on your behalf at the hearing and/or write letters outlining their position in support or objection.

- You may seek professional advice, such as legal advice, or ask someone else to present your case, however, citizens often represent themselves. If there is doubt as to whether the SDAB has the legal right to hear the Appeal, you may want to seek professional advice.
- Review the SDAB hearing agenda package provided in advance of the hearing.
- Your co-operation and attendance at the hearing will prevent any unnecessary delays for the SDAB and will help the municipality use resources effectively. By attending the hearing, the SDAB is able to ask you questions (if any).

Important:

Speaking to any members of the SDAB about an appeal or a potential appeal prior to the hearing will disqualify them from participating in the hearing. SDAB members do not discuss appeal cases with the Development Authority or the Subdivision Authority before the hearings.

Hearing Process

Before the appeal hearing begins, those persons who wish to speak or receive a written copy of the SDAB's decision, are asked to sign in using the attendance sheet provided at the hearing.

- The Chair of the SDAB will open the hearing.
- The Chair will make introductions and share that all questions and comments shall be directed through the Chair.
- The Chair will advise that the hearing is being recorded for the accuracy of the Record of Proceedings.
- The Chair will advise that the written decision will be given within fifteen days of closing the hearing.
- The Chair will acknowledge the SDAB Clerk and ask if there is anyone present who has objections to the role of the SDAB Clerk.
- The SDAB members will introduce themselves.
- The Chair will introduce the SDAB Clerk, Recording Secretary, and Respondent (i.e., Development Authority or Subdivision Authority).
- The Chair will ask if there are any additions/deletions/changes to the agenda and then ask the SDAB for a motion to adopt the agenda.
- The Chair will ask the SDAB Clerk to read the appeal and to advise if there are any preliminary matters to be addressed.
- The Chair will ask if there is anyone who would like to request a postponement.

- The Chair will ask the SDAB members if they have any disclosures or conflicts of interests to be made.
- The Chair will ask anyone affected by the appeal if they object to any of the SDAB members present.
- The Chair will outline the hearing process.
- The Chair will advise that the SDAB Clerk has prepared an agenda package containing all the information received in advance of the hearing and confirm that everyone present has a copy.
- The Chair will ask the SDAB Clerk to read into the record any written submission received.
- The Chair will call the Respondent (i.e., Development Authority or Subdivision Authority) forward to make a presentation.
- The Chair will call the Appellant forward to make a presentation. (This is the opportunity to introduce yourself and provide your summary of evidence to support your presentation to the Board.)
- The Chair will call the Applicant forward to make a presentation. (This is the opportunity to introduce yourself and provide your summary of evidence to support your presentation to the Board.)
- The Chair will call for others in the audience that wish to speak to the appeal.
- The Chair will call on the SDAB Clerk to read any additional submissions into the hearing record.
- If there is new information added at the Hearing, the Chair will ask the SDAB members if they would like a recess to discuss the new information.
- The Chair will ask SDAB members if they have any questions for the Respondent (i.e., Development Authority or Subdivision Authority), Appellant, Applicant or any other person present at the Hearing.
- The Chair will call the Respondent (i.e., Development Authority or Subdivision Authority) forward to make closing comments.
- The Chair will invite the Appellant forward to make closing comments.
- The Chair will invite the Applicant forward to make closing comments.
- The Chair will confirm if the persons who made representations feel that they were given sufficient opportunity to present their evidence and position to the Board.
- The Chair will ask the SDAB members if they would like a brief recess to discuss any further matters.
- The Chair will state that in accordance with Provincial legislation, the Board is required to hand down a decision within 15 days from the date of the hearing and that no decision is binding on the Board until it issues a written decision.
- The Chair will close the hearing and cease any further submissions of any kind.

The SDAB does not seek information or evidence on its own initiative. The SDAB relies on the submitted evidence presented and verbal submissions at the hearing as the basis

for their decision. Therefore, it is critical that persons appearing before the SDAB ensure that sufficient evidence is presented to support their respective positions.

When presenting an appeal, keep in mind the SDAB does not consider precedent when making its decision. Each application is judged on its own merits. Exhibits used during a presentation become part of the SDAB's record of the hearing and must be retained by the SDAB at the conclusion of the hearing.

Postponing or Not Attending Your Hearing

You may submit a written request to postpone the SDAB hearing including the reasons for the request, either to the SDAB at the time of the hearing or to the SDAB Clerk prior to the hearing. Hearings will only be postponed at the discretion of the SDAB.

If you are not in attendance when your appeal is called, the SDAB may proceed without you. The SDAB will consider the information presented on the appeal form, any written submissions received, hear presentations from anyone in attendance, and then make a ruling on the appeal.

It is important that you describe your position clearly and in detail on your appeal form or file a written submission ahead of time if you cannot be at the hearing.

Withdrawal of an Appeal

A withdrawal should be submitted in writing to the SDAB Clerk as soon as possible. Your cooperation will prevent any unnecessary delays for the SDAB and will help the City of Spruce Grove use its resources effectively. The appeal fee will not be refunded once the appeal hearing has been advertised on the City's website or in the Spruce Grove Examiner.

Appealing the SDAB Decision

SDAB decisions are final unless it can be shown that the Board erred in law or jurisdiction. You may appeal the SDAB's decision to the Alberta Court of Appeal in this case.