



SUBDIVISION AND DEVELOPMENT APPEAL (SDAB) BOARD

2022

Subdivision and Development Appeal Board (SDAB)

Information Guide

Table of Contents

Subdivision and Development Appeal Board.....	2
Filing a Subdivision or Development Appeal.....	3
Grounds for Appeal.....	3
Filing an Appeal.....	3
Appeal Fees.....	4
Preparing for Your Hearing.....	4
Hearing Process.....	6
Postponing or Not Attending Your Hearing.....	8
Withdrawal of an Appeal.....	8
Membership and Recruitment.....	8
Recruitment Process.....	8
Agendas and Decisions.....	9
Enforcing and Appealing the SDAB Ruling.....	9

Subdivision and Development Appeal Board
Legislative Services
Clearwater County
4340 47 Avenue, Rocky Mountain House, AB T4T1A2

Email: sdab@clearwatercounty.ca
Phone: 403-845-4444
Fax: 403-845-7330



Subdivision & Development Appeal Board

The Subdivision and Development Appeal Board (SDAB) is a quasi-judicial statutory body intended to perform an independent adjudicative function that hears and makes decisions on appeals related to Development, Subdivisions and Stop Orders. The SDAB make finding of fact based on evidence and then, apply legal rules, as found in the legislation and the planning instruments, to those findings. This process allows the SDAB to make a decision on a subdivision or a development matter after conducting a hearing fairly and in accordance with legislation, administrative law, and the principles of natural justice.

A decision related to a development permit application can be appealed by people who may be affected by a decision of the Development Authority. A decision related to a subdivision application can be appealed by the applicant, government department or a school board. The subject of a Stop Order may also file appeal to the SDAB.

The board is appointed by Clearwater County Council and consists of residents living in Clearwater County, public members are appointed each year at Council's organizational meeting in October. The panel may consist of three to five members and only one may be a member of Council with the balance of members being members at large.

The SDAB meets only as required, in Clearwater County Council chambers.

The SDAB functions like a court and is an administrative board mandated by the Municipal Government Act and created by municipal bylaw. The SDAB decisions are final and can only be appealed to the Alberta Court of Appeal for reasons of error in law or jurisdiction.

Following a SDAB hearing, decisions are publicly available on the County's website.



Filing a Subdivision or Development Appeal

Grounds for an Appeal

You can appeal a Development Authority's decision if:

- Your application for a development permit has been refused.
- Your application for a development permit was approved with conditions that are unacceptable to you.
- You have been issued a Stop Order directing you to stop construction or stop the present use of your property.
- You will be affected by a new development, or new use of someone else's property.
- If a development authority refuses or fails to issue a development permit to a person within 40 days of receipt of the application.

You can appeal the Subdivision Authority's decision if:

- Your application for a subdivision has been refused.
- Your application for a subdivision was approved with conditions that you find unacceptable.
- If a subdivision authority fails or refuses to make a decision on an application for subdivision approval within 60 days of receipt of the application.

Filing an Appeal

Before filing an appeal, talk with the permit applicant or consult with the Development Officer 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.

To appeal a decision, you must submit a completed appeal form and pay the required fee within 21 days of the date of the notice of decision.

All documents or photo evidence and a summary of testimonial evidence must be submitted four (4) days prior to the hearing for inclusion in the hearing package to the Board. It is at the discretion of the SDAB to accept any evidence filed beyond the deadline date at the hearing.



Appeal Fees

A filing fee is required for each of the following appeals to the Subdivision and Development, see below.

	Applicant	Affected Party
Development Permit	\$400.00	\$400.00
Stop Order	\$800.00	\$800.00
Subdivision Application	\$400.00	Not applicable

The appropriate fee must accompany your appeal, or it is not considered complete and will not be processed. Appeal fees may be paid by cheque payable to Clearwater County. Appeal fees may also be paid in person by Debit or Cash at Clearwater County's offices.

Preparing for Your Hearing

Persons who file an appeal are expected to make a verbal presentation to the Board. Persons who have been notified of the appeal also have the right to present a verbal, written and/or visual presentation to the Board. This information should be submitted to the SDAB Clerk at least five (5) business days in advance of the hearing, so it can be included within the hearing package. If desired, parties may have someone, or an agent, speak on their behalf. If a number of appeals are filed on the same subdivision or development, it is recommended that a spokesperson be selected to organize presentations so that evidence is not repetitive.

Here are some suggestions for preparing your presentation for the Subdivision and Development Appeal Board (SDAB) hearing:

- Determine relevant planning issues associated with the appeal. Examples include compliance or non-compliance with the Land Use Bylaw, site context, site layout, parking, traffic, intensity of use, and noise. Examples of non-relevant issues that are outside the Board jurisdiction and cannot be considered by the Board 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.
- Prepare a clear, concise and logical written presentation.



- Be prepared to summarize your presentation.
- Be familiar with the location/site.
- In order to assist the Board in understanding your position and the proposal, you may wish to provide photographs, drawings or written submissions to the hearing as documentary evidence.
- Ask neighbours affected by the proposed development to speak on your behalf at your hearing and write letters outlining their position in support or objection.
- You may seek professional advice or ask someone else to present your case (i.e. legal counsel), but citizens often represent themselves.
- Review the contents of the SDAB hearing package assembled by the SDAB Clerk.
- Your co-operation and attendance at the hearing will prevent any unnecessary delays for the Board and will help the Municipality use resources effectively.
- By attending the hearing, the Board is in a position to ask you questions (if any).

Tip: Make copies of the material (including photographs) that you will be presenting at the hearing, for yourself, the board members, the applicant (if applicable) and the County's staff. Contact the County's Planning Department to confirm the number of copies you will need to provide.

You must not speak to members of the Subdivision and Development Appeal Board about an appeal or a potential appeal prior to the hearing.

Board members do not discuss appeal cases with the Development Authority or the Subdivision Authority before the hearings, nor do they discuss with developers, applicants/respondents or appellants.



SDAB Hearing Process

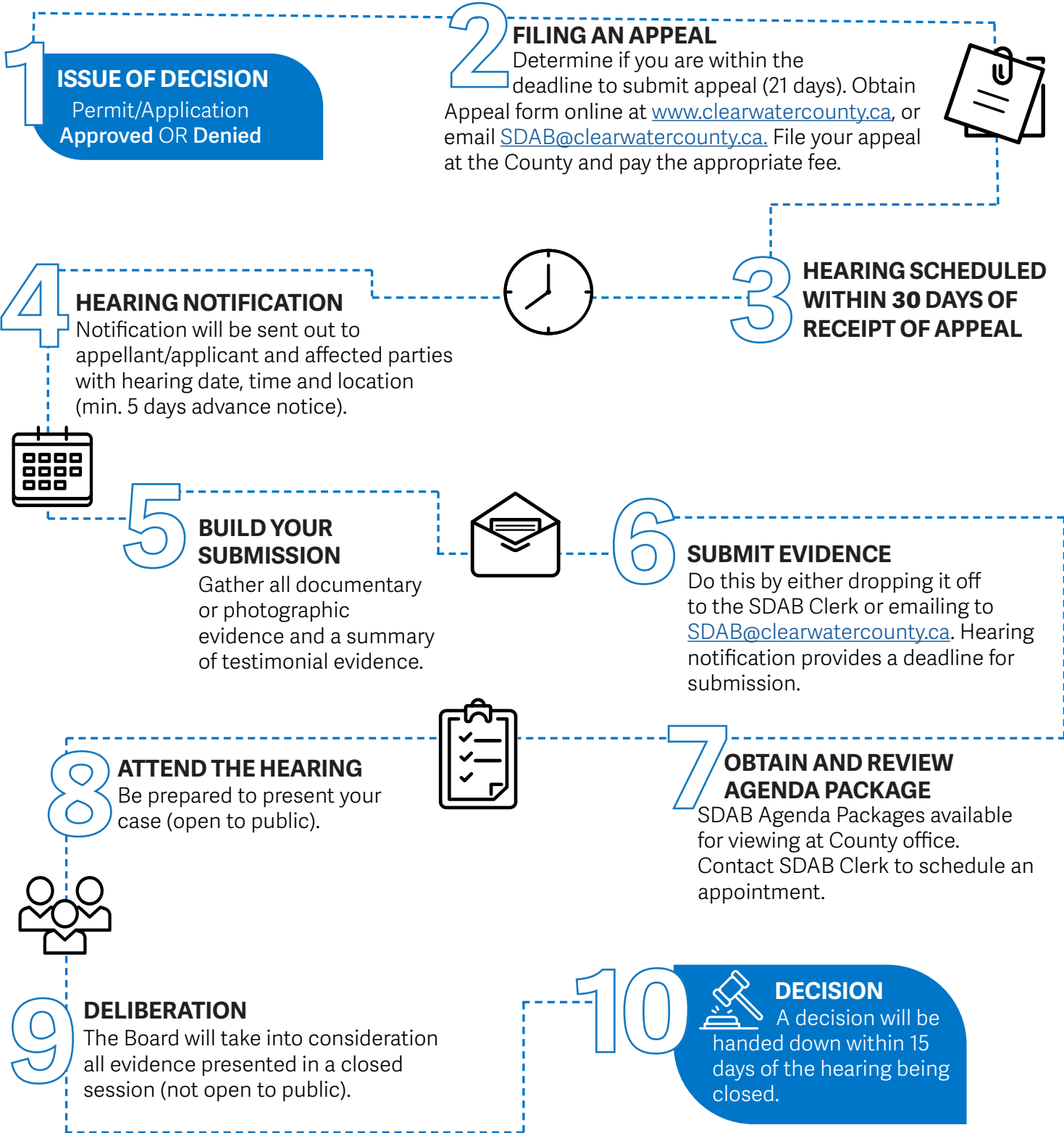
The hearing is a formal meeting and the length of time can vary. Anyone in attendance with an interest in the appeal enters the hearing room just before the scheduled start time of the hearing on the scheduled date of the hearing.

- Before the appeal hearing begins, those persons who wish to speak or receive a written copy of the Board's decision, are registered by SDAB staff.
- All persons are then asked to enter the hearing room.
- The appeal is introduced by the Board Clerk who reads the appeal into the hearing record.
- Where a development permit has been refused, the Development Authority is heard first, followed by the Appellant.
- Where a development permit has been approved, the Development Authority is heard first, followed by the Appellant and the Respondent.
- In a subdivision appeal, the Subdivision Authority is heard first, followed by the Appellant.
- The Appellant is asked to summarize their reasons for the appeal and may have others to speak to support their position. Board members may question them.
- The Respondent and other persons in attendance at the hearing with an interest in the appeal will then present their arguments and respond to any questions of the Board.
- The Chair will ask if the Appellant wishes to respond to any new information raised during the hearing.
- The hearing is then closed, and the Board goes in to a meeting closed to the public to discuss the appeal.
- The Board will present its decision and reasons in writing within 15 days of the hearing.
- A decision of the SDAB is not final or binding until the decision is issued, in writing, within 15 days of the appeal hearing.

The Board does not, on its own initiative, seek information or evidence. The Board relies on the written evidence presented, as well as verbal submissions at the hearing, as the basis for their decision. Therefore, it is critical that persons appearing before the Board ensure that sufficient evidence is presented to support their respective positions.

When presenting an appeal, keep in mind the Board does not consider precedent when making its decision. Each application is judged on its own merits. The reason is, the Board has no way of knowing if sites presented as a precedent were built with or without the benefit of a development permit, or whether they have another status under Clearwater County's Land Use Bylaw.

Exhibits used during a presentation become part of the Board's record of the hearing and must be retained by the Board at the conclusion of the hearing.





Postponing or Not Attending Your Hearing

You may submit a written request to postpone an SDAB hearing including the reasons for the request, either to the Board 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 Board.

If you are not in attendance when your appeal is called, the Subdivision and Development Appeal Board may proceed without you. The Board will consider the information presented on the appeal form, any written submissions received, hear presentations for any one 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 Board and will help the County use its resources more effectively.

Membership and Recruitment

You must not speak to members of the Subdivision and Development Appeal Board about an appeal or a potential appeal prior to the hearing. Board members do not discuss appeal cases with the Development Authority or the Subdivision Authority before the hearings, nor do they discuss with developers, applicants/respondents or appellants.

Recruitment Process

County Council appoints one Council member and four members-at-large to the SDAB at the October organizational meeting annually. One or more citizens may also be appointed by County Council as alternate Board members to sit on an as needed basis. Legislative Services coordinates recruitment campaigns to assist Council with filling citizen-at-large vacancies.



Agendas and Decisions

The SDAB agenda and hearing package is distributed to the Board, the Development or Subdivision Authority, the appellant, and the applicant three days in advance of the scheduled hearing date. Affected parties may request a digital copy of the SDAB hearing package from the SDAB Clerk. Otherwise a hard copy of the hearing package is available for viewing in the County office three days in advance of the scheduled hearing date, by appointment with the SDAB Clerk.

SDAB meeting dates are set, as required within the 30-day timeframe required by legislation. Hearing dates and times are dependent on Board, Clerk and facility availability.

Enforcing and Appealing the SDAB Ruling

The Planning and Development department enforces the County's Land Use Bylaw and development permit conditions, including the decisions made by the SDAB. If you have a planning-related complaint, please contact Planning and Development department at 403-845-4444.

SDAB decisions are final unless it can be shown that the Board erred in law or jurisdiction. You may appeal the Board's decision to the Alberta Court of Appeal. You must apply for leave to appeal a decision of the SDAB within 30 days of the date that the written decision was issued.



Clearwater County, 4340 - 47 Avenue,
Box 550, Rocky Mountain House, AB T4T 1A4
admin@clearwatercounty.ca

Call us at 403-845-4444
Office Hours: Weekdays, 8:00 a.m. – 4:30 p.m.



Scan this QR code to
visit our website at
www.clearwatercounty.ca

Like us on Facebook or follow us on
Twitter @clearwatercnty to keep up-
to-date with Clearwater County news.