



THE CORPORATION OF THE TOWN OF FOX CREEK, ALBERTA
BY-LAW 779-2016
THE SUBDIVISION AND DEVELOPMENT APPEAL BOARD BYLAW

A Bylaw of the Municipal Corporation of the Town of Fox Creek, in the Province of Alberta to establish a Subdivision Approving Authority.

WHEREAS the Town of Fox Creek wishes to create a Subdivision and Development Appeal Board;

NOW THEREFORE, Council duly assembled enacts as follows:

SECTION 1 – Title
Purpose

1.1 The purpose of this Bylaw is to establish the Subdivision AND Development Appeal Board for the Town of Fox Creek.

SECTION 2 - Definitions

- 2.1 "Act" means the *Municipal Government Act*, as amended from time to time.
- 2.2 "Appellant" means a person who, pursuant to the *Act*, has served a notice of appeal on the Subdivision and Development Appeal Board.
- 2.3 "Applicant" means the person who made the initial application upon which an appeal is based or the authorized person acting on their behalf.
- 2.4 "Board" means the Subdivision and Development Appeal Board established pursuant to this Bylaw.
- 2.5. "Council" means the Council of the Town of Fox Creek.
- 2.6. "Development Appeal" means an appeal described in Section 9.1.
- 2.7. "Development Application" means an application made to the Development Authority in accordance with the Land Use Bylaw for the purpose of obtaining a development permit.
- 2.8. "Development Authority" means a Development Authority established pursuant to the *Act* that has been authorized to exercise development powers on behalf of the municipality.
- 2.9. "Development Permit" means a document that is issued under the Land Use Bylaw and authorizes a development.
- 2.10. "Land Use Bylaw" means the Bylaw adopted as the land use bylaw of the Town pursuant to the *Act*.
- 2.11. "Subdivision Appeal" means an appeal described in Section 10.1.
- 2.12. "Subdivision Authority" means the Town's Subdivision and Development Appeal Board established pursuant to the *Act*.
- 2.13. "Subdivision and Development Appeal Board Secretary" means the person appointed to the position established under Section 6 of this Bylaw.
- 2.14 "Town" means the Town of Fox Creek.

SECTION 3 – ESTABLISHMENT AND MEMBERSHIP

- 3.1 The Subdivision and Development Appeal Board of the Town of Fox Creek is hereby established by this Bylaw.
- 3.2 The Subdivision and Development Appeal Board shall consist of 5 members appointed by resolution of Council as follows:
 - a) Three (2) members from Council; and
 - b) Three (3) members from the public
- 3.3 No person who is an employee of the Town shall be appointed to the Board.
- 3.4 Any vacancy caused by death, retirement, or resignation of a member may be filled by resolution of Council.
- 3.5 Council may remove a member from the Subdivision and Development Appeal Board by resolution at any time for any reason.
- 3.6 Members of the Subdivision and Development Appeal Board will be reimbursed for expenses in accordance with the prevailing policy of the Town.
- 3.7 Extraordinary circumstances as in the case of conflict of interest shall permit Council, by resolution, to appoint a board for the purpose of hearing an appeal.

SECTION 4 – TERM OF OFFICE

- 4.1 The term of office for members of the Subdivision and Development Appeal Board are as follows:
 - a) For each member of Council appointed to the Board, a period not exceeding two (2) years.
 - b) For each member of the public appointed to the Board, a period not exceeding one (1) year.
- 4.2 A member of the Subdivision and Development Appeals Board may be reappointed upon the expiry of his or her term at the pleasure of the Council.
- 4.3 Where a member of Council is appointed to the Subdivision and Development Appeal Board, his or her appointment shall terminate upon him or her ceasing to be a member of Council.

SECTION 5 – CHAIR

- 5.1 At the first meeting of the Subdivision and Appeal Board a Chair shall be elected by a vote of the majority of the members.
- 5.2 A member may be re-elected to the position of Chair.
- 5.3 A chair shall preside at the meetings of the Subdivision and Development Appeal Board.

SECTION 6 – SUBDIVISION AND DEVELOPMENT APPEAL BOARD SECRETARY

- 6.1 The position of the designated officer for the limited purpose of carrying out the function of the Subdivision and Development Appeal Board Secretary (“Secretary”) is hereby established.

- 6.2 The Secretary shall be appointed by resolution of Council and shall not be a member of the Subdivision and Development Appeal Board.
- 6.3 The Secretary shall have responsibilities and functions including:
- a) Notifying members of the meetings of the Board;
 - b) Keeping available for public of inspection before the commencement of the public hearing all relevant documents and materials respecting an appeal under the *Act*, as the case may be;
 - c) Making and keeping a written record of the proceedings of the board 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 the hearing of the appeal;
 - iv) The Subdivision and Appeal Board's decision, including reasons, for each appeal; and
 - v) A list of names and addresses of persons who leave their names and addresses with the secretary;
 - d) Ensuring statutory notices and decisions of the Board are provided to such persons as the *Act* requires.
- 6.4 The Secretary may keep a record of all business coming before the Subdivision and Appeal Board and after the adoption of the minutes of each meeting of the Board, transmit a copy of the minutes to Council.

SECTION 7 – QUORUM AND MEETINGS

- 7.1 A quorum of the Subdivision and Development Appeal Board shall be a majority of its members.
- 7.2 The Subdivision and Appeal Board such meet at such intervals as are necessary to consider and decide appeals filed with in accordance with the *Act*.
- 7.3 The Subdivision and Development Appeal Board shall have prepared and maintained a file of written minutes of the business transacted at all meetings and hearings of the Board.
- 7.4 A Subdivision and Development Appeal Board member is for any reason unable to attend the whole of any hearing of an appeal, shall not participate in deliberations or decisions of the Board upon that appeal.
- 7.5 The decision of a majority of the members of the Board present at a duly convened meeting at which quorum is present is deemed to be the decision of the Board.
- 7.6 In the event of a tie vote, an appeal shall be deemed to be denied.
- 7.7 The Board may recess at any time, to a specific date and time, in order for additional information to be brought to a hearing.
- 7.8 The Board may make rules necessary for the conduct of its meetings, its hearing, and its business that are consistent with this Bylaw, the Land Use Bylaw of the Town of Fox Creek, and the *Act*.

SECTION 8 – FEES

- 8.1 The fees associated with the holding of hearings and meetings of the Subdivision and Development Appeal Board may be set by the Council Bylaw.

SECTION 9 – DEVELOPMENT APPEALS

- 9.1 Subject to Sections 641(4) and 685(3) of the Act, the Subdivision and Development Appeal Board shall hear appeals where the Development Authority for the Town of Fox Creek:
- (a) Refuses or fails to issue a development permit to a person;
 - (b) Issues a development permit subject to conditions; or
 - (c) Issues an order under Section 645 of the Act, and the Appellant appeals within the time limitations and in the manner indicated in the Act.
- 9.2 Subject to Sections 641(4) and 685(3) of the Act, the Subdivision and Development Appeal Board shall hear appeals from any person affected by an order, decision or development permit issued by the Development Authority, who appeals within the time limitations and in the manner indicated in the Act.
- 9.3 The Subdivision and Development Appeal Board shall hold an appeal hearing respecting any Development Appeal within thirty (30) days of receipt of the notice of appeal.
- 9.4 The Subdivision and Development Appeal Board shall give at least five (5) days' notice in writing of the appeal hearing to:
- (a) The Appellant;
 - (b) The Development Authority for the Town of Fox Creek
 - (c) The owners required to be notified under the Land Use Bylaw of the Town of Fox Creek; and
 - (d) Any other person that the Subdivision and Development Appeal Board considers to be affected by the appeal and should be notified.
- 9.5 In determining an appeal, the Subdivision and Development Appeal Board:
- (a) Must hear the persons referred to in Section 687(1) of the Act if those persons appear at the hearing;
 - (b) Shall comply with the Land Use Policies established pursuant to Section 622 of the Act;
 - (c) Shall comply with any statutory plan and, subject to Section 8.5.6 of this Bylaw and the Land Use Bylaw of the Town of Fox Creek;
 - (d) Shall have regard to but not be bound to the Subdivision and Development Regulations;
 - (e) May confirm, revoke or vary the order, decision, or development permit or any condition attached to any of them or make or substitute an order, decision, or permit of its own, except in the case of a development permit issued by Council with respect to land in a Direct Control District;
 - (f) May make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the Land Use Bylaw if, in its opinion:
 - (i) The proposed development would not:
 - (1) unduly interfere with the amenities of the neighbourhood, or
 - (2) materially interfere with or affect the use, enjoyment, or value of neighbouring parcels of land, and;

- (ii) The proposed development conforms to the use prescribed for that land or building in the Land Use Bylaw.

9.6 The Subdivision and Development Board shall give its decision in writing together with reasons for the decision within fifteen (15) days of the conclusion of the hearing.

SECTION 10 – SUBDIVISION APPEAL

10.1 Subject to Section 678 of the Act, the Subdivision and Development Appeal Board shall hear appeals of decisions of the Subdivision Authority for the Town of Fox Creek provided an appeal is received within the time limitations and in the manner set out in the Act.

10.2 The Subdivision and Development Appeal Board shall hold an appeal hearing respecting any appeal within thirty (30) days of receipt of the notice of appeal.

10.3 The Subdivision and Development Appeal Board shall give at least five (5) days' notice in writing of the appeal hearing to:

- (a) Applicant for subdivision approval;
- (b) The Subdivision Authority for the Town of Fox Creek;
- (c) Any school authority to whom the application for subdivision approval was referred;
- (d) All adjacent land owners who were given notice of the application for subdivision approval pursuant to Section 653(4) of the Act;
- (e) Every Government department that was given a copy of the application for subdivision approval pursuant to the Act; and
- (f) If the land that is the subject of the application for subdivision approval is adjacent to the boundaries of another municipality, that municipality.

10.4 In determining an appeal, the Subdivision and Development Appeal Board:

- (a) Must hear the persons referred to in Section 680(1) of the Act if those persons appear at the hearing;
- (b) Shall be consistent with the Land Use Policies established pursuant to Section 622 of the Act;
- (c) Shall have regard to any statutory plan which is in effect;
- (d) Shall conform to the uses of land referred to in the Land Use Bylaw;
- (e) Shall have regard to but not be bound to the Subdivision and Development Regulations;
- (f) May confirm, revoke or vary the approval or decision or any conditions imposed by the Subdivision Authority or make or substitute a decision or any condition of its own; and
- (g) May exercise the same power as the Subdivision Authority is permitted to exercise pursuant to the Act or any Regulations or Bylaws adopted pursuant to the Act.

10.5 The Subdivision and Development Appeal Board shall give its decision in writing together with reasons for the decision within fifteen (15) days of the conclusion of the hearing.

NOW THEREFORE, the Council of Fox Creek duly assemble and pursuant to the provisions of the said Municipal Government Act and amendments thereto, enacts as follows:

That upon third and final reading of Bylaw 779-2016 – Subdivision and Development Appeal Board Bylaw shall come into effect, furthermore upon passing thereof and upon taking effect Bylaw 597-2002 any amendments thereof shall be repealed.

BYLAW NO. 779-2016 IS HEREBY GIVEN FIRST READING this 22nd day of August, 2016

BYLAW NO. 779-2016 IS HEREBY GIVEN SECOND READING this 12th day of September, 2016

BYLAW NO. 779-2016 IS HEREBY GIVEN THIRD READING this 26th day of September, 2016



**Jim Ahn
Mayor**

September 25, 2016
Date Signed



**Roy Dell
Chief Administrative Officer**