

BYLAW NO. 597-2002

"To Establish a Subdivision and Development Appeal Board"

Being a Bylaw of the Town of Fox Creek in the Province of Alberta to provide for the establishment of a Subdivision and Development Appeal Board and to set forth the duties and responsibilities of that Board.

WHEREAS, Section 627 of the Municipal Government Act, being Chapter M-26.1 of the Statutes of Alberta, RSA 2000, and amendments thereto, authorizes the Council of a municipality to enact a bylaw to establish a Subdivision and Development Appeal Board;

AND WHEREAS, it is deemed desirable to establish a Subdivision and Development Appeal Board for the Town of Fox Creek and to establish the duties and functions of that Board as are permitted;

NOW THEREFORE, the Council of the Town of Fox Creek, duly assembled, hereby enacts as follows:

There is hereby established a Board to be known as the Fox Creek Subdivision and Development Appeal Board.

This Bylaw shall be cited as the Fox Creek Subdivision and Development Appeal Board Bylaw.

1.0 INTERPRETATION

- 1.1 "Appellant" means the person who has served written notice of an appeal on the Subdivision and Development Appeal Board from a decision or order of the Development Authority or the Subdivision Authority.
- 1.2 "Board" means the Town of Fox Creek Subdivision and Development Appeal Board.
- 1.3 "Council" means the Town of Fox Creek Municipal Council.
- 1.4 "Development Authority" means the person(s) or body responsible for the issuance of Development Permits and development related notices, orders, and decisions as approved by the Council of the Town of Fox Creek.
- 1.5 "Member of the Town-at-large" means a citizen of the Town of Fox Creek.
- 1.6 Municipal Government Act - shall mean the Municipal Government Act, Statutes of Alberta, RSA 2000, and amendments thereto.
- 1.7 "Subdivision Authority" means the Subdivision Authority as established pursuant to a Subdivision Authority Bylaw.
- 1.8 "Town" means the Town of Fox Creek.

2.0 PURPOSE OF THE BOARD

- 2.1 The Board shall be responsible for deciding on appeals submitted as a result of an order, decision, or development permit rendered by the Fox Creek Subdivision or Development Authority.

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3.0 COMPOSITION OF THE BOARD

- 3.1 The Board shall consist of five (5) members, who shall be appointed by resolution of Council for a one year term, being November 1st to October 31st, or part thereof, unless otherwise provided for in this bylaw, and be composed as follows:
- 3.1.1 Two (2) members of Council; and
- 3.1.2 Three (3) members of the Town-at-large,
- 3.2 Board members shall be selected on the basis of an active interest in matters pertaining to planning and development.
- 3.3 If any member of the Board is absent from three (3) consecutive hearings, the Council may, upon recommendation of the Board, declare the position vacant and fill the position in accordance with Council policy.
- 3.4 The Council may revoke the appointment of any member(s) prior to the expiration of their term(s) for just cause.
- 3.5 No person employed by the Town of Fox Creek may also be a member of the Board.
- 3.6 A quorum for meetings of the Board shall not be less than three (3) members.
- 3.7 At any hearing, a minimum of 60% of the Board composition shall be members selected from Section 3.1.2.
- 3.8 A Chairperson and Vice-Chairperson shall be elected from among the number of the Board membership at the first meeting of each year or as necessary in addition to such election.
- 3.9 In the absence of a Chairperson or Vice-Chairperson at a meeting of the Board, the Board may elect a Chairman from among their number.
- 3.10 The said Board shall hold hearings at such times and places as it considers necessary to carry out the duties imposed upon it by this Bylaw and the Municipal Government Act.

4.0 SECRETARY

- 4.1 The Town Manager shall appoint a Secretary to the Board who shall be an employee of the Town. The Secretary shall, under the direction of the Subdivision and Development Appeal Board;
- 4.1.1 notify members of the meetings of the Subdivision and Development Appeal Board;
- 4.1.2 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 Section 645 of the Act, as the case may be;

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- 4.1.3 make and keep a written record of the proceedings of the Subdivision and Development Appeal Board which shall include:
 - 4.1.3.1 a summary of the evidence presented at the hearing,
 - 4.1.3.2 the decision of the development approving authority,
 - 4.1.3.3 the notice of Appeal and Hearing of the Appeal,
 - 4.1.3.4 the Subdivision and Development Appeal Board's decision, including reasons, for each appeal;
- 4.1.4 keep a list of names and addresses of persons who leave their names and addresses with the secretary.
- 4.1.5 keep a record of all business coming before the Subdivision and Development Appeal Board and after the adoption of the minutes of each meeting of the Subdivision and Development Appeal Board, transmit a copy of the minutes to Council.

5.0 NOTIFICATION

5.1 Notice of Appeal to the Board

- 5.1.1 The written notice of appeal shall be made on the official Development Appeal Form and shall be signed by the applicant accompanied by the appropriate fee as outlined in the Town of Fox Creek Fee Schedule; or
- 5.1.2 may be made in writing to the Secretary of the Board by a prospective appellant with the appropriate fee as outlined in the Town of Fox Creek Fee Schedule.
- 5.1.3 Where the Board is of the opinion that an appeal is applicable to and for the benefit of the municipality at large, the Board may direct that the application fee be returned to the applicant in whole or in part.

5.2 Notice of Appeal Having Been Filed

- 5.2.1 The Secretary, in the name of the Board, shall send written notice of the time and place of the hearing of an appeal, together with a summary of the application, not less than five (5) days prior to the hearing to:
 - 5.2.1.1 the appellant,
 - 5.2.1.2 the Development Authority,
 - 5.2.1.3 all persons who are registered owners of land adjacent to the property upon which the development is proposed,
 - 5.2.1.4 any municipality adjacent to the property that is the subject of the appeal, and
 - 5.2.1.5 the objectors of record, if any.
- 5.2.2 In the case of those persons referred to in Subsection 5.2.1.3 above, notice of the appeal hearing shall be sent by mail to the address shown on the last revised assessment roll.

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- 5.2.3 In addition to the notice required by Section 5.2.1, the Board may direct that the Secretary publish notice of the hearing in such manner as the Board may determine.
- 5.2.4 Where a hearing is adjourned or the decision is reserved, the Board may direct that the Secretary publish notice of the hearing in such manner as the Board may determine.
- 5.2.5 Where a hearing is adjourned or the decision is reserved and the Board does not at the time of adjournment fix a time and place for the further hearing of the application and announce it to those in attendance, it shall be the duty of the Chairman to announce to those in attendance that the notice of the time and place for further hearing will be sent to only those persons who leave their name and address with the Secretary and thereafter only such persons as do leave their name and address shall be entitled to notice of the further hearing.

5.3 Notice of Decision

- 5.3.1 As soon as is reasonably possible after a decision regarding an appeal by the Board, the Secretary:
 - 5.3.1.1 shall prepare minutes of the hearing, setting out the particulars of the appeal, the decision of the Board and any reasons for that decision specified by the Board, and maintain such minutes at his/her office for inspection at all reasonable times;
 - 5.3.1.2 shall notify the Appellant and all parties who appeared before the Board in respect of the appeal of the decision of the Board and any reasons for the decision specified by the Board by mailing a Notice of Decision, insuring that such notification is done within 15 days of the appeal hearing;
 - 5.3.1.3 may post a copy of the Notice of Decision on a bulletin board for that purpose in the public area of the Town Office;
 - 5.3.1.4 may advertise the decision of the Board in a local newspaper.

6.0 FUNCTIONS AND DUTIES OF THE BOARD

- 6.1 At the appeal hearing the Subdivision and Development Appeal Board shall hear all those persons that it is required to hear under the Act.
- 6.2 At the hearing of the appeal, should the Subdivision and Development Appeal Board desire legal or technical opinions, it may adjourn the hearing pending receipt of such information, opinions or other assistance
- 6.3 The Chairman shall be responsible with respect to all things required to be carried out by the Board under the Act to see that they are carried out in accordance with the provisions of the Act, and;
 - 6.3.1 is empowered to rule that evidence presented is irrelevant to the matter in issue and to direct the members to disregard the evidence;
 - 6.3.2 may limit a submission if he determines it to be repetitious;
 - 6.3.3 when a hearing is adjourned, may announce the date, time and place for the

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continuation of the hearing and such announcement shall be deemed adequate notice thereof; and

- 6.3.4 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.
- 6.4 After hearing all submissions, the Subdivision and Development Appeal Board may 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 Subdivision and Development Appeal Board. If the vote results in a tie, the appeal is lost.
- 6.5 The Secretary or Chairman may make a verbal announcement of the Subdivision and Development Appeal Board's decision at the conclusion of the hearing of an appeal, but the verbal decision is neither final nor binding on the Subdivision and Development Appeal Board, and no rights are conferred upon any party by the Subdivision and Development Appeal Board's verbal decision until written notice of the decision has been given in accordance with the Act.
- 6.6 The meeting shall be conducted in accordance with the provisions of Part 17, Division 10 of the Municipal Government Act, Statutes of Alberta, RSA 2000.
- 6.7 The Board shall not be bound by the technical rules of evidence, but may make its own rules of evidence and procedure for use in its hearings and meetings.
- 6.8 The Chairperson and all appointed Board members shall vote on any question, except where authorization to abstain from voting due to conflict has been obtained, in which case the member(s) abstaining shall leave the premises, and shall not take part in the discussions or voting.
- 7.0 Special Meetings and Adjournments**
- 7.1 Upon receipt of a notice of appeal duly filed pursuant to the provisions of the Municipal Government Act and of this Bylaw, the Secretary may convene a special meeting of the Board to consider what persons are affected by the appeal and should be notified thereof. A special meeting shall be called not less than six (6) days prior to the date of the hearing.
- 7.2 The hearing of an appeal by the Board shall be held in public, but the Board may at any time recess and deliberate in private.
- 7.3 A request for adjournment, by an appellant, defendant, or the Board itself, of a hearing may be granted at the discretion of the Board and the granting of any adjournment must be to a specific time and date.
- 8.0 Decisions**
- 8.1 Upon conclusion of a hearing, the Board shall deliberate and may reach its decision either in private or in public.
- 8.2 The Board shall give its decision upon an appeal in writing together with reasons for the decision within fourteen (14) days of the conclusion of the hearing.

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- 8.3 The decision of the majority of the members of the Board present at a hearing, duly convened, is deemed to be the decision of the whole Board.
- 8.4 In the event of a tie vote regarding a motion, the motion shall be lost.
- 8.5 An order, decision, approval, notice or other things, made, given or issued by the Board may be signed on its behalf by the Chairman or the designated Chairman in case of the Chairman's absence.
- 8.6 The decision of the Board shall be made in accordance with Sections 680 and 687 regarding subdivision and development decisions, respectively, of the Municipal Government Act, Statutes of Alberta, RSA 2000.
- 8.7 The decision of the Board shall be final and binding excepting thereout any provision for further Appeal to either the Court of Appeal or Municipal Government Board of the Province of Alberta.

9.0 COURT OF APPEAL

- 9.1 The Secretary shall keep on file all notices of application made for leave to appeal to the Court of Appeal or appeals made to the Municipal Government Board pursuant to the Municipal Government Act.

10.0 REPEAL OF BYLAW

- 10.1 Bylaw 252-80 and 241-80 of the Town of Fox Creek are hereby repealed.


This Bylaw shall come into force and have effect from and after the date of third reading thereof.

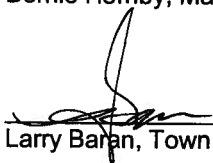
FIRST READING of Bylaw 597-2002 granted this 24 day of June, A. D., 2002 by Councilor Kirk Holtet.

SECOND READING of Bylaw 597-2002 granted this 24 day of June, A. D., 2002 by Councilor Tim Pratt.

THIRD AND FINAL READING of Bylaw 597-2002 granted this 24 day of June, A. D., 2002 by Councilor T.G. MacIntrye.



For 
Bernie Hornby, Mayor


Larry Baran, Town Manager