

BY-LAW NO. 682

of the

VILLAGE OF FOREMOST

IN THE PROVINCE OF ALBERTA

A BY-LAW OF THE VILLAGE OF OF FOREMOST IN THE PROVINCE OF ALBERTA TO ENTER INTO AN AGREEMENT WITH THE COUNTY OF FORTY MILE NO. 8 AND TOWN OF BOW ISLAND FOR THE PROVISIONS OF AN INTER-MUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD.

WHEREAS, under the provisions of the Municipal Government Act, being Chapter M-26 of the Revised Statutes of Alberta, 2000, as amended, the Council may pass a by-law authorizing the making of an Agreement with the Council of any other municipality.

WHEREAS, under the provisions of the Municipal Government Act being Chapter M-26 of the Revised Statutes of Alberta 2000 and amendments thereto, the Council may enter into an Agreement with one or more municipalities to provide for joint services.

NOW THEREFORE, the Council of the Village of Foremost in the Province of Alberta, in Council assembled enacts as follows:

1. That the Mayor and the Municipal Administrator of the Village of Foremost be and are hereby empowered to execute an Agreement similar to the form attached and marked Exhibit "A" between the County of Forty Mile No. 8; Village of Foremost and the Town of Bow Island relating to an Inter-Municipal Subdivision and Development Appeal Board.
2. That this by-law shall take full force and effect upon final passing thereof.
3. By-Law No. 338, 530 and 585 are hereby rescinded.

FIRST reading the 19th day of November, A.D., 2018.

SECOND reading the 19th day of November, A.D., 2018.

AUTHORITY TO PROCEED with Third Reading the 19th day of November, A.D., 2018.

PASSED at the Third Reading the 19th day of November, A.D., 2018.


MAYOR

Seal


Municipal Administrator

FORTY MILE INTER-MUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD ESTABLISHMENT AGREEMENT

AN AGREEMENT TO ESTABLISH AN INTER-MUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD PURSUANT TO THE MUNICIPAL GOVERNMENT ACT.

WHEREAS the Municipal Government Act as amended, being Chapter M-26 of the Revised Statutes of Alberta, 2000, provides that a group of municipalities may establish an Inter-municipal Subdivision and Development Appeal Board.

NOW THEREFORE THE MUNICIPAL COUNCILS OF THE COUNTY OF FORTY MILE NO. 8, THE TOWN OF BOW ISLAND, AND THE VILLAGE OF FOREMOST IN THE PROVINCE OF ALBERTA DO ENACT AS FOLLOWS:

1. SHORT TITLE

This Agreement may be cited as the Forty Mile Inter-municipal Subdivision and Development Appeal Board Establishment Agreement.

2. PURPOSE

- (1) The purpose of this By-law is to establish an Inter-municipal Subdivision and Development Appeal Board, in accordance with the Municipal Government Act.
- (2) This Agreement comes into force upon 1 December 2018.

3. DEFINITIONS

In this Agreement:

- (1) 'Act' means the Municipal Government Act being Chapter M - 26 of the Revised Statutes of Alberta 2000 and amendments thereto.
- (2) 'Appellant' means the person or agency who has served written notice of an appeal on a clerk of the Inter-municipal Subdivision and Development Appeal Board from a decision, order or development permit issued by a Subdivision or Development Authority of one of the parties to the Agreement.
- (3) 'Board' means the Inter-municipal Subdivision and Development Appeal Board established by the parties to the Agreement pursuant to the Act.
- (4) 'Council' means the Council of one of the parties to the Agreement.
- (5) 'Development Application' means an application made in accordance with a Land Use By-law for the purpose of obtaining a Development Permit.
- (6) 'Development Authority' means a person or persons appointed by a Council to exercise control over the issuance of Development Permits pursuant to a Land Use By-law.
- (7) 'Development Permit' means a document authorizing a development issued pursuant to a Land Use By-law.

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(8) 'Land Use By-law' means a Land Use By-law adopted by one of the parties to the Agreement pursuant to the Municipal Government Act.

(9) 'Member' means a member of the Board duly appointed pursuant to this Agreement.

(10) 'Municipality' means the County of Forty Mile No. 8, the Town of Bow Island, or the Village of Foremost.

(11) 'Municipal Planning Commission' means a municipal planning commission established by Council pursuant to the Act.

(12) 'Clerk' means a person appointed by a Council to act as Clerk of the Board.

(13) 'Subdivision Authority' means the person or persons appointed by a Council to exercise subdivision powers and duties on behalf of a municipality.

(14) 'Statutory Plan' means:

(a) A General Municipal Plan or a Municipal Development Plan

(b) An Area Structure Plan

(c) An Area Redevelopment Plan

4. ESTABLISHMENT OF THE BOARD

(1) The Inter-municipal Subdivision and Development Appeal Board is hereby established.

(2) The Board shall be composed of three (3) persons. The composition of the Board shall be as follows:

(a) County of Forty Mile No. 8 - 1 member

(b) Town of Bow Island - 1 member

(c) Village of Foremost - 1 member

They shall be appointed by resolution of the Council for a specified period not to exceed three years.

(3) A retiring member of the Board may be reappointed for successive terms of office by the Council.

(4) No person who is a Development Authority, or a Subdivision Authority shall be appointed to the Board.

(5) Where a member of a Council is appointed as a member of the Board, their appointment shall terminate upon them ceasing to be a member of the Council.

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(6) A person who is a member of the Board who ceases to be a member of the Council and who is otherwise eligible to be appointed to the Board may be reappointed as a member of the Board, upon their appointment terminating pursuant to Subsection (5).

(7) In the event that a vacancy occurs on the Board, the respective Council shall fill the vacancy within sixty (60) days.

(8) The Board shall not be disbanded, nor a member of it discharged without just cause.

(9) The members of the Board shall be entitled to such remuneration, traveling and living expenses as may be fixed from time to time by a Council and the remuneration, traveling and living expenses shall be paid by the municipality.

5. OFFICES OF THE BOARD

(1) Prior to each hearing, the members of the Board shall elect one of the members to act as Chairman.

(2) Each municipality by resolution shall appoint a clerk who shall be an employee of the municipality. The clerk shall attend meetings and hearings of the Board concerning the municipality but shall not vote on any matters before the Board.

(3) An order, decision, approval, notice or other thing made, given or issued by the Board shall be signed by the Chairman, or a person authorized to do so.

6. QUORUM

(1) Two members shall constitute a quorum for the making of all decisions and performing any actions required or permitted to be done by the Board provided at all times that members from the municipality in which the action is being considered shall not constitute a majority.

(2) Only those members present at a meeting of the Board shall have a vote on any matter before it.

7. DECISIONS

(1) The Board may make rules as are necessary for the conduct of its meetings and its business that are consistent with this Agreement and the Act.

(2) The Board may, while carrying out its powers, duties and responsibilities, accept any oral or written evidence that it considers proper, whether admissible in a court of law or not, and is not bound by the laws of evidence applicable to judicial proceedings.

(3) A decision of the majority of the members present at a duly constituted meeting shall be deemed the decision of the whole Board.

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- (4) All members present shall vote on every matter placed before the Board unless:
 - (a) the member is excused by motion of the Board from voting, or
 - (b) the member is disqualified from voting by reasons of conflict of interest.
- (5) Any motion upon which there is an equality of votes, the decision shall be deemed to be decided in the negative.
- (6) The Board must hold an appeal hearing within 30 days of receipt of a notice of appeal.
- (7) The Board shall give its decision upon an appeal in writing together with reasons within fifteen (15) days of the conclusion of the hearing.
- (8) The decision of a duly constituted Board is final and binding on all parties and persons and is only subject to appeal to the Court of Appeal on a question of law or jurisdiction.

8. SUBDIVISION APPEALS

- (1) The Decision of a Subdivision Authority may be appealed by:
 - (a) the applicant for the approval,
 - (b) a government department which is entitled to a referral pursuant to the Subdivision and Development Regulation.
 - (c) a school authority with respect to the allocation, location, or amount of school reserve.
- (2) An appeal may be commenced by filing a notice of appeal with a Clerk of the Board within 14 days of receipt of the written decision of the Subdivision Authority (deemed to be 7 days from the date that the decision is mailed.)
- (3) The Clerk shall give at least five (5) days' notice in writing of the public hearing to:
 - (a) the applicant,
 - (b) the Subdivision Authority that made the decision,
 - (c) an adjacent municipality if subject of the application the land that is adjacent to the boundaries of another municipality,
 - (d) any school authority to whom the application was referred,
 - (e) an adjacent owner who was given notice of the application,
 - (f) every government department that was given a copy of the initial application.

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- (4) The Board is not required to hear from any person other than those to whom notice was given.
- (5) In determining an appeal the board:
 - (a) must have regard for any statutory plan,
 - (b) must conform with the uses of land referred to in the land use by-law,
 - (c) must be consistent with the provincial land use policies,
 - (d) must have regard to but is not bound by the Subdivision and Development regulations,
 - (e) may confirm, revoke or vary the approval or decision or any condition imposed by the authority or make or substitute a decision or condition of its own,
 - (f) may, in addition to the other powers it has, exercise the same power as a subdivision authority is permitted to exercise pursuant to the Act, the Subdivision and Development Regulation or the By-law.

9. DEVELOPMENT APPEALS

- (1) An applicant for a Development Permit may appeal to the Board where:
 - (a) the Development Authority
 - (i) refuses or fails to issue a Development Permit, or
 - (ii) issues a Development Permit subject to conditions, or
 - (iii) issues an Order under the Act.
 - (b) no decision on a Development Application is made within 40 days of receipt of the completed application.
- (2) Any person affected by an order, decision or development permit made or issued by the Development Authority other than a person having a right of appeal under subsection (1) may appeal to the Board in accordance with the Act and this Agreement.
- (3) An appeal shall be commenced by serving written notice of the appeal with reasons to a Clerk of the Board within 21 days of the decision by the Development Authority.
- (4) Notwithstanding subsection 9(2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted.
- (5) The Clerk shall give at least five (5) days' notice in writing of the public hearing to:

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- (a) the applicant,
- (b) the appellant,
- (c) the Development Authority,
- (d) the Planning Advisor
- (e) any other persons the Board considers affected.
- (6) In determining an Appeal, the Board shall:
 - (a) comply with any statutory plan and subject to Subsection (c), any land use by-law in effect,
 - (b) confirm, revoke or vary the order, decision or development permit or make or substitute an order, decision of its own,
 - (c) make an order or decision or issue or confirm the issue of a Development Permit approval notwithstanding that the proposed development does not comply with the land use by-law or land use regulations if, in its opinion:
 - (i) the proposal will not:
 - (A) unduly interfere with the amenities or the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of the neighbouring properties.
 - (ii) and the proposed development conforms with the use prescribed for that land or building in the land use by-law.

10. DUTIES OF THE CLERK

- (1) A Clerk of the Board shall:
 - (a) perform such functions as may be necessary to assist the Board fulfill its duties under the Act, and this Agreement.
 - (b) shall attend meetings of the Board concerning matters which effect their municipality and keep records with respect thereto:
 - (i) the minutes of all meetings and hearings,
 - (ii) all applications for appeals,
 - (iii) records of all notices of hearings and the persons to whom they were sent,
 - (iv) copies of all written representation to the Board,
 - (v) notes as to each representation,
 - (vi) the names and addresses of those making representation to the Board,


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- (vii) the decisions of the Board,
 - (viii) the reasons for the decision of the Board,
 - (ix) the records of all notices of decisions and to whom they were sent,
 - (x) all notices, decisions and orders made on appeal from the decisions of the Board.
- (2) A Clerk shall also:
- (a) notify all members of the Board of the arrangements for holding each hearing and other meetings.
 - (b) file reports of all decisions of the Board with the Council of agreement Each municipality that is a party to the agreement.
 - (c) make available for public inspection all relevant documents and materials respecting appeals and all appeal decisions.
- (3) A Council may establish a fee for copies of materials pertaining to sub-section (2)(c).

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SIGNING PAGE


County of Forty Mile No. 8



Reeve

Dec 11, 2018

Date



Municipal Administrator

December 11, 2018

Date

Town of Bow Island



Mayor

Dec. 4, 2018

Date



Municipal Administrator

Nov. 29, 2018

Date

Village of Foremost



Mayor

December 17, 2018

Date



Municipal Administrator

December 17, 2018

Date