

BY-LAW NO. 531

of the

VILLAGE OF FOREMOST

IN THE PROVINCE OF ALBERTA

A BY-LAW OF THE VILLAGE OF FOREMOST IN THE PROVINCE OF ALBERTA TO ESTABLISH A SUBDIVISION AUTHORITY PURSUANT TO THE MUNICIPAL GOVERNMENT ACT.

Whereas, pursuant to the Municipal Government Act 1994, being Chapter M-26.1 of the Revised Statutes of Alberta, and amendments thereto, provides that a municipality must provide for a subdivision authority to exercise subdivision powers and duties on behalf of the Village.

NOW THEREFORE, THE MUNICIPAL COUNCIL OF THE VILLAGE OF FOREMOST IN THE PROVINCE OF ALBERTA DULY ASSEMBLED, ENACTS AS FOLLOWS:

1. SHORT TITLE

This by-law may be cited as the Village of Foremost Subdivision Authority By-law.

2. PURPOSE:

- (1) The purpose of this By-law is to establish subdivision authorities and procedures for the village in accordance with the Municipal Government Act.
- (2) This by-law comes into force on the date of final reading.

3. DEFINITIONS:

In this By-law:

- (1) "Act" means the Municipal Government Act 1994, being Chapter M-26.1 of the Revised Statutes of Alberta as amended.
- (2) "Application" means Schedule 1 Form 1 Application for Subdivision or the equivalent.
- (3) "Council" means the Village of Foremost municipal council.
- (4) "Development Officer" means a person or persons appointed to the office of development officer pursuant to the Land Use By-law
- (5) "Planning Advisor" means a person or persons appointed to the office of planning advisor pursuant to this Bylaw.
- (6) "Subdivision" means the division of a parcel of land by an instrument and "subdivide" has a corresponding meaning.
- (7) "Subdivision Authority" means the persons appointed by Council to exercise subdivision powers and duties on behalf of the Village.
- (8) "Village" means the Village of Foremost in the Province of Alberta.

3. PLANNING ADVISOR

- (1) The office of Planning Advisor is hereby established and shall be filled by a person or persons to be appointed by resolution of Council.
- (2) The Planning Advisor shall:
 - (a) assist and advise the Council and the public with respect to the requirements of this by-law, the Land Use By-law and other pertinent legislation.
 - (b) keep and maintain for the inspection of the public during office hours a copy of this by-law, and any adopted statutory plans, the land use, and all amendments thereto.
 - (c) provide a list of all completed subdivision applications to the Council prior to each meeting, including those which have been approved under subsection 4(3).
 - (d) keep on file in his office and make available for inspection by the general public during office hours all subdivision applications including the decisions therein, for a minimum period of ten years.
- (3) The Planning Advisor shall receive all completed applications for subdivision and:
 - (a) shall refer for comments any application which meet the requirements of the land use by-law to any agency or person when deemed appropriate or as required under the Subdivision and Development Regulation.
 - (b) shall refer to the Council of the County of Forty Mile No. 8 any applications for discretionary uses adjoining the municipal boundary. If comments on the application are not received within twenty one (21) days from the date of mailing, the Planning Advisor shall process the application as though the County of Forty Mile No. 8 had no comments on the application.
 - (c) refer, with a recommendation, to the Council all other completed applications for subdivision which meet the requirements of the land use by-law .

4. SUBDIVISION AUTHORITY

- (1) The Council, with the assistance of the Development Officer and the Planning Advisor, shall administer this By-law.
- (2) Pursuant to the Act, the Council and the Planning Advisor are hereby declared to be a subdivision authority within the Village.
- (3) The Planning Advisor may consider and decide upon all applications considered pursuant to section 6(4) of this By-law provided that they comply in all respects to the Land Use By-law. The Planning Advisor may approve such applications with or without conditions.
- (4) The Council shall consider and decide upon all other applications referred to it by the Planning Advisor, and may,
 - (a) approve the application without conditions,
 - (b) approve the application subject to conditions considered appropriate, or
 - (c) refuse the application citing reasons for such refusal.

- (5) The Council may waive or vary development standards notwithstanding that the proposed development does not comply with this By-law if in the opinion of the Council
- (a) the proposed development would not:
 - (i) unduly interfere with the amenities of the neighbourhood, or
 - (ii) materially interfere with or affect the use, enjoyment or value of neighbouring properties,
 - (b) the proposed development conforms with the use prescribed for that land or building in the Land Use By-law, and
 - (c) the proposed development complies with any adopted statutory plans.

5. SUBDIVISION AND DEVELOPMENT APPEAL BOARD

- (1) The powers, duties and responsibilities of this board are established in the Forty Mile Inter-municipal Subdivision and Development Appeal Board Agreement.

6. REQUIREMENT FOR A SUBDIVISION

- (1) Land Titles Office will not accept for registration an instrument that has the effect or may have the effect of subdividing a parcel of land unless the subdivision has been approved by a subdivision authority.
- (2) Notwithstanding subsection (1) but subject to subsection (4), a subdivision is not required if registration of the instrument results in the issuing of one or more certificates of title and the parcel of land described in each certificate of title so issued would consist only of any or all of the following:
- (a) a quarter section,
 - (b) a river lot shown on an official plan. as defined in the Surveys Act, that is filed or lodged in a land titles office;
 - (c) a lake lot shown on an official plan. as defined in the Surveys Act, that is filed or lodged in a land titles office;
 - (d) a settlement lot shown on an official plan. as defined in the Surveys Act, that is filed or lodged in a land titles office.
 - (e) a part of the parcel of land described in the existing title if the boundaries of the part are shown and delineated on a plan of subdivision.
 - (f) a parcel of land created pursuant to a bylaw passed by a municipality under section 665 of the Act.
- (3) For the purpose of subsection (2), a parcel of land is deemed to be a quarter section, river lot, lake lot, or settlement lot if the parcel of land would consist of a quarter section, river lot, lake lot or settlement lot except that land has been removed from the parcel of land by a subdivision effected only for a purpose referred to in of the Act or by a plan of subdivision or any other instrument that effected a subdivision.
- (4) A subdivision is required for registration of a separation instrument or caveat that has the effect or may have the effect of subdividing a parcel of land
- (a) if the parcel of land is described in a plan of subdivision that was registered in a land titles office before July 1, 1950, and
 - (b) if the parcel of land contains 2 or more lots one or more of which is less than 8.0 hectares in area.

7. SUBDIVISION APPLICATION

- (1) A person may apply for subdivision approval in accordance with the subdivision and development regulations by submitting a proposed plan of subdivision or other instrument to the Planning Advisor that describes the subdivision.

8. PLANS AND INFORMATION REQUIRED

- (1) One (1) copy of the completed and signed application form which includes a section in which the applicant for subdivision approval may or may not consent to the municipality or its delegate carrying out an inspection at a reasonable time of the land that is the subject of the application.
- (2) An application fee to be determined from time to time by resolution of Council.
- (3) One (1) copy of the current Duplicate Certificate of Title for the land proposed for subdivision.
- (4) In the case of a subdivision proposal with not more than one new lot, and no public roadways or reserve lots, a sketch plan consisting of the following is required:
 - (a) the location, dimensions and boundaries of the land to be subdivided;
 - (b) the location, dimensions and boundaries of each new lot to be created;
 - (c) the location and dimensions of buildings, utilities, underground storage tanks and other improvements on the land that is the subject of the application and specifying those buildings and improvements that are proposed to be demolished or moved, and
 - (d) the use proposed for the land that is the subject of the application.
 - (e) the method for provision of sewer and water to the proposed parcel.
- (5) In the case of a subdivision application involving more than two lots, a proposed plan of subdivision drawn by a Land Surveyor to a scale of not less than 1:2000, consisting of the following is required:
 - (a) the location, dimensions and boundaries of the land to be subdivided
 - (b) the land which the applicant wishes to register in the Land Titles Office;
 - (c) the location, dimensions and boundaries of
 - (i) each new lot to be created,
 - (ii) the reserve land, if any,
 - (iii) all rights-of-way and easements;
 - (d) the location and dimensions of buildings and improvements on the land that is the subject of the application and specifying those buildings or improvements that are proposed to be demolished or moved ;
 - (e) the location of any existing or proposed railway lines or spur tracks;
 - (f) the use or uses proposed for the land that is the subject of the application.
 - (g) the method for provision of sewer and water to the proposed parcel.

9. TIME PERIOD FOR MAKING DECISIONS

- (1) A decision on an application for subdivision must be made within
 - (a) 21 days from the date of receipt of a completed application under section 6(4) of the By-law.
 - (b) 60 days from the date of receipt of all other applications.unless an agreement to extend the time has been entered into with the subdivision authority within 14 days of the time prescribed.
- (2) When an applicant refuses to enter into a time extension agreement, the application is deemed refused and the applicant may appeal to the Subdivision and Development appeal board.

10. PUBLIC NOTIFICATION - SUBDIVISION APPLICATIONS

- (1) On receipt of an application for subdivision approval, the planning advisor must give a copy of the application to the Government departments, persons and local authorities required by the subdivision and development regulations.
- (2) On receipt of an application for subdivision approval, the planning advisor must give notice of the application to owners of land located adjacent to the land that is the subject of the application.
- (3) The notice under subsection (2) must describe the nature of the application, the method of obtaining further information about the application and the manner in which and time within which written submissions may be made to the subdivision authority.
- (4) A subdivision authority, when considering an application under this section,
 - (a) must consider the written submissions of those persons and local authorities to whom an application for subdivision approval or notice of application was given in accordance with this section but is not bound by the submissions unless required by the subdivision and development regulations. and
 - (b) is not required to hold a hearing.

11. CONDITIONS OF SUBDIVISION APPROVAL

- (1) A subdivision authority may impose conditions to ensure that the requirements of the Act, the regulations, the statutory plans and the by-law are complied with.
- (2) A subdivision authority may impose a condition requiring the applicant to enter into a Development Agreement with the Village for:
 - (a) construction of a public roadway required to give access to the development, or
 - (b) the installation of utilities necessary to serve the development, or
 - (c) an off-site levy or redevelopment levy under the Act.
- (3) The Development Agreement pursuant to subsection (2) may, at the option of the Village, be registered in the Land Titles Office in the form of a caveat against the certificate of title for the land that is the subject of the development agreement.

- (4) A caveat registered pursuant to subsection (2) shall be discharged by the Village when the requirements and conditions of the agreement have been met.

12. RIGHT OF APPEAL

- (1) A decision of a subdivision authority must state
- (a) whether an appeal lies to a subdivision and subdivision and development appeal board or to the Municipal Government Board. and
 - (b) if an application for subdivision approval is refused, the reasons for the refusal.
- (2) 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 under section 10(1) of the by-law.
 - (c) a school authority with respect to the allocation, location, or amount of school reserve.
- (3) An appeal may be commenced by filing a notice of appeal with the secretary of the Forty Mile Inter-municipal Subdivision and Development Appeal Board within 14 days of receipt of the written decision of the subdivision authority (deemed to be 5 days from the date the decision is mailed), or the date that the application is deemed refused.

13. SUBSEQUENT APPLICATIONS

- (1) If an application for subdivision approval is refused, the subdivision authority may refuse to accept for consideration with respect to the same land or part of the same land, a further application for subdivision approval submitted to it within the 6-month period after the date of the subdivision authority's decision to refuse the application.

14. ENDORSEMENT OF FINAL PLANS AND SEPARATION DOCUMENTS

- (1) An applicant for subdivision approval must submit to the planning advisor the plan of subdivision or other instrument that effects the subdivision within one year of the latest of the following dates:
- (a) the date on which the subdivision approval is given to the application.
 - (b) if there is an appeal to the subdivision and development appeal board or the Municipal Government Board, the date of that board's decision or the date on which the appeal is discontinued.
 - (c) if there is an appeal to the Court of Appeal under the Act, the date on which the judgment of the Court is entered or the date on which the appeal is discontinued.
- (2) On being satisfied that a plan of subdivision or other instrument complies with a subdivision approval and that any conditions imposed have been met or will be met, the planning advisor must endorse the plan or other instrument in accordance with the subdivision and development regulations.

15. VALIDITY OF SUBDIVISION APPROVALS

- (1) If the plan of subdivision or other instrument is not submitted to the subdivision authority within the time prescribed by section (14) or any longer period authorized by the Council, the subdivision approval is void.
- (2) If the plan of subdivision or other instrument is not registered in land titles office within one year after the date on which it is endorsed pursuant to this section or within the extended period prescribed under subsection (3), the subdivision approval of the plan or instrument and the endorsement are void and the plan or instrument may not be accepted by a Registrar for registration.
- (3) The Council may extend the periods referred to in subsection (1) and (2).

FIRST reading the 20th day of November, A.D., 1995.
SECOND reading the 20th day of November, A.D., 1995.
AUTHORITY TO PROCEED with Third reading the 20th day of
November, A.D., 1995.
PASSED at the Third reading the 20th day of November, A.D.,
1995.



Mayor



Municipal Administrator

Seal

SCHEDULE 1 FORM 1 APPLICATION FOR SUBDIVISION

DATE of receipt of Application: _____ Fee Submitted: _____ FILE NO. _____

THIS FORM IS TO BE COMPLETED IN FULL WHEREVER APPLICABLE BY THE REGISTERED OWNER OF THE LAND THAT IS THE SUBJECT OF THE APPLICATION OR BY A PERSON AUTHORIZED TO ACT ON THE REGISTERED OWNER'S BEHALF.

1. Name of registered owner of land to be subdivided.

Address: _____ Telephone: _____

2. Name of agent, if any. (person authorized to act on behalf of registered owner)

Address and phone no. _____ Telephone: _____

3. LEGAL DESCRIPTION AND AREA OF LAND TO BE SUBDIVIDED

All/part of the ___ 1/4 sec. ___ twp. ___ range ___ west of ___ meridian

Being all/part of lot(s) _____ block(s) _____ Reg. Plan No. _____ C.O.T. No. _____

Area of the above parcel of land to be subdivided _____ hectares

Municipal address (if applicable) _____

4. LOCATION OF LAND TO BE SUBDIVIDED

a. The land is situated in the Municipality of _____

b. Is the land situated immediately adjacent to the municipal boundary? Yes _____ No _____

If "yes", the adjoining municipality is _____

Is the land situated within 0.8 kilometres of the right of way of a highway? Yes _____ No _____

If "yes", the highway is No. _____

d. Does the proposed parcel contain or is it bounded by a river, stream, lake or other body of water or by a drainage ditch or canal? Yes _____ No _____ If "yes", state its name _____

e. Is the proposed parcel within 1.5 km. of a sour gas facility? Yes _____ No _____

5. EXISTING AND PROPOSED USE OF LAND TO BE SUBDIVIDED

a. Existing use of the land _____

b. Proposed use of the land _____

c. The designated use of the land as classified under a land use bylaw _____

6. PHYSICAL CHARACTERISTICS OF LAND TO BE SUBDIVIDED (WHERE APPROPRIATE)

a. Describe the nature of the topography of the land (flat, rolling, steep, mixed) _____

b. Describe the nature of the vegetation and water on the land (brush, shrubs, tree stands, woodlot, etc., sloughs, creeks, etc.) _____

Describe the kind of soil on the land (sandy, loam, clay, etc.) _____

7. EXISTING BUILDINGS ON THE LAND TO BE SUBDIVIDED

Describe any building and any structures on the land and whether they are to be demolished or removed _____

8. WATER AND SEWER SERVICES

If the proposed subdivision is to be served by other than a water distribution system and a wastewater collection system, describe the manner of providing water and sewage disposal _____

Turn to other side

9. REGISTERED OWNER OR PERSON ACTING ON THE REGISTERED OWNER'S BEHALF

I, _____ hereby certify that I am the registered owner, or _____ I am the agent authorized to act on behalf of the registered owner, and that the information given on this form is full and complete and is, to the best of my knowledge, a true statement of the facts relating to this application for subdivision.

Address _____ (Signed)

Telephone No: _____ Date: _____

10. FURTHER RELEVANT INFORMATION

- a. Number of parcels being created _____
- b. Size of parcels being created _____ Hectares
- c. Disposition of Reserve:
 - (i) Deferral _____ (ii) Deferral of balance _____ or (iii) Money-in-place _____

11. REASONS FOR SUBDIVISION, and any other relevant information in support of the application

NOTE: There is no obligation upon the Subdivision Approving Authority to return to the applicant either a subdivision application or documentation accompanying it.

1. RIGHT OF ENTRY:

I hereby authorize the subdivision authority to enter my land for purpose of conducting a site inspection in connection with my application for subdivision approval should staff consider it necessary.

This right is granted pursuant to the Municipal Government Act Revised Statutes of Alberta 1994.

Owners Signature

SUBDIVISION FEES:

For an application for subdivision approval to be made for the MD of Cypress No. 1, the County of Forty Mile No.8, the Town of Bow Island, the Village of Foremost, or the Village of Burdett, a fee of \$ 350.00 plus \$100.00 per lot proposed to be created, excluding parcels proposed as reserve or public utility parcels, is required.

- b. After approval, a fee of \$100.00 per endorsement of each subdivision instrument is required.

THIS SECTION FOR OFFICIAL USE