

## **PART IV – APPEAL AND AMENDMENT**

### **SECTION 26 APPEALS AND PROCEDURES**

- 26.1 In accordance with the Act, any person receiving a decision on a development permit or any other person affected by any order, decision or development permit made or issued by an approval authority, may appeal to the Subdivision and Development Appeal Board.
- 26.2 A fee as set by Council shall accompany each notice of appeal.
- 26.3 Any decisions made by Council with respect to a Direct Control district are not subject to appeal to the Subdivision and Development Appeal Board.
- 26.4 If the Subdivision and Development Appeal Board upholds an appeal brought before it, pursuant to this Section of the bylaw the Subdivision and Development Appeal Board may determine that the appeal fee, or a portion of the appeal fee, levied in accordance with Section 26.2 be returned to the appellant.
- 26.5 A decision made under this part of the bylaw is final and binding on all parties and all persons subject only to an appeal upon a question of jurisdiction or law pursuant to section 688 of the Municipal Government Act.

### **SECTION 27 APPLICATION TO AMEND BYLAW**

- 27.1 Subject to the Act, any Section or Part of this bylaw may be amended in accordance with Section 27 of this bylaw.
- 27.2 Any person applying to have this bylaw amended shall apply in writing to the Development Officer, using the application form provided by the Municipal District of Pincher Creek, and request that the Development Officer submit the application to the Council, which request shall be responded to within ninety (90) days.
- 27.3 As part of the application referred to in Section 27.2, the applicant must provide the following information, if Council deems it applicable:
- (a) reasons in support of the application;
  - (b) the use to be made of the land that is the subject of the application;
  - (c) the program of land servicing; and
  - (d) information as required in the Municipal Development Plan.
- 27.4 A person making an application to amend this bylaw for a purpose other than the clarification of an existing provision of this bylaw may be required to:
- (a) pay the Municipal District of Pincher Creek an application fee as set by Council;
  - (b) undertake in writing on a form provided by the Municipal District of Pincher Creek to be liable for, and pay on demand, all expenses made necessary by the processing of the proposed amendment which the Municipal District of Pincher Creek may incur, whether it be enacted or not, including but not limited to map printing and reproduction costs, surveys and advertising charges; and

- (c) provide, in writing, authorization and the right of entry for the Development Officer or Development Authority to such lands or buildings as may be required for investigation of the proposed amendment.
- 27.5 Upon receipt of an application to amend the Land Use Bylaw, the Development Officer shall:
- (a) initiate or carry out any necessary investigation or analysis of the problems involved in or related to the amendment;
  - (b) prepare a report for the Council on the proposed amendment;
  - (c) submit a copy of the report and all material relevant thereto to the Council; and
  - (d) submit a recommendation to Council regarding persons to be notified in addition to those required under the Act.
- 27.6 If it appears that the proposed amendment is one which is applicable to and for the benefit of the Municipal District of Pincher Creek at large, or most of the persons affected in one area, or to the entire district, then the Council may direct that the application fee be returned to the applicant and that the Municipal District of Pincher Creek pay the expense which the applicant has agreed to pay pursuant to the provisions of Section 27.4.
- 27.7 The Municipal Planning Commission may, at any time on its own motion, present for the consideration of Council any proposed amendment to this bylaw, and the proposed amendment shall be accompanied by a report and recommendation of the Municipal Planning Commission and the report and recommendation of the Development Officer.
- 27.8 Council may, at any time, initiate an amendment to this bylaw, but prior to first reading of any proposed amendment the proposal shall be referred to the Development Officer for his/her report and recommendations.
- 27.9 Notwithstanding anything in this Section or this Part, a proposed amendment which has been rejected by Council within the previous twelve (12) months may not be reconsidered unless Council otherwise directs.
- 27.10 Proposed amendments to this bylaw are subject to those requirements and procedures set out in the Act regarding enactment of bylaws, section 692 specifically.
- 27.11 Prior to third reading of a proposed amendment, Council may require the applicant to apply for a development permit and negotiate a development agreement for the proposal, which initiated said proposed amendment.
- 27.12 An application to amend the Land Use Bylaw to allow for a proposed use may be considered even if the proposed use is prohibited in the current land use district.
- 27.13 If a Land Use Bylaw amendment has been defeated by Council, another application for the same or similar amendment may not be considered for one year from the date of the decision to defeat the amendment.