

DISTRICT OF SALMON ARM

BYLAW NO. 2873

A bylaw to provide for the establishment of a Board of Variance

WHEREAS pursuant to Section 899 of the *Municipal Act*, RSBC 1996, c. 323, (the “Act”), a local government that has adopted a zoning bylaw or a rural land use bylaw must, by bylaw, establish a board of variance;

AND WHEREAS the Council of the District of Salmon Arm has adopted Zoning Bylaw No. 2303 and amendments thereto;

NOW THEREFORE the Council of the District of Salmon Arm, in open meeting assembled, enacts as follows:

1. ESTABLISHMENT

Pursuant to Section 899 of the *Municipal Act*, a Board of Variance (the “Board”) is hereby established. The Board shall consist of those persons appointed in accordance with the Act. The members of the Board shall elect one of their number as Chair.

2. SECRETARY

The Municipal Clerk or the Municipal Clerk’s designate shall be Secretary to the Board. The responsibilities of the Secretary are:

- a) to receive notices of application made pursuant to Sections 901 and 902 of the Act;
- b) to determine whether the Applicant seeks an order of the Board, which would:
 - i) be in conflict with:
 - a covenant registered under Section 24(a) of the *Land Registry Act* RSBC 1960, c. 208, before the repeal of that Act or Section 219 of the *Land Title Act*; or
 - Section 32 of the *Heritage Conservation Act*;

ii) deal with a matter that is covered in a land use contract or a permit under division 9 of the Act; or

iii) deal with a flood plain specification under Section 910 of the Act.

If the application deals with any of these matters, the Board has no jurisdiction and the Secretary shall so notify the Applicant.

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- c) to notify the Chair of the Board of the receipt of the application if the application is within the Board's jurisdiction;
- d) to ensure that proper notification is given in compliance with this bylaw;
- e) to keep proper records of the Board proceedings; and
- f) to maintain a record of all decisions of the Board and make it available to the public in the civic office during normal business hours.

3. HEARING SCHEDULE

- a) The Chair shall determine the meeting schedule for the Board.
- b) The Board shall be convened by the Chair on the date of Hearing and at the time and place set out in the notice.
- c) The Board shall hear all representations made to the Board.

4. NOTICE OF APPLICATION AND APPLICATION FEE

- a) Any person desiring to apply to the Board for an order shall file a written application with the Secretary of the Board in a form approved by the Secretary. The application shall state clearly the grounds on which the application is based and the relief sought and shall give an address to which all notices respecting the Hearing of the application (the "Hearing") may be mailed.
- b) The application to the Board shall be accompanied by a non-refundable fee as set out in the District of Salmon Arm Fee for Services Bylaw.
- c) Where the application is made pursuant to Section 902 of the Act, the

application shall be filed with the Secretary of the Board within thirty (30) days from the date of the determination made under Section 911 of the Act by the Building Inspector.

- d) The Secretary shall send by mail or otherwise deliver, not less than ten (10) days prior to the date of the Hearing, notice of the Hearing to:
 - i) the members of the Board;
 - ii) the Applicant;
 - iii) the registered owners as shown on the last revised assessment roll and all occupiers of the subject property and all real property located adjacent to the parcel which is the subject of the appeal;
 - iv) if an appeal is under Section 902 of the Act, the Building Inspector whose determination is being appealed.

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- e) The notice of Hearing shall state the date, place and time of the Hearing and shall state the subject matter of the application.
- f) The Secretary shall upon receipt of any notice of application or of any written evidence entered before the Hearing including staff reports, permit the same to be inspected at the Secretary's office during regular office hours.

5. CONDUCT OF HEARING

- a) A quorum for the Hearing is two (2) members. If the Chair is absent for a Hearing, those present may appoint an Acting Chair for the duration of that Hearing.
- b) Any person or body with interest in property within the municipality is entitled to be heard at the Hearing, and is entitled to be represented by a solicitor or by an agent duly appointed in writing.
- c) Any person represented, in accordance with subsection 5.b), whether or not also attending in person, shall be deemed to be a party attending the Hearing.
- d) Evidence at a Hearing may be given orally or in writing.

- e) The Board shall not hear oral evidence, except at a regularly constituted Hearing of the subject matter of that evidence.
- f) The Applicant shall be afforded the first opportunity to present his evidence and arguments, and thereafter, evidence and arguments shall be presented in such sequence as the Chair may direct until all parties to the application have been afforded an opportunity to present their evidence and arguments.
- g) The Board may view the property affected by the application and surrounding properties. The Board may adjourn the Hearing from time to time, and may reconvene without further published notice if the time, date and place of reconvening are announced at adjournment.
- h) If the Applicant or other persons notified do not appear at the Hearing or any adjournment thereof, and have not advised the Secretary in advance that they wish to be heard at another date, the Board may proceed to decide the appeal in his absence.

6. DECISION

- a) The decision of the Board shall be by a majority of those members present and made within seven (7) days of the Hearing.

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- b) The Secretary shall, within seven (7) days of a decision, send by mail or otherwise deliver the written decision of the Board to the Applicant, all persons who made representation at the Hearing, and the local government Building Inspector.
- c) The Secretary shall, within seven (7) days of the decision, enter that decision in the record maintained at the local government office.

7. REPEAL

Upon adoption of this bylaw, "District of Salmon Arm Board of Variance Bylaw No. 1014, 1971", and amendments thereto, are hereby repealed.

8. CITATION

This bylaw may be cited for all purposes as "District of Salmon Arm Board of Variance Bylaw No. 2873".

READ A FIRST TIME THIS 24th DAY OF November 1998.

READ A SECOND TIME THIS 24th DAY OF November 1998.

READ A THIRD TIME THIS 24th DAY OF November 1998.

ADOPTED BY COUNCIL THIS 8th DAY OF December 1998.

“C.N. MAYES”

MAYOR

“D.B. LAGORE”

CLERK