

DISTRICT OF SALMON ARM

BYLAW NO. 3024

A bylaw to establish procedures for the issuance of Development Variance Permits

WHEREAS Section 922 of the *Municipal Act* permits a local government, by resolution, on the application of an owner of land, to issue a Development Variance Permit that may, in respect of land covered in the permit, vary the provisions of a land use bylaw or bylaw adopted under Division 7 being Land Use Designation, Division 8 being Use of Land for Agricultural Operations, Division 11 being Subdivision and Development Requirements or under Section 694(1)(j) being regulation of the construction and layout of trailer courts, manufactured home parks and camping grounds;

AND WHEREAS the Municipal Council of the District of Salmon Arm has adopted bylaws under the said Divisions 7, 8, 11 and Section 694(l)(j);

AND WHEREAS Section 922 of the *Municipal Act* authorizes Council, by resolution, on the application of an owner of land, to issue a Development Variance Permit that may, in respect of the land covered in the permit, vary the provisions of a bylaw adopted under Division 7, Division 8, Division 11 or Section 694(l)(j) of Part 26 of the *Municipal Act*, except for the use or density of land from that specified in the bylaw, or a floodplain specification under Section 910(2);

AND WHEREAS pursuant to Section 931(1) of the *Municipal Act*, Council may, by bylaw, impose an application fee for the issue of a Development Variance Permit;

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

1. Every application for the issue of a Development Variance Permit shall be considered by Council as specified in this bylaw.
2. The provisions of a Development Variance Permit prevail over any provision of a bylaw in the event of conflict.
3. Any person, being the owner of land or having the written permission of the owner, may apply to Council for the issue of a Development Variance Permit.
4. All applications shall be made on the form titled "Application for Development Variance Permit", a copy of which is attached hereto as Schedule "A".

5. The following material shall be filed with the application to facilitate the processing of the permit:

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- .1 The Application Fee as set out in the current “District of Salmon Arm Fee for Service Bylaw”;
 - .2 Current Title Search for all Parcels;
 - .3 A written description, plot plan and project plan of the proposed development outlining in what manner the relevant District bylaws are being asked to be varied; and
 - .4 In cases where the Ministry of Transportation and Highways approval is required, the application will be required to submit a scaleable site plan including buildings, traffic circulation and parking areas and facilities.
6. Upon receipt of a fully completed “Application for Development Variance Permit”, the Development Services Department will review and circulate the application to other District Departments and outside agencies as necessary. Further information may be requested from the Applicant.
7. After reviewing the application and receiving the comments requested from other departments and agencies, the Development Services Department will prepare a report for Council’s consideration.
8. The Clerk shall give notice of Council’s intention to issue a Development Variance Permit in accordance with Section 922 (5) and (6) of the *Municipal Act*. The specified distance for the notification shall be 30 metres from the property subject to the Development Variance Permit.
9. Persons wishing to register an opinion with respect to the proposed Development Variance Permit may do so by making a written submission and/or appearing before Council as a delegation at the Hearing.
10. A copy of the report on the Development Variance Permit application prepared by the Development Services Department containing a recommendation on the matter will be placed on Council’s agenda for consideration.
11. Upon hearing any public input, Council may either deny the application, amend the proposal and/or authorize the Clerk to issue the Development Variance Permit.

12. Where an application for a permit has been refused by Council, the applicant shall be notified, in writing, within fifteen (15) days immediately following the date of the refusal and shall be given reasons for the refusal.

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13. In accordance with Section 895.3 of the *Municipal Act*, reapplication for a permit that has been refused by Council shall not be considered within a six (6) month period immediately following the date of refusal by Council; such time may be varied in relation to reapplication by an affirmative vote of at least 2/3 of the local government members eligible to vote on that reapplication.
14. If authorized by Council, the Development Services Department will complete the Development Variance Permit and forward it to the Clerk for issuance on behalf of the Municipality.
15. When District Council considers that a condition in a permit requires the applicant to complete landscaping, or where contravention of a condition in a permit may result in an unsafe condition, the Council may require the applicant to provide security or an irrevocable letter of credit in an amount to be stated in the permit.
16. Where an applicant has failed to satisfy the local landscaping requirements of the permit, or failed to comply with the conditions of the permit, or has created an unsafe condition, District Council may undertake and complete the landscaping requirements, or carry out any construction required to comply with the conditions of the permit or to correct an unsafe condition, at the full cost of the holder of the permit, and may apply the security in payment of the cost of the work, with any excess to be returned to the holder of the permit.
17. Subject to the terms of the permit, where an applicant fails to substantially commence any construction with respect to which the permit was issued, within two years after the date it was issued, the permit lapses.
18. When a permit lapses, the District Council shall, subject to Subsection 17, return any security deposit provided under Subsection 15 to the person who provided it.
19. Pursuant to Section 924(1) of the *Municipal Act* which pertains to Section 57(2) of the *Highway Act*, a permit shall not be issued for the construction of commercial or industrial buildings exceeding 4,500 square in gross floor area unless a site plan of the buildings, including traffic circulation and parking areas and facilities, has been approved by the Ministry of Transportation and Highways. In consideration

whether to approve a site plan, the Ministry of Transportation and Highways shall consider only the effect of the proposed development on the controlled access highway.

20. The Clerk shall file in the Land Title Office a notice in the form of Schedule "C" attached hereto, that the land described in the notice is subject to a Development Variance Permit.

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21. The applicant shall not proceed with the development until he has received a copy of the Development Variance Permit from the Clerk. The terms of the Development Variance Permit or any amendment to it shall be binding on all persons who acquire an interest in the land affected by the permit.
22. Council may issue more than one permit for an area of land, and the land shall be developed strictly in accordance with the permit or permits, issued, which shall also be binding on the District of Salmon Arm.
23. One-half of the Application Fee will be refunded if the Application is withdrawn by the Authorized Agent, Applicant or Property Owner prior to mailing or delivery of notification to property owners/occupiers with respect to the Hearing.
24. "District of Salmon Arm Development Variance Permit Procedure Bylaw No. 2651", and all amendments thereto, are hereby repealed.
25. This bylaw may be cited for all purposes as "District of Salmon Arm Development Variance Permit Procedure Bylaw No. 3024."

READ A FIRST TIME THIS 8th DAY OF May 2000.

READ A SECOND TIME THIS 8th DAY OF May 2000.

READ A THIRD TIME THIS 8th DAY OF May 2000.

ADOPTED BY COUNCIL THIS 23rd DAY OF May 2000.

"C.N. MAYES"

MAYOR

"D.B. LAGORE"

CLERK

NOTE: Bylaw Schedules and required forms are available on the Website

Go to: Municipal Hall

Departments

Development & Planning Services

Documents

Forms