

CITY OF MERRITT

BYLAW NO. 1919

A BYLAW TO PROVIDE FOR THE ESTABLISHMENT OF A BOARD OF VARIANCE FOR THE CITY OF MERRITT

WHEREAS the Council of the City of Merritt has adopted a Zoning Bylaw;

AND WHEREAS pursuant to Section 899 of the *Local Government Act*, R.S.B.C. 1996, C. 323, there shall be established by Bylaw a Board of Variance;

NOW THEREFORE, the Council of the City of Merritt, in open meeting assembled, enacts as follows:

1. **TITLE**

This Bylaw may be cited for all purposes as “**City of Merritt Board of Variance Bylaw No. 1919, 2005**”.

2. **ESTABLISHMENT**

Pursuant to the 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 the members as Chair.

The appointment shall be for the latter of three (3) years, or where no successor has been appointed at the end of the three (3) year period, until the time that a successor is appointed.

A person who is a member of an advisory planning commission or an officer or employee of the local government is not eligible to be appointed to the Board of Variance.

3. **SECRETARY**

The Corporate Services Manager of the Corporation of The City of Merritt shall act as the Secretary to the Board of Variance and the responsibilities of the Secretary shall be:

- (a) to receive notices of appeals made pursuant to the Act;
- (b) to determine whether the appeal seeks to vary a matter covered in a land use contract, a permit under Part 26 or Part 27, a flood plain specification under the Act or a registered covenant under the **Land Title Act** or of the **Land Registry Act**, and to notify the applicant that the appeal is outside the jurisdiction of the Board and will not proceed further; or
- (c) to determine whether the appeal seeks a variance or exemption to relieve hardship with respect to compliance with the Zoning Bylaw, Mobile Home Park Bylaw or Subdivision and Development Servicing Bylaw requirements, or with respect to the prohibition of alteration or addition to an existing non-conforming structure, or the Building Inspectors' determination of the amount of damage to a non-conforming structure, which are within the jurisdiction of the Board;
- (d) to notify the Chair of the Board of the receipt of the appeal if it is within the Board's jurisdiction;
- (e) to ensure that proper notification is given to all the Board members, the local government Building Inspector, the appellant and the surrounding property owners, affected by the appeal, in compliance with this bylaw;
- (f) to keep proper records of the Board of Variance proceedings, and
- (g) to maintain a record of all decisions of the Board and make them available to the public in the municipal office, during normal business hours.

4. **HEARING SCHEDULE**

- (a) Following the receipt of a notice of appeal, the Chair shall set the date for the hearing of the appeal.
- (b) The Board shall be convened by the Chair on the date of the hearing and at the time and place set out in the notice.
- (c) The Board of Variance shall hear all representation made to the Board.
- (d) The deliberations of the Board of Variance shall be open to the public.

5. **NOTICE OF APPEAL AND APPLICATION FEE**

- (a) Any person desiring to appeal to the Board shall file a written letter attached to a Board of Variance application, with the Secretary of the Board. The Notice shall state clearly, the grounds upon which the appeal is based and the relief sought.
- (b) An application fee shall be paid to the Corporation of the City of Merritt as set out in the Administrative Fees Bylaw.
- (c) Where the application is made pursuant to Section 901 (1) (b) 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 (8) of the Act, by the Building Inspector.
- (d) The Secretary, upon the filing of an appeal, shall notify the Chair of the Board of the appeal and determine a meeting date and time at which to hear the appeal.
- (e) Upon determination of the hearing date, 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 appellant;

- (iii) the registered owners as shown on the last revised assessment roll and all occupiers of all real property located adjacent to the parcel which is the subject of the appeal, including those separated by private or public right-of-ways;
 - (iv) if an appeal under 902 (2), the official whose interpretation is being appealed.
- (f) The notice of the hearing shall state the date, place and time of the appeal hearing and shall state the subject matter of the appeal.
- (g) The Secretary shall, upon receipt of any Notice of Appeal, 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.

6. **CONDUCT OF HEARING**

- (a) A quorum for the hearing is two (2) members of the Board. If the Chairman 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 the hearing may be given orally or in writing.
- (e) The Board shall not hear oral evidence or discuss the merits of the appeal with any person who is not a member of the Board or the Secretary, except at a regularly scheduled hearing of the subject matter of that evidence.
- (f) The appellant shall be afforded the first opportunity to present evidence and arguments, and thereafter, evidence and arguments shall be presented in such sequence as the Chair may direct until all parties to the appeal have been afforded an opportunity to present their evidence and arguments.

- (g) The Board may view the property affected by the appeal 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 is announced at the adjournment.
- (h) If the appellant 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 time, the Board may proceed to decide the appeal in their absence.

READ A FIRST TIME THIS	11th DAY OF OCTOBER, 2005
READ A SECOND TIME THIS	11th DAY OF OCTOBER, 2005
READ A THIRD TIME THIS	11th DAY OF OCTOBER, 2005
ADOPTED THIS	25th DAY OF OCTOBER, 2005

David Laird, MAYOR

**Ruth Tolerton, Corporate Services
Manager**