

## DISTRICT OF CHETWYND

### BYLAW NO. 883, 2008

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

**WHEREAS** pursuant to the *Local Government 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 Chetwynd has adopted Zoning Bylaw No. 816 and amendments thereto;

**NOW THEREFORE** the Council of the District of Chetwynd, in open meeting assembled, enacts as follows:

#### 1. CITATION

This bylaw may be cited for all purposes as “District of Chetwynd Board of Variance Bylaw No. 883, 2008”.

#### 2. DEFINITIONS

“**Act**” means *Local Government Act*, RSBC 1996, c.323;

“**Board**” means the Board of Variance appointed by Council pursuant to Section 3 of this bylaw;

“**Building Inspector**” means the person appointed by Council as the Building Inspector for the municipality;

“**Council**” means the Council of the District of Chetwynd;

“**Municipality**” means the District of Chetwynd;

“**Secretary**” means the Director of Corporate Administration or his/her designate.

#### 3. THE BOARD OF VARIANCE (the Board)

3.1. The Board is hereby established.

3.2. The Board shall consist of three (3) persons appointed by the Council of the District of Chetwynd.

3.3. Each member appointed shall hold office for a term of three (3) years or until his/her successor is appointed.

- 3.4. In the event of death, resignation or removal from office of a member of the Board, his successor shall be appointed in the manner in which the member was appointed, and until the appointment of his/her successor the remaining members constitute the Board.
- 3.5. Council may rescind the appointment of a member of the Board at any time in accordance with section 899 (9) of the Act.
- 3.6. The members of the Board shall elect one (1) of their members as Chair who shall serve for a period of one (1) year from such election and shall elect the same or another of the members as Chair at the expiry of the Chair's appointment.

#### **4. SECRETARY**

The responsibilities of the Secretary are:

- (a) To receive notices of application made pursuant to sections 901, 902 or 911 of the *Act* or any other enactments permitting an application to the Board;
- (b) To notify the Chair of the Board of the receipt of the application if the application is within the Board's jurisdiction;
- (c) To ensure that proper notification is given in compliance with this bylaw;
- (d) To keep proper records of the Board proceedings; and
- (e) To maintain a record of all decisions of the Board and make such record available to the public in the municipal government office during normal business hours.

#### **5. HEARING SCHEDULE**

- 5.1. The Secretary shall determine the meeting schedule for the Board.
- 5.2. 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.
- 5.3. The Board shall hear all representations made to the Board.

#### **6. NOTICE OF APPLICATION AND APPLICATION OF FEES**

- 6.1. Any person desiring to apply to the Board for an order shall complete and submit to the Secretary, an application form identified as Schedule "A" attached to and forming part of this bylaw. The application shall state and include:
  - (a) the legal description and civic address of the property;
  - (b) the name(s) and address(es) of the registered owner(s) of the property;

- (c) the name and address of the applicant, if the applicant is applying as agent for the owner;
  - (d) a written authorization from the owner must accompany the application, if the application is submitted by an agent or on behalf of the owner;
  - (e) the grounds on which the application is based and the relief sought;
  - (f) a copy of the site plan and building plans, if applicable; and
  - (g) an address to which all notices respecting the hearing of the application may be mailed.
- 6.2.** The application to the Board shall be accompanied by non-refundable fees as set out in Schedule “B” attached to and forming part of this bylaw.
- 6.3.** Where the application is pursuant to section 902 of the *Act*, to set aside a determination made by the Building Inspector as to the extent of damage to a non-conforming building under section 911 of the *Act*, the application shall be filed with the Secretary within thirty (30) days from the date that the owner receives a copy of the determination.
- 6.4.** The Secretary shall send by mail or otherwise deliver, not less than five (5) days prior to the date of the hearing, notice of the hearing to:
- (a) the members of the Board;
  - (b) the applicant;
  - (c) owners and occupiers of the land that is subject to the hearing and owners of adjacent land as set out in section 901 (4) of the *Act*; and
  - (d) if an appeal is under section 902 of the *Act*, the Building Inspector whose determination is being appealed.
- 6.5.** The notice of hearing shall state the date, place and time of the Hearing and shall state the subject matter of the application.
- 6.6.** 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.

## **7. CONDUCT OF HEARING**

- 7.1.** A quorum for the hearing is two (2) members. If the Chair is absent from a hearing, those present may appoint an Acting Chair for the duration of that hearing.
- 7.2.** Any person or body with an interest in land within the District of Chetwynd is entitled to be heard at the hearing, and is entitled to be represented by a solicitor or by an agent who must present written confirmation of appointment or other evidence satisfactory to the Chair.

- 7.3. Any person represented, in accordance with subsection 7.2, whether or not also attending in person is deemed to be represented at the hearing.
- 7.4. Evidence at a hearing may be given orally or in writing.
- 7.5. The Board shall not hear oral evidence, except at a hearing relating to the subject matter of that evidence convened under this bylaw for that purpose.
- 7.6. The applicant shall be afforded the first opportunity to present his/her 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.
- 7.7. The Board may view the land that is the subject of the application and surrounding parcels.
- 7.8. 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 the time of the adjournment.
- 7.9. If the applicant or other persons notified do not appear at the hearing or an 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/her absence.
- 7.10. In the event that the decision of the members is equally divided, the application shall be disallowed.

## **8. DECISION**

- 8.1. The decision of the Board shall be by a majority of those members present and made within seven (7) days of the hearing.
- 8.2. 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.
- 8.3. The Secretary shall, within seven (7) days of the decision, enter that decision in the record maintained at the office of the municipality.

## **9. COMPENSATION FOR BOARD MEMBERS**

No member of a Board of Variance shall receive compensation for his/her services, but must be paid reasonable and necessary expenses that arise directly out of the performance of their duties.

**10. REPEAL**

The “Village of Chetwynd Board of Variance Bylaw No. 175, 1977” is hereby repealed.

Read a first time this 15<sup>th</sup> day of July, 2008.

Read a second time this 15<sup>th</sup> day of July, 2008.

Read a third time this 15<sup>th</sup> day of July, 2008.

Adopted by Council this 12<sup>th</sup> day of August, 2008.

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Mayor

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Director of Corporate Administration

**DISTRICT OF CHETWYND**

**BOARD OF VARIANCE BYLAW NO. 883, 2008**

**Schedule "A"**

**BOARD OF VARIANCE APPLICATION**

1. Name (applicant): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

Email: \_\_\_\_\_

2. The application applies to:

Address: \_\_\_\_\_

Legal Description: \_\_\_\_\_

Owner (if not the applicant): \_\_\_\_\_

3. This application is for either one of the following:

To review a decision made by the Building Inspector pursuant to Section 902 of the *Local Government Act* that a non-conforming building or structure is damaged or destroyed to the extent of 75% or more of its value above its foundation.

**OR**

Compliance with the following will cause undue hardship:  
(i) Section \_\_\_\_\_ of the Zoning Bylaw relating to siting, size and dimensions of a building or structure.  
(ii) The prohibition of a structural alteration or addition pursuant to Section 911 (5) of the *Local Government Act*.

4. Details of the application are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(attach additional pages, if necessary)*



**DISTRICT OF CHETWYND**  
**BOARD OF VARIANCE BYLAW NO. 883, 2008**  
**Schedule "B"**  
**BOARD OF VARIANCE APPLICATION FEES**

For each application	\$250.00
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