

# THE CORPORATION OF THE VILLAGE OF ASHCROFT

## BYLAW NO. 750

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

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**WHEREAS** the Municipal Council of the Village of Ashcroft has adopted a Zoning Bylaw;

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

**NOW THEREFORE** the Municipal Council of the Village of Ashcroft, in open session assembled, enacts as follows:

**1. TITLE**

This Bylaw may be cited for all purposes as “Board of Variance Bylaw No. 750, 2007”.

**2. REPEAL**

The following bylaw is hereby repealed in its entirety:

**2.1** Bylaw No. 170 – “Board of Variance Bylaw, 1972”.

**3. ESTABLISHMENT OF BOARD OF VARIANCE**

**3.1** A Board of Variance for the Village of Ashcroft (the “Board”) is hereby established.

**3.2** Council shall appoint members for a three year term.

**3.3** The members of the Board of Variance shall elect one of their number as Chair.

**3.4** The Chair may appoint another member to act as chair in the absence of the Chair.

**4. SECRETARY**

The Chief Administrative Officer of the Village of Ashcroft shall be the Secretary to the Board of Variance. The responsibilities of the Secretary are:

**4.1** To receive Notices of Appeal.

**4.2** To notify the Chair and Members of the board of the receipt of Notices of Appeal.

**4.3** To ensure that proper notifications are given in compliance with this Bylaw.

**4.4** To maintain records of the proceedings of the Board.

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**5. MEETINGS OF THE BOARD**

- 5.1 Meetings of the Board shall be held at the call of the Chair of the Board.
- 5.2 A hearing on a particular Appeal may take place at a meeting of the Board and shall be held not more than forty (40) days after the date of receipt of the Notice of Appeal unless an extension is allowed by the written consent of the Appellant.
- 5.3 A Notice of Meeting for each regular and special meeting of the Board shall be posted in the Village Office by the Secretary and the Board shall be convened by the Chairperson on the date and at the time and place set out in the Notice of Meeting.
- 5.4 All meetings shall be open to the public and the Board shall hear all representations made to the Board at a meeting.

**6. NOTICE OF APPEAL**

- 6.1 Every person exercising a right of appeal to the Board shall file a written Notice of Appeal with the Secretary of the Board.
- 6.2 The Notice shall state clearly the grounds under Section 901 of the Local Government Act upon which the Appeal is based and the relief sought, and shall give an address to which all notices respecting an Appeal Hearing may be mailed or otherwise delivered.
- 6.3 Where the Appeal is based upon a determination of the amount of damage made pursuant to Section 911(8) of the Local Government Act the Notice of Appeal shall be filed with the Secretary of the Board within Thirty (30) days of the making of determination.
- 6.4 The Secretary, upon the filing of the Notice of Appeal, shall forthwith notify the Chair and Members of the Board of the Appeal.
- 6.5 The Secretary shall, upon receipt of any Notice of Appeal or of any written evidence entered before the Hearing, permit all such documents to be inspected at the Secretary's office during regular office hours.

**7. NOTICE OF HEARING**

- 7.1 Upon receipt of the Notice of Appeal by the Secretary, and the determination of the Hearing date, the Secretary shall send by registered mail or otherwise deliver, not less than seven (7) days prior to the date of the Hearing, Notice of the Hearing to:
  - 7.1.1 all Members of the Board;
  - 7.1.2 the Appellant;
  - 7.1.3 the registered owners as shown on the last revised Assessment Roll and occupiers of all real property located adjacent to the parcel which is the subject to the Appeal; and
  - 7.1.4 an official whose interpretation is being appealed under Section 902.(1).

- 7.2 The Notice of Hearing shall state the date, place and time of the Appeal Hearing and shall include a copy of the Notice of Appeal.
- 7.3 Public Notice of a Hearing, if ordered by the Board, shall be given by publication of Notice stating the time and place of the Hearing and the general nature of the Appeal in not less than two (2) consecutive issues of a newspaper published or circulating in the Village, with the last of such publications appearing not less than three (3) days nor more than ten (10) days prior to the date of the Hearing.

## **8. CONDUCT OF HEARING**

- 8.1 A quorum for the Hearing is a majority of the members.
- 8.2 Any person or body residing or with an interest in property in the Village 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.
- 8.3 Any person represented in accordance with Subsection 8.2, whether or not also attending in person, shall be deemed to be a party attending the Hearing.
- 8.4 Evidence at a Hearing may be given orally or in writing.
- 8.5 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 Chairperson may direct until all persons interested in the Appeal have been afforded an opportunity to present their evidence and arguments.
- 8.6 The Board may adjourn a Hearing from time to time and may examine the property affected by the Appeal and surrounding properties.
- 8.7 The Board and its members shall not receive representations or evidence except at a properly constituted Hearing.
- 8.8 No member of the Board shall discuss the merits of the Appeal other than with a member of the Board, the Secretary, or a legal advisor to the Board, before the Board has reached a decision.
- 8.9 If the Appellant fails to appear at the Hearing or any adjournment thereof, the Board may proceed to decide the Appeal in the Appellant's absence.

## **9. DECISION OF THE BOARD**

- 9.1 The decision of the Board shall be by a majority of those members present and made within seven (7) days of the Hearing.
- 9.2 The Secretary shall:
- 9.2.1 Within seven (7) days of the Board making its decision on an Appeal, send by registered mail or otherwise deliver the written decision of the Board to the Appellant, all persons who made representation at the Hearing, and the Manager of Building, Bylaws and Licensing.

- 9.2.2 Maintain a record of all variances and decisions given by the Board.
- 9.2.3 Ensure that the decisions shall be available for viewing by the public at all times during normal office hours.

**10. COMPENSATION**

**10.1** Members of the Board must not receive compensation for their services as members but must be paid reasonable and necessary expenses that arise directly out of the performance of their duties.

READ A FIRST TIME THIS	13 <sup>th</sup>	DAY OF	November	, 2007.
READ A SECOND TIME THIS	13 <sup>th</sup>	DAY OF	November	, 2007.
READ A THIRD TIME THIS	13 <sup>th</sup>	DAY OF	November	, 2007.
RECONSIDERED AND ADOPTED THIS	26 <sup>th</sup>	DAY OF	November	, 2007.

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Morley H. (Andy) Anderson, Mayor

Certified to be a true and correct copy  
of Bylaw No. 750 as adopted by Council.

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Thomas H. Clement, Chief Administrative Officer

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Thomas H. Clement, Chief Administrative Officer

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