

CITY OF SURREY

BY-LAW NO. 17282

A by-law to provide for the establishment
of a Board of Variance.

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As amended by By-law: 19485, 01/22/18

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WHEREAS the City Council of the City of Surrey has adopted Zoning By-laws, being "Surrey Zoning By-law, 1979, No. 5942" and "Surrey Zoning By-law, 1993, No. 12000";

AND WHEREAS pursuant to Section 899 of the *Local Government Act* there shall be established, by bylaw, a Board of Variance (the "Board");

NOW, THEREFORE, the City Council of the City of Surrey ("Council"), in open meeting assembled, ENACTS AS FOLLOWS:

ESTABLISHMENT

1. The Board, established by previous by-laws of the City, is continued and shall consist of five (5) members appointed by Council.
2. Subject to Section 3, each member of the Board shall hold office for a term of three (3) years or until the member's successor is appointed.
3. Council may rescind an appointment to the Board at any time.
4. A majority of the Board is a quorum.
5. In the event of the death, resignation or removal from office of a member of the Board, the remaining members shall constitute the Board until the appointment of a successor.

6. Members of the Board shall not receive compensation for their services other than allowances for actual expenses reasonably and necessarily incurred in the performance of their duties. Council shall include in its annual budget the funds necessary to pay for the costs of the Board.
7. The members of the Board must elect one of their members as Chair on an annual basis. The Chair may appoint a member of the Board as acting chair to preside in the absence of the Chair.

APPEAL PROCESS & FEES

8. The Board shall hear and determine applications as specified under Section 901 and Section 902 of the *Local Government Act*.
9. Any person who wishes to exercise the right of application before the Board shall deposit with the City Clerk a notice of application which shall state the description of the property which is the subject of the application, the grounds of application, supporting documentation, and contact information of the applicant or applicant's agent.
10. A notice of application received less than twenty (20) days prior to the next scheduled hearing of the Board will be considered at the subsequent hearing of the Board.
11. Every person submitting a notice of application to the Board shall pay to the City, at the time of application, the application fee as set out in Schedule E of "Surrey Fee Setting By-law, 2001, No. 14577", as amended (the "Fee Setting By-law"). A notice of application will not be processed or referred to the Board unless and until proof of payment has been provided to the City Clerk.
12. An application may only be deferred once at the request of the applicant. Subsequent requests for deferment will require payment of the application fee by the applicant as set out in Schedule E of the Fee-Setting By-law.

13. Rebates of a portion of the application fee shall be made according to the following conditions:
 - (a) After a notice of application has been received, but prior to initiation of the public notification process, a 90% rebate shall be made to the person who paid the application fee if an appeal to the Board is unnecessary, or if an appeal is withdrawn.
 - (b) After a notice of application has been received, and following commencement of the public notification process, but prior to the hearing of an application by the Board, a 50% rebate shall be made to the person who paid the application fee if an appeal to the Board is unnecessary, or if an appeal is withdrawn.
 - (c) After the hearing of an application, the applicant is not entitled to a rebate of the application fee.

SECRETARY DUTIES

14. The Secretary to the Board (the "Secretary") shall be appointed by the City Clerk. In addition to recording the decisions of the Board at its meetings, the Secretary shall:
 - (a) receive notices of application and present them to the Board;
 - (b) cause such notices of application or of meetings of the Board to be published or served as directed by the Board or its Chair;
 - (c) prepare, maintain and preserve the minute book and other business of the Board;
 - (d) notify applicants and City officials, in writing, of the decisions of the Board; and
 - (e) perform such other duties as are customary to the office of the Secretary.
15. The Secretary shall examine the notices of application as submitted and may request applicants to furnish further information as may be necessary for the proper understanding of the nature of the application.
16. The Secretary shall notify the Chair and Board members of a notice of application one week prior to the hearing of the application. Five business days notice of the hearing shall be mailed or otherwise delivered by the Secretary:

- (a) to the applicant, directed to the contact information described in the notice of application; and
- (b) to the owners and occupiers of the properties adjacent to the subject property, including those across dedicated rights-of-way and highways.

CONDUCT OF HEARING

- 17. At the hearing of an application, the Board shall act in good faith and fairly listen to both sides before arriving at a decision. The parties shall be given a chance to correct any statement made at the hearing and contradict it if prejudicial to their view. All hearings and deliberations of the Board shall be open to the public except those hearings or portions of hearings that are closed to the public under the provisions of Section 90(i) of the *Community Charter*.
- 18. The Board shall make its decision based on the written application materials placed before the Board by the Secretary, as well as on the written and verbal submissions presented at the hearing.
- 19. Before reaching a decision on the application before it, the Board may require further information and may defer the hearing from time to time as the Board may deem advisable.
- 20. The applicant may request deferral of the hearing if the applicant notifies the Secretary of such request prior to the hearing and the Board may grant a deferral.
- 21. In the event of an applicant failing to appear at the hearing of the application and no deferral having been requested, or in the event of the applicant being present at the hearing and failing to proceed with the application when called upon by the Secretary to do so, the application may be considered or deferred at the discretion of the Board.
- 22. The applicant may withdraw the application appeal by a written request filed with the Secretary at any time prior to the hearing or may withdraw the application orally at the hearing.

23. An applicant appearing before the Board shall have the right to be represented by counsel.
24. The decision in writing of all or of a majority of the members of the Board is the decision of the Board.
25. The decision of the Board shall be mailed or otherwise delivered by the Secretary to the applicant, directed to the contact information described in the application, and shall be deemed good and sufficient notification of the Board's decision.
26. In the event of the Board members being equally divided, the application shall be disallowed.
27. At the conclusion of the hearing, the Board may render its decision or may adjourn the application and render its decision at a subsequent meeting.
28. The decision, and the reasons for the decision, of the Board shall be recorded in writing by the Secretary, and the Secretary shall provide the written decision and written reasons for the decision to the applicant and City officials.
29. If an application is allowed by the Board:
 - (a) the Board may set a time within which the lawful construction of the building, structure or manufactured home park must be completed and the construction is not completed within that time; or
 - (b) if that construction is not substantially started within two (2) years of the Board's decision, or within a longer or shorter time period established by the Board in its decision,then the permission or exemption granted by the Board shall terminate and the provisions of the applicable by-law or section of the *Local Government Act*, as the case may be, shall apply.
30. All decisions of the Board are final and binding except as provided for in Section 902(3) of the *Local Government Act*.
31. "Surrey Board of Variance By-law, 2004, No. 15317", as amended, is hereby repealed.

32. This By-law may be cited for all purposes as "Surrey Board of Variance Establishment By-law, 2010, No. 17282".

PASSED FIRST AND SECOND READINGS on the 15th day of November, 2010.

PASSED THIRD READING, AS AMENDED on the 29th day of November, 2010

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 13th day of December, 2010.

_____MAYOR

_____CLERK

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