This Bylaw has been consolidated for Convenience only and includes all Amendments to the text up to: ***June 15, 2023***

BYLAW NO. 2494

REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

BYLAW NO. 2494, 2009

A bylaw to establish a Board of Variance for Electoral Areas "A", "C", "D", "E", "F", "G", "H" and "I"

WHEREAS Division 15 of Part 14 of the *Local Government Act* requires a local government that has adopted a zoning bylaw to establish a Board of Variance;

AND WHEREAS Electoral Area "A"; Electoral Area "C", Electoral Area "D", Electoral Area "E", Electoral Area "F", Electoral Area "G", Electoral Area "H" and Electoral Area "I" have adopted a zoning bylaw;

NOW THEREFORE, the Board of the Regional District of Okanagan-Similkameen in open meeting assembled enacts as follows:[i]

1. Establishment[ii]

A Board of Variance having jurisdiction for Electoral Area "A"; Electoral Area "C", Electoral Area "D", Electoral Area "E", Electoral Area "F", Electoral Area "G", Electoral Area "H" and Electoral Area "I" of the Regional District of Okanagan-Similkameen, and as shown on Schedule 'A', is hereby established.

2. Membership and term of appointment

a) The Board of Variance shall consist of three members.

b) The appointment of members to a Board of Variance shall be by resolution of the Board of the Regional District.

c) Members of the Board of Variance shall be appointed for a Three (3) year term; such term beginning on the date of appointment and ending on December 31 in their third year.[iii]

[i] Amendment Bylaw No. 2494.02, 2018 – adopted October 18, 2018.
[ii] Amendment Bylaw No. 2494.02, 2018 – adopted October 18, 2018.
[iii] Amendment Bylaw No. 2494.01 – adopted March 3, 2011.

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d) Members of the Board of Variance may be reappointed for a further term or terms.

e) In accordance with the Local Government Act, employees, directors or alternate directors of the Regional District or members of an advisory planning commission may not be appointed as a member of the Board of Variance, but they may attend meetings in a resource capacity.

f) All members of the Board of Variance shall serve without remuneration for meeting attendance except for any reasonable and necessary expenses that arise directly out of the performance of their duties and paid at rates provided for in the Regional District remuneration and expenses bylaw.

g) Upon resignation, death or removal of a member during his or her term of office, the Board of the Regional District may by resolution appoint a successor who shall hold office during the remainder of the term of the former member.

3. Meetings[iv]

a) All meetings of the Board of Variance shall be open to the public, unless otherwise authorized pursuant to Section 90 of the *Community Charter*.

b) A meeting of the Board of Variance shall be held on the third Monday of each month at the Penticton office of the Regional District.

c) All meetings of the Board of Variance may include participation by means of electronic or other communication facilities, or a combination of both.

d) Two (2) members of the Board shall be deemed to be a quorum.

e) If a quorum is not present within 15 minutes after the time fixed for a meeting, the Board must direct staff to:

i) record the names of the member present;

ii) advise any applicants and persons in attendance at the meeting that the meeting must adjourn due to lack of quorum and of the date, time, and place to reconvene the meeting; and

iii) adjourn the meeting.

f) The applicant 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 application have been afforded an opportunity to present their evidence and arguments.

g) The Board of Variance shall hear all representations presented either orally or in writing at a meeting.

[iv] Amendment Bylaw No. 2494.03, 2023 – adopted June 15, 2023.

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h) The Board may adjourn a meeting from time to time, and may reconvene without further notice provided that the time, date and place of reconvening is announced at the adjournment.

i) If an applicant or other person(s) notified do not appear at a meeting of the Board of Variance or any adjournment thereof, the Board may proceed to decide the appeal in their absence.

j) The Board of Variance will not consider any oral or written submissions on an application except at the meeting of the Board at which that application is to be considered.

k) Members of the Board of Variance may, at their discretion, view the land which is the subject of the application or lands which may be affected by an application prior to a meeting at which that application is to be considered.

l) The Chair of the Board of Variance in consultation with the Secretary and all other members of the Board of Variance may call a special meeting of the Board.

4. Chair and secretary

a) The Board of Variance shall choose, at the first meeting in each and every year, a chair from among its appointed members.

b) In the event the chair is not in attendance within 15 minutes after the time appointed for a meeting, the Board of Variance shall appoint an acting chair for the duration of the meeting.

c) The chair may be removed from the position as chair by a majority vote of the Board of the Regional District.

d) The officer responsible for corporate administration or another person designated by him or her shall act as secretary to the Board of Variance.

e) *deleted*.[v]

f) give written notice of any decision of the board to the appellant;

g) forward a copy of the minutes of hearings to the Board of the Regional District for their information.

5. Decisions

The deliberations, and the decision of the Board to either grant or deny an order must be made in the presence of the applicant, and any other persons notified in connection with that application, if in attendance at the meeting.[vi]

[v] Amendment Bylaw No. 2494.03, 2023 – adopted June 15, 2023.

[vi] Amendment Bylaw No. 2494.01 – adopted March 3, 2011

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6. Applications

An application to the Board of Variance shall be made in accordance with the requirements of Section 7 of this bylaw, along with an application fee as specified in the Regional District's Fees and Charges Bylaw.[vii]

7. Application Requirements[viii]

a) Authorization

i) An application to the Board of Variance (BoV) shall be made to the Chief Administrative Officer in writing and on the appropriate form, and shall be:

.1 made by the owner(s) of the subject property or by a person authorized by all property owners(s);

.2 made on the appropriate form designated by the CAO; and

.3 accompanied by the appropriate application fee outlined in the Fees and Charges Bylaw.

b) Proposal Summary

i) An outline of the type of development or land use proposed, including:

.1 a description of the variance requested and reasons or rationale (e.g. hardship) for that proposal.

c) State of Title Certificate

i) a copy of the Land Title Office search print, issued not more than thirty (30) days prior to the application date for any parcel of land subject to the application; and

ii) a copy of all non-financial charges (i.e. covenants, easements and rights-of-way, etc.) registered on the subject property(s).

d) Site Plan

i) a site plan of the proposed development drawn to scale and showing dimensions, and include the following (as applicable):

.1 north arrow and scale;

.2 dimensions and boundaries of property lines, rights-of-way, covenant areas and other easements;

.3 location and dimensions of existing and proposed structures and setbacks (including projections and overhangs) to parcel lines, rights-of-way, and easements;

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[vii] Amendment Bylaw No 2494.01 – adopted March 3, 2011

[viii] Amendment Bylaw No.2494.01 – adopted March 3, 2011

.4 location of existing and proposed access roads, driveways, vehicle parking spaces, pathways, screening and fencing;

.5 natural and finished grades of site, at buildings and retaining walls (indicate source of grade data);

.6 location of any physical or topographical constraints (e.g. watercourses, shorelines, ravines, wetlands, steep slopes, bedrock outcrops, etc);

.7 location of all existing and proposed water lines, wells, septic fields, and sanitary sewer and storm drain facilities, including sizes; and

.8 proposed covenant areas (if any).

e) Development Plans (drawn to scale, in metric)

i) detailed drawings of the proposed development, including building sections, elevations, finishes, floor plans, landscaping, access roads, driveways, vehicle parking spaces, pathways, and screening and fencing proposed for the site;

ii) a project summary sheet outlining density and number of dwelling units, site coverage, heights, setbacks, and other relevant data; and

iii) location and width of existing or proposed access(es) to the property, driveways manoeuvring aisles and parking layout.

f) Site Surveys

i) if a proposed development involves a variance to the siting or building envelope of an existing structure a current sketch plan, certified by a BC Land Surveyor, in metric, shall be required.

8. Application Processing Procedures[ix]

a) Upon receipt of an application accompanied by the required fees and attachments, Development Services staff will open a file and issue a fee receipt to the applicant.

b) Development Services staff will review the application to determine whether it is complete and, if incomplete, will request the required information from the applicant.

c) Development Services staff will evaluate the proposal to ensure that the proposed variance can be realised through a Board of Variance appeal (staff may conduct a site visit to view the property as part of the evaluation process). Where it is uncertain, the Board of Variance shall determine whether a matter for its consideration falls within its jurisdiction.

d) Development Services staff will refer the application to all applicable Regional District departments.

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[ix] Amendment Bylaw No. 2494.01 – adopted March 3, 2011

e) Received comments will then be incorporated into a technical report to the Board of Variance.

f) *deleted*.[x]

g) A notice of Hearing is delivered to Board of Variance members and all owners and occupiers of neighbouring properties.

h) On the date of the Hearing, the Board of Variance receives written and verbal representations from the applicant and neighbours.

i) After presentations by the applicant and neighbours are heard, the Board of Variance considers the application and makes a decision. The decision of the Boardof Variance is final.

j) Once the Board of Variance minutes have been prepared, the applicant will be notified in writing of the outcome.

9. Relation to Local Government Act and severability

a) This bylaw is not intended to conflict with any provision of the Local Government Act relating to boards of variance nor to fetter any statutory authority of the Regional District in relation to a Board of Variance or its members.

b) If any section or subsection of this bylaw is found to be invalid it may be severed without affecting the validity of the remainder of the bylaw.

10. Citation and repeal

a) This Bylaw No. 2494, 2009 may be cited for all purpose as the Regional District Okanagan-Similkameen Board of Variance Bylaw No. 2494, 2009.

b) Bylaw No. 992, 1987 being 'Board of Variance Bylaw No. 992, 1987' and all amendments thereto are hereby repealed.

READ A FIRST, SECOND, AND THIRD TIME this 6th day of August, 2009.

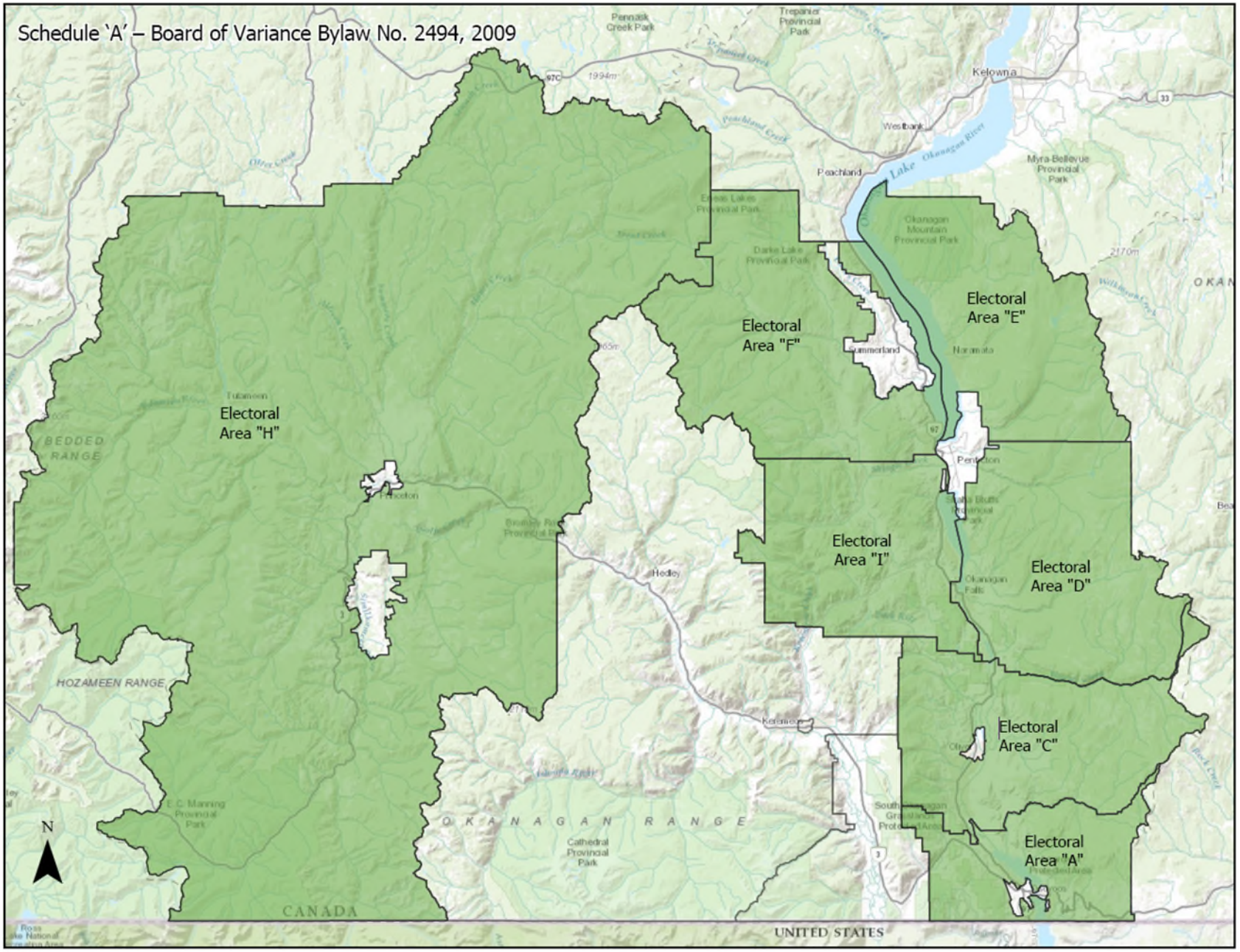
ADOPTED this 6th day of August, 2009.

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Chair Chief Administrative Officer

[x] Amendment Bylaw No. 2494.03, 2023 – adopted June 15, 2023.

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Schedule 'A' – Board of Variance Bylaw No. 2494, 2009
Electoral Area "H"
Electoral Area "F"
Electoral Area "E"
Electoral Area "I"
Electoral Area "D"
Electoral Area "C"
Electoral Area "A"
OKANAGAN RANGE
HOZAMEEN RANGE
BEDDED RANGE
CANADA
UNITED STATES
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