



## COWICHAN VALLEY REGIONAL DISTRICT

### BYLAW NO. 4262

#### A Bylaw to Establish a Board of Variance

---

WHEREAS Section 536 of the *Local Government Act* provides that where a local government has adopted a zoning bylaw, the local government must establish a board of variance;

AND WHEREAS pursuant to Section 539 of the *Local Government Act*, the bylaw establishing a Board of Variance must set out procedures to be followed by the Board of Variance;

NOW THEREFORE the Board of the Cowichan Valley Regional District, in open meeting assembled, enacts as follows;

#### 1. CITATION

This bylaw shall be cited for all purposes as the “**CVRD Bylaw No. 4262 - Board of Variance Establishment Bylaw, 2019**”.

#### 2. ESTABLISHMENT

A Board of Variance is hereby established for Electoral Areas A, B, C, D, E, F, G, H and I of the Cowichan Valley Regional District.

#### 3. JURISDICTION

The Board of Variance shall hear and determine applications, on the grounds and to the extent accorded by the *Local Government Act*, Section 540 [*Variance or exemption to relieve hardship*] and Section 543 [*Exemption to relieve hardship from early termination of land use contract*] and appeals under Section 544 [*Extent of damage preventing reconstruction as non-conforming use*].

#### 4. APPOINTMENT

- a. Board of Variance members are appointed by the Regional Board.
- b. A Board of Variance consists of three (3) people, a majority of which constitutes a quorum of the Board.
- c. The members of the Board of Variance shall elect one (1) of their members as Chairperson. The Chairperson may appoint a member of the Board of Variance as Acting Chairperson to preside in the absence of the Chairperson.
- d. Each member appointed shall hold office for a term of three (3) years or until a successor is appointed, but a person may be re-appointed for a further term or terms.

- e. If no successor has been appointed at the end of the 3-year period, the appointment continues until the time that a successor is appointed.
- f. The Regional Board may remove any or all appointees.
- g. Board of Variance members serve without remuneration, but they may be paid reasonable and necessary expenses that arise directly out of the performance of their duties.

## **5. APPLICATION PROCEDURES**

- a. Applications to the Board of Variance must include a completed application form with supporting materials and applicable fees, in accordance with the CVRD Development Application Procedures and Fees Bylaw.
- b. The Land Use Services Department shall provide technical support to the Board of Variance, including the following:
  - i. Notify the Board of Variance that a complete application has been received;
  - ii. Establish the date, time and location for the meeting at which the Board of Variance will consider the application;
  - iii. Provide a written report to the Board of Variance in respect to an application and relevant legislation and provide a copy of the report to the applicant in advance of the meeting at which their application will be considered;
  - iv. Provide notice of an application to all owners and tenants in occupation of the subject property and adjacent lands, stating the matter of the application and the date, time and place where the application will be considered, which shall be not less than 10 days before the date of the meeting, and in accordance with the *Local Government Act*;
  - v. Prepare the agenda and minutes for each Board of Variance meeting;
  - vi. Attend the meeting and respond to any questions from the Board of Variance;
  - vii. Provide to the Board of Variance and the applicant copies of any written submissions received in advance of the meeting;
  - viii. Provide written notice to the applicant of a Board of Variance decision; and
  - ix. Maintain a record of all decisions of the Board of Variance and ensure that the record is available for public inspection during normal business hours.

## **6. BOARD PROCEDURES**

- a. The Board of Variance may establish procedures for meetings, provided such procedures do not conflict with this bylaw, the *Local Government Act* or the *Community Charter*.
- b. The Board of Variance may inspect the property or structure which is the subject of the application.
- c. The Board of Variance must not hear any oral or written submissions regarding the application except at a meeting to consider the application.
- d. The applicant must be given the first opportunity to address the Board of Variance, after which, submissions may be presented by the public in the order determined by the Chair of the meeting, until all persons wishing to make a submission relevant to the application have been given an opportunity to be heard. The Chairperson may permit the Land Use Services Department representative to provide information to the Board.
- e. At the conclusion of the meeting for an application, the Board of Variance may:
  - i. Approve or deny the application and provide reasons for the decision;
  - ii. Request further information from the applicant, the Land Use Services Department staff or any person who has made a submission to the Board and adjourn the meeting for that purpose;

- iii. Reserve its decision and provide a written decision at a later date; and
- iv. Set a limit on the length of time an approval is valid.
- f. If an applicant or representative does not attend the meeting for the application, the Board of Variance may adjourn the meeting or make a decision in the absence of the person.
- g. A decision of the Board of Variance is final, except for where an appeal is provided in Section 544(3) of the *Local Government Act*.

**7. SEVERABILITY**

If any section, sentence, clause, phrase or word of this bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this Bylaw.

**8. REPEAL**

CVRD Board of Variance Bylaw No. 2475, 2003 is repealed.

**9. FORCE AND EFFECT**


This bylaw shall take effect upon its adoption by the Regional Board.

READ A FIRST TIME this 27<sup>th</sup> day of March, 2019.

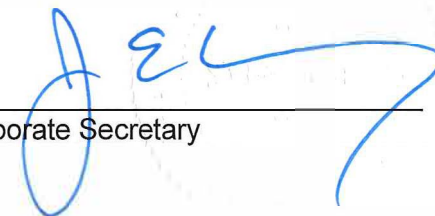
READ A SECOND TIME this 27<sup>th</sup> day of March, 2019.

READ A THIRD TIME this 27<sup>th</sup> day of March, 2019.

ADOPTED this 27<sup>th</sup> day of March, 2019.



\_\_\_\_\_  
Chairperson



\_\_\_\_\_  
Corporate Secretary