

# **COLUMBIA SHUSWAP REGIONAL DISTRICT**

## **BOARD OF VARIANCE BYLAW 647**

**THIS CONSOLIDATED BYLAW IS NOT INTENDED TO BE USED FOR LEGAL PURPOSES**

**CONSOLIDATED FOR CONVENIENCE ONLY WITH**

**BYLAW No. 647-1**

**May 23, 2014**

**INFORMATION SHEET ON THE BYLAWS**

**WHICH WERE CONSOLIDATED INTO BYLAW NO. 647**

**BYLAW NO. 647-1 – ADOPTED APRIL 17, 2014**

- deleted Sections 2.6 and 2.7 in their entirety and replaced it with new 2.6
- deleted Section 3.2.5 in its entirety and replaced it with new 3.2.5
- deleted 3.2.6 in its entirety and replaced it with new 3.2.6
- deleted Part 4 Meetings in its entirety and replaced it with new PART 4 NOTICE OF APPEAL AND APPLICATION FEE
- deleted Part 5 Hearing Schedule in its entirety and replaced it with PART 5 MEETINGS
- deleted Part 6 Conduct of Hearing in its entirety and replaced it with PART 6 ELECTRONIC PARTICIPATION AT MEETINGS
- deleted Part 7 Notice of Appeal and Application Fee in its entirety and replaced it with PART 7 CONDUCT OF MEETING
- deleted Part 9 Decision in its entirety and replaced it with PART 9 DECISION

# COLUMBIA SHUSWAP REGIONAL DISTRICT

## BYLAW NO. 647

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

WHEREAS the Board of Directors of the Columbia Shuswap Regional District has adopted a zoning bylaw;

AND WHEREAS under the *Local Government Act*, the Board of Directors of the Columbia Shuswap Regional District must establish, by bylaw, a Board of Variance;

NOW THEREFORE the Board of Directors of the Columbia Shuswap Regional District in open meeting assembled HEREBY ENACTS as follows:

#### **PART 1 DEFINITIONS**

1.1 In this Bylaw the following definitions apply:

"Board" means Board of Variance;

"Chairperson" means the Chairperson of the Board of Variance;

"Notice of Appeal" means notice of an application for an order under the *Local Government Act* and this bylaw;

"Regional District" means the Columbia Shuswap Regional District;

"Secretary" means the Secretary to the Board of Variance.

#### **PART 2 ESTABLISHMENT**

2.1 The Board of Variance for the Columbia Shuswap Regional District is established.

2.2 The Board will consist of three (3) members appointed by and at the pleasure of the Board of Directors of the Regional District.

2.3 The appointments are for the later of

.1 three (3) years, and

.2 if no successor has been appointed at the end of the three year period, until the time a successor is appointed.

2.4 The members of the Board must elect one of their members as Chairperson, and the Chairperson may appoint a member of the Board as Acting Chairperson to preside in the Chairperson's absence.

2.5 A person who is a member of an advisory planning commission or an officer or employee of the Regional District is not eligible to be appointed to the Board.

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2.6 Members of the Board must not receive compensation for their services as a member, but will be paid reasonable and necessary expenses that arise directly out of the performance of their duties.

### **PART 3 SECRETARY**

3.1 The Board of appoints

.1 the Manager of Development Services;

.2 his or her deputy; or

.3 any Development Services Assistant or Planner designated from time to time to act in the place of the Manager (when the Manager is absent or otherwise unable to act),

as the Secretary to the Board of Variance.

3.2 The responsibilities of the Secretary are to:

.1 receive notices of appeals made pursuant to the Act;

.2 notify the Chair of the Board of the receipt of the appeal if it is within the Board's jurisdiction;

.3 determine whether the appeal seeks to vary a matter covered in a land use contract, a permit under Part 26 or Part 27, a flood plain specification under the Act or a registered covenant under the Land Title Act or of the Land Registry Act, and to notify the applicant that the appeal is outside the jurisdiction of the Board and will not proceed further; or

determine whether the appeal seeks a variance or exemption to relieve hardship with respect to compliance with the Zoning Bylaw or Subdivision Bylaw requirements, or with respect to the prohibition on an alteration or addition to an existing non-conforming structure, or the Building Inspectors' determination of the amount of damage to a non-conforming structure, which are within the jurisdiction of the Board;

.4 ensure that proper notification is given to all Board members, the local government Building Inspector, the appellant and the surrounding property owners, affected by the appeal, in compliance with this bylaw;

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.5 prepare an agenda for the meetings, and distribute said agenda to the members of the Board, and to the Building Inspector and Manager, Development Services, for the Regional District;

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.6 attend the meetings, record the minutes, and attend to the processing of any correspondence arising there from; and

- .7 keep proper records of the Board proceedings, maintain a record of all decisions of the Board and make them available to the public in the Regional District office, during normal business hours.

BL647-1 **PART 4 NOTICE OF APPEAL AND APPLICATION FEE**

4.1 Any person desiring to appeal to the Board must file a written letter attached to a Board of Variance application, with the Secretary of the Board. The application shall include the following documents:

- .1 The notice of appeal signed by the property owner, setting out in detail the grounds upon which the appeal is based and the relief sought. If the appeal is submitted by an agent, written authorization from the owner must accompany the appeal;

- .2 One complete set of construction drawings for the presentation at the Board of Variance meeting plus one copy of each relevant page of the construction drawings reduced to 8 1/2 inch by 11 inch size for circulation to the Board members prior to the meeting. The Secretary to the Board shall determine which page(s) are relevant to the appeal; and

- .3 A site plan, 8 1/2 by 11 inch in size, drawn to scale and detailing the proposed development with the siting distances from the respective property lines.

4.2 If the application is made under Section 901(1)(b) of the Act, the application must be filed with the Secretary of the Board within thirty (30) days from the date of the determination made under Section 911 (8) of the Act, by the Building Inspector.

4.3 The Secretary, upon the filing of an application for an order, must notify the Chairperson of the appeal and prepare a public notice of appeal, and the notice must state the subject matter of the application and determine a meeting date and time at which to hear the matter.

4.4 Upon determination of the meeting date, the Secretary must send, by mail, or otherwise deliver, not less than ten (10) days prior to the date of the meeting, notice of the meeting to:

- .1 The members of the Board;

- .2 The appellant;

- .3 Agent for the appellant;

- .4 The registered owners as shown on the last revised assessment roll and all occupiers of all real property located within 100 meters of the parcel which is the subject of the appeal, including those separated by private or public rights-of-way;

- .5 The Manager of Development Services; and

.6 If an appeal under 902(2), the official whose interpretation is being appealed.

- 4.5 The Secretary must, upon receipt of any notice of appeal, or of any written evidence entered before the meeting, including staff reports, permit the same to be inspected at the Secretary's office during regular office hours.
- 4.6 At the time of filing a notice of appeal, the applicant must pay the Regional District an application fee as outlined in Columbia Shuswap Regional District Development Services Application Fees Bylaw No. 4000; as amended or replaced from time to time.
- 4.7 Applicants who withdraw an application for an order prior to the Secretary preparing the notice of appeal for advertising and circulating to Regional District staff and Board of Variance Members will receive a 50% refund of the application fee."

BL647-1 **PART 5 MEETINGS**

- 5.1 The Chairperson of the Board must call a meeting of the Board when an applicant deposits a complete application for an order of the Board with the Secretary to the Board.
- 5.2 Following the receipt of an application for an order, the Chairperson must set the date for the meeting of the appeal and the Secretary must deliver and otherwise provide notice of the meeting in accordance with Part 4 and the *Local Government Act*.
- 5.3 The Chairperson of the Board, in consultation with the Secretary and all available members of the Board, may call a special meeting of the Board to be held at any time.
- 5.4 The Chairperson of the Board must convene the Board on the date of the meeting and at the time and place set out in the notice.
- 5.5 The Board must hear all submissions made to it.
- 5.6 The deliberations of the Board must be open to the public.
- 5.7 Voting:
  - a) All members of the BOV, including the Chair, must vote on every motion unless they have declared a conflict of interest and left the meeting.
  - b) Any member present who does not vote is counted as having voted in the affirmative.

c) A tie vote on a motion results in that motion being defeated.

5.8 A quorum for a Board meeting is two (2) members of the Board.

BL647-1 **PART 6 ELECTRONIC PARTICIPATION AT MEETINGS**

6.1 A member who is unable to attend a Board meeting may participate in the meeting by means of electronic or other communication facilities provided prior arrangements have been made through communication with the Chairperson and Secretary.

6.2 The number of consecutive meetings that may be attended by any member by means of electronic participation may not exceed two (2).

6.3 The member presiding at the meeting must not participate electronically.

6.4 At least one member of the Board must be present in the designated meeting location identified in the public notice.

6.5 The facilities must enable the meeting's participants to hear, or watch and hear each other.

6.7 A member participating by audio means must indicate his or her vote verbally.

6.8 Nothing in this bylaw shall be construed to guarantee any member electronic access to a meeting. Electronic participation will be restricted by equipment and facility capability. Equipment failure or other occurrence that prevents or limits electronic participation will not result in meeting adjournment unless the failure results in loss of quorum.

BL647-1 **PART 7 CONDUCT OF MEETING**

7.1 Any person or body with interest in property within the Regional District is entitled to be heard at the meeting and is entitled to be represented by an agent duly appointed in writing.

7.2 Any person represented, in accordance with subsection 6.1, whether or not also attending in person, is deemed to be a party attending the meeting.

7.3 Submissions at a meeting may be made orally or in writing.

7.4 The applicant for an order must be given the first opportunity to present their submission, and thereafter, submissions and arguments shall be presented in such sequence as the Chairperson, acting reasonably, may direct until all parties to the appeal have been afforded an opportunity to present their submissions.

7.5 The Board may view the property affected by the appeal and surrounding properties. The Board may adjourn the meeting from time to time and may reconvene without further published notice if the time, date, and place of reconvening is announced at the adjournment.

- 7.6 The Board must not hear oral evidence or discuss the merits of the appeal with any person who is not a member of the Board or the Secretary, except at a regularly scheduled meeting held to hear the matter.
- 7.7 If the appellant or other persons notified do not appear at the meeting or any adjournment thereof, and have not advised the Secretary in advance that they wish to be heard at another time, the Board may proceed to consider the application in their absence."

## **PART 8 CONFLICT OF INTEREST**

- 8.1 If a Board member attending a meeting of the Board considers that he or she is not entitled to participate in the discussion of a matter or to vote on a question in respect of a matter because the Board member has a direct or indirect pecuniary interest in the matter or for any other reason, the member must declare this and state the general nature of why the member considers this to be the case.
- 8.2 After making the declaration, the Board member:
- .1 Must not take part in the discussion of the matter and is not entitled to vote on any question in respect of the matter;
  - .2 Must immediately leave the meeting or that part of the meeting during which the matter is under consideration; and
  - .3 Must not attempt in any way, whether before, during or after the meeting, to influence the voting on any question in respect of the matter.
- 8.3 When the Board member's declaration is made:
- .1 The person recording the minutes of the meeting must record the member's declaration, the reason given for it, and the times of the member's departure from the meeting room, and if applicable, the member's return; and
  - .2 The person presiding at the meeting must ensure that the member is not present at the meeting at the time of any vote on the matter.

## **BL647-1 PART 9 DECISION**

- 9.1 The decision of the Board is made by a majority of those members present, and the Board must make a decision within seven (7) days of the meeting at which the application for an order was heard by the Board.
- 9.2 The Secretary must, within fourteen (14) business days (excluding Saturdays, Sundays, and Statutory holidays) of the decision, send by mail or otherwise deliver the written decision of the Board to the appellant, persons who made representation(s) at the meeting, and the local government Building Inspector, if applicable.
- 9.3 The Secretary must, within fourteen (14) business days (excluding Saturdays, Sundays, and Statutory holidays) of the decision, enter the decision in the records maintained at the Regional District office.

9.4 A decision of the Board is final.

9.5 The applicant for the order or Regional District may appeal a decision of the Board to the Supreme Court, in accordance with the provisions of the Local Government Act

**PART 10 REPEAL**

10.1 "Board of Variance Bylaw No. 562", as amended, is repealed.

**PART 11 CITATION**

11.1 This bylaw may be cited as "Board of Variance Bylaw No. 647".

READ a first time this 16<sup>th</sup> day of February, 2012.

READ a second time this 16<sup>th</sup> day of February, 2012.

READ a third time this 16<sup>th</sup> day of February, 2012.

ADOPTED this 16<sup>th</sup> day of February, 2012.

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MANAGER OF CORPORATE  
ADMINISTRATION SERVICES (SECRETARY)

\_\_\_\_\_  
CHAIR

Certified true copy of Bylaw No. 647  
as adopted.

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Manager of Corporate  
Administration Services (Secretary)