



## COWICHAN VALLEY REGIONAL DISTRICT

### BYLAW No. 4391

#### A Bylaw to Establish and Set Out Procedures for a Board of Variance

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**WHEREAS** the Board of the Cowichan Valley Regional District, having adopted one or more zoning bylaws for the electoral areas, is required in accordance with the *Local Government Act* to establish a Board of Variance;

**WHEREAS** the Board may impose fees in relation to processing applications and associated costs of administration, advertising and inspections, and may recover the costs of its services by various methods;

**AND WHEREAS** a Bylaw to establish 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:

#### PART 1

##### INTRODUCTORY PROVISIONS

##### Citation

1. This bylaw may be cited for all purposes as "**CVRD Bylaw No. 4391 – Board of Variance Establishment and Procedures Bylaw, 2022**".

##### Definitions

1. In this bylaw,

**“Act”** means the *Local Government Act*;

**“Application”** means an application to the Board of Variance for an order under the *Act*, on the current Board of Variance Application Form provided by the CVRD;

**“Board”** means the Board of Variance;

**“Chair”** means the Chair of the Board of Variance;

**“CVRD”** means the Cowichan Valley Regional District;

**“General Manager”** means the the General Manager of the CVRD Land Use Services Department or a person acting in the role of the General Manager in that person’s absence;

and

**“Staff”** means an employee of the CVRD Land Use Services Department.

**Interpretation**

2. Schedules attached to this bylaw form part of this bylaw.
3. Any enactment referred to herein is a reference to an enactment of British Columbia and regulations thereto, as amended, revised, consolidated or replaced from time to time, and any bylaw referred to herein is a reference to an enactment of the CVRD Board, as amended, revised, consolidated or replaced from time to time.

**Establishment and Continuation**

4. The Board, established previously by a bylaw of the CVRD, is hereby continued.

**PART 2****APPLICATION PROCEDURES****Application Submission**

5. A person may apply to the Board for an order under the following section(s) of the *Act*:
  - a) Section 540 [variance or exemption to relieve hardship];
  - b) Section 543 [exemption to relieve hardship from early termination of land use contract]; and
  - c) Section 544 [extent of damage preventing reconstruction as non-conforming use].
6. A person making an application will submit the following to the CVRD:
  - a) A complete application, on the current Board of Variance Application Form provided by the CVRD, together with any required supporting materials, including any applicable drawings and plans, and the grounds of the application, in form and content satisfactory to the General Manager;
  - b) A title search for the land that is the subject of the application, that is dated within 30 days of the date that the application is submitted; and
  - c) Application fee as set out in Schedule A of this bylaw.
7. In addition to the materials and information required to make an application to the Board, a person making an application pursuant to Section 543 of the *Act* will submit the following materials and information to the CVRD:
  - a) A copy of the land use contract registered on title, together with any amendments to the land use contract; and
  - b) The length of the extension requested for the termination of the land use contract, the particulars of the hardship requiring the extension, and how the extension would relieve the hardship, together with any supporting documents or materials.

and such application must be made within six months of the date of adoption of the bylaw to terminate the land use contract.
8. Upon receipt of an application, staff will assess the application to determine if the application is complete, and may request that the applicant submit such further information, materials or fees as staff deem necessary to permit the Board to consider the application.

9. Once an application is deemed to be complete, staff will review the application and prepare a report for the Board.
10. If staff determine that an appeal to the Board of Variance is unnecessary, the applicant is entitled to a refund of all application fees paid in addition to the file opening fee.

#### **Withdrawal or Adjournment**

11. A person who has made an application may, at any time prior to the Board hearing date, make a request to the General Manager to withdraw the application or adjourn the Board hearing to a later date.
12. If the General Manager grants the request to withdraw the application prior to the posting of public notice pursuant to the *Act*, the applicant is entitled to a refund of all application fees paid, less the file opening fee.
13. If the General Manager grants the request to withdraw the application following the posting of public notice pursuant to the *Act*, the applicant is entitled to a refund of 50 percent of application fees paid, less the file opening fee.

### **PART 3**

#### **BOARD PROCEDURES**

##### **Administration**

14. Staff will provide notice of an application to the Board in accordance with the *Act*, and will make reasonable efforts to mail or deliver notices to the applicant and all owners and occupants of the subject property for which an application has been made, and all owners and occupants of parcels within 100 metres of the subject property, not less than ten (10) days prior to the Board meeting to hear the application;
15. Staff will prepare the agenda and provide copies of the agenda to the Board and applicant, not less than five (5) days prior to the Board meeting;
16. Staff will maintain a record of all Board decisions and ensure the record is available for public inspection during CVRD regular business hours.

##### **Meetings**

17. A quorum of the Board is two members.
18. If a quorum of the Board is not present within 15 minutes after the scheduled time of the meeting, staff will cancel the meeting and:
  - a) record the names of the persons present;
  - b) reschedule the applications to be heard at that meeting to the next available Board meeting; and
  - c) provide notice of the new meeting date and location in accordance with the *Act*.
19. At the first meeting of each calendar year, staff will call the meeting to order and the members of the Board will, by resolution:
  - a) elect one of their members as Chair; and
  - b) determine a regular day and time for hearings of the Board.

## Hearings

20. Hearings of the Board must be held in public.
21. The Board may conduct one or more hearings during a meeting; if two or more hearings are held during a meeting these hearings must not be held concurrently.
22. At the beginning of each hearing, staff will provide to the Board and the applicant any written submissions with respect to the application that were received at least 24 hours in advance of the hearing.
23. During a hearing, the Board may receive submissions either verbally or in writing.
24. The applicant will be afforded the first opportunity to make a submission to the Board, after which submissions may be presented by other persons in the order determined by the Chair of the hearing, until all persons wishing to make a submission relevant to the application have been given an opportunity to do so.
25. Other than the applicant, the total speaking time of persons making submissions to the Board during a hearing will not exceed five minutes, excluding the time taken for questions posed by Board members. The Board may, in its absolute discretion, grant a speaker additional speaking time by resolution. A resolution to grant additional speaking time is not subject to debate.
26. After persons other than the applicant have made their submissions, the applicant will be afforded a further opportunity to be heard prior to the Board making its decision.
27. The Board may, at any time, adjourn a hearing, provided either:
  - a) prior to the adjournment, the Board announces the new date and location for the hearing, wherein subsequent public notice will not be provided; or
  - b) the Board directs staff to provide notice of the new hearing or hearing date and location, in accordance with the *Act*.

## Decisions

28. At the conclusion of the hearing for an application, the Board may:
  - a) grant or deny the order requested by the applicant and provide reasons for the decision;
  - b) reserve its decision and request further information from the applicant, staff or any person who has made a submission to the Board, adjourn the meeting for that purpose, and provide a written decision at a later date;
  - c) reserve its decision and provide a written decision at a later date; and
  - d) set a limit on the length of time an approval is valid.
29. If an applicant, or their representative, does not attend the hearing for the application, the Board may adjourn the hearing in accordance with this bylaw or decide on the application in the absence of the applicant.
30. A Board member must vote in respect of an application heard by the Board member.

31. The Board will not hear any oral or written submissions, including any positional information from the applicant, staff or any other person, in respect to an application except at a hearing for the application.
32. A member of the Board will not discuss the merits or substance of an application to the Board with another member of the Board or any other person prior to the Board rendering a decision on the application except during a hearing.
33. The Board may establish additional procedures so long as they do not conflict with this bylaw.

**Notice of Decision**

34. The Board must render its decision with 30 days of the hearing.
35. Written notice of the decision on the application will be mailed or otherwise delivered to an applicant at the address provided on the application form within fourteen (14) days following the date of the decision.

**PART 4****CONFLICT OF INTEREST****Conflict of Interest**

36. If a Board member attending a meeting of the Board considers that they are 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 will declare this and immediately leave the meeting.

**PART 5****REPEAL**

37. CVRD Bylaw No. 4262 – Board of Variance Establishment Bylaw, 2019 is repealed.

READ A FIRST TIME this      23<sup>rd</sup>      day of      March,      2022.

READ A SECOND TIME this      23<sup>rd</sup>      day of      March,      2022.

READ A THIRD TIME this      23<sup>rd</sup>      day of      March,      2022.

ADOPTED this      \_\_\_\_\_      day of      \_\_\_\_\_,      2022.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Corporate Officer

**SCHEDULE A – FEES**

TYPE	FEE
File Opening Fee	\$150
Board of Variance Application Fee	\$750