

REGIONAL DISTRICT OF CENTRAL OKANAGAN

BYLAW NO. 1515

A bylaw to establish a Board of Variance for the Regional District of Central Okanagan pursuant to the *Local Government Act*.

WHEREAS the Board of the Regional District of Central Okanagan has adopted zoning bylaws and other applicable bylaw(s);

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

NOW THEREFORE, the Board of the Regional District of Central Okanagan in open meeting assembled hereby enacts as follows:

1. CITATION

1.1 This bylaw may be cited for all purposes as the “Regional District of Central Okanagan Board of Variance Bylaw No. 1515, 2023”.

2. REPEAL

2.1 Regional District of Central Okanagan Board of Variance By-law #21, and any amendments thereto are hereby repealed.

3. INTERPRETATION AND DEFINITIONS

3.1 In this Bylaw, the following terms have the following meanings:

Board means Board of Variance;

Chairperson means the Chairperson of the Board of Variance;

Corporate Officer means the RDCO employee designated the responsibilities of corporate administration and appointed by the Regional Board;

Manager of Development Services means the RDCO employee assigned the duties of supervising the development services department or their designate;

Secretary means the Secretary to the Board of Variance;

Regional Board means the Board of Directors of the Regional District of Central Okanagan;

RDCO means the Regional District of Central Okanagan.

3.2 Nothing contained in this Bylaw shall relieve any person from the responsibility to seek and comply with applicable legislation and RDCO bylaws.

4. ESTABLISHMENT & MEMBERSHIP

- 4.1 Pursuant to the *Local Government Act*, a Board of Variance for all Electoral Areas of the RDCO, consisting of three (3) members appointed by the Regional Board, is hereby established.
- 4.2 An appointment under 4.1 is for a three (3) year term consistent with the term of the Regional Board.
- 4.3 Employees, officers, Regional Board members or members of an advisory committee may not be appointed as a member of the Board.
- 4.4 Only persons who reside within the boundaries of Central Okanagan West Electoral Area and Central Okanagan East Electoral Area may be appointed as Board members.
- 4.5 Upon resignation, death, or removal of a Board member during their term of office, the Regional Board may by resolution appoint a successor who shall hold office during the remainder of the term of the former Board member.
- 4.6 Board members will not receive compensation for their services as members but will be paid reasonable and necessary expenses that arise directly out of the performance of their duties.
- 4.7 The Board members will elect one of their members as Chairperson and that Chairperson may appoint a member of the Board as Acting-Chairperson to preside in their absence.
- 4.8 A quorum of the Board for all hearings will be two (2).
- 4.9 A decision of all or a majority of the Board members present and voting at any hearing will be the decision of the Board.
- 4.10 The Corporate Officer will appoint a member of their staff to act as Secretary to the Board. The responsibilities of the Secretary are:
 - (a) to notify the Chairperson of the Board of the receipt of application;
 - (b) to ensure that proper notification is given in compliance with this Bylaw and relevant legislation;
 - (c) to prepare an agenda for the hearings, and distribute said agenda to the members of the Board and the Manager of Development Services; and
 - (d) to attend the hearings, record the minutes, and attend to the processing of any follow up correspondence.

5. PROCEDURAL GUIDELINES

- 5.1 The Board will hear and determine any application with respect to matters defined by Part 14, Division 15 of the *Local Government Act*.
- 5.2 Any person may apply to the Board by filling an application with the Manager of Development Services. The application must be:

- (a) signed by the owner of each parcel of land that is the subject of the application or by a person authorized in writing by the owner to act as their agent for the purpose of making the application;
 - (b) made on the application form prescribed by the Manager of Development Services;
 - (c) accompanied by the information required by the Manager of Development Services (as noted on the application form); and
 - (d) accompanied by the fee as set out in the Development Applications Procedures Bylaw No. 944, 2002, as amended from time to time.
- 5.3 If there is a change in ownership of a parcel of land that is the subject of an application pursuant to this Bylaw, the applicant must provide an updated Title Search and written authorization from the new owner prior to proceeding further with the application.
- 5.4 Upon receipt of an application, the Manager of Development Services will work with the Secretary and the applicant to schedule a Board hearing.
- 5.5 Notice of the hearing will be mailed, or otherwise delivered, by the Manager of Development Services, at least ten (10) days before the date set for the hearing:
- (a) addressed to the applicants and/or owners and occupiers of the land that is the subject of the application, and
 - (b) mailed or otherwise delivered to the owners and occupier of the land that is adjacent to the land that is the subject of the application.
- 5.6 All hearings by the Board will be open to the public.
- 5.7 The Board may inspect the premises which are the subject of the application.
- 5.8 Persons whose property is affected by an application to the Board have a right to be heard and give evidence at the hearing or may be represented by some other person authorized to represent them.
- 5.9 The applicant or Manager of Development Services may appeal a decision of the Board under Part 14: Division 15 of *Local Government Act*.
- 5.10 Every application that has outstanding information requirements for a period greater than twelve (12) months from the date the applicant is advised of outstanding information requirement is deemed to have been abandoned, with application fees forfeited.
- 5.11 Every application not decided within eighteen (18) months of the date of application is deemed to have expired, with application fees forfeited.
- 5.12 All applications abandoned or expired will be considered closed and shall require a new application with a new application fee, unless waived by resolution of the Regional Board.
- 5.13 No application will be made for the same variance, Board Order, or exemption, within six (6) months of the date of a previous decision.

ELECTRONIC PARTICIPATION AT MEETINGS

- 6.1 A member who is unable to attend a Board hearing may participate in the hearing by means of electronic or other communication facilities provided prior arrangements have been made through communication with the Chairperson and Secretary.
- 6.2 The Chairperson or member presiding at the meeting must not participate electronically.
- 6.3 At least one (1) member of the Board must be present in the designated meeting location identified in the public notice.
- 6.4 Nothing in this Bylaw will be construed to guarantee any member electronic access to a hearing. 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.

CONFLICT OF INTEREST

- 7.1 If a Board member attending a hearing considers that they may not be entitled to participate 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.
- 7.2 After making the declaration, the Board member must:
 - (a) not take part in the discussion of the matter and is not entitled to vote on any question in respect of the matter,
 - (b) immediately leave the hearing or that part of the hearing during which the matter is under consideration; and
 - (c) not attempt in any way, whether before, during or after the hearing, to influence the voting on any question in respect of the matter.
- 7.3 When the Board member's declaration is made:
 - (a) the person recording the minutes of the hearing must record the member's declaration, the reason given for it, and the times of the member's departure from the hearing room, and if applicable, the member's return; and
 - (b) the person presiding at the hearing must ensure that the member is not present at the hearing at the time of any vote on the matter.

DECISIONS AND VOTING

- 8.1 All applications will be decided by resolution put forward by a motion.
- 8.2 Any Board member may put forward a motion.
- 8.3 If a motion put forward by a Board member is seconded by another member, the motion must be considered by the Board.

- 8.4 All members of the Board, including the Chairperson, must vote on every motion unless they have declared a conflict of interest.
- 8.5 Any Board member present at a hearing, excluding those who have declared a conflict of interest, who does not vote is counted as having voted in the affirmative.
- 8.6 A tie vote on a motion results in that motion being defeated.
- 8.7 The decision of all or the majority of the members of the Board is a decision of the Board.
- 8.8 A decision of the Board under this Bylaw is final.
- 8.9 The Secretary will provide written notice of a Board decision to:
 - (a) the applicant;
 - (b) all those who made oral or written representations to the Board; and
 - (c) the Regional Board.
- 8.10 The *Regional District of the Central Okanagan Board Procedure Bylaw*, as amended from time to time, also applies to meetings of the Board.

READ A FIRST, SECOND AND THIRD TIME THIS DAY OF 2023
ADOPTED THIS DAY OF 2023

CHAIRPERSON

CORPORATE OFFICER