

DISTRICT OF SEHELDT

BYLAW NO. 510, 2012

A bylaw to provide for the establishment of a Board of Variance

WHEREAS the Council of the District of Sechelt has adopted a Zoning Bylaw; and

WHEREAS pursuant to Section 899 of the *Local Government Act* there shall be established by Bylaw a Board of Variance;

NOW THEREFORE the Council of the District of Sechelt in open meeting assembled enacts as follows:

1. TITLE

- (1) This Bylaw may be cited as "District of Sechelt Board of Variance Bylaw No. 510, 2012."

2. MEMBERSHIP

- (1) A Board of Variance for the District of Sechelt is hereby established and will consist of three persons appointed by the Council.
- (2) The members of the Board shall elect one of their number as Chair pursuant to procedures agreed to by the Board at its first meeting.
- (3) Each member appointed shall hold office for a term of three years or until his successor is appointed, but a person may be reappointed for further terms.
- (4) No person who: is a member of the District of Sechelt Advisory Planning Commission; or a member of the District of Sechelt Council; or is employed by the District of Sechelt, is eligible to be appointed or to sit as a member of the Board of Variance for the Municipality.
- (5) The Chair may appoint a member of the Board as Acting Chair to preside in the absence of the Chair.
- (6) If a member of the Board of Variance ceases to hold office, the remaining members constitute the Board until the appointment of a successor.
- (7) District of Sechelt Council may rescind an appointment to the Board at any time.
- (8) Members of a Board of Variance may not receive compensation for their services, but will be paid reasonable and necessary expenses that arise directly out of the performance of their duties. District of Sechelt Council shall include in its annual budget the funds necessary to pay for the expenses of the Board.

3. APPEALS/APPLICATION

- (1) Any person may appeal to the Board of Variance, for a variance to a bylaw, by completing an application to the Director of Development Services stating the grounds for the appeal. The application must be:
 - (a) signed by the owner of each parcel of land that is the subject of the appeal or by a person authorized in writing by the owner to act as the owner's agent for the purpose of making the appeal;
 - (b) made on the application form prescribed by the Director of Development Services;
 - (c) accompanied by the information required by the Director of Development Services; and
 - (d) accompanied by a fee as set out in the District of Sechelt Application and Copying Fees Bylaw No. 333, 1998 as amended from time to time.
- (2) The Board of Variance shall hear and determine an appeal by a person who alleges that compliance with any of the following would cause that person undue hardship:
 - (a) The District's zoning bylaw or mobile home bylaw respecting the siting, dimension or size of a building or structure, or the siting of a manufactured home in a manufactured home park.
 - (b) The District's environmental protection (tree) bylaw except where Council has compensated or mitigated hardship.
 - (c) The prohibition of a structural alteration or addition to a non-conforming building.
 - (d) A subdivision servicing requirement (water, fire hydrants, drainage and sewage related) in an area zoned for agricultural or industrial use.
- (3) The Board of Variance shall hear and determine an appeal by a person who alleges the determination by a District Building Inspector of the amount of damage to a building under Section 911(8) of the Local Government Act is in error.
- (4) On an application under section 12 above, where the Board of Variance finds undue hardship, the Board may authorize a minor variance from the applicable provisions of the bylaw or from Section 911(5) of the Local Government Act, only when the Board believes the variance does not:
 - (a) result in inappropriate development of the site, or;
 - (b) adversely affect the natural environment, or;
 - (c) substantially affect the use and enjoyment of adjacent lands, or;
 - (d) vary permitted uses or densities under the applicable bylaw, or;
 - (e) defeat the intent and purpose of the original bylaw.

- (5) The Board of Variance must not grant a variance that would:
 - (a) be in conflict with a covenant registered under section 219 of the Land Title Act or section 24A of the Land Registry Act;
 - (b) deal with a matter that is covered in a permit under Division 9 of the Local Government Act, including a Development Permit, Tree Cutting Permit, or Temporary Use Permit, or that is covered in Land Use Contract;
 - (c) deal with a matter covered by a phased development agreement;
 - (d) deal with a flood plain specification;
 - (e) apply to a property that
 - i. requires alterations under Heritage Conservation, or
 - ii. has been designated as a heritage building or site, or
 - iii. contains a heritage feature or characteristic in a designated heritage area, or
 - iv. for which a heritage revitalization agreement applies.
- (6) On an application under section 14 above, the Board of Variance may set aside the determination of the Building Inspector and make the determination itself as to the percentage amount of damage.
- (7) Where the Board of Variance orders a variance, it may also order that unless the construction of the building, structure or mobile home is completed within a time, fixed in the variance order, the exemption or allowance, as the case may be, terminates and the relevant bylaw applies.
- (8) The decision of the Board shall be a majority of those members present.

4. MEETINGS

- (1) The Director of Development Services, or his/her delegate is appointed as Secretary to the Board. The Board Secretary shall:
 - (a) schedule a Board of Variance Hearing meeting upon receipt of an application,

Notification

- (b) at least 10 clear days before the date set for the hearing meeting, provide notice of the hearing by mail, or otherwise delivered, and addressed to:
 - i. the applicant, owners and occupiers of the land that is the subject of the application, and
 - ii. the owners and occupiers of all properties, including those separated by a road right of way, that are adjacent to the land that is subject of the application.
- (c) at least seven days before a Hearing meeting prepare an agenda and mail or otherwise deliver it to all Board members.

- (d) keep minutes and records of the Board proceedings and make them available to the public.
 - (e) after the hearing meeting, notify the appellant/applicant in writing of the decision of the Board.
- (2) A majority of the Board is a quorum.
 - (3) All meetings shall be open to the public. Except, pursuant to the Part 4 of the Community Charter, the Board may close all or part of a meeting under certain circumstances.
 - (4) The Board of Variance shall hear evidence from the appellant and any persons who claim that his property may be affected, and any other person which the Board deems to have an interest in the appeal. Evidence at the meeting may be given orally or in writing.
 - (5) Any person or body who is entitled to be heard shall be entitled to be represented by his Solicitor or agent duly appointed in writing.
 - (6) The Board of Variance may adjourn the meeting or table an appeal, from time to time, to view the property affected or obtain additional information.
 - (7) The Board of Variance may, if it deems a particular appeal to be of sufficient importance, table the appeal to another hearing date and shall order that a public notice of the hearing be published.
 - (8) If the appellant or any person or body entitled to be heard fails to appear, the Board may proceed to decide the appeal in his absence.
 - (9) The Board of Variance shall receive evidence submitted by the appellant or by any other person or body affected and which is relevant to the hearing, but the Board is not bound by the legal or technical rules of evidence.

5. TECHNICAL SUPPORT

- (1) Technical support shall be provided by the Development Services Department.
- (2) The Director of Development Services, or his/her delegate may:
 - (a) provide written or verbal comments and make a visual presentation to the Board on each application, which may address such matters as described in sections 12, 13, 14 and 15 above;
 - (b) attend the Board of Variance meetings and respond to any questions from the Board.

6. DECISION OF THE BOARD

- (1) The decision of the Board shall be by majority of those members present.
- (2) The decision of the Board of Variance is final.
- (3) Appeal of the Board of Variance decision may only be made to the BC Supreme Court.

7. REPEAL

- (1) “District of Sechelt Board of Variance Bylaw No. 10, 1986” is hereby repealed in its entirety.

READ A FIRST TIME THIS	4 th	DAY OF	April, 2012
READ A SECOND TIME THIS	4 th	DAY OF	April, 2012
READ A THIRD TIME THIS	4 th	DAY OF	April, 2012
ADOPTED THIS	18 th	DAY OF	April, 2012

Mayor

Corporate Officer

I hereby certify that this is a true and
Accurate copy of “District of Sechelt
Board of Variance Bylaw No.510, 2012.”

Corporate Officer