

REGIONAL DISTRICT OF NANAIMO
BYLAW NO. 1621
A BYLAW TO ESTABLISH A BOARD OF VARIANCE

WHEREAS Section 899 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 900 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 Regional District of Nanaimo, in open meeting assembled, enacts the following:

1. Part 1 – Short Title

This Bylaw may be cited as “Regional District of Nanaimo Board of Variance Bylaw No. 1621, 2011”.

2. Part 2 - Establishment

A Board of Variance is hereby established for Electoral Areas ‘A’, ‘C’, ‘E’, ‘F’, ‘G’, and ‘H’ of the Regional District of Nanaimo.

3. Part 3 – Jurisdiction

The Board of Variance shall hear and determine appeals, on the grounds and to the extent, in accordance with the *Local Government Act*.

4. Part 4 - Secretary

The responsibilities of the Secretary of the Board of Variance shall be:

- a) to receive completed Board of Variance applications;
- b) to notify the Chairperson of the Board of Variance the receipt of completed Board of Variance applications;
- c) to ensure that proper notification is given in compliance with this Bylaw;
- d) to keep proper records of the Board of Variance proceedings;
- e) to appoint a representative to receive the notices of appeal when circumstances require an appointment; and
- f) to determine whether an applicant seeks a decision of the Board which would be in conflict with a covenant registered pursuant to section 219 of the *Land Title Act*, a Section 215 covenant registered before the repeal of that section, or a section 24(a) covenant pursuant to the *Land Registry Act* before the repeal of that *Act*; a requirement for a permit under Part 26 of the *Local Government Act*, or a matter which is covered in a land use contract.

5. Part 5 – Notice of Application

1. An applicant, exercising the right of appeal, shall deliver to the Secretary of the Board of Variance or appointee, a completed Board of Variance Application as outlined in the sample form contained in Schedule '1', together with such plans and technical information as the applicant or Secretary deems necessary to support the appeal including, but not limited to, the following:
 - a) two (2) survey plans (all measurements in metric) certified by a BC Land Surveyor and include topographical information as required;
 - b) two (2) site plan (all measurements in metric) to a maximum scale of 1:500;
 - c) two (2) building elevation plans (all measurements in metric) to a maximum scale of 1:100;
 - d) electronic copies in an acceptable form of a), b), and c) above;
 - e) a qualified engineer's report, completed and signed and sealed by a professional engineer with current standing in British Columbia, providing facts and recommendations with respect to drainage, topography, geotechnical consideration, or other pertinent matters;
 - f) a letter outlining the details of the appeal;
 - g) a letter of authorization from all registered property owner(s) if an agent is acting on behalf of the owner(s); and
 - h) a copy of the Certificate of Indefeasible Title (dated within the past 30 days).
2. Prior to the processing of a Board of Variance application, the applicant shall pay, to the Regional District, the fee set out in the "Regional District of Nanaimo Planning Services Fees and Charges Bylaw No. 1259, 2002" or amendments thereto.
3. Upon receipt of a completed Board of Variance Application, the Secretary of the Board of Variance shall, not less than 10 days prior to the date of the hearing, give notice of the hearing to:
 - a) the members of the Board of Variance;
 - b) the applicant;
 - c) all owners and tenants in occupation of the land that is the subject of the application; and
 - d) all owners and tenants in occupation of the land within 50 metres of the land that is the subject of the application.
4. The notice of the hearing shall state the date, time, and place of the hearing and shall include a copy of the Notice of Hearing and a summary of the application.

6. Part 6 - Hearings

1. A hearing of the Board of Variance shall be held on the second Wednesday of each month, unless otherwise varied by the Chairperson of the Board of Variance in consultation with the Secretary and all other members of the Board of Variance.
2. In the event that no completed notice of appeal is deposited with the Secretary of the Board of Variance no hearing shall be held.
3. A hearing of the Board of Variance shall be convened by the Chairperson on the date of hearing and at the time and place set out in the notice of hearing and the Board may adjourn the hearing from time to time, and may reconvene without further published notice if the time, date, and place of reconvening is announced at adjournment.

4. The Board of Variance shall hear all representations made to the Board.
5. The applicant shall be afforded the first opportunity to present evidence and arguments, and thereafter, evidence and arguments shall be presented in such sequence as the Chairperson may direct until all parties to the application have been afforded an opportunity to present their evidence and arguments.

7. Part 7 – Decision

1. A majority of the members of the Board shall constitute a quorum.
2. The decision of the Board shall be by a majority of those members present.
3. The Secretary of the Board of Variance shall, within seven days of the decision, send by mail, or otherwise, the written decision of the Board of Variance to the applicant.
4. The Secretary shall, within seven days of the decision, enter that decision in the record maintained at the Regional District office.

8. Part 8 – Repeal

1. That “Regional District of Nanaimo Board of Variance Bylaw No. 1260, 2002” and any amending bylaws thereto are hereby repealed.

Introduced and read three times this 11th day of January, 2011.

Adopted this 25th day of January, 2011.

CHAIRPERSON

SR. MGR. CORPORATE ADMINISTRATION



Development Services Department

6300 Hammond Bay Road Nanaimo, BC V9T 6N2
250-390-6510 (Nanaimo) 250-954-3798 (District 69)
1-877-607-4111 (within BC) Fax: 250-390-7511

Board of Variance Application Form

OFFICE USE ONLY

Application Fee: _____ Receipt No. _____ File No. _____

SECTION 1: DESCRIPTION OF PROPERTY
(AS INDICATED ON THE STATE OF TITLE CERTIFICATE)

Lot _____ Plan _____ Block _____ District Lot _____
Section _____ Range _____ Other Description _____
Civic Address _____
Electoral Area _____ Parcel Identifier (P I D) _____

SECTION 2: OWNER INFORMATION
(ATTACH ADDITIONAL PAGE IF MORE THAN TWO OWNERS)

1) _____ Name _____ Mailing Address _____ Town / Province _____ Postal Code _____ Telephone/ Cell _____ Fax _____ Email _____	2) _____ Name _____ Mailing Address _____ Town / Province _____ Postal Code _____ Telephone/ Cell _____ Fax _____ Email _____
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SECTION 3: AGENT INFORMATION

Name _____ Mailing Address _____ Town/Province _____

Postal Code _____ Telephone/ Cell _____ Fax _____ Email _____

SECTION 4: REASON FOR APPEAL

If/We, the registered owner(s) of the above noted property, hereby appeal to the Board of Variance for the following:

- To review a decision made by the Regional District of Nanaimo Manager of Building, Bylaw & Emergency Planning Services pursuant to Section 911(8) of the **Local Government Act**.

Or,

To determine that compliance with the following will cause undue hardship:

- Relating to siting, size and dimensions of a building or structure, or the siting of a manufactured home in a manufactured home park. (Note: use and density, including varying maximum building size provisions, will not be considered for variance)
- The prohibition of structural alteration and addition pursuant to Section 911 (5) of the **Local Government Act**.
- A subdivision servicing requirement pursuant to Section 938 (1c) of the **Local Government Act** in an area zoned for agricultural or industrial uses.

SECTION 5: APPLICATION COMPLETION CHECKLIST:
ALL MEASUREMENTS TO BE IN METRIC

- A copy of Certificate of Indefeasible Title (dated within past 30 days)
- A letter of authorization
- A letter outlining the details of the appeal
- Application Fee
- Two (2) survey plans certified by a BC Land Surveyor to a maximum scale of 1:500, showing location of existing and proposed buildings and structures and parts thereof
- Electronic copies of all plans

Additional information may be required, such as:

- Two (2) building elevation plans to a maximum scale of 1:100
- Two (2) survey plans certified by a BC Land Surveyor including topographical information
- Professional Engineer's Report
- Other _____

SECTION 6: Registered Owner's Authorization
(ATTACH ADDITIONAL PAGE IF MORE THAN TWO OWNERS)

I hereby declare that all the above noted statements and information contained in this application and supporting documents are true and correct.

Signature of Registered Owner

Date

Signature of Registered Owner

Date

In order to process your application, please provide all necessary documentation with your application. Please refer to the Board Of Variance Guide for further information. Contact the Board of Variance Secretary if you require assistance.

Submit the completed application form, required fee, plans, and supporting material to the Regional District of Nanaimo. The fee is payable to the "Regional District of Nanaimo".