

**RESORT MUNICIPALITY OF WHISTLER  
BOARD OF VARIANCE BYLAW NO. 2100, 2015**

**A BYLAW TO ESTABLISH A BOARD OF VARIANCE AND ITS PROCEDURES**

**WHEREAS** pursuant to ss. 536, 537, 538, 539 and 462 of the *Local Government Act*:

- A. A local government that has adopted a zoning bylaw must, by bylaw, establish a board of variance and in that bylaw set out the procedures to be followed by the board;
- B. The Resort Municipality of Whistler has adopted a zoning bylaw and established a board of variance;
- C. The board of variance of the Resort Municipality of Whistler is to consist of 3 persons appointed by council, who must elect one of their number as chair; and,
- D. A local government may, by bylaw, impose fees for an application to a board of variance.

**NOW THEREFORE**, the Municipal Council of the Resort Municipality of Whistler, in an open meeting assembled, **ENACTS AS FOLLOWS**:

**Citation**

- 1. This Bylaw may be cited as “Board of Variance Bylaw No. 2100, 2015”

**Definitions**

- 2. In this bylaw:

“Board” means the Board of Variance of the Municipality.

“Council” means the municipal council of the Municipality.

“General Manager” means the General Manager of Resort Experience, and includes any person holding such a position whether or not the title is changed, any duly appointed deputy of the General Manager, any person duly appointed to act in the position of General Manager, and any person the General Manager may in writing designate to perform that function in his/her absence or while he/she is otherwise unable to act.

“Member” means a person who is eligible, pursuant to the *Local Government Act*, to be a member of the Board and is appointed by Council to the Board.

“Municipality” means the Resort Municipality of Whistler.

“Secretary” means the Secretary to the Board.

**Repeal**

- 3. "Board of Variance Bylaw No. 1528, 2002" is repealed.

**Board Continued**

4. The Board, established by previous bylaws of the Municipality and consisting of three members, is continued.
5. The Board members shall elect one of their number as chair.

**Secretary**

6. The duties of the Secretary shall be performed by the Corporate Officer of the Municipality, or such other employee of the Municipality as the Corporate Officer may from time to time assign to perform one or more of the duties of the Secretary.
7. The Secretary shall:
  - a. Receive applications to the Board;
  - b. Provide copies of all applications to the members of the Board;
  - c. Keep minutes of all meetings of the Board;
  - d. Maintain a record of all decisions of the Board and make the record available for public inspection at the offices of the Municipality during regular business hours;
  - e. Give all notices required to be given by the Board under this bylaw or the *Local Government Act*, and
  - f. Notify applicants of Board decisions.

**Meetings**

8. The Board shall convene a meeting on the last Tuesday of each month except for December, unless 35 days before a scheduled meeting the Secretary has not received any applications for the Board to consider, in which case the Secretary shall notify the Board and the meeting shall be cancelled.
9. The Board may change the date of a meeting.
10. Regular meetings of the Board shall be open to the public unless the Chair in consultation with the Secretary and the other members determines the meeting is to be closed to the public pursuant to s. 90 of the *Community Charter*.
11. A quorum for a meeting of the Board is two members.
12. The Chair is a member and is entitled to vote on all matters coming before the Board.
13. If the number of votes cast by the members is equally divided for and against a motion, the motion is defeated.

**Application Requirements**

14. An application to the Board shall be made in the application form prescribed by the General Manager and shall include all of the information required, as set out in the application form and any attachments to it.

15. An application to the Board shall be accompanied by payment of the application fee of \$800.
16. If a person applies for an order under s. 540 of the *Local Government Act* the applicant shall, within seven days of the date the application is delivered, post an information sign on the land that is the subject of the application and notify the Secretary that the sign has been posted.
17. An information sign required by this bylaw shall:
  - a. be placed in a conspicuous location, be clearly legible from adjoining highways, and not be obstructed by vegetation or structures on the land;
  - b. include the words "Board of Variance Application", and the application number assigned to the application by the Municipality;
  - c. state the name of the applicant and the legal description and civic address of the subject land, and provide a brief description of the proposed variance with any measurements shown in metric units;
  - d. indicate the telephone number of the person or department at the Municipality where a person can obtain more information about the application; and
  - e. remain posted on the land and be kept in good repair until the application has been approved or refused by the Board.

#### **Application and Notification Procedures**

18. If the Secretary receives an incomplete application, or an application for an order the Board is not authorized to make, the Secretary shall notify the applicant in writing.
19. If a person delivers an application to the Secretary the Secretary shall acknowledge receipt of the application and, unless s. 18 applies, inform the applicant of the date of the meeting at which the Board will consider the application.
20. If an application is delivered to the Secretary at least 35 days before the date of a scheduled meeting of the Board, the Board shall consider the application at that meeting unless:
  - a. s. 18 applies; or,
  - b. the Secretary determines that the Board cannot properly consider the application until a subsequent meeting.
21. At least ten days before the date of the meeting at which the Board will consider an application the Secretary shall deliver by regular mail a notice:
  - a. identifying the land that is the subject of the application;
  - b. stating in general terms the nature of the proposed variance; and
  - c. stating the time and place of the meeting.
22. The notice required to be delivered under s. 21 shall be delivered to all owners and tenants in occupation of the land that is the subject of the application, and land that is adjacent to land that is the subject of the application, and for the purpose of this section adjacent land

includes land directly opposite land that is the subject of the application but separated by a street, lane, railway right of way or creek.

23. During the meeting at which the Board is considering an application, the Chair shall provide the applicant and any other persons who believe their interest in property is affected by the application a reasonable opportunity to make oral or written submissions, or both.
24. Any person who has a right to make submissions to the Board may be represented by his or her solicitor or agent.
25. If the applicant, or his or her representative, does not attend a hearing and has not notified the Secretary in advance that he or she wishes to have the application adjourned, the Board may make a decision on the application or adjourn the hearing.
26. After considering an application at a meeting the Board may make, or decline to make, the order requested in the application, or may adjourn its consideration of the application.
27. If the Board adjourns it shall give notice to the applicant and to anyone present at the hearing of the time and date of the meeting at which the application will be considered again and no further or other notice of the adjournment is required.
28. The notice required under s. 27 may be given either orally at the meeting when it is adjourned, or in writing no less than five days before the date on which the meeting will be reconvened.

GIVEN FIRST READING on this 12th day of January 2016.

GIVEN SECOND READING on this 12th day of January 2016.

GIVEN THIRD READING on this 12th day of January 2016.

ADOPTED by the Council on this 26th day of January 2016.

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Nancy Wilhelm-Morden  
Mayor

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Shannon Story  
Corporate Officer

I HEREBY CERTIFY that this is a true copy of "Board of Variance Bylaw No. 2100, 2015."

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Shannon Story  
Corporate Officer