

RESORT MUNICIPALITY OF WHISTLER

BOARD OF VARIANCE BYLAW NO. 2412, 2023

A BYLAW TO ESTABLISH A BOARD OF VARIANCE AND ITS PROCEDURES

WHEREAS pursuant to Section 536 of the *Local Government Act*, a local government that has adopted a zoning bylaw must, by bylaw, establish a board of variance;

AND WHEREAS the Resort Municipality of Whistler adopted the “Zoning and Parking Bylaw No. 303, 2015” and established a board of variance;

AND WHEREAS pursuant to Section 537 of the *Local Government Act*, the board of variance of the Resort Municipality of Whistler is to consist of 3 persons appointed by Council;

AND WHEREAS pursuant to Section 539 of the *Local Government Act*, the board of variance must elect one of their number as chair;

AND WHEREAS pursuant to Section 539 of the *Local Government Act*, a local government must, by bylaw, set out the procedures to be followed by the board of variance;

AND WHEREAS pursuant to Section 462 of the *Local Government Act*, a local government may, by bylaw, impose application fees for an application to a board of variance;

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

CITATION

1. This bylaw may be cited as “Board of Variance Bylaw No. 2412, 2023”.

DEFINITIONS

2. In this bylaw:

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

“**Council**” means the Council of the Municipality.

“**Chair**” means the Chair of the Board.

“Director of Planning” means the Director of Planning or any other person appointed from time to time to act in the place of the Director of Planning.

“Manager of Planning” means the Manager of Planning or any other person appointed from time to time to act in the place of the Manager of Planning.

“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.

“Staff” means an employee of the Municipality’s Planning Department.

BOARD CONTINUED

3. The Board, established by previous board of variance bylaws of the Municipality and consisting of three Members, is continued.
4. The Board Members shall elect one of their number as Chair.

STAFF

5. Staff shall provide technical support to the Board, including the following:
 - a) Receiving applications to the Board;
 - b) Providing copies of all applications to the Members of the Board;
 - c) Keeping minutes of all meetings of the Board;
 - d) Maintaining a record of all decisions of the Board and making the record available for public inspection at the offices of the Municipality during regular business hours;
 - e) Giving all notices required to be given by the Board under this bylaw or the *Local Government Act*; and
 - f) Notifying applicants of Board decisions.

MEETING PROCEDURES

6. The Board shall convene a meeting, on the last Monday of each month except for December, unless before a scheduled meeting Staff has determined there are no applications for the Board to consider, in which case Staff shall notify the

Board and the meeting shall be cancelled.

7. The Board may change the date of a meeting.
8. Regular meetings of the Board shall be open to the public unless the Chair in consultation with other Members determines the meeting is to be closed to the public pursuant to s. 90 of the *Community Charter*.
9. A quorum for a meeting of the Board is two (2) Members.
10. The Chair is a Member and is entitled to vote on all matters coming before the Board.
11. If the number of votes cast by the Members is equally divided for and against a motion, the motion is defeated.

APPLICATION REQUIREMENTS

12. An application to the Board shall be made in the application form prescribed by the Director of Planning or Manager of Planning and shall include all of the information required, as set out in the application form and any attachments to it.
13. An application to the Board shall be accompanied by payment of:
 - a) the application fee of \$4,000.00; and
 - b) the title search fee of \$35.00 per PID, unless a title search is provided as set out in the application form.
14. If the application is withdrawn before any required public notice is given under the *Local Government Act*, the applicant shall be entitled to a refund of 25 per cent of the application fee.
15. If a person applies for an order under s. 540 of the *Local Government Act* the applicant shall, within seven (7) days of submitting a complete application to the Municipality post, at the applicant's expense, a notification sign on the land that is the subject of the application and notify Staff that the sign has been posted.
16. A notification sign required by this bylaw shall conform generally to specifications issued by the Director of Planning or Manager of Planning and must include the following information:
 - a) the application type and number;

- b) the applicant's name;
 - c) the civic address of the subject property;
 - d) a brief description of the proposed variance, or exemption with any measurements shown in metric units;
 - e) the phone number and e-mail of the Municipality contact department for more details;
 - f) where information about the application may be inspected at the Municipality hall and website;
 - g) a map of the site containing a north arrow, with all the roads adjoining the development site labelled;
 - h) a rendering of the proposed variance, or exemption; and
 - i) a statement that details of the proposed development may be revised during the application process.
17. The applicant must keep the notification sign posted and in good repair until the application has been approved or refused by the Board or has been withdrawn by the applicant.
18. The applicant must remove any notification sign required by this bylaw within fourteen (14) days of the application being approved or refused by the Board or being withdrawn by the applicant.
19. In the event the applicant fails to comply with section 18 of this bylaw, and the applicant has been given notice of such non-compliance, the Municipality may, through its employees or other persons, remove the notification sign at the expense of the applicant.
20. Notification signs must be placed in a conspicuous location, be clearly legible from adjoining highways, and not be obstructed by vegetation or structures on the land that is the subject of the application.
21. A notification sign is required to be placed every 100 metres of highway frontage of the land that is subject of the application, except that no more than three signs are required for any one parcel.

APPLICATION AND NOTIFICATION PROCEDURES

22. Upon receipt of an application, Staff will acknowledge receipt of the application, assess the application to determine if the application is complete, and may request that the applicant submit such further information or materials as Staff

deem necessary to permit the Board to consider the application.

23. Once an application is deemed to be complete, Staff will review the application and provide the application and a report to the Board in respect of the application and provide a copy of the report to the applicant in advance of the meeting at which the application will be considered.
24. At least ten (10) days before the date of the meeting at which the Board will consider an application Staff will make reasonable efforts to mail or otherwise deliver a notice:
 - a) identifying the land that is the subject of the application;
 - b) stating the subject matter of the application;
 - c) stating the time and date when and, if applicable, the place where the application will be heard; and
 - d) if the meeting at which the application is heard is conducted by means of electronic or other communication facilities, the way in which the meeting is to be conducted by those means.
25. The notice required to be delivered under section 24 of this bylaw, 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.
26. Staff will prepare the agenda and provide copies of the agenda to the Board and applicant, prior to the Board meeting.
27. Staff will provide to the Board and applicant copies of any written submissions received in advance of the meeting at which the application will be considered in accordance with the time set out in the notice under section 24 of this bylaw.
28. During the meeting at which the Board is considering an application, after Staff introduce the application, the applicant shall be given the first opportunity to make an oral submission to the Board, and then any persons notified under section 25 of this bylaw shall be given the opportunity to make an oral submission to the Board, until all such persons wishing to make a submission relevant to the application have been given a reasonable opportunity to be heard. The Chair may permit Staff to provide information to the Board.
29. Any person who has a right to make submissions to the Board may be represented by his or her solicitor or agent.
30. If the applicant, or his or her representative, does not attend a hearing and has not notified Staff 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.

31. 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.
32. If the Board adjourns it shall give notice to the applicant and to anyone present at the meeting of the date, time and, if applicable, place of the meeting at which the application will be considered again, and no further or other notice of the adjournment is required.
33. The notice required under section 32 of this bylaw, may be given either orally at the meeting when it is adjourned, or in writing no less than ten (10) days before the date on which the meeting will be reconvened.

CONFLICT OF INTEREST

34. If a 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 Member has a direct or indirect pecuniary interest in the matter or another interest in the matter that constitutes a conflict of interest, the Member must declare this and state in general terms the reason why the Member considers this to be the case. After making such a declaration, the Member must not remain or attend at any part of a meeting during which the matter is under consideration, participate in any discussion of the matter at such a meeting, vote on a question in respect of the matter at such a meeting or attempt in any way to influence the voting on any question in respect of the matter.

REPEAL

35. "Board of Variance Bylaw No. 2100, 2015" is hereby repealed.

GIVEN FIRST, SECOND and THIRD READINGS this 19th day of December, 2023.

ADOPTED this ____ day of _____, 2024.

Jack Crompton,
Mayor

Pauline Lysaght,
Corporate Officer

I HEREBY CERTIFY that this is a
true copy of "Board of Variance
Bylaw No. 2412, 2023".
