

# City of Fort St. John

## Board of Variance Bylaw No. 2543, 2021

A bylaw to establish a Board of Variance for the City of Fort St. John.

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WHEREAS the Council of the City of Fort St. John has adopted a Zoning Bylaw;

AND WHEREAS pursuant to the *Local Government Act* the City of Fort St. John shall establish by bylaw, a Board of Variance;

AND WHEREAS pursuant to the *Local Government Act* provides that in a bylaw establishing a Board of Variance there shall be set out the procedures to be followed by the Board of Variance, including the manner in which appeals are to be brought to the Board and how notices of applications to the Board are to be given;

NOW THEREFORE, Council of the City of Fort St. John, in open meeting assembled hereby enacts as follows:

### 1. INTRODUCTORY PROVISIONS

#### 1.1 TITLE

This bylaw may be cited as “City of Fort St. John Board of Variance Bylaw No. 2543, 2021”.

#### 1.2 REPEAL

City of Fort St. John Board of Variance Bylaw No. 1719, 2004 is repealed.

#### 1.3 INTERPRETATION

1.3.1 A reference in this bylaw to an enactment is a reference to an enactment of the Council, or of British Columbia and regulations thereto, as amended, revised, consolidated, or replaced from time to time.

1.3.2 A reference in this bylaw to a bylaw, policy or form of the City is a reference to the bylaw, policy or form as amended, revised, consolidated or replaced from time to time.

## **1. INTRODUCTORY PROVISIONS**

### **1.4 SEVERANCE**

- 1.4.1 If any section, subsection, sentence, clause, definition or phrase of this bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this bylaw.

### **1.5 DEFINITIONS**

In this bylaw,

“Board” means the Board of Variance for the City of Fort St. John;

“Chair” means the Chair of the Board as elected pursuant to Section 2.3.1;

“City” means the City of Fort St. John;

“Council” means the duly elected council for the City of Fort St. John;

“Secretary” means the Secretary of the Board of Variance provided in accordance with Section 3.1.1.

## **2. THE BOARD**

### **2.1 CONTINUATION OF BOARD**

- 2.1.1 The Board, established by previous bylaw of the City, is continued.

### **2.2 BOARD MEMBERSHIP**

- 2.2.1 A Board of Variance committee will consist of three people appointed by Council.
- 2.2.2 A person is not eligible to be appointed to the Board if that person is:
- a. a member of City Council; or
  - b. an officer or employee of the City.

## 2. THE BOARD

### 2.2 BOARD MEMBERSHIP (continued)

- 2.2.3 An appointment under Section 2.2.1 is for a maximum of:
- a. three years; or
  - b. if no successor has been appointed at the end of the three-year term, until the time that a successor is appointed.
- 2.2.4 Council may appoint a successor to finish the remainder of a term of office of a member that:
- a. resigns;
  - b. has had their appointment rescinded by Council; or
  - c. is otherwise unable to complete that term of office.
- 2.2.5 If Council has not appointed a successor before or at the end of a member's term of office, the remaining members constitute the Board.
- 2.2.6 Council may rescind an appointment to the Board at any time.

### 2.3 REIMBURSEMENT OF MEMBERS

- 2.3.1 Members of the Board must not receive compensation for their services as members, but must be paid reasonable and necessary expenses that arise directly out of the performance of their duties.

### 2.4 BOARD CHAIR

- 2.4.1 The Board must elect one of their members as Board Chair.
- 2.4.2 The Chair may appoint another member of the Board to preside as acting Chair while the Chair is absent.
- 2.4.3 The responsibilities of the Board Chair are:
- a. for the conduct of the hearing;
  - b. to ensure procedural fairness; and
  - c. to direct how evidence is to be presented at a meeting in accordance with Section 3.6.1(d).

## 2. PROCEEDINGS OF THE BOARD

### 2.5 SECRETARY OF THE BOARD

- 2.5.1 A Secretary shall be provided to the Board of Variance by the Director of Legislative Services.
- 2.5.2 The responsibilities of the Secretary are:
- a. to receive and determine completeness of an application;
  - b. to notify the Chair and members of the Board of the receipt of an application;
  - c. to provide notice of an application in compliance with the *Local Government Act* and this bylaw;
  - d. to prepare the agenda and minutes of each Board meeting;
  - e. to have the Chair sign minutes as soon as practicable after a meeting;
  - f. following a decision by the Board, mail or otherwise deliver to the applicant written notice of the Board's decision; and
  - g. to maintain records of all decisions of the Board and ensure that the record is available for public inspection during regular business hours.

### 2.6 PROCEDURE FOR APPLICATIONS

- 2.6.1 A person may apply to the Board for an order under the following section(s) of the *Local Government Act*:
- a. Section 540 [*Variance or exemption to relieve hardship*];
  - b. Section 543 [*Exemption to relieve hardship from early termination of land use contract*]; or
  - c. Section 544 [*Extent of damage to non-conforming use property*].
- 2.6.2 A person may apply to the Board pursuant to Section 3.2.1 by:
- a. completing the required application form;
  - b. paying the associated fee; and
  - c. submitting the completed application to the City.
- 2.6.3 The Secretary shall notify the Chair and the Chair shall, within thirty (30) days of receiving such notice, consider the request.

## 2. PROCEEDINGS OF THE BOARD

### 2.7 NOTIFICATION

- 2.7.1 Upon receipt of the application by the Secretary, and the determination of the meeting date, the Secretary shall deliver, not less than ten (10) days prior to the date of the meeting, notice of the meeting to:
- a. All members of the Board;
  - b. The applicant and any other owners or tenants in occupation of the land that is the subject of the application, including an invitation to attend the meeting with the opportunity to address the Board;
  - c. The registered owners as shown on the last revised assessment roll and tenants of all real property located within 100 m of the property which is subject to the application; and
  - d. The Director of Planning and Engineering.
- 2.7.2 The meeting notice shall include the following:
- a. date, time and location of the meeting;
  - b. location map;
  - c. a brief description of the subject matter of the application.

### 2.8 ATTENDANCE AT MEETINGS

- 2.8.1 Board meetings are open to the public.
- 2.8.2 The Board may close to the public all or part of a hearing in accordance with the *Community Charter*.

### 2.9 QUORUM

- 2.9.1 Decisions shall only be made at a meeting where a quorum is present. The quorum of the Board is two of its members, one of whom shall be the Chair.

## 2. PROCEEDINGS OF THE BOARD

### 2.10 EVIDENCE AT MEETINGS

- 2.10.1 The Board must permit evidence and arguments to be presented at a meeting in the following order:
- a. the hearing of evidence and arguments from the applicant;
  - b. the Planning Manager, or their delegate;
  - c. the City's Building Inspector;
  - d. all other parties wishing to make a submission relevant to the application shall give evidence and arguments in the order directed by the Chair until all parties have been given a reasonable opportunity to present their submissions; and
  - e. the Secretary shall read aloud written evidence submitted in advance.
- 2.10.2 The Board, in its discretion, may inspect the property that is the subject of the meeting.
- 2.10.3 The Board may receive written submissions and hear oral evidence with respect to an application only during the meeting at which the application is considered.

### 2.11 DELIBERATIONS OF THE BOARD

- 2.11.1 The Board may confer with a member of the City's Planning and Engineering Department when considering an application at a meeting.
- 2.11.2 The Board may proceed to decide an application if the applicant fails to appear at a meeting.
- 2.11.3 The Board shall hear and determine applications on the grounds and to the extent set out in the *Local Government Act*.

## 2. PROCEEDINGS OF THE BOARD

### 2.12 DECISIONS OF THE BOARD

- 2.12.1 At the conclusion of a meeting for each application, the Board may:
- a. make an order under the applicable provisions of *the Local Government Act*;
  - b. deny the application;
  - c. permit the applicant to amend their application by reducing the extent of the variance sought and accept that amended application; or
  - d. request further information from the applicant, the City's Planning and Engineering Department or any person who has made a submission to the Board in respect to the application and adjourn the meeting in accordance with Section 3.8.2 of this bylaw.
- 2.12.2 The Board may, at any time, adjourn a meeting where an application is being considered, provided either:
- a. prior to the adjournment, the Secretary announces the subject matter, new date and location for the meeting; or
  - b. the Board directs the Secretary to provide notice of the subject matter, new meeting date and location in accordance with Section 3.3 of this bylaw.
- 2.12.3 The decision of the Board to either grant an order or deny an application must be made by a motion adopted by no less than two Board members at the meeting.
- 2.12.4 Any Board member who abstains from voting is deemed to have voted in favour of the motion.
- 2.12.5 In the event that the Board members are equally divided, the application shall be disallowed.
- 2.12.6 A permission or exemption granted in an order of the Board will terminate if construction is not substantially started within two years after the order is granted under Section 3.8.1, or within a longer or shorter time period if established by the order.

READ FOR THE FIRST THREE TIMES THIS 22<sup>nd</sup> DAY OF March, 2021

ADOPTED THIS 12<sup>th</sup> DAY OF April, 2021

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LORI ACKERMAN  
MAYOR

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JANET PRESTLEY, DIRECTOR OF  
LEGISLATIVE AND ADMINISTRATIVE  
SERVICES