



Board of Variance Bylaw

Bylaw 1464

Effective August 2026

CASTLEGAR

Board of Variance Bylaw

Bylaw 1464

A Bylaw to establish a Board of Variance and establish a procedure for appeals.

WHEREAS pursuant to the *Local Government Act* a municipality that has enacted a zoning bylaw is required to establish a Board of Variance;

AND WHEREAS Section 539 (3) of the Local Government Act requires that a bylaw establishing a board of variance must set out the procedures to be followed by the Board of Variance;

NOW THEREFORE the Council of the City of Castlegar, in open meeting assembled enacts as follows:

PART 1 – INTERPRETATION

- 1.1 This Bylaw may be cited as "*Board of Variance Bylaw 1464*".
- 1.2 Words or phrases defined in the British Columbia *Community Charter*, *Interpretation Act*, or *Local Government Act* or any successor legislation, shall have the same meaning when used in this Bylaw unless otherwise defined in this Bylaw.
- 1.3 The headings contained in this Bylaw are for convenience only and are not to be construed as defining or in any way limiting the scope or the intent of the provisions of this Bylaw.
- 1.4 If any provision or part of this Bylaw is declared by any court of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the illegal or inoperative portion shall be severed from the Bylaw and the balance of the Bylaw, or its application in any circumstances, shall not be affected and shall continue to be in full force and effect.

PART 2– DEFINITIONS

Applicant means the Owner in relation to an Application pursuant to this Bylaw.

Application means written submission by an Applicant seeking a decision of the Board of Variance.

Board of Variance or Board means an independent body appointed under the *Local Government Act* that hears appeals for relaxation of certain land use regulations and requirements where there is undue hardship and the variance is minor.

Bylaw Administrator means an officer or employee of the City responsible for planning and building, or an officer or employee of the City designated to act on their behalf.

City means the City of Castlegar.

Council means the Council of the City of Castlegar.

Covenant means a covenant registered on the land under section 219 of the *Land Title Act* or section 24A of the *Land Registry Act*, or any successor legislation.

Fees means the specific costs and associated charges levied by the City for various services and applications under this Bylaw.

Heritage Property means a property:

- a) for which an authorization for alterations is required,
- b) for which a heritage revitalization agreement is in place, or
- c) that is a protected heritage property or features an identified heritage value or characteristic.

Non-Conforming Use refers to an existing use of land or buildings that are lawfully used at the time a new land use regulation bylaw is adopted and may be continued as a non-conforming use in accordance with the provisions of the *Local Government Act*.

Owner means the registered owner of a property, or holder or occupier of land including tenants.

Permit refers to the various authorizations that municipalities can issue under the Local Government Act that pertain to the use of land and can include a Development Permit, Development Permit with Variance, Development Variance Permit or Temporary Use Permit.

Phased Development Agreement means an agreement between a municipality and a landowner that identifies terms and conditions such as zoning, servicing and amenities, that apply to a multi-phase development project in accordance with the *Local Government Act*.

Qualified Professional means a professional, such as a BC Land Surveyor, Professional Engineer, Professional Geoscientist, Architect, Landscape Architect, Certified Arborist, or other professional licensed to practice in B.C. with relevant expertise and in good standing, as determined by the Bylaw Administrator.

Terms of Reference (TOR) defines the roles, responsibilities and schedule of the Board of Variance and provides a basis for making decisions at a hearing.

PART 3 – SCOPE

- 3.1 This Bylaw should be considered in conjunction with the City's most recent Board of Variance Terms of Reference.
- 3.2 This Bylaw applies to an Application to the Board of Variance for a relaxation of:
 - a) zoning regulations regarding siting, size and dimensions of buildings;
 - b) siting of a manufactured home in a manufactured home park;
 - c) structural alteration, addition, or reconstruction of a non-conforming use;
 - d) relaxation of subdivision servicing requirements;
 - e) relaxation of tree protection requirements, as applicable; and
 - f) any other applicable provisions of the *Local Government Act* or successor legislation.
- 3.3 This Bylaw does not apply to an Application that would conflict with:

- a) a covenant;
 - b) a permit;
 - c) a phased development agreement;
 - d) a floodplain specification; or
 - e) would apply to a Heritage Property.
- 3.4 An Application may be considered by the Board of Variance where the Applicant alleges compliance would cause them undue hardship and in the opinion of the Board the request does not:
- a) constitute a major variance;
 - b) result in inappropriate development;
 - c) adversely affect the natural environment;
 - d) substantially affect the use and enjoyment of neighbouring properties;
 - e) vary permitted uses and densities;
 - f) defeat the intent of the varied bylaw; or
 - g) vary residential rental tenure.

PART 4 – APPLICATIONS

- 4.1 The following is required for all Applications made pursuant to this Bylaw:
- a) An Application must be submitted to the City on the prescribed application form approved by the Bylaw Administrator and must include the application fee, payable to the City, as set out in Schedule A of this Bylaw.
 - b) An Application must be signed by all Owner(s) of the applicable lands;
 - c) An Application made under this Bylaw will include any plans and technical information that the Applicant or Board of Variance considers necessary, including, but not limited to:
 - i. a letter describing the request and explaining why compliance with the bylaw would cause undue hardship;
 - ii. building plans;
 - iii. a site plan;
 - iv. a technical report prepared by a Qualified Professional, where applicable; and
 - v. any other information the Applicant intends to present to the Board.
- 4.2 Upon receipt of a complete Application, the Bylaw Administrator will confirm acceptance in writing to the Applicant and provide the date, time, location, and means of participation for the hearing.
- 4.3 Incomplete applications shall be managed in accordance with the City's Development Approval Procedures Bylaw as amended or replaced from time to time.

PART 5 – NOTIFICATION

- 5.1 Notification of Application must be completed for all Applications to the Board of Variance.
- 5.2 Written Notification will be mailed or otherwise delivered to the Applicant, Board members, and Owners located within 100-metres of the subject property or properties at least 10-days prior to the hearing.
- 5.3 Except where the Board is receiving legal advice per section 90 of the *Community Charter*, all hearings must be open to the public and may be held electronically in accordance with the City's Council Procedures Bylaw as amended or replaced from time to time.

PART 6 – SITE VISITS

- 6.1 The Board of Variance may schedule a site visit prior to a hearing where a decision may be made on a given Application.
- 6.2 Board members considering the Application must attend the site together, and attendance must be no less than a quorum.
- 6.3 The Board shall refrain from discussing the merits of the Application or receiving representation from the Applicant or Owners specified under Part 5, outside of a hearing.

PART 7 – DECISIONS

- 7.1 A hearing will be held at the next scheduled meeting for which quorum can be achieved after written notification has been given.
- 7.2 After a hearing where the Board of Variance considers representations from the Applicant and any Owner notified under Part 5 of this Bylaw, the Board may order a minor variance or exemption from undue hardship in accordance with Part 3 of this Bylaw.
- 7.3 The Board may decide to approve or deny the Application, provide an alternative decision, request more information in accordance with Part 4 of this Bylaw, or defer to a later hearing.
- 7.4 If the Board defers the decision, the Chair will state the time, date, place and means of participation for where the decision will be made and if additional information is requested. If the Board does not provide details for when the decision will be made, further written notification will be given.
- 7.5 Where an Applicant has made Application to reconstruct a non-conforming use, the Board of Variance may determine the amount of damage and set aside any determination made by a building inspector. Such decisions of the Board can be appealed by the Applicant to the Supreme Court.

- 7.6 A decision of the Board is final and expires:
- a) if construction is not completed within the time specified in the order, or
 - b) if construction is not substantially started within two (2) years after the order was made, or longer, if specified.
- 7.7 All Board of Variance decisions must be recorded and made available to the public during regular office hours.
- 7.8 Where it is determined that an Application does not conform to Part 3 of this Bylaw, the Applicant may apply for a development approval in accordance with the City's Development Approval Procedures and Fees Bylaw, as amended or replaced from time to time.

PART 8 – ESTABLISHMENT

- 8.1 Council shall appoint a Board of Variance or elect to participate in a joint Board of Variance by resolution.
- 8.2 Where Council appoints a Board, it shall consist of a minimum of three (3) members in accordance with the *Local Government Act*, or five (5) members at the discretion of Council, for a term of four (4) years concurrent with the term of Council.
- a) a member of the Board shall serve a maximum of one (1) term unless re-appointed by acclaim or until a replacement is appointed.
 - b) Council may remove a member from the Board at any time.
 - c) Council may appoint a successor to finish the remainder of the term of a member that resigns, is removed, or is otherwise unable to complete the term of appointment, in accordance with the *Local Government Act*.

PART 9 – REPEAL

- 9.1 Board of Variance Bylaw 739 and all amendments to are hereby repealed.

PART 10 – READINGS

READ A FIRST TIME this 13th day of July 2026

READ A SECOND TIME this 13th day of July 2026

READ A THIRD TIME this 13th day of July 2026

ADOPTED this 10th day of August 2026



Mayor



Director of Corporate Services

SCHEDULE A – FEES

	FEES AND CHARGES
Application Fee	\$ 500
<p>Fees and charges are refundable under the following circumstances:</p> <ol style="list-style-type: none">1. Application fees shall be refunded 50% of the application fee if the application is withdrawn before a Board of Variance hearing.2. Applications that are withdrawn or lapse prior to notification shall be refunded for the full amount of the application fee but charged a \$100 administrative fee.3. No refund shall be provided following a Board of Variance hearing.4. No refund shall be provided if the Board determines than an application is outside its scope.	