

CITY OF SURREY

BY-LAW NO. 6477

As amended by By-laws No. 6726, 07/20/81; 7192, 06/21/82; 11970, 08/30/93; 12140, 01/17/94; 12268, 04/25/94; 12382, 07/25/94; 12446, 10/11/94; 12758, 03/25/96 and 14531, 10/22/01

A by-law to provide for the establishment
of a Board of Variance.
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THIS IS A CONSOLIDATED BY-LAW PREPARED BY THE CITY OF SURREY FOR CONVENIENCE ONLY. THE CITY DOES NOT WARRANT THAT THE INFORMATION CONTAINED IN THIS CONSOLIDATION IS CURRENT. IT IS THE RESPONSIBILITY OF THE PERSON USING THIS CONSOLIDATION TO ENSURE THAT IT ACCURATELY REFLECTS CURRENT BY-LAW PROVISIONS.

WHEREAS the City Council of the City of Surrey had adopted Zoning By-laws, being "Surrey Zoning By-law, 1964, No. 2265" and "Surrey Zoning By-law, 1979, No. 5942", and "Surrey Zoning By-law, 1993, No. 12000";

AND WHEREAS pursuant to Section 961, Sub-Section (1) of the "Municipal Act," there shall be established by by-law, a Board of Variance as therein set out;

NOW, THEREFORE, the City Council of the City of Surrey, in open meeting assembled, ENACTS AS FOLLOWS:

1. A Board of Variance of five (5) members shall be constituted as follows:
 - a) Two persons appointed by the Council
 - b) Two persons appointed by the Minister of Municipal Affairs, and
 - c) One person appointed by the other four appointees.
2. The members of the Board shall elect one of their number as Chairman.
3. Each member appointed shall hold office for a term of 3 years or until his successor is appointed, but a person may be reappointed for further terms.
4. A majority of the Board is a quorum.
5. The Chairman may, from time to time, appoint a member of the Board as Acting Chairman to preside in the absence of the Chairman.
6. In the event of the death, resignation or removal from office of a member of the Board, his successor shall be appointed in the manner in which the member was appointed, and until the appointment of his successor, the remaining members constitute the Board.

7. In the event of the death, resignation or removal from office of a member of the Board, other than the Chairman, the Chairman shall continue to act in that capacity and the provisions of Sub-Section (2) relating to the appointment of a Chairman do not apply.
8. In a by-law adopted under Sub-Section (1), there shall be set out the procedures to be followed by the Board of Variance, including the manner in which appeals are to be lodged with the Board and the giving of notices required under Section 962.
9. A member of a Board of Variance shall not receive compensation for his/her services other than allowances for actual expenses necessarily incurred in the discharge of his/her official duties. The Council shall include in its annual budget the sums necessary to defray the expenses of the Board.
10. The Board of Variance shall hear and determine an appeal
 - a) by a person aggrieved by a decision of an official charged with the enforcement of a zoning by-law or a mobile home park by-law under Section 734 (i) of the "Municipal Act" so far as the decision relates to an interpretation of the By-law.
 - b) Where a building or structure the use of which does not conform to an applicable Zoning By-law is damaged or destroyed to the extent of 75% or more of its value above its foundations, as determined by the building inspector, whose decision shall be subject to review by the Board of Variance, it shall not be repaired or reconstructed, except for a conforming use in accordance with the Zoning By-law.
 - c) By a person who alleges that compliance to a Zoning By-law with respect to siting, dimensions or size of a building or structure, or siting of a mobile home in a mobile home park under "Surrey Mobile Homes & Trailer Regulation and Control By-law, 1980, No. 6142" would cause him undue hardship.
 - d) A lawful use of a building or structure existing at the time of the adoption of the Zoning By-law, although the use does not conform to the Zoning By-law, may be extended throughout the building or structure, but no structural alterations except those required by Statute or By-law or those allowed by the Board of Variance shall be made in or to it.
 - e) By a person who alleges that compliance with a subdivision servicing requirement enacted under Section 989(1)(c) of the Municipal Act, in an area zoned for agricultural or industrial use would cause him undue hardship."
 - f) Where a person alleges that compliance with a Tree Cutting By-law under Division 4.1 of Part 28 causes undue hardship.
11. a) Any person exercising the right of appeal before the Board of Variance hereinafter called the "Board",

shall deposit with the Manager, Legislative Services (City Clerk) or person duly authorized to act as Secretary of the Board, within thirty days of the decision complained of, a notice of appeal which shall state the description of the property which is the subject of the Appeal, and the grounds of complaint, and shall further state an address to which all Notices to such person may be mailed or otherwise delivered.

- b) Notices of appeal received less than fifteen days prior to the next scheduled hearing of the Board will be considered at the subsequent hearing of the Board.
- c)
 - (i) Every person submitting a Notice of Appeal to the Board of Variance shall pay to the City at the time of application, the application fee of Two Hundred Dollars (\$200.00) and no application shall be received by the Manager, Legislative Services (City Clerk) or person duly authorized to act as Secretary of the Board until payment of such a fee is made.
 - (ii) Upon a decision being made by the Board of Variance, the applicant may, within 60 days of the decision, make a further application to the Board of Variance, if the application relates to the same matter as the original appeal but varies the relaxation requested, and any such second application shall be accompanied by a fee of Fifty (\$50.00) Dollars.
- d) Rebates of portions of the application fee shall be made according to the following conditions:
 - (i) After a Notice of Appeal has been received by the Manager, Legislative Services (City Clerk) or person duly authorized to act as Secretary of the Board, but prior to initiation of the Public Notification process, a 90% rebate (\$180) shall be made to the person who paid the application fee, if information is revealed which makes an Appeal to the Board unnecessary, or if an Appeal is withdrawn.
 - (ii) After a Notice of Appeal has been received by the Secretary to the Board, and following preparation of the Public Notification process, but prior to the meeting, a 75% rebate (\$150) shall be made to the person who paid the application fee if an Appeal to the Board is unnecessary, or if an Appeal is withdrawn.

12. The Secretary appointed by the City Council shall be an employee of the Manager, Legislative Services (City Clerk's) Division and, in addition to recording the decisions of the Board at its meeting, shall:

- Receive notices of appeal and present them to the Board;
- Cause such notices of appeal or of meetings of the Board to be published or served as directed by the Board or its Chairman;
- Prepare, maintain and preserve the minute book and other business of the Board;
- Notify applicants and City Officials involved in writing of the decisions of the Board;
- Perform such other duties as are customary to the Office of the Secretary.

13. The Secretary shall examine the Notices of Appeal as submitted and may request applicants to furnish further information as may be necessary for the proper understanding of the nature of the appeal.

14. The Secretary shall notify the Chairman of the Board of Variance of the Notice of Appeal and the Chairman shall set a date for the hearing of the Appeal. Five days notice of the hearing shall be mailed or otherwise delivered by the Secretary of the Board of Variance to the appellant, directed to the address described in the Notice of Appeal. Notice of the hearing shall be mailed or otherwise delivered to the owners and occupiers of the properties closest to the subject property contained within the projection of all four sides of that property, including those across dedicated rights-of-way and highways. Public notice of the hearing shall be given if the matter is deemed by the Board to be of sufficient importance.
15. In determining questions the Board shall act in good faith and fairly listen to both sides before arriving at a decision. The parties shall be given a chance to correct any statement made at the Hearing and contradict it if prejudicial to their view. All hearings of the Board shall be open to the public.
16.
 - a) Before reaching a decision on the appeal before it, the Board may require further information and may adjourn the hearing from time to time as the Board may deem advisable.
 - b) The applicant may request an adjournment of the hearing if he notifies the Secretary of such request prior to the hearing and the Board may grant such adjournment.
 - c) In the event of an applicant or his representative failing to appear at the hearing of his appeal and no adjournment having been requested by him, or in the event of the applicant or his representative being present at the hearing and failing to proceed with his appeal when called upon by the Secretary to do so, the appeal may be dismissed or adjourned at the discretion of the Board.
17. The applicant may request the Secretary in writing at any time prior to the hearing to have his appeal proceeded with in his absence and the Board may grant the request and may conduct the hearing of the appeal without the applicant being present and may decide the appeal.
18. The applicant may withdraw his appeal by a written request filed with the Secretary at any time prior to the hearing or may withdraw his appeal orally at the hearing.
19. The persons appearing before the Board shall have the right to be represented by Counsel.
20. The decision in writing of all or of a majority of the members of the Board is the decision of the Board.
21. The mailing or otherwise delivering to such address of the person appealing, of any decision pursuant to Section 10 herein, shall be deemed good and sufficient service thereof upon such person.
22. In the event of the members being equally divided, the appeal shall be disallowed.

23. a) At the conclusion of hearing, the Board may render its decision or may adjourn the appeal and render its decision at a subsequent meeting.
- b) The decision of the Board shall be recorded in writing by the Secretary, and the applicant and City officials involved be so advised.
- c) The Board may grant or deny the appeal and may uphold or reverse the decision of the officials charged with enforcement of the Zoning By-law being appealed against either in whole or in part or may modify such decisions as appears warranted by the facts disclosed at the hearing.
- d) If an appeal is allowed by the Board with respect to Section 10.(c),(d), or (e) herein, the Board may order that if the lawful construction of the building, structure or siting of the mobile home park, contemplated by the Board's decision, as the case may be, is not fully constructed or completed within a time fixed in the order of the Board, then the permission or exemption granted by the Board shall terminate and the provisions of the applicable by-law or Section 970(5) of the Municipal Act, as the case may be, shall apply instead."
24. Deleted by By-law 11970.
25. An appeal lies to a Judge of the Supreme Court from a decision of the Board under Clauses (a) and (b) of Section Ten (10), but all other decisions of the Board are final and binding.
26. Subject to the provisions of this By-law, the Board shall determine its own procedure.
27. "Surrey Board of Variance By-law, 1971, No. 3536" is hereby repealed.
28. This By-law may be cited for all purposes as "Surrey Board of Variance By-law, 1980, No. 6477."

PASSED by the Council on the 15th day of December, 1980.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 5th day of January, 1981.

"D.A. ROSS" _____ MAYOR

"W. VOLLRATH" _____ CLERK