

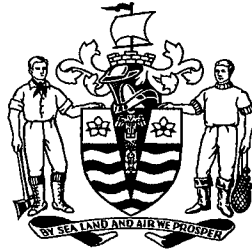
**EXPLANATION**

**A revised Board of Variance By-law**

Enactment of the attached by-law will implement Council's resolution of December 2, 2010 supporting the adoption of a revised Board of Variance By-law.

Director of Legal Services  
January 18, 2011

**CITY OF VANCOUVER**



**BRITISH COLUMBIA**

**BOARD OF VARIANCE BY-LAW NO.**

# BOARD OF VARIANCE BY-LAW

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## BY-LAW NO.

### A By-law to establish the Board of Variance and to set out its procedure

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

#### SECTION 1 INTERPRETATION

##### Name of By-law

1.1 The name of this By-law, for citation, is the "Board of Variance By-law".

##### Definitions

1.2 In this By-law:

"appellant" means a person who has filed a notice of appeal under section 3.1;

"Board" means the Board of Variance established under section 2.1, consisting of 5 members appointed by Council;

"Chair" means the chair of the Board elected by its members;

"material" means information recorded graphically, mechanically, electronically, digitally, or otherwise;

"record" means a record, regardless of physical form or characteristics, recorded or stored graphically, mechanically, electronically, digitally, or otherwise; and

"secretary" means the secretary to the Board.

##### Table of contents

1.3 The table of contents for this By-law is for convenient reference only, and is not for use in interpreting or enforcing this By-law.

##### Schedules

1.4 Schedules to this By-law form part of this By-law.

##### Severability

1.5 A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.

## **SECTION 2 ADMINISTRATION**

### **Establishment of Board**

2.1 Council establishes the Board of Variance.

### **Election of Chair by majority**

2.2 The members of the Board must elect the Chair by resolution passed by a majority of the members.

### **Term of Chair**

2.3 The Chair is to hold that position for a one year term, and the members of the Board may re-elect that individual as Chair for one or more further terms.

### **Qualification of secretary and other officials**

2.4 The secretary and other officials appointed by the Board must be employees of the city.

### **Duties of secretary**

2.5 The secretary must:

- (a) prepare a record of each decision of the Board;
- (b) prepare a record of the reasons of each member for his or her decision;
- (c) prepare a record of the minutes of each meeting of the Board that include the disposition of each appeal;
- (d) arrange for publication or service of each notice of appeal and each meeting of the Board as directed by the Board or its Chair;
- (e) give written notice of each decision of the Board to the appellant, any applicant for a development permit for the property, and the Director of Planning;
- (f) keep custody of the records and minutes of the Board; and
- (g) Perform other duties customary to the office of a secretary or set out in this By-law, including an annual report to Council summarizing the issues heard by the board.

### **Meetings of Board**

- 2.6 In each calendar year, the Board must meet at least twice each month except that the Board need only meet once in December and in one other month chosen by the Chair.

### **Expenses**

- 2.7 Board members are to receive reimbursement for expenses they incur necessarily in the conduct of their duties including the cost of transportation between their homes or offices and Board meetings, or for inspection trips to view sites that are the subject of appeals.

### **Procedures of Board**

- 2.8 Subject to this By-law, the Board may determine its own procedures.

## **SECTION 3 NOTICE OF APPEAL**

### **Filing notice of appeal**

- 3.1 A person who wishes the Board to hear and determine an appeal must submit concurrently to the secretary:
- (a) the notice of appeal;
  - (b) all written material such person intends to submit to the Board at the hearing; and
  - (c) the fee established under the Miscellaneous Fees By-law for filing the notice of appeal.

### **Deadline for filing certain notices of appeal**

- 3.2 A person who wishes to appeal a decision under section 573(1)(a), (e), or (f)(i) of the Vancouver Charter must file the notice of appeal, in accordance with section 3.1, within 30 days after the date of the decision, except that if:
- (a) the Board is satisfied as to the good faith of such person, and the sufficiency of public notice; and
  - (b) such person files the notice of appeal, and all such material, within 75 days after the date of that decision;

the Board may hear the appeal.

### **Contents of notice of appeal**

- 3.3 A notice of appeal must state, in a simple manner, the grounds of appeal, and must be in substantially the form attached to this By-law as Schedule A.

### **Examination of notice of appeal**

- 3.4 The secretary must examine each filed notice of appeal, and may request the appellant to submit such further material as the secretary may deem necessary for the Board to understand the nature of the appeal.

## **SECTION 4 PREREQUISITES TO HEARING**

### **Time and place of hearing**

- 4.1 The Chair must fix a convenient time and place for the hearing of an appeal.

### **Notice of hearing**

- 4.2 At least five days before the date of a hearing of an appeal, the secretary must give written notice of the time and place of the hearing:
- (a) by mail to the appellant;
  - (b) by mail to any applicant for a development permit for the property; and
  - (c) to the Director of Planning, and such other city officials as the Chair directs.

### **Advertisement of notice of hearing**

- 4.3 If required by the Board, the secretary must arrange for publication of notice of the time and place of a hearing in not less than two consecutive issues of a newspaper circulating in the city not less than three days nor more than 10 days before the date of the hearing.

## **SECTION 5 THE HEARING**

### **Proceedings at hearing**

- 5.1 Proceedings at a hearing are to be informal.

### **Opportunity to be heard**

- 5.2 At a hearing, the Board must afford the opportunity to be heard to:



- (a) the appellant;
- (b) the Director of Planning;
- (c) if the appeal is under section 573(1)(e) of the Vancouver Charter, the Development Permit Board; and
- (d) any witnesses or other persons whose information may assist the Board in deciding the appeal.

#### **Other requirements of Board**

5.3 Before deciding an appeal, the Board may:

- (a) view the site; and
- (b) require the submission of further information to:
  - (i) corroborate statements made by the appellant or other witnesses,
  - (ii) explain the wording or intent of any by-law relevant to the appeal, or
  - (iii) determine more fully the effect upon neighbouring properties affected by the appeal.

#### **Non-stated ground of appeal**

5.4 Subject to section 6.1(c), the Board must not hear or consider a ground of appeal that the appellant has not stated in the notice of appeal.

#### **Absence of appellant**

5.5 If the appellant has requested the Board to proceed with a hearing in the absence of the appellant, the Board may do so, may hear any other interested persons, and may decide the appeal.

### **SECTION 6 ADJOURNMENT AND WITHDRAWAL**

#### **Adjournment**

6.1 The Board may adjourn a hearing:

- (a) if the appellant has given the secretary written notice requesting such adjournment;

- (b) if the appellant fails to appear at the hearing, and has not requested an adjournment;
- (c) to allow the appellant to amend the notice of appeal to include one or more new grounds of appeal; or
- (d) as the Board may deem advisable, and may require the secretary to mail notice of the adjourned hearing to such owners of real property as the Board deems affected by the appeal.

### **Withdrawal**

6.2 An appellant may:

- (a) before a hearing, file with the secretary a written request withdrawing the appeal; or
- (b) before the Chair polls the members of the Board for their decision on an appeal, orally withdraw the appeal at a hearing.

## **SECTION 7 DECISION OF THE BOARD**

### **Decision**

7.1 At the conclusion of a hearing, the Board may render its decision, or may adjourn the appeal and render its decision at a later meeting.

### **Reasons for decision**

7.2 The Board must give reasons for its decision concerning the appeal.

### **No re-hearing of appeal**

7.2 The Board must not re-hear an appeal covering the identical grounds or principles upon which the Board has previously rendered a decision.

**SECTION 8  
REPEAL AND ENACTMENT**

**Repeal**

8.1 This By-law repeals By-law No. 3844.

**Force and effect**

8.2 This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this      day of      , 2011

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Mayor

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City Clerk

SCHEDULE A

# NOTICE OF APPEAL

To: The Secretary  
Board of Variance/Parking Variance Board  
Vancouver City Hall  
453 West 12<sup>th</sup> Avenue  
Vancouver, B.C. V5Y 1V4  
(604) 873-7723

I/We file an Appeal to the Board of Variance/Parking Variance Board.

## The Property

Address: \_\_\_\_\_

Legal Description: \_\_\_\_\_

## Type of Appeal

### BOARD OF VARIANCE Appeal for Variance

<input type="checkbox"/> Vancouver Charter, s.573(1)(b)	Zoning and Development By-law, section(s) _____ Sign By-law, section(s) _____
<input type="checkbox"/> Vancouver Charter s. 573(1)(f)(ii)	Private Property Tree By-law, s. _____

SEE ATTACHED VANCOUVER CHARTER PROVISIONS

### Appeal of Decision

<input type="checkbox"/> Decision of Director of Planning Vancouver Charter, s. 573(1)(a)	Development Application No. _____ <input type="checkbox"/> Appealing refusal <input type="checkbox"/> Appealing approval <input type="checkbox"/> Appealing condition(s) of approval
<input type="checkbox"/> Decision of Development Permit Board Vancouver Charter, s. 573(1)(e)	Development Application No. _____ <input type="checkbox"/> Appealing refusal <input type="checkbox"/> Appealing approval <input type="checkbox"/> Appealing condition(s) of approval
<input type="checkbox"/> Refusal of Tree Cutting/Removal Permit Vancouver Charter, s. 573(1)(f)(i)	

SEE ATTACHED VANCOUVER CHARTER PROVISIONS

**Non-Conformity**

- Extension of Discontinued Non-conforming Use  
*Vancouver Charter*, s. 57(1)(c), s. 568(3)
  - Additions/Structural Alterations to Non-conforming Building  
*Vancouver Charter*, s. 573(1)(d), s. 568(4)(a)
  - Fire Damaged Non-conforming Building  
*Vancouver Charter*, s. 573(1)(d), s. 568(5)(a)
- SEE ATTACHED VANCOUVER CHARTER PROVISIONS

**PARKING VARIANCE BOARD**

- Decision of Director of Planning  
Building Board of Appeal By-law, s. 7.3
- Parking By-law, Section(s) \_\_\_\_\_
- SEE ATTACHED VANCOUVER CHARTER PROVISIONS

This Appeal is based on the following grounds (*please print or type, attaching additional pages if required*): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**NOTE: YOU MUST STATE ALL GROUNDS OF APPEAL THAT YOU INTEND TO RAISE AT THE HEARING OF THE APPEAL. INTRODUCING NEW GROUNDS OF APPEAL AT THE HEARING MAY RESULT IN AN ADJOURNMENT OF THE HEARING BY THE BOARD.**

The following material is attached and made part of this Appeal: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**NOTE: ALL WRITTEN MATERIAL YOU INTEND TO SUBMIT TO THE BOARD OF VARIANCE MUST BE ATTACHED TO THIS NOTICE OF APPEAL. YOU MAY PRODUCE OTHER SUPPORTING MATERIALS, INCLUDING PHOTOGRAPHS, PLANS OR DIAGRAMS AT THE APPEAL HEARING.**

I/WE declare that the statements contained in this Notice of Appeal and all attachments are, to the best of my/our belief, true and correct in all respects.

I/WE acknowledge that this Notice of Appeal and all attachments are available to the public.

Signature(s) of Appellants: \_\_\_\_\_

Name(s) of Appellant(s) (please print): \_\_\_\_\_

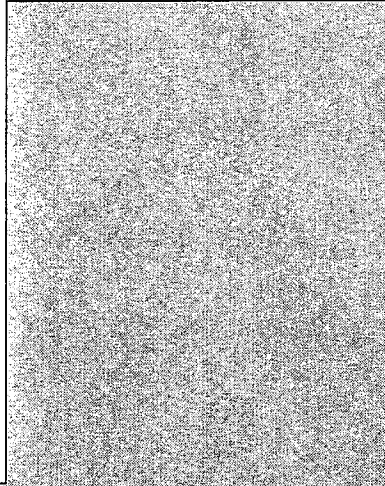
Name of Company (if applicable): \_\_\_\_\_

Mailing address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_



**TO BE TO BE COMPLETED BY STAFF**      **DATE:** \_\_\_\_\_

**APPEAL #** \_\_\_\_\_ **RECEIPT#** \_\_\_\_\_ **SIGNATURE:** \_\_\_\_\_

VANCOUVER CHARTER  
SBC 1953, CHAPTER 55  
Part XXVII

Planning and Development  
Zoning

SECTION 568

*Non-conforming buildings*

568. (1) Non-conformity shall be divided into two types:

- (a) non-conformity with respect to the use which is made of the premises; and
- (b) non-conformity arising out of change in the regulations governing matters other than the use which may be made of the premises.

(2) A building lawfully under construction at the time of coming into force of a zoning by-law shall for the purpose of that by-law be deemed to be a building existing at that time. For the purposes of this subsection, a building shall be deemed to be lawfully under construction if a development permit has been issued and such permit remains valid.

(3) A lawful use of premises existing at the time of coming into force of a zoning by-law, although such use is not in accordance with the provisions of the by-law, may be continued; but, if such non-conforming use is discontinued for a period of ninety days, any future use of those premises shall be in conformity with the provisions of the by-law. The Board of Variance may extend the aforesaid period of 90 days to a maximum of 180 days.

(4) No additions or structural alterations except those required by Statute or by-law shall be made to a non-conforming building without:

- (a) the approval of the Board of Variance if the non-conformity is in respect of use; and
- (b) the approval of the Director of Planning if the non-conformity is in respect of regulations only.

*Fire damage to non-conforming building*

(5) Where a non-conforming building is damaged or destroyed by fire to the extent of sixty per centum or more of its value above its foundations as determined by the City Building Inspector, whose decision shall be subject to review by the Board of Variance, it shall not be repaired or reconstructed without the approval of:

- (a) the Board of Variance if the non-conformity is in respect of use; and
- (b) the Director of Planning if the non-conformity is in respect of regulations only.

## SECTION 573

### *Appeals to Board of Variance*

573. (1) The Board shall hear and determine appeals

- (a) by any person aggrieved by a decision on a question of zoning by any official charged with the enforcement of a zoning by-law;
- (b) by any person who alleges that the enforcement of a zoning by-law with regard to siting, size, shape, or design of a building would cause him undue or unnecessary hardship arising out of peculiarities in the site or special circumstances connected with the development. In any such case the Board may, to the extent necessary to give effect to its determination, exempt the applicant from the applicable provisions of the zoning by-law;
- (c) by any person who alleges that due to special circumstances or conditions the provisions of subsection (3) of Section 568 will result in undue or unnecessary hardship to him;
- (d) with respect to matters arising under subsections (4) and (5) of Section 568;
- (e) by any person aggrieved by a decision by any board or tribunal to whom Council has delegated power to relax the provisions of a zoning by-law; and
- (f) by any person who, by reason of Part XXIX [Protection of Trees], is:
  - (i) unable to obtain a permit authorizing tree cutting or removal, or
  - (ii) unable to comply with the requirements of a by-law or permit under that Part.

(2) The Board shall not allow any appeal solely on the ground that if allowed the land or buildings in question can be put to a more profitable use nor unless the following conditions exist:

- (a) the undue or unnecessary hardship arises from circumstances applying to the applicant's property only;
- (b) the strict application of the provisions of the by-law would impose an unreasonable restraint or unnecessary hardship on the use of the property inconsistent with the general purpose and intent of the zoning by-law; and
- (c) the allowance of the appeal will not disrupt the official development plan.

(2.1) The Board shall not allow an appeal that would apply to a property for which an authorization for alterations is required under Part XXVIII.

(3) The Board shall give notice to such owners of real property as the Board may deem to be affected by the appeal, and public notice of the hearing shall be given, if the matter is deemed by the Board to be of sufficient importance. For the purpose of determining the names of the owners deemed to be affected, reference shall be made to the records kept by the Assessor.

(4) The Board shall conduct its hearings of appeals under this section in public.



(5) The decision of a majority of the members of the Board present at a hearing shall constitute the decision of the Board, which shall be rendered in open meeting and shall be recorded in writing by the secretary. In the event of the members of the Board being equally divided, the appeal shall be disallowed.

(6) No appeal shall lie from a decision of the Board.

(7) In allowing an appeal, the Board may impose such restrictions, limitations, or conditions as may seem to it to be desirable and proper in the circumstances.

(8) Council may by by-law provide that failure to comply with any restrictions, limitations, or conditions imposed by the Board pursuant to subsection (7) shall constitute an offence against the by-law.

**EXPLANATION**

**A By-law to amend the Vehicles for Hire By-law**

Enactment of the attached by-law will implement Council's resolution of December 16, 2010 supporting the adoption of rules to reduce the environmental impact of limousines, eliminate conflicts with Provincial limousine standards and streamline licensing regulations.

Director of Legal Services  
January 18, 2011

**A By-law to Amend the Vehicles for Hire By-law No. 6066**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. This Council amends section 2 of the Vehicles for Hire By-law by:
  - (a) striking the definition of “Limousine” and replacing it with:

““Limousine” includes an Antique Limousine, Bus Limousine, Luxury Limousine, Sedan Limousine, Sport Utility Limousine and Stretch Limousine, all as defined under “Vehicle for Hire” in this section 2.”
  - (b) striking the definition of “Charter Bus” found in the definition of “Vehicle for Hire”, and replacing it with:

““Charter Bus”, which means a motor vehicle having a seating capacity of 10 or more passengers with all seats facing forward, operated as a sightseeing venture over a fixed or predetermined route of travel and charging a certain sum per person for each trip or by charter to transport persons on a prearranged basis to a specified location.”
  - (c) striking the definition of “Sedan Limousine” found in the definition of “Vehicle for Hire”, and replacing it with:

““Sedan Limousine”, which means a full sized, four-door sedan motor vehicle of a manufacturer’s top quality line, with a closed body, a maximum seating capacity of five passengers, and an original, unaltered wheelbase of not less than 287.02 cm (113 inches), not equipped with a meter, and hired only by prior reservation for an extended engagement or special purpose. Sedan Limousine includes an eco-friendly sedan limousine approved by the Passenger Transportation Board provided it meets the requirements of Operational Policy IV.3.”
  - (d) striking the definition of “Stretch Limousine” found in the definition of “Vehicle for Hire”, and replacing it with:

““Stretch Limousine”, which means a four-door sedan motor vehicle or a stretched sport utility motor vehicle having the combined features of a sedan and truck and identified as a sport utility vehicle by the manufacturer, with a closed body, a minimum seating capacity of six passengers, not equipped with a meter, and hired only by prior reservation for an extended engagement or special purpose.”
  - (e) Inserting in the correct alphabetical order the following definition of “Bus Limousine” as part of the definition of “Vehicle for Hire”:



**EXPLANATION****A By-law to amend CD-1 By-law No. 10131**

At a public hearing on October 19, 2010, Council approved amendments to sections 3.3, 3.5 and 5 of CD-1 By-law 10131. Enactment of the attached by-law will implement this resolution.

Director of Legal Services  
January 18, 2011

 BY-LAW NO. \_\_\_\_\_

**A By-law to amend CD-1 By-law No.10131**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. This By-law amends the indicated provisions of CD-1 By-law No. 10131.
2. In Section 3.3, Council deletes "15.4", and substitutes "16.1".
3. In Section 3.5, Council repeals subsection (e) and substitutes:

"(e) where a Building Envelope Professional as defined in the Building By-law has recommended exterior walls greater than 152 mm in thickness, the area of the walls exceeding 152 mm, but to a maximum exclusion of 152 mm thickness, except that this clause shall not apply to walls in existence prior to March 14, 2000; and

(f) with respect to exterior:

- (i) wood frame construction walls greater than 152 mm thick that accommodate RSI 3.85 (R-22) insulation, or
- (ii) walls other than wood frame construction greater than 152 mm thick that meet the standard RSI 2.67 (R-15),

the area of such walls that exceeds 152 mm to a maximum exclusion of 51 mm of thickness for wood frame construction walls and 127 mm of thickness for other walls, except that this clause is not to apply to walls in existence before January 20, 2009. A registered professional must verify that any wall referred to in subsection (ii) meets the standards set out therein."

4. Council repeals section 5, and substitutes:

"5. Any development or use of the site requires the provision, development and maintenance of off-street parking, loading and bicycle parking, in accordance with the requirements of, and relaxations, exemptions and mixed use reductions in, the Parking By-law."

5. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.

6. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this \_\_\_\_\_ day of \_\_\_\_\_, 2011

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**EXPLANATION****Protection of Trees By-law amending by-law  
re miscellaneous text amendments**

On November 16, 2010, Council resolved to amend the Protection of Trees By-law regarding housekeeping amendments to authorize the Director of Permits and Licences and the City Building Official to issue orders. Enactment of the attached by-law will implement Council's resolution.

Director of Legal Services  
January 18, 2011



**A By-law to amend Protection of Trees By-law No. 9958  
regarding miscellaneous text amendments**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. This By-law amends the indicated provisions of the Protection of Trees By-law.
2. In section 11.2, after the words, “an order from the Director of Planning,”, Council strikes, “Director of Permits and Licences” and replaces it with, “Director of Licences and Inspections”.
3. In section 11.3(a), after the words, “Director of Planning”, Council strikes, “Director of Permits and Licences” and replaces it with, “Director of Licences and Inspections”.
4. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.
5. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this \_\_\_\_\_ day of \_\_\_\_\_, 2011

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk