



Consolidated Bylaw No. 5843C

Burnaby Board of Variance Bylaw 1971 Bylaw No. 5843

Purpose: to establish a Board of Variance as legislated in the Local Government Act

The following document is a copy of the above-named parent Bylaw in which every current enforceable amendment made to that Bylaw has been **CONSOLIDATED FOR CONVENIENCE** only. This consolidation is not a legal document. Certified copies of the original bylaws should be consulted for all interpretations and applications of the bylaws on this subject.

To view an amendment bylaw made to **Bylaw No. 5843**, click on the link below:

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Burnaby Board of Variance Bylaw 1971			
No.	Amendment Bylaw No.	Final Adoption (or Repeal) Date	Subject
3	14487	03 Oct 2022	Repeal Schedule "A"; Appeal Process
2	13697	12 Dec 2016	BOV application fee
1	9413	25 Jun 1990	BOV notice mail date
Original	5843	05 Apr 1971	To establish a BOV per LGA

UNOFFICIAL CONSOLIDATION

THE CITY OF THE DISTRICT OF BURNABY

BYLAW NO. 5843

A BYLAW to establish a Board of Variance

(Consolidated for convenience with Bylaw No. 9413, 13697 and 14487, which comes into force and effect on January 1, 2023)

WHEREAS the Council has adopted a zoning bylaw,

AND WHEREAS the Local Government Act provides that where a Council has adopted a zoning bylaw there shall be established by bylaw a Board of Variance,

NOW THEREFORE the Council of The City of the District of Burnaby ENACTS as follows:
(BYLAW No. 13697)

1. This Bylaw may be cited as the "**BURNABY BOARD OF VARIANCE BYLAW, 1971**".
2. A Board to be known as the Board of Variance is hereby established and it shall be constituted in the manner prescribed by and perform the duties set forth in the Local Government Act.
(BYLAW No. 13697)
3. For the purposes of this bylaw, unless the context otherwise requires:
 - (a) "Board" means the Board of Variance;
 - (b) "Chair" means the Chair of the Board of Variance;
(BYLAW No. 13697)
 - (c) " City" means The City of Burnaby;
(BYLAW No. 13697)
 - (d) "Secretary" means the Secretary of the Board of Variance.
4. The City shall provide a Secretary for the Board who shall:
(BYLAW No. 13697)

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- (a) Record the decisions of the Board;
 - (b) Receive notices of appeal and present them to the Board;
 - (c) Cause such notices of appeal or of meetings of the Board to be published or served as directed by the Board or the Chair;
(BYLAW No. 13697)
 - (d) Prepare, maintain, and preserve the minute-book and other records of the proceedings, transactions, and other business of the Board;
 - (e) Notify appellants and the City in writing of the decisions of the Board, and
(BYLAW No. 13697)
 - (f) Perform such other duties as are customary to the office of the Secretary.
5. Any person entitled to appeal to the Board as provided in the *Local Government Act* shall file with the Secretary, a notice of appeal in writing on a Notice of Appeal Form approved by the Board, together with the application fee as specified in the Burnaby Consolidated Fees and Charges Bylaw, and shall state in general terms the grounds of the appeal.
(BYLAW No. 13697, 14487)
6. Any person entitled to appeal to the Board as provided in the *Local Government Act* shall, when the appeal is from a decision of an official of the City, file with the Secretary within thirty (30) days from the date on which the decision was made a notice of appeal in writing on a Notice of Appeal Form approved by the Board and shall state in general terms the grounds of the appeal. The Board may extend the time for filing such notice in any given case for cause on the written request of the appellant.
(BYLAW No. 9413 and 13697)
7. A notice of appeal received by the Secretary less than ten days prior to the next scheduled hearing of the Board will be heard at the next hearing of the Board after the said scheduled hearing.
8. The Secretary shall notify the Chair and the City of all notices of appeal received by him and the Chair shall then fix a convenient date, time and place for the hearing of the appeal. The Chair need not convene the Board more often than once in any calendar month.
(BYLAW No. 13697)
9. The Secretary shall, at least ten days prior to the hearing of the appeal by the Board, mail to the appellant and the City, and to the owners and occupiers of all real property located

adjacent to the property with respect to which the appeal is being heard a notice of the date, time and place of the hearing. (BYLAW No. 9413 and 13697)

10. Public notice of a hearing shall be given if the matter is deemed by the Board to be of sufficient importance. Such notice shall be given by publication in a newspaper circulating in the Municipality of Burnaby in not less than two consecutive issues and at a time not more than ten days nor less than three days before the hearing.
11.
 - (a) The Board on being convened at the appointed date, time and place shall hear the appellants and any witnesses or other persons whose evidence may assist the Board in reaching a decision.
 - (b) Proceedings at the hearing shall be informal and evidence need not be given under oath unless the Board so requires.
 - (c) All hearings shall be open to the public.
 - (d) The Board may adjourn any hearing from time to time as the Board may deem advisable, and may cause notice of the hearing so adjourned to be mailed to such person or persons as the Board may deem to be affected by the appeal.
 - (e) Witnesses may be produced at the hearing by any of the parties and they may be required to give evidence and to produce books, papers, documents, or writings in their possession or under their control relating to the appeal.
 - (f) The appeal may be heard and determined by the Board whether the appellant is present or not.
12.
 - (a) At the conclusion of the hearing of an appeal by the Board, the Board may forthwith render its decision or may adjourn the appeal and render its decision subsequently.
 - (b) The Board shall render a decision within thirty (30) days from the date of the conclusion of the hearing of an appeal.
 - (c) The decision in writing of all or a majority of the members of the Board shall be the decision of the Board.
 - (d) The decision of the Board shall be mailed by the Secretary to the appellant and the City.
(BYLAW No. 13697)
 - (e) A decision of the Board may contain such conditions as the Board may deem to be desirable and proper in the circumstances.

13. If an appeal is allowed by the Board, and if a permit is required by a Bylaw of the City, the appellant shall, within 90 days of the date of the decision of the Board, apply to the Building Inspector of the City for a permit. If the appellant does not apply for a permit within the said period of 90 days the decision of the Board shall be void.
(BYLAW No. 13697)
14. The Board shall not, within one (1) year of the date of the decision of the Board, re-hear an appeal previously denied covering the identical grounds or principles upon which the Board has already rendered a decision.
15. Subject to the provisions of this Bylaw, the Board shall determine its own procedure.

Read a first time this 29th day of March, 1971.
Read a second time this 29th day of March, 1971.
Read a third time this 29th day of March, 1971
Reconsidered and adopted this 5th day of April, 1971.

ROBERT W. PRITTIE
MAYOR

J.H. SHAW
CLERK

SCHEDULE “A” (BYLAW No. 13697, 14487)

BOARD OF VARIANCE APPLICATION FEE \$425.00

This Schedule “A” is **REPEALED** by Bylaw No. 14487, which comes into effect on January 1, 2023)