

**ISLANDS TRUST EXECUTIVE COMMITTEE ACTING AS A LOCAL TRUST
COMMITTEE (BALLENAS – WINCHELSEA ISLANDS)**

BOARD OF VARIANCE ESTABLISHMENT AND PROCEDURE BYLAW NO. 31, 2016

A Bylaw to establish and to set out procedures for a Board of Variance for the Islands Trust Executive Committee Acting as a Local Trust Committee (**Ballenas – Winchelsea Islands**) pursuant to Section 536 of the *Local Government Act*.

1. Citation:

This Bylaw may be cited as “Executive Committee Acting as a Local Trust Committee (**Ballenas – Winchelsea Islands**) Board of Variance Establishment and Procedure Bylaw, 2016

2. Establishment of the Board

- 2.1 Three persons shall be appointed to the Board of Variance (The Board).
- 2.2 The appointment of the Board of Variance shall be by separate resolution of each Local Trust Committee (LTC).
- 2.3 The Board shall by resolution appoint one of the appointed members as the Chair.
- 2.4 The Chair may appoint a member of the Board as Acting Chair to preside in the absence of the Chair.
- 2.5 By separate resolution of each LTC the Chair, or any other member of the Board, may be removed from the Board.
- 2.6 At the time of their appointment, the members shall be appointed to a three year term.
- 2.7 A quorum of the Board for all hearings, pursuant to the provisions of this Bylaw, shall be two (2) or more members.
- 2.8 Advertising for members of the Board shall be done through the newspaper and at the usual posting place in each Local Trust Area.
- 2.9 A person who is a member of the advisory planning commission, a Trustee of the Islands Trust or an officer or employee of the Islands Trust is not eligible to be appointed to the Board.

3. Procedures of the Board

- 3.1 Secretary to the Board
- 3.2 The Director of Local Planning Services or their representative is appointed as the Secretary to the Board.
- 3.3 The Secretary, in addition to receiving applications and preparing agendas on behalf of the Board, must:

- a) Maintain minutes of all proceedings and orders of the Board; and,
- b) After their adoption by the Board, ensure that such minutes:
 - i) are submitted to the Chair and Minute Taker for signature; and,
 - ii) are made available for inspection by the public during the normal business hours of the office.

3.4. Not less than seven days prior to the Board meeting, the Secretary must prepare an agenda of the matters to be considered at the meeting and mail or otherwise deliver a copy of the agenda to each Board member and to be posted at the usual posting places in the Local Trust Area in which the appeal is being made.

4. Application Procedure

- 4.1 Any person may appeal to the Board by submitting an application to the Islands Trust with the required attachments and an application fee as required by the fees Bylaw for the Local Trust Area in which the appeal is being made.
- 4.2 Every application to the Board must include a plan signed by a B.C. Land Surveyor the adequacy of which is to be determined by the Secretary, unless the Secretary determines that the provision of such a plan is not reasonably necessary for the Board to rule on the appeal.
- 4.3 A copy of the completed application, as determined by the Secretary, is to be sent to the Board members at the earliest convenience.
- 4.4 The Secretary in consultation with the Chair will coordinate the Board meeting.
- 4.5 The Secretary will provide a summary report to the Board and will refer the application for comment if deemed necessary.
- 4.6 The Secretary, must, upon receipt of a completed application and not less than 10 days before the date of the board meeting at which the application is to be considered:
 - a) Mail or otherwise deliver, a notice of the Board meeting to:
 - i) the applicant;
 - ii) the owners and tenants in occupation of the land which is the subject of the application; and,
 - iii) the owners and tenants in occupation of the land which is adjacent to land which is the subject of the application.
- 4.7 The notice of the board meeting at which an application will be considered, must:
 - a) Identify by street address and/or legal description, the land which is the subject of the application; and,
 - b) State in a general way the subject matter of the application, and the time, date, and place of the Board meeting.

5. Location of Board Meeting

- 5.1 The Board meeting will occur in the Local Trust Area in which the subject land is located or in a location determined by the Secretary to ensure reasonable access to the meeting.

6. Conduct of a Board Meeting

6.1 Submissions to a Board Meeting

- a) The applicant must be afforded the first opportunity to make a submission to the Board, after which other submissions may be presented in the order determined by the Chair, until all persons or organizations with an interest in the subject application have been given an opportunity to be heard.
- b) A submission to the Board may also include a planning report from Islands Trust staff, a report from the Building Inspector or other agencies or professionals as determined by the Chair in consultation with the Secretary.
- c) The Board must not consider any oral or written submissions on an application except at the Board meeting at which that application is to be considered.

6.2 Deliberations of the Board

- a) All deliberations of the Board are to take place in duly constituted open meetings.
- b) Other than at a Board meeting or during a site visit, a member of the Board is not permitted to discuss an application with any person.
- c) The deliberations, and the decision of the Board to either grant or deny an order must be made in the presence of the applicant, and any other persons notified in connection with that application, if in attendance at that meeting.
- d) If the applicant or any other person notified of that application is not present at the board meeting at which the application is scheduled to be considered, the Board may grant or deny an order in the absence of the applicant or any other person.
- e) Any Board member may view any property which is the subject of, adjacent to, or which in their opinion, is affected by an application, and may enter such property with the permission of the occupier.

6.3 Voting Procedures of the Board

- a) The decision of the Board to either grant or deny an order must be made by a motion adopted by a quorum of the Board.
- b) Any Board member who abstains from voting is deemed to have voted in favour of the motion.

6.4 Notification after Board Decision

- a) The Secretary must, within seven days of a decision by the Board, mail or otherwise deliver written notification of such decision to:
 - i) the owner and/or applicant;

- ii) all persons who made representation on that application, at the Board meeting;
 - iii) the Board members and to other applicable agencies; and,
 - iv) the Executive Committee Acting as a Local Trust Committee **(Ballenas – Winchelsea Islands)** Local Trust Committee.
- b) The Secretary must ensure, upon a decision by the Board, that a record of the order is maintained in the records of the Islands Trust.

7. Repeal

7.1. Islands Trust Executive Committee Acting as a Local Trust Committee **(Ballenas – Winchelsea Islands)** Bylaw No. 2 cited as “Board of Variance By-law, 1978” and Bylaw No. 13 cited as “Board of Variance Bylaw, 1988” are repealed upon adoption of this bylaw.

READ A FIRST TIME THIS	16 TH	DAY OF	FEBRUARY	, 2016.
READ A SECOND TIME THIS	16 TH	DAY OF	FEBRUARY	, 2016.
READ A THIRD TIME THIS	7 TH	DAY OF	JULY	, 2016.
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS	27 TH	DAY OF	JULY	, 2016
ADOPTED THIS	26 TH	DAY OF	OCTOBER	, 2016

CHAIRPERSON

SECRETARY