WHEREAS the Council of the Corporation of the District of Coldstream 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;

AND WHEREAS the Local Government Act provides that, in a bylaw establishing a Board of
Variance, there shall be set out the procedures to be followed by the Board of Variance,
including the manner in which appeals are to be brought to the Board of Variance and how
notices to the Board of Variance are to be given;

NOW THEREFORE, the Council of the Corporation of the District of Coldstream, in open
meeting assembled, enacts as follows:

TITLE

1. This bylaw may be cited for all purposes as the “District of Coldstream Board of
   Variance Bylaw No. 1639, 2013”.

REPEAL

2. The “District of Coldstream Board of Variance Bylaw No. 1067, 1992” and all
   amendments made thereto, are hereby repealed in their entirety.

INTERPRETATION

3. In this bylaw, unless the context otherwise requires, the following definitions shall
   apply:

   “Chief Administrative Officer” means the person duly appointed to that position
   from time to time, by the Council of the District, and their designate;

   “Board” means the persons duly appointed to the Board of Variance established
   under this bylaw pursuant to the provisions of the Local Government Act;

   “Building Official” means the person duly appointed to that position from time to
   time by the Council of the District, and their designate;

   “Chair” means that person who is elected to Chair the Board of Variance;

   “Corporate Officer” means the person duly appointed to that position from time to
   time by the Council of the District, and their designate;
“Council” means the Council of the Corporation of the District of Coldstream;

“Director of Development Services” means the person duly appointed to that position from time to time by the District, and their designate;

“District” means the Corporation of the District of Coldstream;

“Municipal Hall” means the municipal office of the District of Coldstream, located at 9901 Kalamalka Lake Road, Coldstream, British Columbia;

“Secretary” means the person duly appointed to that position from time to time by the Corporate Officer, and their designate.

ESTABLISHMENT OF THE BOARD

4. The Board is established in accordance with the provisions of the Local Government Act and shall consist of three (3) members appointed by Council.

5. Each Board member shall hold office for a term of three (3) years or until a successor is appointed, but a person may be reappointed for a further term(s).

6. The Council may rescind an appointment to the Board at any time.

7. A member of the Board shall not receive compensation for their services as a member, but shall be paid reasonable and necessary expenses that arise directly from the performance of their duties, as determined from time to time by the Council.

8. The Board shall elect one of their members as Chair who may, from time to time, appoint a member of the Board as Acting Chair to preside in the absence of the Chair.

9. A quorum of the Board shall be any two (2) members, one of whom may be the Chair or Acting Chair.

10. The Corporate Officer shall designate a staff member to act as Secretary to the Board. The responsibilities of the Secretary are:

   a. to receive notices of appeal;
   
   b. to notify the Chair of the receipt of a notice of appeal;
   
   c. to ensure that proper notification is given in compliance with this bylaw and relevant legislation;
   
   d. to prepare an agenda for the hearings, and distribute said agenda in accordance with the provisions in this bylaw; and
e. to attend the hearings, record the minutes, and attend to the processing of any correspondence arising therefrom.

JURISDICTION OF THE BOARD

11. The Board shall hear and determine appeals to the Board on the grounds and to the extent authorized under the applicable provisions of the Local Government Act or any successor legislation.

PROCEDURES OF THE BOARD

12. The procedures to be followed by the Board of Variance, including the manner in which appeals are to be brought and notices are to be given, are hereby established as follows:

a. Meetings

i. Upon receipt of an appeal to the Board, the Secretary shall, in consultation with the Chair, establish a date for the Board to meet to consider the appeal.

ii. A special meeting of the Board may be held at any time as determined by the Chair, in consultation with the Secretary and the other members of the Board.

b. Notice of Appeal

i. Any person desiring to appeal to the Board shall file a written “Notice of Appeal” with the Secretary. The appeal shall:

1) be signed by the property owner, and set out in detail the grounds upon which the appeal is based and the relief sought. If the appeal is submitted by an agent, written authorization from the owner must accompany the appeal.

ii. At the time of filing a Notice of Appeal, the applicant shall pay to the District of Coldstream the applicable processing fee as outlined in the District’s Miscellaneous Fees and Charges Bylaw, as amended or replaced from time to time.

iii. A complete Notice of Appeal must be in the hands of the Secretary no later than twelve (12) days prior to the hearing date.

iv. The Secretary, upon receiving a Notice of Appeal and having notified the Chair of the appeal, shall prepare an agenda. The agenda shall state the subject matter of the appeal and the time, date and place where the appeal will be heard.
v. At least seven (7) days prior to the date of the hearing, the Secretary shall send by mail or otherwise deliver a copy of the agenda to the following:

1) the members of the Board of Variance;

2) the appellant and, if applicable, the agent for the appellant;

3) the registered owners, as shown on the last revised assessment roll, and all occupants of all real property located adjacent to the parcel about which the appeal is being heard;

4) and to each the Chief Administrative Officer, the Director of Development Services, the Building Official, and the Corporate Officer, and posted on the notice board at the Municipal Hall.

vi. Where the Board considers an appeal to be of broader community interest, it may, at its discretion, cause a wider public notice of the appeal to be given, in such a manner and to such an extent as the Board considers appropriate.

vii. The Secretary shall copy and circulate to Board members any correspondence submitted towards an appeal. The Secretary shall permit appeals and related correspondence to be available for viewing at the Municipal Hall during regular office hours up to and including the date of the hearing.

c. **Conduct of Hearing**

i. The Board of Variance shall be convened by the Chair on the date of the hearing and at the time and place set out in the agenda.

ii. The Board, in conducting the hearing of the appeal, shall:

1) allow any person or body with interest in property within the District to be heard at the hearing and such person or body is entitled to be represented by an agent duly appointed in writing;

2) allow submissions at a hearing which may be given orally or in writing;

3) give the appellant the first opportunity to present submissions and arguments, and thereafter, submissions and arguments shall be presented in such sequence as the Chair may direct until all parties to the appeal have been afforded an opportunity to present their submissions and arguments;
4) be entitled to adjourn the hearing from time to time and may review the property affected by the appeal and surrounding properties;

5) be entitled to, on failure of the appellant to appear at the hearing or any adjournment thereof, proceed to decide the appeal in the appellant’s absence;

6) not discuss the merits of the appeal with any person who is not a member of the Board or the Secretary before the Board has reached a decision;

7) keep open to the public, meetings of the Board of Variance. A Board meeting or part of a Board meeting may or must be closed to the public if the subject matter being considered relates to one or more of the matters referred to in Section 90 of the Community Charter;

8) prior to a meeting, or part of a meeting, being closed to the public, state, by resolution, the fact that the meeting is to be closed, and the basis under Section 90 of the Community Charter on which the meeting or that portion of the meeting is to be closed; and

9) have the Secretary, within seven (7) days of a hearing, send by mail or otherwise deliver, the written decision of the Board to the appellant, and the Chief Administrative Officer, the Director of Development Services, the Building Official and the Corporate Officer, and such other person(s) as the Board considers appropriate.

iii. The Chair may exclude from the place of the hearing of the appeal, after due warning, any person, including the applicant or his solicitor or agent, whose behaviour interferes with the conduct of the hearing.

iv. Any member who abstains from voting is deemed to have voted in favour of the motion.

v. A decision of all or a majority of the Board members present and voting at any hearing, pursuant to the provisions of this bylaw, shall be the decision of the Board and shall be final.

vi. In all un-provided for cases in the conduct of a hearing of the Board, the laws and rules of "Robert’s Rules of Order" shall be followed, except in such cases where its use would be inconsistent with this bylaw or any other enactment.
d. **Conflict of Interest**

i. In accordance with section 100 of the *Community Charter*, if a Board member attending a meeting of the Board considers that he or she is not entitled to participate in the discussion of a matter or to vote on a question in respect of a matter because the Board member has a direct or indirect pecuniary interest in the matter or for any other reason, the member must declare this and state the general nature of why the member considers this to be the case.

ii. After making the declaration, the Board member:

1) must not take part in the discussion of the matter and is not entitled to vote on any question in respect of the matter;

2) must immediately leave the meeting or that part of the meeting during which the matter is under consideration; and

3) must not attempt in any way, whether before, during or after the meeting, to influence the voting on any question in respect of the matter.

iii. When the Board member's declaration is made:

1) the Secretary must record the member's declaration, the reasons given for it, and the times of the member's departure from the meeting room and, if applicable, the member's return; and

2) the Chair must ensure that the member is not present at the meeting at the time of any vote on the matter.

**SEVERABILITY**

13. If any section, subsection, paragraph, clause or phrase of this bylaw is, for any reason, held to be invalid by the decision of a court of competent jurisdiction, such decision does not affect the validity of the remaining portions of this bylaw.
FORCE AND EFFECT

14. This bylaw shall come into full force and effect and be binding on all persons as from the date of adoption.

READ A FIRST TIME this 12th day of November 2013
READ A SECOND TIME this 12th day of November 2013
READ A THIRD TIME this 12th day of November 2013
ADOPTED this 25th day of November 2013

Corporate Officer
Mayor