



Office of Housing and
Construction Standards



A Guide to Requesting a Local Authority Variation

Section C1 of the *Building Act* Guide

October 2016



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1. Introduction

In spring 2015, the Province passed the *Building Act*, the first act dedicated solely to building and construction.

This guide, Section C1 of the *Building Act* Guide series, explains how local authorities (i.e., local governments) can request a local authority variation under Section 7 of the *Building Act*. This guide accompanies the variation request application and two related sections of the *Building Act* Guide, which applicants are encouraged to read:

- Section B1 – What Local Governments Need to Know about the *Building Act*; and
- Section B1 Appendix – Changes for Local Governments Under Section 5 of the *Building Act*.

The variation request application and sections of the *Building Act* Guide are available online at www.gov.bc.ca/buildingact.

A Note about the *Building Act* Guide

The *Building Act* Guide provides information about the Act for local authorities, building officials, and those working in the building construction sector. Parts of the Guide are released as sections of the Act and the supporting regulations come into force.

The following Guide sections are available [online](#):

Part A – Introduction

- A1 - Understanding B.C.'s Building Regulatory System
- A2 - A Guide to the *Building Act*: Modernizing B.C.'s Building Regulatory System
- A3 - *Building Act* Brochure
- A4 - *Building Act* Introductory PowerPoint Presentation

Part B – Information for Specific Stakeholders

- B1 - What Local Governments Need to Know about the *Building Act*
- B1 Appendix - Changes for Local Governments Under Section 5 of the *Building Act*

Part C – New Procedures (How to...)

- C1 - A Guide to Requesting a Local Authority Variation (this section)

*The content of this guide is provided for information purposes only.
It should not be construed as, or relied upon as, legal advice.*



2. General Information

2.1 Before You Start

This guide is intended to help you prepare a request for a local authority variation. Before you start the application process, please review the application form and read this guide thoroughly, including the Frequently Asked Questions section.

2.2 Local Authority and Local Authority Variation

Any local authority may apply for a variation. Under the *Building Act*, a local authority means:

- a. A municipality;
- b. A regional district;
- c. The Nisga'a Lisims Government;
- d. A Treaty First Nation; or
- e. The Board of Governors of the University of British Columbia.

Treaty First Nations are exempt from the local authority application process if their final agreements require negotiation with the Province to establish different technical building requirements.

A local authority variation is:

- A technical building requirement or set of requirements that differs from a requirement in provincial building regulations (primarily Divisions B of the BC Building Code and BC Plumbing Code);
- Requested by one or more local authorities who wish to enforce the requirement within their jurisdiction(s);
- Subject to Minister approval; and, if approved,
- Enacted through a provincial building regulation that applies in the local authority jurisdiction(s) making the request.

Technical building requirements are the technical requirements for the construction, alteration, repair, and demolition of buildings. A technical building requirement can define the methods, materials, products, assemblies, dimensions, or performance required by the regulation.

The application for a local authority variation must be specific to a local need, circumstance, or condition.

2.3 Provincial Goal of Consistency

A key objective of the *Building Act* is to bring greater consistency to the technical building requirements in force across British Columbia. However, the Province recognizes that consistency needs to be balanced with flexibility to support local authorities to meet local needs.

The variation process is not intended to recreate the patchwork of different technical building requirements that have existed across the province for many years. The *Building Act* provides local authorities with the option of applying for a variation in instances where provincial building requirements do not fully address local needs.



3. Application Information

3.1 The Application Process

There are four steps to apply for a local authority variation:

1. Complete the Application to Request a Local Authority Variation form. The application is available online at www.gov.bc.ca/buildingact.
2. Include supporting documents, i.e., research reports, surveys, etc. Examples of supporting documents are provided in Section 4 of this guide.
3. Email, mail, or courier your completed application and supporting documents to the Building and Safety Standards Branch. Identify supporting documents according to the corresponding section in the application and arrange them in sequential order as referenced in the application.

BY EMAIL

Email to: building.safety@gov.bc.ca
Subject line: Local Authority Variation Request

BY MAIL or COURIER

Send to: Building and Safety Standards Branch
Office of Housing and Construction Standards
4th Floor – 614 Humboldt Street
Victoria, BC V8W 1A4
Attn: Local Authority Variation Request

4. You will receive a confirmation email, with an assigned application number, from the Building and Safety Standards Branch. Please record this number for future reference and refer to this number when making inquiries about your application.

The Building and Safety Standards Branch may correspond with you to clarify or request additional information about your application.



3.2 Completing the Application

The first step in requesting a local authority variation is completing the *Application to Request a Local Authority Variation*. The form is available online at www.gov.bc.ca/buildingact. The application is comprised of five sections, in which you are asked to provide the following information:

1. The technical building requirement
 - a. Provide the proposed technical language that can be applied and enforced in the local jurisdiction;
 - b. Provide the language for the requirement's application and administrative provisions; and/or
 - c. Reference the source of the requirement's language, e.g., an existing building requirement in another jurisdiction.
2. The specific, local need
 - a. Explain the specific local need, circumstance, or condition that requires a variation from existing provincial building regulations;
 - b. Explain the objective you are trying to achieve with the proposed variation, and how it addresses local needs; and
 - c. Provide the historical needs, and social, economic, or environmental considerations that led to the proposed variation.
3. The technical feasibility
 - a. Describe the building science behind the proposed variation and how it has been tested; and
 - b. Provide evidence that the proposed variation meets a specific, local need and why it is a feasible option.
4. The cost-benefit and affordability analysis
 - a. Describe the benefits of implementing the proposed variation and how the benefits outweigh potential costs, e.g., costs associated with construction, maintenance, and operation of the building;
 - b. Describe the economic or other impacts of the proposed variation, e.g., housing affordability, insurance, community costs (e.g., infrastructure costs);
 - c. Describe any impacts if the proposed variation is not approved, i.e., risk analysis; and
 - d. Describe impacts if the proposed variation is approved, e.g., impact on design professionals, developers, builders, homeowners, and building owners, etc.
5. Stakeholder engagement, where applicable
 - a. Provide details about stakeholder consultations for the proposed variation. Stakeholders may include design professionals, developers, builders, neighbourhood associations, and other local authorities.



3.3 Joint Applications

When two or more local authorities collaborate to submit an application, it is called a joint application. Applicants are advised to explore this option before applying separately. Local authorities submitting a joint application must select one local authority to serve as the Primary Applicant (explained in Section 4 - The Application and Supporting Documents, below), and only one application needs to be submitted.

3.4 Application Summary Posted to Building and Safety Standards Branch Website

The application to request a local authority variation includes a section asking the applicant to provide the technical language of the proposed variation. The local authority submitting the application has the option of having a summary of their application posted by the Building and Safety Standards Branch on its website in the event the application proceeds to a full review. This option provides an opportunity for other local authorities to contact the submitting local authority if they have an interest in collaborating on the variation request. Ideally, the process of determining co-applicants for a joint application is completed prior to submitting the application; however, posting a summary of the application on the branch website provides another opportunity for the submitting local authority to consider co-applicants.

3.5 Application Review Process and Costs

The application review process includes several steps:

1. Administrative Intake
 - a. Application received;
 - b. Application reviewed for completeness;
 - c. Confirmation that all supporting material is included/attached; and
 - d. Application number emailed to the local authority (Primary Applicant).

2. Preliminary Review

All applications go through a preliminary review to ensure:

 - a. The variation request achieves a level of safety that is consistent with BC Building Code objectives;
 - b. The request describes a specific local need, circumstance, or condition;
 - c. The supporting documents are comprehensive and evidence based; and
 - d. The variation request is viable, i.e., feasible, realistic, and achievable.

3. Result/Outcome of the Preliminary Review

The application is:

 - a. Declined;
 - b. Stayed, pending further information or clarification; or
 - c. Recommended for a full review, with costs calculated and proposed to the local authority.



4. Full Review

A full review involves a comprehensive evaluation of the proposed variation's technical and policy requirements based on the information provided in the application and supporting documents. There is a cost to applicants for the full review, as explained below.

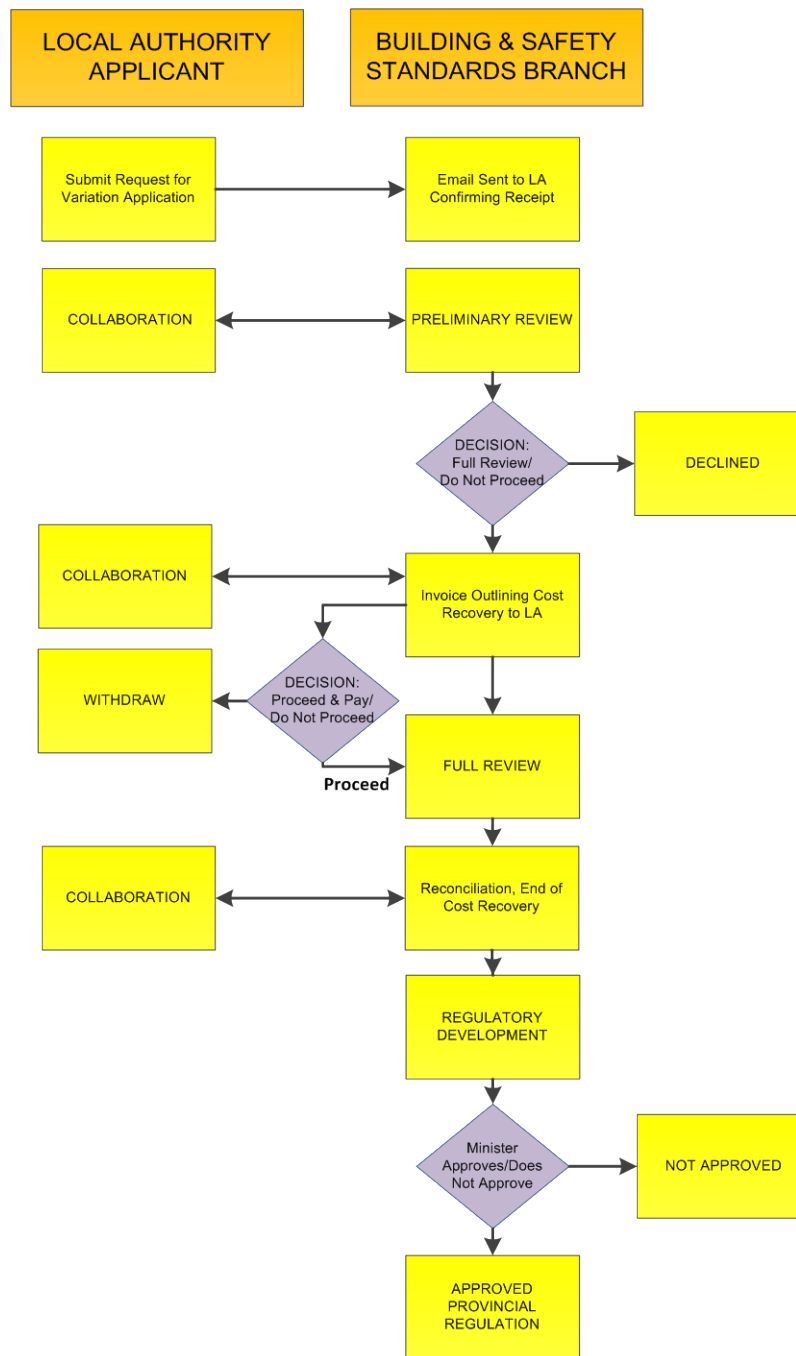
5. Result/Outcome of the Full Review

- a. Minister approves the variation request for enactment as a provincial regulation; or
- b. Minister does not approve the variation request.

If approved by the Minister, a signed resolution of council approving the variation request application will be required after the provincial regulation has been drafted and before it is enacted by a ministerial order. If a joint application has been made, a signed resolution of council will be required from each local authority.



Figure 1. Application Process Map





Costs

All incoming applications receive a preliminary review at no cost to the applicant(s).

Cost Recovery

If applications proceed to a full review, the Province will recover costs in advance from local authorities for the following:

- Ministry staff time to complete the full review; and
- External consultants as needed.

Costs are recovered in accordance with [Part 6, Division 1](#), of the *Building Act*.

Cost Recovery Procedure

The Province will prepare and send the applicant an estimate of the total cost to complete the full review. Local authorities must give their consent to proceed by paying the total estimated cost in advance. The full review will begin after the Province receives payment. The estimate will indicate the amount that needs to be paid, the date by which it must be paid, and the responsibility the applicant will incur if the estimate is paid, e.g., if the final costs are higher than the estimated amount the applicant has paid, as explained below. If no payment is received, the application will be considered withdrawn and will not proceed to a full review.

As the full review progresses, the Province will notify the applicant if there is a possibility the costs will exceed the estimated costs, i.e., the amount the applicant initially paid. The local authority must agree in writing to continue the review, and pay the additional costs when the review is complete.

Within 45 days of completing the full review, the Province will calculate the total cost of the full review and will advise the applicant of:

- The total amount already received from the applicant (referred to as the received amount);
- The total cost of the full review (referred to as the calculated amount); and
- The difference between the received amount and the calculated amount.

If the calculated amount of the full review exceeds the received amount, the applicant must pay the additional costs within 30 days of receiving notice from the Province. If the calculated amount of the full review is less than the received amount, the Province must reimburse the local authority the difference, i.e., the overpayment.

Applicants must pay the costs of the full review even if, upon completion of the review, the proposed variation is not approved by the Minister as a provincial building regulation.



4. The Application and Supporting Documents

Supporting Documents

The sections in the application require applicants to provide the details of the proposed variation. Applicants are asked to include documents that support the variation request, such as evidence-based research and reports. Failure to provide complete information may delay application processing.

Please provide supporting documents in print or in a commonly used electronic format such as: Word, PDF, Rich Text Format, JPEG, or Excel. Make clear references in your application to supporting documents in each section and arrange them in sequential order as they are referenced. Examples of some supporting documents are:

- Cost-benefit and affordability analysis related to the proposed variation;
- Policy analysis and how the proposed variation addresses a specific, local need;
- Stakeholder engagement surveys; and
- Engineering reports that assess the proposed variation's technical feasibility.

Joint Applications

Only one application needs to be submitted if there are co-applicants. Local authorities applying jointly must select one local authority to serve as the Primary Applicant. The Primary Applicant:

- Completes the application in collaboration with co-applicants;
- Ensures a senior official in each local authority signs the application;
- Submits the application to the Building and Safety Standards Branch;
- Serves as the main contact with the Building and Safety Standards Branch throughout the application process;
- Coordinates the flow of information between co-applicants; and
- Takes responsibility for all application costs. (The Primary Applicant and co-applicants determine how the application costs are managed and/or divided among them.)

Local authorities interested in joining an application, already submitted to the Building and Safety Standards Branch, may do so if the Primary Applicant:

- Approves the addition of the local authority(s);
- Completes the [Addendum Application to Request a Local Authority Variation form](#); and
- The addendum is received prior to the start of regulatory development.

Signing the Application

Prior to submission, the application must be signed by a senior official who has the authority under the local authority making the application. Joint applications require signatures from a senior official of each local authority making the request.



5. Frequently Asked Questions

5.1 General

Who do we contact if we have questions? Please email your questions to building.safety@gov.bc.ca.

How can local authorities find out what variation requests have already been submitted to the Province? A local authority submitting an application has the option of having a summary of the proposed variation posted on the Building and Safety Standards Branch [website](#) in the event the application proceeds to a full review. This option provides an opportunity for other local authorities to contact the submitting local authority if they have an interest in collaborating on the variation request. While the submitting local authority takes responsibility for the costs associated with a full review and manages those costs directly with the co-applicant(s), the Province requires a signature from a senior official in each local authority included in a joint application.

What determines whether an application for a local authority variation is successful? No single factor determines the success of a local authority variation request. The Province recognizes that consistency needs to be balanced with flexibility to support local authorities in meeting local needs. The onus is on the local authority to provide all the necessary information that might contribute to the Province approving a local authority variation to provincial building regulations.

Where does a successful variation request apply? The variation will apply within the local authority jurisdiction(s) making the request, as specified in the provincial building regulation.

5.2 Who May Apply

Who may apply for a local authority variation? Any local authority may apply for a variation. Under the *Building Act*, a local authority means: (a) a municipality; (b) a regional district; (c) the Nisga'a Lisims Government; (d) a Treaty First Nation; or (e) the University of British Columbia Board of Governors. Treaty First Nations are exempt from this application process if their final agreements require negotiation with the Province to establish different technical building requirements.

Can local authorities apply jointly for a variation? Yes. Applicants are encouraged to explore this option before applying separately. Ideally, the process of determining co-applicants for a joint application is completed prior to submitting the application.

Does an application have a better chance of success if local authorities submit an application jointly? A large number of local authorities partnering on a single application does not, by itself, contribute to the success of an application. However, a joint application may strengthen the validity that the variation is needed to meet a specific, local need.



If a local authority was not a co-applicant on a request for a variation application that was approved by the Minister, can the local authority apply to be part of the provincial building regulation after the fact? No. Building regulations enacted as a result of a request for variation are unique to the circumstances of the local authority or authorities submitting the request. If a local authority was not a co-applicant on a variation request application, the variation will not apply in their jurisdiction.

5.3 Application Submission and Review Process

When can an application be submitted? Applications can be submitted at any time.

Is the local authority submitting a variation request application obligated to collaborate with other local authorities and submit a joint application? No. It is up to the local authority submitting the application to decide whether they want to collaborate. However, there may be benefits to collaborating, as explained in Section 3.2 of this guide.

If a local authority applies for two variations at the same time, can they submit one application? No. Each variation request must be submitted as a separate application representing one proposed variation to a provincial building regulation.

5.4 Application Costs

How much will it cost to submit an application for a local authority variation? There is no cost to submit an application or for the preliminary review. However, local authorities are responsible for some costs associated with a full review, if the application advances to this step in the review process. As each application will be unique, the Province is unable to estimate the cost of the full review until an application is received and examined.

If an application goes through the full review but is not approved by the Minister, does the local authority still have to pay the costs? Yes. All eligible costs incurred for the full review are the responsibility of the applicant whether or not the application is approved by the Minister. Applicants who withdraw their applications during the full review are responsible for costs incurred to the time the Province receives notice of the withdrawal.

If several local authorities jointly request a variation, how are the costs for the full review shared among them? The Primary Applicant is responsible for paying all costs to the Province and obtaining payment from the co-applicants. The Province does not have a role in the cost-sharing arrangement between joint applicants.

5.5 Application Review Timelines

How long will the application review process take? Each application is unique. Timelines will vary depending on the complexity of the proposed variation.



6. Application Checklist

Review your application prior to submitting to ensure:

- You have completed all of the sections on the application form.
- You are attaching all supporting documents to your email, or in paper format if submitting by mail or courier.
- The application is signed by a senior official who has the authority under the local authority making the application.
If submitting a joint application, signatures are required from a senior official in each local authority included in the request.

Submit your completed application and all supporting documents by email, mail, or courier to the Building and Safety Standards Branch. Identify supporting documents according to the corresponding section in the application and arrange them in sequential order as referenced in the [application](#).

BY EMAIL

Email to: building.safety@gov.bc.ca
Subject line: Local Authority Variation Request

If there are too many documents to send in one email message, use a zip file or send through a series of emails.

BY MAIL or COURIER

Send to: Building and Safety Standards Branch
Office of Housing and Construction Standards
4th Floor – 614 Humboldt Street
Victoria, BC V8W 1A4
Attn: Local Authority Variation Request



7. More Information

Find out more about the *Building Act*:

Website: Regular updates, including other booklets in the *Building Act* Guide series, are posted online as they become available - see www.gov.bc.ca/buildingact

Email: building.safety@gov.bc.ca

Mail: Building and Safety Standards Branch
Office of Housing and Construction Standards
PO Box 9844 Stn Prov Govt
Victoria, BC V8W 9T2



8. Glossary of Application Terms

Applicant: The local authority that submits the variation request application. See also Primary Applicant.

Cost Recovery: If applications proceed to a full review, the Province will recover costs in advance from local authorities for the following:

- Ministry staff time to complete the full review; and
- External consultants as needed.

Related terms:

- **Estimated Amount:** The amount the Province estimates the full review will cost. This amount must be paid by the applicant before the Province starts the full review.
- **Received Amount:** The amount received from the applicant to pay the estimated amount. Receipt of the estimated amount by the Province also indicates the applicant is responsible for any potential, additional costs not yet calculated.
- **Calculated Amount:** The total cost of the full review.

Full Review: A comprehensive evaluation of the technical and policy aspects of the proposed variation.

Joint Application: When two or more local authorities collaborate and submit an application together. With joint applications, one local authority must agree to serve as the Primary Applicant.

Local Authority: Under the *Building Act*, a local authority means:

- a. A municipality;
- b. A regional district;
- c. The Nisga'a Lisims Government;
- d. A Treaty First Nation; or
- e. The Board of Governors of the University of British Columbia.



Local Authority Variation: The application for a local authority variation must be specific to a local need, circumstance, or condition.

- A technical building requirement or set of requirements that differs from a requirement in provincial building regulations (primarily Divisions B of the BC Building Code and BC Plumbing Code);
- Requested by one or more local authorities who wish to enforce the requirement within their jurisdiction(s);
- Subject to Minister approval; and, if approved,
- Enacted through a provincial building regulation that applies in the local authority jurisdiction(s) making the request.

Preliminary Review: The second step in the Provincial review process. All applications go through a preliminary review to ensure the application is complete, with comprehensive and evidence-based supporting material.

Primary Applicant: When local authorities make a joint application for a variation, one of the applicants must agree to serve as the Primary Applicant. The Primary Applicant:

- Completes the application in collaboration with co-applicants;
- Submits the application to the Building and Safety Standards Branch;
- Serves as the main contact with the Building and Safety Standards Branch throughout the application process;
- Coordinates the flow of information between co-applicants; and
- Takes responsibility for all application costs (the Primary Applicant and co-applicants determine how the application costs are managed and/or divided among them).

Technical Building Requirement: Technical building requirements include requirements for the construction, alteration, repair, and demolition of buildings. A technical building requirement can define the methods, materials, products, assemblies, dimensions, or performance required by the regulation.



FOR MORE INFORMATION PLEASE VISIT:
WWW.GOV.BC.CA/BUILDINGACT