



DISTRICT OF SOOKE

BYLAW NO. 311

A bylaw to establish a Board of Variance for the District of Sooke.

The Council of the District of Sooke, in open meeting assembled, enacts as follows:

1. This Bylaw is cited as Bylaw No. 311, *Board of Variance Bylaw, 2009*.
2. There is hereby established pursuant to the provisions of the *Local Government Act* a Board of Variance for the District of Sooke consisting of three (3) persons appointed by Council.
3. An appointment under section 2 is for a maximum term of:
 - a. Three (3) years, or
 - b. If no successor has been appointed at the end of the three (3) year period, until the time that a successor is appointed.
4. A person who is:
 - a. a member of the Council, or
 - b. an officer or employee of the District of Sookeis not eligible to be appointed to the Board of Variance.
5. The Council must appoint a staff member as Secretary to the Board of Variance.
6. The members of the Board of Variance shall elect one of their members as Chair and the Chair may appoint a member of the Board of Variance as Acting Chair to preside in his or her absence.
7. The Council may rescind an appointment to the Board of Variance at any time.
8. Where a member of the Board of Variance ceases to hold office, the person's successor shall be appointed in the same manner as the member who ceased to hold office, and, until the appointment of the successor, the remaining members constitute the Board of Variance.

9. A member of the Board of Variance shall not receive compensation for services as a member but shall be paid reasonable and necessary expenses that arise directly out of the performance of his or her duties.
10. The Board of Variance shall meet on the third Thursday of each month unless otherwise determined by the Chair of the Board of Variance in consultation with the Secretary and all other members of the Board of Variance.
11. The Council shall in its annual budget provide for the necessary funds to pay for the costs of the Board of Variance.
12. The Board of Variance shall hear and determine any appeal with respect to matters mentioned in Sections 901 and 902 of the *Local Government Act*, as amended from time to time.
13. Any person may appeal to the Board of Variance by filing an application with the Director of Planning of the District of Sooke stating the grounds of the appeal. The application must be:
 - (a) signed by the owner of each parcel of land that is the subject of the appeal or by a person authorized in writing by the owner to act as his or her agent for the purpose of making the appeal;
 - (b) made on the application form prescribed by the Director of Planning;
 - (c) accompanied by the information required by the Director of Planning; and
 - (d) accompanied by a fee as set out in the District of Sooke *Development Procedures Bylaw*, as amended from time to time.
14. Upon receipt of a notice of appeal the Director of Planning or his or her delegate shall schedule the appeal for a Board of Variance Hearing. Notice of the hearing shall be mailed or otherwise delivered by the Director of Planning or his or her delegate, addressed to the applicants and/or owners and occupiers of the land that is the subject of the application, and mailed or otherwise delivered to the owners and occupiers of the land that is adjacent to the land that is the subject of the application, at least 10 clear days before the date set for the hearing.
15. All hearings by the Board of Variance shall be open to the public except that the Board may close to the public all or part of a meeting in accordance with the *Community Charter*.

16. Proceedings before the Board of Variance shall be informal. The Board may admit any evidence, whether on oath or not and whether written or oral, and may inspect the premises which are the subject of the appeal.
17. The Board of Variance shall cause minutes of its proceedings to be kept, such minutes to be in accordance with the District of Sooke *Council Procedure Bylaw* and other bylaws or policies.
18. Meetings of the Board of Variance may be adjourned from time to time.
19. Persons whose property is affected by an appeal to the Board of Variance have a right to be heard and to give evidence at the hearing or may be represented by some other person authorized to represent them.
20. The decision in writing of all or of a majority of the members of the Board of Variance is the decision of the Board.
21. Every decision of the Board of Variance shall be filed with the said Director of Planning, or his or her delegate, who shall give notice thereof to the appellant and to the Building Inspector or Official.
22. A decision of the Board of Variance under this bylaw is final.
23. A person may apply to a Board of Variance for an order under Section 902(1) of the *Local Government Act* (as amended from time to time) if the person alleges that the determination by a building inspector of the amount of damage under Section 911(8) of the *Local Government Act* (as amended from time to time) is in error.
24. On an application under Section 902(2) of the *Local Government Act* as amended from time to time, the Board of Variance may set aside the determination of the building inspector and make the determination under Section 911(8) of the *Local Government Act* in its place.
25. The applicant or the local government may appeal a decision of the Board of Variance under subsection 902(3) of the *Local Government Act* as amended from time to time to the Supreme Court.
26. Bylaw No. 6, *District of Sooke Board of Variance By-law No. 6, 1999*, and any amendments, are hereby repealed except insofar as they repeal any other bylaw.

Introduced and read a first time the 14th day of April, 2009.

Read a second time the 14th day of April, 2009.

Read a third time the 14th day of April, 2009.

Adopted on the 4th day of May, 2009.

Janet Evans
Mayor

Evan Parliament
Chief Administrative Officer