

**TOWN OF LAKE COWICHAN**

**BYLAW NO. 915-2012**

**TO ESTABLISH A BOARD OF VARIANCE**

**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 Council of the Town of Lake Cowichan has adopted a Zoning Bylaw;

**NOW THEREFORE** the Council of The Town of Lake Cowichan enacts as follows:

1. There is hereby established pursuant to the provisions of the *Local Government Act* a Board of Variance for the Town of Lake Cowichan consisting of three (3) persons appointed by Council.
2. An appointment under Section 1 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.
3. A person who is:
  - a) a member of the Council, or
  - b) a member of the Advisory Planning Commission, or
  - c) an officer or employee of the Town of Lake Cowichan,is not eligible to be appointed to the Board of Variance.
4. The members of the Board of Variance shall elect one of their number as Chair and in the absence of the Chair, the members of the Board of Variance may appoint an Acting Chair to preside in his or her absence.
5. The Council may rescind an appointment to the Board of Variance at any time.
6. 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.
7. 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.
8. The Council shall in its annual budget provide for the necessary funds to pay for the costs of the Board of Variance.
9. 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*.



10. Any person may appeal to the Board of Variance by filing with the Corporate Officer of the Town of Lake Cowichan a written notice of appeal using the forms provided stating the grounds of the appeal, together with accurate site plans, elevation plans (if applicable), an address to which notices may be mailed, and any other information necessary to support the application.
11. Upon receipt of a notice of appeal the Corporate Officer 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 Corporate Officer 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.
12. 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 Division 3 of the *Community Charter*.
13. 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.
14.
  - a) A quorum of the Board of Variance will consist of two (2) members.
  - b) The decision of the Board to either grant or deny an appeal must be made by a motion adopted by not less than two members.
  - c) A Board member may abstain from voting. An abstention shall be so recorded and shall not be counted as either an affirmative or negative vote. A Board member who intends to abstain from voting on a decision shall not participate in the discussion or debate leading up to the vote.
  - d) Where a decision to grant or deny an appeal has been made at a meeting where:
    - i) only two (2) members are present; and
    - ii) the motion on that appeal is not unanimous such an appeal is deemed to be tabled, and unless subsequently withdrawn in writing by the applicant, must be reconsidered by the Board as soon as arrangements can be made by the Secretary to convene another Board meeting.
  - e) Where an application has been tabled in accordance with this section, the Corporate Officer must proceed in accordance with Section 11.
15. The Board of Variance shall cause minutes of its proceedings to be kept, such minutes to be in accordance with the Council Procedure Bylaw.
16. Meetings of the Board of Variance may be adjourned from time to time.
17. 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.
18. The decision in writing of all or of a majority of the members of the Board of Variance is the decision of the Board.



19. Every decision of the Board of Variance shall be filed with the said Corporate Officer, or his or her delegate, who shall give notice thereof to the appellant and to the Building Inspector.
20. A decision of the Board of Variance under Section 10 of this bylaw is final.
21. A person may apply to a Board of Variance for an order under Section 902(1) of the *Local Government Act* 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* is in error.
22. On an application under Section 902(2) of the *Local Government Act*, 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.
23. The applicant or the local government may appeal a decision of the Board of Variance under subsection 902(3) of the *Local Government Act* to the Supreme Court.
24. Bylaw No. 262-1975, being the Village of Lake Cowichan Board of Variance Bylaw No. 262, 1975, and any amendments, are hereby repealed.
25. This bylaw may be cited for all purposes as the "Town of Lake Cowichan Board of Variance Bylaw No. 915-2012".

READ A FIRST TIME on the 27<sup>th</sup> day of March, 2012.

READ A SECOND TIME on the 27<sup>th</sup> day of March, 2012.

READ A THIRD TIME on the 27<sup>th</sup> day of March, 2012.

RECONSIDERED AND ADOPTED on the 24<sup>th</sup> day of April, 2012.

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Ross Forrest  
Mayor

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Joseph A. Fernandez  
Corporate Officer

I hereby certify the foregoing to be a true and correct copy of "Town of Lake Cowichan Board of Variance Bylaw No. 915-2012" as adopted on the 24<sup>th</sup> day of April, 2012.

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Corporate Officer

