

# **REPORT**

## ***Climate Action, Planning and Development***

**To:** Mayor Cote and Members of Council      **Date:** March 28, 2022

**From:** Jackie Teed, Acting Director, Climate Action, Planning and Development      **File:** 01.0110.20-13

**Item #:** 2022-195

**Subject:** Local Government Act Updates (Bill 26) and Proposed Delegation of Small Development Variance Permits

---

### **RECOMMENDATION**

**THAT** Council direct staff to bring forward the necessary bylaw changes required to implement delegation of minor variances, as outlined in Attachment 1 of this report.

---

### **PURPOSE**

The purpose of this report is to update Council on changes to the Local Government Act (LGA), and to request Council endorsement of next steps to delegate small development variance permits to staff, as now permitted in the LGA.

### **BACKGROUND**

#### **Summary of LGA Changes (Bill 26)**

Provincial Bill 26 received Royal Assent on November 25, 2021. Bill 26 updated the Local Government Act (LGA), including the provisions for Public Hearings and Development Variance Permits, as follows:

#### *Public Hearings*

The LGA no longer requires issuance of a waiver when Council decides not to hold a Public Hearing for rezoning applications consistent with the Official Community Plan. If no Public Hearing is to be held, public notice must be given prior to first reading of the bylaw, consistent with LGA notice requirements.

A discussion with Council regarding the role of public hearings, as part of a larger discussion on public engagement, is anticipated to take place in the coming weeks. The

change to the public hearing waiver process made by Bill 26 is imminently implementable within the City's development review process, which currently includes Council consideration of whether or not to hold a public hearing for eligible applications.

### *Development Variance Permits*

The LGA now gives authority for Council to delegate minor variances related to siting, size, and dimensions of buildings, structures and other permitted uses; off street parking and loading; signs; landscaping to screen or for natural environmental benefits. Authority must be delegated by Council in a bylaw that provides evaluation criteria for (a) determining if minor and (b) use in consideration of issuance; and may also include terms and conditions. The decision of the delegate can be reconsidered by Council on request of the applicant. No notification is required for delegated decisions.

### **Current Development Variance Permit Process**

Most rezoning applications in the city use comprehensive development (CD) districts (i.e. spot rezoning), which incorporate variances to the Zoning Bylaw directly into the CD zone. Many variances can also be addressed through the Development Permit process, which Council has delegated to the Director of Climate Action, Planning and Development. This limits the number of stand-alone Development Variance Permit (DVP) applications the City receives. However, some of the stand-alone DVP applications being processed for Council approval do include very minor variance requests (for example, signage variances).

The City's current approach to processing stand-alone Development Variance Permits is to forward a report to Council recommending issuance of notice for written comment. Public notification is issued consistent with the LGA, and Council is provided all public comments for their consideration prior to issuance.

### **ANALYSIS**

#### **Summary of Development Variance Permit (DVP) Applications**

Between 2017 and 2021 inclusive, a total of 20 stand-alone non-signage DVP applications were processed, with an average four/year, 25% of which included multiple variances. This included variances for: vehicle parking (11 total – space number, space type, space location), building height (7), side/rear yard setback (5), frontage (4), projection into setback (3), loading spaces (3), bike parking (2), site coverage (2), vehicle access (1), retaining wall location (1), offsite works (1).

A total of 10 sign DVP applications were processed since the new Sign Bylaw was approved (July 10, 2017), at a rate of about two/year, 50% of which included multiple variances. This included variances for: size (9 total), number (5), height (3), placement (1), coverage (1), landscape requirements (1).

All but one of these variances (i.e. for offsite works) would now qualify under the current legislation to be delegated by Council. Taking the past five years for example, this would equate to an average of six fewer staff reports and Council considerations per year, and could also decrease processing timelines for DVP applications.

### **Other Municipalities**

Staff surveyed 20 other regional municipalities regarding their approach to the DVP delegation authority added through Bill 26. No municipalities had amended their bylaws to date, but seven municipalities (35%) were currently exploring or working on amendments to bring forward in the near future and seven (35%) were or were potentially interested in exploring at a future date. The City of Vancouver already had authority to delegate DVPs through the Vancouver Charter. Five municipalities (24%) were not interested in changing how they process DVPs, and one provided no comment. A full list of surveyed municipalities is included in Attachment 2.

## **DISCUSSION**

### **Recommendation for Minor Development Variance Permits (DVPs)**

Staff recommends delegating to the Director of Climate Action, Planning and Development most minor stand-alone DVPs that could otherwise be accommodated through a Development Permit applications (i.e. siting, size, dimensions of buildings, structures and other permitted uses; off street parking and loading; landscaping to screen or for natural environmental benefits). This would allow these types of variances to be processed more efficiently even when a Development Permit application is not required. The exception would be where the zoning regulations in question would affect land use or density, which the LGA does not permit to be delegated (e.g. industrial zones where density is regulated through building dimensions instead of floor space).

Staff also recommends delegation for minor DVPs for signs. With the update to the Sign Bylaw, these types of variances have been virtually eliminated, but delegation would streamline the process for the remaining few.

A list of the variances proposed for delegation; the proposed required evaluation criteria for determining when a variance is minor, and for evaluating applications; and the proposed terms and conditions, are included in Attachment 1.

## **NEXT STEPS**

Should Council approve the recommendations in this report, staff would bring forward the required bylaws for Council's consideration.

## **FINANCIAL IMPLICATIONS**

The Development Services Fees and Rates Bylaw includes a fee for stand-alone development variance permit applications of all scales, which would continue to be applied to all applications.

**INTERDEPARTMENTAL LIAISON**

This report was reviewed by Legislative Services. Engineering provided feedback regarding parking variances.

**OPTIONS**

The options before Council are:

1. That Council direct staff to bring forward the necessary bylaw changes required to implement delegation of minor variances, as outlined in Attachment 1 of this report.
2. That Council receive this report for information and direct staff to take no further steps on this matter at this time.
3. That Council provide other direction.

Staff recommend options 1.

**ATTACHMENTS**

Attachment 1 – Provisions of Proposed Delegation of Minor Variances

Attachment 2 – Summary of Municipal Survey

**APPROVALS**

This report was prepared by:

Jackie Teed, Senior Manager, Climate Action, Planning and Development

This report was approved by:

Jackie Teed, Acting Director, Climate Action Planning and Development

Lisa Spitale, Chief Administrative Officer