

**PLANNING AND DEVELOPMENT COMMITTEE**

*HIS WORSHIP, THE MAYOR  
AND COUNCILLORS*

**SUBJECT: BILL 26 – 2021 MUNICIPAL AFFAIRS STATUTES AMENDMENT ACT**

**RECOMMENDATIONS:**

1. THAT Council authorize staff to consider the use of delegated decision making by staff for the issuance of Development Variance Permits (DVPs), as outlined in *Section 3.2* of this report.
2. THAT a copy of this report be forwarded to the Union of BC Municipalities (UBCM) for information.
3. THAT a copy of this report be forwarded to The Honourable David Eby, Q.C., The Office of the Attorney General, PO Box 9044 Stn Prov Govt, Victoria, BC V8W 9E2 for information.

**REPORT**

The Planning and Development Committee, at its meeting held on 2022 April 13, received and adopted the attached report providing information on a number of statute amendments under Bill 26.

Respectfully submitted,

Councillor P. Calendino  
Chair

Councillor S. Dhaliwal  
Vice Chair

Copied to: Chief Administrative Officer Acting CFO GM Corporate Services GM Engineering GM Community Safety GM Planning and Development City Solicitor Chief Building Inspector
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**TO:** CHAIR AND MEMBERS  
PLANNING AND DEVELOPMENT  
COMMITTEE

**DATE:** 2022 April 7

**FROM:** GENERAL MANAGER  
PLANNING AND DEVELOPMENT

**FILE:** 42000 20  
*Reference: Bylaw Amendments*

**SUBJECT:** **BILL 26 – 2021 MUNICIPAL AFFAIRS STATUTES AMENDMENT ACT  
(NO. 2), 2021**

**PURPOSE:** To provide information on a number of statute amendments under Bill 26.

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### **REPORT**

#### **1.0 BACKGROUND**

On 2021 November 25, Bill 26 – 2021, Municipal Affairs Statutes Amendment Act (No. 2), 2021, (Bill 26) received Royal Assent. The primary intent of Bill 26 is to facilitate the construction of homes and affordable housing by eliminating barriers often associated with statutory requirements imposed on developments through development approvals processes. Bill 26 provides new tools to local governments to simplify and expedite these development approval processes. These tools have been identified in the Province's Development Approvals Process Review (DAPR) completed in 2019 through consultation with local government staff, the development sector, housing advocates, and other stakeholders.

Under Bill 26, some of the significant changes to the *Local Government Act (LGA)* and *Community Charter* that can support local governments in streamlining their approval processes include:

- removing public hearing requirements for any zoning amendment bylaw that is consistent with the OCP for that area;
- allowing the delegation of decisions to staff on “minor” DVPs; and
- enabling local governments to determine specific notice methods for public notice requirements.

On 2022 February 21, the Minister responsible for Housing indicated that the B.C. government is considering introducing further legislation and regulatory changes this fall that could change local governments’ decision-making authority for housing permit approvals. Though details on the impending legislation are not yet available, the changes have been described as an effort to get more homes built in the province, with the Minister stating that many housing development proposals become stalled at the permit approval stage as councils deliberate over details of the application. As any changes to development approved processes greatly affect local governments, staff recommend that the Province consult with municipalities through UBCM should it wish to make any changes.

This report provides information on the statute amendments under Bill 26 related to public hearing requirements for zoning amendment bylaws, delegation of authority on minor DVPs, and modernizing public notice requirements.

## **2.0 POLICY CONTEXT**

The recommendations in this report align with the following Council-adopted policies: *Corporate Strategic Plan* (2017), *Official Community Plan* (1998), *Economic Development Strategy* (2007), and *Social Sustainability Strategy* (2011).

## **3.0 BILL 26 AMENDMENTS RELATED TO DEVELOPMENT APPROVAL PROCESSES**

### **3.1 Removal of Public Hearing Requirements**

Under Bill 26, local governments are no longer required to hold (or waive) public hearings for the zoning amendment bylaws that are consistent with their respective OCPs. This change is a result of the DAPR process which concluded that generally, public hearings are not an effective means of public engagement for zoning amendment bylaws, due to the following reasons:

- format of the public hearings does not provide an opportunity for discussion;
- public hearings generally occur late in the approval process which makes it difficult to require any substantive changes to the proposal (require longer processing time and imposes additional costs);
- public hearings may not reflect concerns of the people who are most affected by the development, given that they may not attend the public hearings; and

To: *Planning and Development Committee*  
From: *General Manager Planning and Development*  
Re: *Bill 26 – 2021 Municipal Affairs Statutes Amendment Act (No. 2), 2021*  
2022 April 7 ..... Page 3

- public hearings may delay the approval process which results in an additional cost of development projects.

The DAPR findings suggest that tools which enable local governments to establish a more effective and meaningful public engagement process include the opportunities to seek early public input for development proposals. A robust public engagement process including events for early public input should be used for the development and amendment to the OCP and other area plans. A robust and early public consultation process, as well as ongoing public engagement during development of an OCP reduces the need to hold a public hearing for the zoning amendment bylaws that are in compliance with the OCP.

Under the new legislation, local governments may choose to either continue to hold, or not to hold public hearings for zoning amendment bylaws that are in compliance with their OCPs. However, a consistent approach among all local governments would benefit both local governments and the development sector by minimizing discrepancies, avoiding confusion, and creating comparable review processes. Notwithstanding the drawbacks identified in the DARP findings, public hearings provide local governments an opportunity to present a proposal to the public, offer citizens a chance to share their opinion and concerns and for the local governments to respond to citizens' questions. In this regard, public hearings facilitate a transparent decision making process.

In Burnaby a public hearing is currently required for any zoning amendment bylaw in order to gauge community support for a development, provide an opportunity to hear those affected by a development, and ensure a greater level of scrutiny to achieve higher quality developments.

The City is currently undertaking a Development Approval Review Process (DARP) that aims to streamline development applications and improve efficiency and transparency in the review process. As part of this process, staff will review the benefits and challenges of holding public hearings and other public engagement through the development application process, including for zoning amendment bylaws, and report back to Council with recommendations.

### **3.2 Delegation of Power to Issue Minor Development Variance Permits**

Under Bill 26, local governments may delegate the power to staff to issue a DVP where the proposed variance is minor. In so doing, Council must adopt a bylaw which includes the criteria for determining what constitutes a minor variance, and the guidelines which the delegate (staff) must consider in deciding whether to issue a DVP. The purpose of this amendment is to increase opportunities for local governments to delegate approval decisions to staff, in order to reduce the application processing time and make the approval process more efficient.

Under Bill 26, local governments are given the authority to define a minor variance based on their specific needs and circumstances. However, the delegation of decision must be given to staff to only vary certain provisions of the bylaws as follows:

- zoning bylaws respecting siting, size and dimensions of buildings, structures and permitted uses;

To: Planning and Development Committee  
From: General Manager Planning and Development  
Re: Bill 26 – 2021 Municipal Affairs Statutes Amendment Act (No. 2), 2021  
2022 April 7 ..... Page 4

- off- street parking and loading space requirements;
- regulation of signs;
- screening and landscaping to mask or separate uses, or to preserve, protect, restore and enhance natural environment; and
- a provision of the *LGA* prescribed by regulation of the Lieutenant Governor in Council.

The amendment under Bill 26 also allows the applicant to request Council to reconsider the decision of the delegate.

The amendments under Bill 26 which enables local governments to delegate the power to staff to issue minor DVPs provides an alternative for the processing of minor variances without a need for Council approval. The DVP is a discretionary statutory tool which facilitates developments that cannot meet the applicable bylaw requirements, due to unique circumstances or special conditions of a property.

On 2021 October 26, the Planning and Development Committee received a report proposing a framework for DVPs and a procedure for the issuance of such applications. The proposed framework was in line with the previous statutory requirement of the *LGA* which restricted the delegation of authority to staff and required that the issuance of any DVP must be approved by Council. The Committee expressed concerns that under the proposed framework Council may be inundated with DVP applications related to single and two-family dwellings. The Committee referred the report back to staff requesting a revision to the proposed framework to ensure that minor variances for single and two-family dwellings would continue to be processed through the Board of Variance (BOV) where such variances are minor in nature and hardship can be demonstrated.

Delegation of power to staff to issue minor variances subject to Council adopted criteria provides an efficient alternative to review variances by the City as an option. To address the Committee’s concern related to the number of DVP applications for single and two-family dwellings while facilitating developments that are restricted due to unique circumstances, it is recommended that Committee request Council authorize staff to consider the use of delegated authority when bringing forward a revised framework for DVP applications. The proposed framework would include the criteria for determining what constitutes a minor variance, and the guidelines which the delegate must consider in deciding whether to issue a DVP.

### **3.3 Modernization of Public Notice Requirements**

A third major amendment under Bill 26 is the amendments to public notice requirements under the *Community Charter*. According to these amendments, the local governments may, by bylaw, establish alternative means of publishing a notice other than in a newspaper, when public notice is required to be given under the statutes. Under the amendments, the acceptable alternative means of publications are not defined. However, this could include any type of notice that council believes will adequately reach the community and meet the legislative requirements, such as online advertising, direct mailing, and radio advertisement. If a local government is using alternative

To: Planning and Development Committee  
From: General Manager Planning and Development  
Re: Bill 26 – 2021 Municipal Affairs Statutes Amendment Act (No. 2), 2021  
2022 April 7 ..... Page 5

means to meet the notice requirements, the best practice is to provide a rationale for the selected means and adopt a resolution in an open council meeting.

Considering the societal shift to use online platforms to receive information, relatively higher costs of publishing notices in a newspaper compared to other alternative methods, and that the distribution of newspapers is declining in many neighbourhoods, the City will review the alternative notice methods as part of the City's DARP process. These include publication of notices on City's website, via the internet or other electronic means which are more effective, reach a larger audience, and are less costly.

#### 4.0 CONCLUSION

This report provides information on the statute amendments under Bill 26 related to public hearing requirements for zoning amendment bylaws that are in compliance with the OCP, delegation of authority on minor DVPs, and modernizing public notice requirements. It is recommended that Committee request Council to authorize staff to consider the use of delegated authority when developing the DVP framework, and to consider other Bill 26 provisions when reviewing the City's development review processes.

It is also recommended that a copy of this report be forwarded to the Union of BC Municipalities (UBCM) and The Honourable David Eby, Q.C. for information.

  
For: E.W. Kozak, General Manager  
PLANNING AND DEVELOPMENT

PS:sa

Copied to:	Chief Administrative Officer	City Solicitor
	Deputy Chief Administrative Officer and Chief Financial Officer	City Clerk
	General Manager Engineering	Chief Building Inspector
	General Manager Corporate Services	
	General Manager Community Safety	