

**CITY OF BURNABY**

**BYLAW NO. 14547**

A BYLAW to amend Burnaby Development  
Procedures Bylaw 2022

The Council of the City of Burnaby ENACTS as follows:

1. This Bylaw may be cited as **BURNABY DEVELOPMENT PROCEDURES BYLAW 2022, AMENDMENT BYLAW NO. 1, 2023.**

2. Burnaby Development Procedures Bylaw 2022 as amended, is further amended:

(a) at Section 2.1, Definitions, by adding the following definitions in alphabetical order:

“**development variance permit**” means a development variance permit authorized under the *Local Government Act*

“**minor variance**” has the meaning set out in 4A.1 of this bylaw

“**Zoning Bylaw**” means the Burnaby Zoning Bylaw 1965”

(b) at Section 2.1, Definitions, by repealing the definition of “permit” and replacing it with the following:

“**permit**” means a **temporary use permit** or a **development variance permit**”

(c) by repealing Section 3.5 in its entirety and replacing it as follows:

“3.5 If **Council** refuses an application for a **permit** in accordance with section 4.3(c) of this **bylaw** or following reconsideration of a **permit** application under section 4A.5 of this **bylaw**, **the applicant** shall not reapply for the same **permit** for one (1) year after the date of the open **Council** meeting at which the application was considered, except that the time limit may be varied in relation to a specific reapplication with an affirmative vote of at

least 2/3 of members of **Council** eligible to vote on the reapplication and this **bylaw** applies to the reapplication as if it were a new application .”

(d) by adding the following as Sections 3.6 and 3.7:

“3.6 If the **General Manager Planning and Development** refuses an application for a **development variance permit** in respect to **minor variances** under Part 4A of this bylaw, the applicant shall not reapply for the same **permit** for one (1) year after the date of issuance of the decision of the **General Manager Planning and Development**.

3.7 An application for a **permit** shall be approved or refused by **Council** or the **General Manager Planning and Development**, as applicable, within one (1) year after the date the application was made, except that the time limit may be extended by the **General Manager Planning and Development** for up to one (1) year upon receipt of a written request from the **applicant**.”

(e) by deleting the heading of Part 4 in its entirety and replacing it with the following:

“**PART 4: COUNCIL APPROVAL PROCESS**”

(f) by adding the following as Part 4A:

“**PART 4A: MINOR VARIANCES**”

4A.1 For the purpose of this **bylaw**, **minor variance** means a variance that meets all of the following criteria:

(a) varies the requirements of the *Zoning Bylaw* relating to:

(i) siting, size, and dimensions of a building or structure, or a

portion thereof, except those related to fences and retaining walls, clearance at intersections, lot coverage, and minimum or maximum floor area of a dwelling unit or living unit; and/or

(ii) siting of a permitted use;

(b) does not exceed 25 percent of the applicable requirements of the *Zoning Bylaw*; and

(c) does not result in a change to the use, density, residential rental tenure, and flood plain requirements specified in the *Zoning Bylaw*.

4A.2 Pursuant to section 498.1 of the *Local Government Act*, **Council** delegates to the **General Manager Planning and Development** the authority to:

(a) issue a **development variance permit** in respect to **minor variances**;

(b) amend a **development variance permit** issued in respect to **minor variances**, provided that the combined variances do not exceed 25 percent of the applicable requirements of the *Zoning Bylaw*; and

(c) impose terms and conditions in a **development variance permit** in respect to **minor variances** to ensure public safety, improve livability, maintain neighbourhood character, preserve the natural environment, retain heritage character, and/or enhance sustainability, in accordance with applicable **City** policies.

4A.3 The **General Manager Planning and Development** shall consider the following guidelines in determining whether to issue a **development variance permit** for **minor variances**:

(a) the requested variance facilitates the efficient use and development of the **site**, taking into account the specific **site** conditions and/or special circumstances have unreasonably compromised the potential development of the **site**;

- (b) the **applicant** has made reasonable efforts to eliminate the need for, or reduce the extent of, the requested variance;
- (c) the proposed development is generally compatible with the adjacent neighbourhood and uses;
- (d) the proposed development will not have significant impacts on adjacent uses, streetscapes, or the natural environment;
- (e) the requested variance generally meets the intent of the *Zoning Bylaw*; and
- (f) the proposed development and the requested variance are generally in compliance with other **City** policies and regulations.

4A.4 The **General Manager Planning and Development** may refer an application for a **development variance permit** in respect to a **minor variance** to **City** departments and/or external organizations prior to making a decision about the application.

4A.5 An **owner** of a **site** that is subject to a decision of the **General Manager Planning and Development** in accordance with section 4A.2 of this **bylaw** may request **Council** reconsider the decision by submitting a written request for reconsideration to the Director Legislative Services within 10 days after the date of issuance of the decision. The written request shall include the reasons for seeking reconsideration, including the grounds on which the **owner** considers the decision of the **General Manager Planning and Development** should be overturned or varied and what terms and conditions, if any, should be overturned or varied.

4A.6 The public notification requirements in Part 5 of this **bylaw** shall apply to an application to the **General Manager Planning and Development** and reconsideration by **Council** under this Part 4A.”

- (g) by repealing Sections 5.1 to 5.4, inclusive, in their entirety and replacing them with the following:

- “5.1 Where notice is required to be provided in the *Local Government Act* or under this **bylaw** for an application for a **permit**, the distance for the mailing or delivery of notices is 50 m (164 ft.) from that part of the site that is subject to the **permit**.
- 5.2 The **City** shall give notice of an application for a **permit** or **Council** reconsideration of a decision under this **bylaw** in accordance with the following, as applicable:
- (a) for a **temporary use permit**, in accordance with section 494 of the *Local Government Act*;
  - (b) for a **development variance permit** to be considered by **Council**, in accordance with section 499 of the *Local Government Act*; and
  - (c) for a **development variance permit** in respect to **minor variances**, in accordance with section 499 of the *Local Government Act* as if the decision of the **General Manager Planning and Development** is a **Council** resolution.
- 5.3 In addition to all statutory notice requirements, an **applicant** shall post a sign on the **site** in respect to an application for a **permit** or **Council** reconsideration of a decision under this **bylaw** in accordance with the following:
- (a) for a **permit** to be considered by **Council**, at least thirty (30) days prior to the date of the **Council** meeting at which the application will be considered;
  - (b) for a **development variance permit** in respect to **minor variances**, no later than fifteen (15) days after the date the application was made in accordance with section 3.1 of this **bylaw**;

(c) for **Council** reconsideration of a decision of the **General Manager Planning and Development** under Part 4A of this **bylaw**, at least ten (10) days prior to the date of the **Council** meeting at which the decision will be reconsidered.

5.4 The **General Manager Planning and Development** may establish requirements, including with respect to the number, size, form, location and content, for the sign(s) to be posted pursuant to section 5.3 of this **bylaw**.

5.5 The sign(s) required to be posted in accordance with sections 5.3 of this **bylaw** shall be removed from the **site** within ten (10) days after the decision of **Council** or the **General Manager Planning and Development**, as applicable, in respect to the application or reconsideration. If the **owner** fails to do so, the **City**, by its employees or contractors, may enter the **site** and remove the sign(s) and the **owner** shall pay the sign removal fee set out in the *Burnaby Consolidated Fees and Charges Bylaw*, and if such fee is unpaid by the 31<sup>st</sup> day of December of the year in which the expenses were incurred, shall be added to and form part of the property taxes payable in respect of the **site** as taxes in arrears.”

(h) by repealing Section 6.1 in its entirety and replacing it with the following:

“6.1 As a condition of the issuance of a **permit**, **Council** or the **General Manager of Planning and Development**, as applicable, may require that the **applicant** provide **security**, in accordance with the guidelines set out in Schedule A of this **bylaw**, and pay the fees set out in the *Burnaby Consolidated Fees and Charges Bylaw* for reviewing and administering the **security**, in the event that:

- (a) a condition in the **permit** respecting landscaping is not satisfied;
  - (b) an unsafe condition results as a consequence of a contravention of a condition in the **permit**;
  - (c) damage to the natural environment results as a consequence of a contravention of a condition in the **permit**.”
- (i) by repealing Sections 7.1 and 7.2 in their entirety and replacing them with the following:
- “7.1 A **temporary use permit** is valid until the expiry date or for the period of time specified in the **temporary use permit**, except that a **temporary use permit** shall expire no later than three (3) years after the **temporary use permit** was issued.
- 7.2 Subject to an application in accordance with section 3.1 of this **bylaw**, a **temporary use permit** may be renewed on terms and conditions approved by **Council**. A **temporary use permit** may be renewed only once.”
- (j) by repealing Section 7.4 in its entirety; and
- (k) by adding the schedule attached to this bylaw as Schedule “A”.

Read a first time this 6<sup>th</sup> day of February, 2023

Read a second time this 6<sup>th</sup> day of February, 2023

Read a third time this 6<sup>th</sup> day of February, 2023

Reconsidered and adopted this 27<sup>th</sup> day of February, 2023



MAYOR



CORPORATE OFFICER



## Schedule "A"

### Security Guidelines

1. **Form of Security:** cash, a certified cheque, bank draft or a clean, unconditional, irrevocable letter of credit satisfactory to the **City**

2. **Amount of Security:**

(a) **Security for Landscaping and Remediation** (to ensure the provision of landscaping and/or rectifying an unsafe condition or damage to the natural environment)

The amount of security is to be based on the final cost estimates to install and/or remedy the works, as submitted by a Landscape Architect, Qualified Environmental Professional, Professional Engineers and Geoscientists, or other qualified professional satisfactory to the **City**, which amount is to be approved by the **City**. All estimates must be provided by the applicant at the applicant's expense.

(b) **Security for Performance of Terms of Temporary Use Permit** (to ensure performance of other terms and conditions such as removal of building and restoration of land)

The amount of security should be based on the final cost estimates to undertake the works, submitted by a qualified professional and approved by the **City**, and the cost estimate at the time of expiration of the permit shall apply. All estimates must be provided by the applicant at the applicant's expense.

3. In special circumstance, an alternate method of calculating the amount of **security** may be approved by the **General Manager Planning and Development.**"