

TO: His Worship Mayor Dan Ruimy
and Members of Council
FROM: Chief Administrative Officer

MEETING DATE: September 5, 2023
FILE NO: 2023-216-RZ
MEETING: CoW

SUBJECT: First and Second Reading
Maple Ridge Minor Development Variance Permit Delegation Bylaw No. 7952-2023
Delegation Bylaw for Minor Development Variance Permits

EXECUTIVE SUMMARY:

On February 28, 2023, at Council Workshop, Council received information regarding Provincial Bill 26 and the changes to the *Local Government Act* and the *Community Charter* that now allow local governments to adopt bylaws in order to delegate the issuance of minor Development Variance Permits (DVP) to staff. A minor DVP allows a property owner to construct a building or structure that slightly does not meet one or more of the Zoning Bylaw's regulations. A local government, through a bylaw, may also define what is considered to be a 'minor' DVP. The February 28, 2023, Council Workshop report provided a starting point for what may be considered minor for Council consideration, which included reducing sitting requirements for various land uses and building forms as well as a reduction in parking requirements.

At the February 28, 2023, Council Workshop meeting, Council passed the following resolution:

That staff bring forward a Council delegation bylaw that enables the Director of Planning to approve development variance permits, for minor variances, in accordance with the provisions outlined in the report titled "Bill 26: Local Government Act Updates", dated February 28, 2023.

The purpose of this report is to provide an overview of the proposed criteria outlined in *Maple Ridge Minor Development Variance Permit Delegation Bylaw No. 7952-2023 (Appendix A)* for when a DVP is considered "minor". The criteria for when a DVP is considered minor is largely based off the criteria identified in the February 28, 2023, Council Workshop report. However, changes have been made to reflect Council's comments at the February meeting and to assist staff in processing applications in a more efficient timeline. Ultimately, the criteria proposed for a minor DVP is intended to be relatively unnoticeable by the average user of the site, adjacent sites, and the surrounding public realm.

The *Maple Ridge Minor Development Variance Permit Delegation Bylaw No. 7952-2023* also provides guidelines that must be considered when deciding if the Director of Planning should issue or deny a minor DVP application. Some of these guidelines include meeting BC Building and Fire Code, aligning with City policies, and not increasing the density of the proposed development.

The legislative changes brought into effect through Bill 26 were in recognition that housing affordability and attainability is a significant challenge for the Province. By delegating the issuance of minor DVPs authority to the Director of Planning it enables the City of Maple Ridge to streamline and accelerate development review to approve new housing supply quicker.

RECOMMENDATION:

That Maple Ridge Minor Development Variance Permit Delegation Bylaw No. 7952-2023 be given first and second reading.

1.0 BACKGROUND:

Provincial Bill 26-2021 Municipal Affairs Statutes Amendment Act (No. 2), 2021, or referred to as “Bill 26” received Royal Assent on November 25, 2021. Bill 26 updated the *Community Charter* and the *Local Government Act* (LGA). The changes permitted a local government to allow for a staff delegate to issue minor Development Variance Permits (DVP) should a bylaw be passed. The bylaw should include criteria that sets out what is considered to be a minor DVP and guidelines to be considered by the delegate when determining to issue the minor DVP.

1.1 Work to Date

On February 28, 2023, at Council Workshop, Council was presented with a report that discussed the changes brought forward by Bill 26 and proposed a starting point as to how these changes could be implemented in Maple Ridge. For the topic of delegated authority for minor DVPs, the report proposed the following provisions to be delegated to the Director of Planning:

- Reduction of up to 10% of the siting requirements for employment, institutional and mixed-use development forms, providing all building and fire codes are met.
- Reduction of up to 10% of the siting requirements for all housing forms, providing all building and fire codes are met, with the exception of the front setback requirement for apartment and townhouse uses which would be up to 60%.
- A 60% front setback for townhouse and apartment use has become the new standard for these types of development.
- Increase of up to 10% for building height for solely aesthetic elements – projections, form and character – not for additional storeys.
- Reduction of up to 15% of the parking requirements for employment, institutional, mixed-use and multi-family developments within the Town Centre and Lougheed Transit Area (once adopted), providing payment in-lieu fees are remitted in accordance with Schedule C of the Maple Ridge Off-Street Parking & Loading Bylaw No. 4350-1990.

1.2 Municipal Scan Update from February 28, 2023, Report

The February 28, 2023, Council Workshop report provided a select municipal scan of neighbour municipalities that implemented or were considering implementing new powers enabled by Bill 26. Below is a list of municipalities have passed a bylaw or are considering passing a bylaw to delegate minor Development Variance Permit (DVP) to staff. The list below provides a quick snapshot of what each municipality considers or is considering to be a “minor” DVP. Appendix B provides a more in-depth summary.

Adopted Delegated Authority Bylaw for Minor DVPs

- City of Burnaby – up to 25% of Zoning Bylaw requirements for setbacks, height, and parking
- City of New Westminster – up to the discretion of the Director
- City of North Vancouver – up to 25% of Zoning Bylaw requirements for setbacks, height, and parking
- District of North Vancouver – up to the discretion of the General Manager
- City of Surrey – up to the discretion of the General Manager

Considering Adopting a Delegated Authority Bylaw for Minor DVPs

- City of Coquitlam - up to 25% of Zoning Bylaw requirements for setbacks, height, and parking

Half of the municipalities listed above have or are considering a DVP to be up to 25% of the Zoning Bylaw regulations for setbacks, height, and parking. The other three municipalities leave the definition of what may be considered a minor DVP up to the delegated staff member.

The proposed *Maple Ridge Minor Development Variance Permit Delegation Bylaw No. 7952-2023* aligns with the up to 25% reduction of the Zoning Bylaw regulations for setbacks, height, and parking, but has clear criteria that is Maple Ridge specific for what may be a minor DVP to reduce uncertainty for an applicant.

Overall, most of the municipalities listed above have very similar guidelines for what must be considered by the delegate when deciding to issue a minor DVP, such as the application does not vary land use, increase the density, number of storeys of the building, and does not contravene other City policies or bylaws. The proposed *Maple Ridge Minor Development Variance Permit Delegation Bylaw No. 7952-2023* generally aligns with other municipalities guidelines that must be considered by the delegate when determining to issue a minor DVP.

2.0 DISCUSSION:

A minor Development Variance Permit (DVP) allows a property owner to construct a building or structure that slightly does not meet one or more of the Zoning Bylaw's regulations. A minor variance is considered small enough that the allowance is relatively unnoticeable by the average user of the site, adjacent sites, and the surrounding public realm.

Previously, local governments were not permitted to delegate the authority to issue development variance permits to staff. Under the Bill 26 amendments, local governments may delegate issuance authority to staff where the proposed development variance is minor and falls within the following categories:

- Zoning bylaws respecting siting, size and dimensions of buildings, structures and permitted uses;
- Off-street parking and loading space requirements;
- Regulation of signs;
- Screening and landscaping to mask or separate uses to preserve, protect, restore and enhance the natural environment; and
- Other provisions prescribed by Provincial regulation.

The provincial legislation has been left local government to determine what is considered a "minor" development variance permit.

2.1 Criteria for Minor Development Variance Permit

The proposed *Maple Ridge Minor Development Variance Permit Delegation Bylaw No. 7952-2023* (Appendix A) outlines criteria for when a Development Variance Permit (DVP) application may be considered 'minor'. This criteria is unique to Maple Ridge and provides applicants and staff with clarity on what may be considered a minor DVP. The proposed bylaw separates the criteria into four categories:

- Principal Buildings and Structures Setbacks;
- Accessory Buildings and Structures Setbacks;
- Height; and
- Parking.

Should a DVP application not meet the criteria outlined in the proposed bylaw, the application would be forwarded to Council for decision.

Principal and Accessory Building and Structures Setback Variance

For Principal and Accessory Building and Structures setbacks, the proposed bylaw sets out clear criteria of what may be considered a minor DVP for different types of buildings on different size lots. Overall, the proposed bylaw does not permit a minor DVP to exceed 20% of the Zoning Bylaw's lot line setback regulations and the 20% variance maximum is only for larger residential, commercial, institutional, or industrial lots or for specific uses, such as Renewable Energy Devices. Properties that have a total lot area less than 557m² may only exceed the Zoning Bylaw's lot line setback regulation up to 15%.

For example, the proposed bylaw may permit a RS-1 Single Detached Residential lot to have their front yard setback reduced from 7.5m to 6.0m (20% reduction) through the delegated minor DVP process. However, for small lots, such as the R-1 Single Detached Low Density Urban Residential, could only reduce their front yard setback from 5.5m to 4.4m (15%) as the minimum lot area required in the Zoning Bylaw is less than 557m².

Compared to other municipalities that have passed a bylaw to delegate minor DVPs to staff, such as City of Burnaby and City of North Vancouver, the proposed criteria for a minor DVP will have a smaller impact as the other municipalities either leave it up to staff discretion or up to 25% of the Zoning Bylaws regulations.

Height Variance

For Height, the proposed criteria allows minor DVPs to exceed up to 10% of the Zoning Bylaws height requirements for all zones (except single detached and duplex uses), retaining walls, and fences.

Off-Street Parking Variance

For Off-Street Parking, the proposed criteria allows a minor DVP to reduce the number of off-street motor vehicle parking spaces up to 10%, except for:

- Areas within the payment in-lieu program;
- Accessible parking;
- Single detached or duplex residential uses;
- Accessory Dwelling Units, such as secondary suites and detached garden suites.

The February 28, 2023, Council Workshop report suggested 15% reduction, however, the percentage was changed to reflect Council's comments.

2.2 Guidelines When Considering a Minor Development Variance Permit

The proposed *Maple Ridge Minor Development Variance Permit Delegation Bylaw No. 7952-2023* also includes guidelines that the Director of Planning must consider when reviewing a DVP application and deciding whether to issue the permit. The proposed bylaw includes the following guidelines:

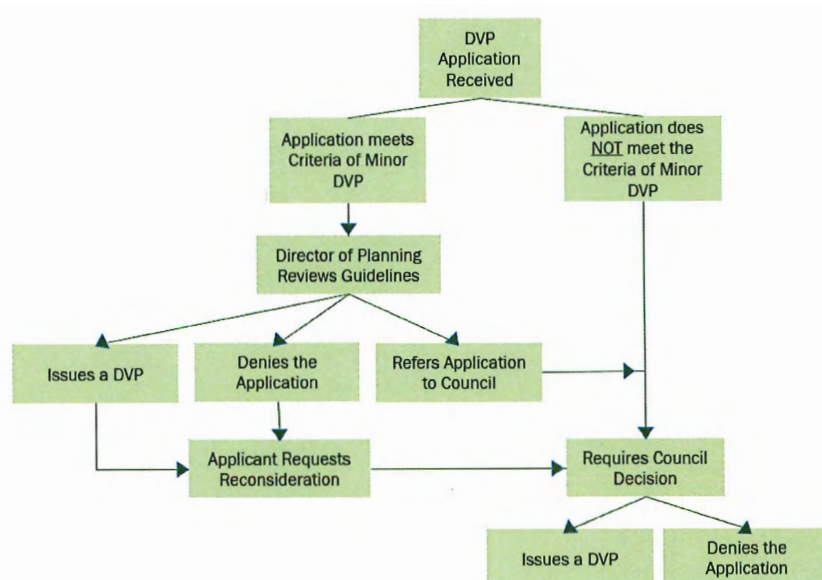
- no bylaw or nuisance violations open on the property;
- no construction related to the Minor Development Variance Permit application has commenced on the property;
- aligns with the current Official Community Plan Bylaw, including the Development Permit Area Guidelines;
- does not increase the number of storeys of the building as regulated by the Zoning Bylaw;
- does not vary Land Use or Density as regulated by the Zoning Bylaw;
- does not conflict with any statutes, bylaws, orders, legislation, or laws;
- does not negatively impact neighborhood context;
- does not impact visual clearance or sight lines at intersections;
- does not interfere with setbacks from wells and high-pressure gas right-of-way;
- does not apply to a property for which a Heritage Revitalization Agreement is in effect; and
- does not impose any costs on the City.

Should a DVP application not meet the guidelines outlined in the proposed bylaw, the application may be denied by the Director of Planning within their discretion. The applicant can then request reconsideration, which brings the application forward to Council for decision.

2.3 Reconsideration Requests

Similar to the City's other bylaws that permit delegated authority, the proposed bylaw includes reconsideration procedures. An applicant who wishes to have a decision reconsidered by the Council must apply for a reconsideration by delivering written notice of the request to the Corporate Officer within 30 days of the date on which the decision, by the delegate, is communicated in writing to the applicant. The application will then be presented to Council for reconsideration at a future meeting. At this meeting, Council will have the option to confirm the delegates decision, or substitute with Council's own decision, which includes not issuing the permit or requiring terms and conditions. Figure 1 below summarizes the process, and a larger version can be found in Appendix C.

Figure 1: DVP Application Process



2.4 Update to Development Variance Fees & Charges

Should Council move the proposed *Maple Ridge Minor Development Variance Permit Delegation Bylaw No. 7952-2023* forward, the *Fees & Charges Bylaw No. 7575-2019* will be amended to introduce a new application type for minor Development Variance Permits (DVPs). This new fee will be introduced with the update to the *Fees & Charges Bylaw No. 7575-2019* later this year.

3.0 TIMELINES & NEXT STEPS

Should Council move forward with the proposed *Maple Ridge Minor Development Variance Permit Delegation Bylaw No. 7952-2023*, the bylaw could receive its initial readings at the next Regular Council meeting.

Should First and Second Reading be granted, staff will update the bylaw to reflect any Council comments and then bring forward the bylaw for Third, and Final Reading. The bylaw is anticipated to be adopted before the end of the year. A public hearing is not required as the bylaw is not amending the Zoning Bylaw.

Figure 2: Bylaw Adoption Process



Should the *Maple Ridge Minor Development Variance Permit Delegation Bylaw No. 7952-2023* be adopted, the new delegated authority process for development variance permits (DVPs) would apply to applications that have not received First reading. Any application that has received First reading would be subject to a DVP being brought forward to Council for decision.

Additionally, should the subject bylaw be adopted, staff would bring forward a report to Council after one year of adoption to provide the opportunity to make changes to the bylaw.

4.0 STRATEGIC ALIGNMENT

Delegating authority to staff to issue minor Development Variance Permits aligns with two of the five pillars of the 2023-2026 City of Maple Ridge Strategic Plan.

- The proposed bylaw aligns with the “Liveable Community” pillar as the bylaw will streamline and accelerate the development review in order to approve new housing supply quicker.
- The proposed bylaw also aligns with the “Governance & Corporate Excellence” pillar as the bylaw will assist in delivering exceptional customer experience across City’s development services.

5.0 FINANCIAL IMPLICATIONS:

Should Council move the proposed *Maple Ridge Minor Development Variance Permit Delegation Bylaw No. 7952-2023* forward, the Fees & Charges Bylaw No.7575-2019 will be amended to introduce a new application type for minor Development Variance Permits (DVPs).

CONCLUSION:

Provincial “Bill 26” received Royal Assent on November 25, 2021, and now allows a local government to delegate the issuance of minor Development Variance Permits (DVP) to staff through the passing of a

This report provides an overview of the proposed *Maple Ridge Minor Development Variance Permit Delegation Bylaw No. 7952-2023*. The proposed bylaw includes criteria that sets out what a minor DVP is considered to be for Maple Ridge and guidelines that must be considered by the Director of Planning when determining to issue the minor DVP. The proposed bylaw also outlines a reconsideration process for applicants.

Delegating the issuance of minor DVPs authority to the Director of Planning enables the City of Maple Ridge to streamline and accelerate development review in order to approve new housing supply quicker.

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Planner 2

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Director of Planning

Original Signed by Scott Hartman

Concurrence: **Scott Hartman**
Chief Administrative Officer

The following appendices are attached hereto:

- Appendix A – Maple Ridge Minor Development Variance Permit Delegation Bylaw No. 7952-2023
- Appendix B – Municipal Scan of Municipalities That Implemented or are Considering Delegated Minor DVPs
- Appendix C – Development Variance Application Process

**CITY OF MAPLE RIDGE
BYLAW NO. 7952-2023**

**A Bylaw to establish the City's criteria and process for delegating Minor Development Variance Permits
under the *Local Government Act***

WHEREAS, under Section 498.1 of the *Local Government Act*, a municipal council is authorized to delegate parts of its powers, duties and functions, including those specifically established by an enactment, to its officers and employees;

NOW THEREFORE, the Municipal Council of the City of Maple Ridge enacts as follows:

1. Citation

This Bylaw shall be cited as "Minor Development Variance Permit Delegation Bylaw No. 7952-2023".

2. Definitions

In this Bylaw:

"Applicant" means the registered owner of the property that is the subject of an application, or the registered owner's designate by way of written consent;

"City" means the City of Maple Ridge;

"Delegated Official" means the City Staff member whom Council delegates its authority to under this Bylaw;

"Development Variance Permit" means a permit as defined by Section 498 of the *Local Government Act*;

"Minor Development Variance Permit" means a Development Variance Permit that has been determined to be minor by the Delegated Official in accordance with the criteria set out in this Bylaw;

"Notice of Appeal" means a written request submitted to the Corporate Officer for an Appeal; and

"Zoning Bylaw" means the current City of Maple Ridge Zoning Bylaw, as amended from time to time.

3. Statute Amendments

- (a) Any reference made to statutes or legislation refers to the most current version of that statute or legislation, as amended from time to time.

4. Delegated Official

- (a) Council hereby delegates to the Director of Planning or their designate, the powers of Council to issue a Minor Development Variance Permit and the authority to impose, in accordance with

applicable City policies or bylaws, terms and conditions for a Minor Development Variance Permit to:

- a. ensure public safety,
- b. improve livability,
- c. maintain neighbourhood character,
- d. preserve the natural environment,
- e. retain heritage character, or
- f. enhance sustainability.

- (b) For the purposes of this Bylaw, the Delegated Official is the Director of Planning or their designate.

5. Application Review Procedure

- (a) The Applicant may submit an application for a Development Variance Permit pursuant to the current Maple Ridge Development Procedures Bylaw, as amended from time to time.
- (b) Upon receiving a processed application for a Development Variance Permit from the Planning Department, the Delegated Official will consider whether the application could be appropriately addressed through the issuance of a Minor Development Variance Permit.
- (c) If the application is not appropriate to address through the issuance of a Minor Development Variance Permit, the Delegated Official will refer the application to Council for consideration.

6. Bylaw Criteria for Minor Development Variance Permits

An application for a Development Variance Permit may be considered as a Minor Development Variance Permit by the Delegated Official if the requested variance(s) does not contravene British Columbia Building Code or and British Columbia Fire Code and is:

- (a) For regulations under Maple Ridge Zoning Bylaw No. 7600-2019, as amended from time to time,
 - 1. Principal Buildings and Structures Setbacks
 - i. 15% or less of the front, rear, interior, and exterior lot line setback requirements for Principal Buildings and Structures on lots that have a total lot area of 557.0 square metres or less.
 - ii. 20% or less of the front, rear, interior, and exterior lot line setback requirements for Principal Buildings and Structures on lots that have a total lot area greater than 557.0 square metres.
 - iii. 10% or less of maximum depth from the front lot line for the Farm Home Plate requirements for a Principal Buildings or Structures.
 - iv. 10% or less of the front, rear, interior, and exterior lot line setback requirements for a Kennel Use.
 - 2. Accessory Buildings and Structures Setbacks
 - i. 15% or less of the front, rear, interior, and exterior lot line setback requirements for all Accessory Buildings and Structures, except for the following:
 - ii. 20% or less of the front, rear, and exterior lot line setback requirements for Accessory Buildings and Structures that are for Renewable Energy Device, including heat pumps, air conditioning devices, and similar devices.
 - iii. 15% or less from the nearest projection of the Building Face of the Single Detached Residential Use for a Detached Garden Suites Residential use.

3. Height

- i. 10% or less of the building height requirements, excluding zones that permit a Single Detached Residential use or a Two-Unit Residential use.
- ii. 10% or less of the maximum height requirement for Retaining Walls, except when located within the visual clearance area at intersections.
- iii. 10% or less of the maximum height requirements for fences along the front, rear, interior, and exterior of the property line except when located within the visual clearance area at intersections.

(a) For regulations under Maple Ridge Off-Street Parking and Loading Bylaw No: 4350-1990, is:

1. 10% or less of the motor vehicle off street parking space requirements, excluding:
 - i. Areas that permit payment in-lieu;
 - ii. Single Detached Residential uses;
 - iii. Accessory Dwelling Units, such as Secondary Suite Residential or Detached Garden Residential;
 - iv. Two-Unit Residential uses;
 - v. Accessible Off-Street Parking Spaces; and
 - vi. Visitor Parking.

7. Guidelines for Minor Development Variance Permits

(a) The Delegated Official must consider the following guidelines in deciding whether to issue a Minor Development Variance Permit:

1. That there is
 - a. no bylaw or nuisance violations open on the property;
 - b. no construction related to the Minor Development Variance Permit application has commenced on the property;
2. That the proposed variance
 - a. aligns with the current Official Community Plan Bylaw, including the Development Permit Area Guidelines;
 - b. does not increase the number of storeys of the building as regulated by the Zoning Bylaw;
 3. does not vary Land Use or Density as regulated by the Zoning Bylaw;
 4. does not conflict with any statutes, bylaws, orders, legislation, or laws;
 5. does not negatively impact neighborhood context;
 6. does not impact visual clearance or sight lines at intersections;
 7. does not interfere with setbacks from Wells and high-pressure gas right-of-way;
 8. does not apply to a property for which a Heritage Revitalization Agreement is in effect; and
 9. does not impose any costs on the City.

8. Application Issuance or Referral

- (a) If the Delegated Official determines that the application satisfies the criteria and guidelines set out in Section 6 and Section 7 of this Bylaw, respectively, the Delegated Official has the authority to issue a Minor Development Variance Permit and may impose any conditions with the Minor Development Variance Permit that the Delegated Official deems appropriate.
- (b) If the Delegated Official determines not to issue a Minor Development Variance Permit upon considering the criteria set out in Section 6 and Section 7 of this Bylaw, respectively, the Delegated Official may refer the application to Council for consideration.

- (c) Subject to the Applicant's right for reconsideration under Section 9 this Bylaw, the decision of the Delegation Official on whether to issue a Minor Development Variance Permit or refer the application to Council is final.

9. Reconsideration Application

- (a) An Applicant may request that a decision by the Delegated Official under this Bylaw be reconsidered by Council in accordance with this section.
- (b) An Applicant who wishes to Appeal a decision made by a Delegated Official to Council must submit a Notice of Appeal to the Corporate Officer within the specified time period of the applicable bylaw, or if no period is specified, within 30 Business Days from the date in which the decision is communicated in writing to the Applicant's address, email address or facsimile number.
- (c) The Corporate Officer may decline to schedule an Appeal if the Notice of Appeal has not been received within the time period as set out in Section 9(b).
 - (a) The Notice of Appeal must include:
 1. the Applicant's name, address, and a method of contacting the Applicant;
 2. a copy of the written decision received by the Applicant, including any supporting materials provided to the Applicant by the Delegated Official; and
 3. the Applicant's grounds for seeking an Appeal, the desired outcome, prior steps taken to resolve the matter, and any other applicable supporting materials.
- (d) Reconsideration by Council must take place at a regular Council meeting that occurs after the date on which the Corporate Officer receives the reconsideration application.
- (e) Prior to the regular Council meeting at which the decision is to be reconsidered, the Corporate Officer must:
 1. give notice of a reconsideration application in accordance with any notice requirements applicable to the original Development Variance Permit application;
 2. deliver to each member of Council a copy of the materials that were considered by the Delegated Official in making the decision that is to be reconsidered, plus a copy of any additional materials submitted by the owner, the Delegated Official, and any other relevant persons; and
 3. deliver to the Applicant a copy of all documents which Council will consider during the reconsideration meeting.

10. Meeting Procedure

- (a) At the time of reconsideration, the Applicant and any other person who is interested in the decision are entitled to be heard by Council, either directly or through an agent.
- (b) At the time of reconsideration, the delegate may address Council or respond to its questions.

11. Council Decision

- (a) After reconsideration, Council may either confirm the decision of the Delegated Official, vary the decision or set aside the decision and substitute a decision of Council.

12. Notice of Council's Decision

- (a) The Corporate Officer must deliver written notice to the Applicant of Council's decision within 30 days of the decision being made.

13. No Further Reconsideration

- (a) If a matter has been reconsidered and decided by Council under this Bylaw, no person may apply again to Council for reconsideration of the same or substantially the same matter for a minimum of six months from the date in which the application was reconsidered.

READ a first time the _____ day of _____, 20_____

READ a second time the _____ day of _____, 20_____

READ a third time the _____ day of _____, 20_____

ADOPTED, the day of , 20

PRESIDING MEMBER

CORPORATE OFFICER

APPENDIX B

Table 1: Municipal Scan of Municipalities That Implemented or are Considering Delegated Minor DVPs

City	Summary of What May be Considered to be a Minor DVP			
	Setbacks	Height	Parking	Other
City of Burnaby	Variances do not exceed 25% of the applicable requirements of the Zoning Bylaw			None
City of New Westminster	At the discretion of the Director of Climate Action, Planning and Development			
City of North Vancouver	25% or less for building setbacks and separations, lot coverage, open site space, and permeable surfaces;	10% or less for building height	25% or less for minimum parking space provision for vehicles and bicycles	Includes Sign Bylaw Variance Criteria
District of North Vancouver	At the discretion of the General Manager of Planning, Properties & Permits.			None
City of Surrey	At the discretion of the General Manager, Planning & Development		Variance is for ten (10) parking spaces or more	Includes Sign Bylaw Variance Criteria
Proposed Delegated Minor DVP Criteria				
City of Coquitlam	Generally considering variances to not exceed 25% of the applicable requirements of the Zoning Bylaw			

Figure 1: Development Variance Application Process

