

Report to Council



Date: November 22, 2021

To: Council

From: City Manager

Subject: Council and Development Application Procedure Changes

Department: Office of the City Clerk

Recommendation:

THAT Council receives, for information, the report from the Office of the City Clerk dated November 22, 2021, with respect to legislative amendments affecting Council, public notices, and development application procedures;

AND THAT Council directs staff to report back to Council with options to implement the legislative amendments;

AND FURTHER THAT, once the legislative amendments come into effect, Council directs staff to make recommendations on public hearings for zoning applications as outlined in the report from the Office of the City Clerk dated November 22, 2021, pending bylaw and policy amendments.

Purpose:

To receive information about recent amendments to legislation regarding Council, public notices, and development application procedures.

Background:

On November 3, the Province gave third reading to Bill 26 – 2021. When given Royal Assent, the legislation will introduce changes in four main areas: Council code of conduct, public notices, public hearings, and development variance permits (DVPs). The code of conduct amendments follow on work being done by the Province, the Union of BC Municipalities, and the Local Government Management Association regarding responsible conduct in local government. The changes affecting notices, public hearings, and DVPs implement opportunities identified in the Province's 2019 [Development Approvals Process Review](#) report. That initiative's objective is to increase housing supply by improving the efficiency and effectiveness of the development approval process.

Bylaw and policy amendments are needed to implement the new legislation. This report summarizes the legislative changes and staff will prepare implementation options for Council to consider in early 2022.

Discussion:

Code of Conduct

Starting next Council term, a Council will be required to publicly consider developing a code of conduct or revising an existing one within six months of being sworn in. If a code of conduct is not established or revised, reasons for that decisions must be made available upon request and Council must reconsider the decision before the year of the next general local election.

A provincial regulation, expected in 2022, will bring the code of conduct amendments into effect and will establish principles to guide Council discussions. The change will apply to the newly elected Council following the 2022 election, and no action by Council is required at this time.

Public Notice

Currently, statutory public notices must be published in a local newspaper and posted in the public notice posting place. Under the new legislation, Council can either follow the default newspaper requirements or establish, by bylaw, at least two alternative ways to publish notices in addition to the public notice posting place. This modernizes public notice requirements, allowing some flexibility to determine the most appropriate publication method for the local context.

A provincial regulation, expected in 2022, will bring the public notice amendments into effect and will define principles of effective notice for Council to consider, including accessibility, suitability, and reliability. Staff will bring forward amendments to Council Procedure Bylaw 9200 for Council's consideration once the regulation is enacted.

Public Hearings

Zoning bylaws (i.e., rezoning or text amendment) that are consistent with the OCP will no longer require a public hearing by default, though Council can choose to send individual applications to a public hearing. As such, waiving a public hearing will no longer be an option. Public notice will be required before first reading of a zoning bylaw that is not going to a public hearing. This is different from the current process where public notice of a public hearing or waived public hearing is after first reading. The legislative changes remove the requirement for Council to provide an opportunity for public input (in person or in writing) prior to Council's consideration of a zoning amendment. Zoning bylaws that are in conjunction with an application to amend the OCP will require a public hearing.

Staff will prepare options to amend the Development Application & Heritage Procedures Bylaw No. 12310 and Council Policies No. 307 and 367 to reflect the legislative changes. In the interim, staff recommend using the criteria established in Council Policy No. 307 to make recommendations on public hearings for zoning bylaws. Specifically, staff will recommend that zoning bylaws that are consistent with the OCP, have a supporting recommendation from staff, and are not expected to generate significant public input based on correspondence received at the time of writing of the Council report to not be scheduled to a public hearing. Staff will recommend that zoning bylaws that do not meet those

criteria be forwarded to a public hearing. Council will continue to receive any correspondence submitted.

The public hearing amendments can streamline zoning applications that are consistent with the OCP and will come into effect when Bill 26 receives Royal Assent.

Development Variance Permits

Council will have the option to delegate approvals for DVPs that meet certain conditions. To be delegated to staff, a variance must be minor and vary one or more of the following regulations: siting, size, or dimensions of buildings, structures, and permitted uses; parking and loading space requirements; signs; or screening and landscaping.

Council must establish, by bylaw, criteria for determining if a proposed variance is minor and guidelines the delegate must consider in deciding whether to issue a direct DVP. As with other delegated authorities, the applicant can request Council reconsider staff's decision. Public notice will not be required for delegated DVPs.

The amendments align DVP approvals with other types of land use permits and will come into effect when Bill 26 receives Royal Assent.

Summary

Change	Come into Effect	City Implementation (Based on Council Direction)
Code of conduct	By regulation, expected in early 2022	Following 2022 election
Public notice	By regulation, expected in early 2022	New bylaw
Public hearings	Date of Royal Assent	Criteria in Council Policy No. 307 (interim) Bylaw and policy amendments (long-term)
DVPs	Date of Royal Assent	Bylaw and policy amendments

Conclusion:

The legislative amendments introduce new requirements and options for Council to consider. The code of conduct change will be in effect for the new Council following the 2022 general local election. The public notice, public hearing, and DVP changes give Council new options to inform the public and streamline development approvals. Once the legislation comes into effect, a subsequent Council report will outline implementation options for further Council direction.

Internal Circulation:

Planning & Development Services Division

Considerations applicable to this report:

Legal/Statutory Authority:

Bill 26 – 2021: Municipal Affairs Statutes Amendment Act (No. 2), 2021

Legal/Statutory Procedural Requirements:

Amendments to Council Procedure Bylaw No. 9200, Development Application & Heritage Procedures Bylaw No. 12310, and related Council policies will be needed to implement changes.

Existing Policy:

Council Policy No. 307 Waiver of Public Hearing

Council Policy No. 367 Public Notification & Consultation for Development Applications

Considerations not applicable to this report:

Financial/Budgetary Considerations:

External Agency/Public Comments:

Communications Comments:

Submitted by:

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cc:

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