

Report

Date	February 5, 2025	File: SPP00107
Subject	Delegation of Authority Bylaw Amendment Bylaw No. 3975, Fees and Charges Bylaw Amendment Bylaw No. 3981, and Development Procedures Bylaw Amendment Bylaw No. 3983 for first three readings	

PURPOSE

To introduce the following proposed draft bylaws:

- (1) Delegation of Authority Bylaw Amendment Bylaw No. 3975 [Attachment 1], which proposes delegating authority for minor development variance permits (MDVP) to a Council delegate;
- (2) Fees and Charges Bylaw Amendment Bylaw No. 3981 [Attachment 2], which proposes to establish fees for MDVPs; and,
- (3) Development Procedures Bylaw Amendment Bylaw No. 3983 [Attachment 3], which proposes adding MDVP to the scope and definitions.

BACKGROUND

A. Community Charter – Delegation of Council Authority

At the [April 5, 2023](#) Council meeting, the concept of delegating authority to approve development permit variances (DPVs) was first introduced. Subsequently, on [April 19, 2023](#), Council adopted [Delegation of Authority Amendment Bylaw No. 3898, 2023](#). This bylaw, enacted under [Section 154\(1\)](#) of the *Community Charter*, specifically empowers staff to approve minor variances related to retaining walls.

This delegation was intended to expedite the review process for retaining wall applications while maintaining Council's oversight for other kinds of variances. Notably, the [Report to Council](#) also highlighted the potential for further delegation of additional variance types for future consideration:

“It is, however, possible at a future time for Council to define other types of variances and add these to the delegated provisions.”

B. Council Motion for Public Variance Approval System

A motion was introduced at the [May 1, 2024 Council meeting](#), advocating for the establishment of a “Public Variance Approval System” and was subsequently approved at the [May 15, 2024](#) meeting:

“11.1 Establishment of a Public Variance Approval System
 THAT during the Development Approval Process Service Review, staff be directed to look at ways to streamline the Development Variance Permit application approval process by delegating minor variances to staff.”

In the interests of efficiency and enabling variance delegation to which Council has already indicated support through the resolution above, this is being brought forward ahead of the conclusion of the development approvals review process (DAPR). It is possible that the DAPR consultant's final report may make additional recommendations in terms of delegation. If so, further amendments can be brought forward pursuant to that report.

DISCUSSION

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

Prior to the *Municipal Affairs Statutes Amendment Act (No. 2), 2021 [Bill 26]*, local governments were prohibited from delegating the authority to issue variances to staff. Historically, variance applications were forwarded to Council for consideration unless they involved "hardship", in which case the Board of Variance could review them.

Section 498.1 of the LGA - New Delegation Powers

As established under section 498.1 [Attachment 4] of the *Local Government Act (LGA)*, introduced through Bill 26, local governments now have the authority to delegate the issuance of development variance permits (DVPs) to staff where the proposed variance is considered "minor." These delegated powers apply specifically to variances related to the following bylaw provisions:

- (1) Zoning bylaws concerning the siting, size, and dimensions of buildings, structures, and permitted uses
- (2) Off-street parking and loading space requirements
- (3) Regulation of signs
- (4) Screening and landscaping requirements, particularly those intended to mitigate visual impacts or protect the natural environment

Examples for each of these provisions can be found in Attachment 5 - MDVP Criteria Examples to provide further clarity on how these criteria are applied.

Section 498.1 (2) of the LGA – Criteria and Guidelines for Issuing MDVPs

As outlined in Section 498.1 (2) of the LGA, any bylaw delegating the authority to issue a minor variance must incorporate:

- (1) Criteria for Determining Whether a Variance is Minor
- (2) Guidelines for the Delegate's Decision

The proposed criteria and guidelines for issuing MDVPs are included in Bylaw 3975 (*Delegation of Authority Bylaw Amendment Bylaw No. 3975 Schedules A and B*) [Attachment 1], which outlines the specific thresholds and evaluation guidelines the Council delegate must follow when determining whether a variance is minor. The criteria and guidelines were developed following a review of practices from other local governments, including Courtenay (2023), Kelowna (2023), Surrey (2023), Victoria (2023), and Nanaimo (2024), to ensure alignment with established best practices.

An analysis of all past DVP files since 2022 was made to see how many would have been classed as minor by applying the proposed criteria. 43% of individual variances sought were captured by the criteria. This does not necessarily equate to the same proportion of application files being delegated since some applications contain multiple variances, of which not all are captured.

This analysis confirms that the approach is reasonably conservative in deciding what is minor but still results in a meaningful proportion of variances being determined under delegated powers.

B. Reporting to Council

To maintain accountability and transparency in the delegation of authority for MDVPs, staff will include a summary of delegated variance files within annual reporting. These reports will ensure Council remains informed and can make adjustments to the delegation framework either to expand provisions if it would like to see yet more delegation or to tighten them if it is not fully comfortable with the extent of delegation.

C. Fees and Charges Bylaw Update - New Fee for MDVPs

To reflect the reduced complexity and processing time associated with “minor” DVP applications, a new fee of \$750 is proposed [Attachment 2]. This fee will apply to MDVPs processed administratively under the delegated authority, ensuring efficiency and cost-effectiveness for applicants. The current fees for DVPs decided by Council are \$1,000 [Single Family, Duplex and Institutional] and \$1,500 [Commercial, Industrial and Multi-Family] and would remain thus for all non-delegated DVPs. The delegated DVP fee of \$750 aims to:

- (1) Reflect the generally lesser administrative costs of processing MDVPs, most of which will not require incorporation into a Council agenda
- (2) Maintain affordability while supporting municipal resources
- (3) Acknowledge the reduced complexity of MDVPs by virtue of the “minor” nature, compared to those requiring Council review
- (4) Be broadly consistent with fees levied by other municipalities for the same application type

If the delegate refuses an application, the applicant may “appeal” that decision to Council for reconsideration. Therefore, while some individual applications may carry a more significant administrative burden, this category of application will still, on average, consume less time to process.

In addition to introducing a fee for MDVPs, minor modifications to the *Fees and Charges Bylaw No. 3784*—such as section renumbering, correction of typographical errors, or updates to cross-references—will be carried out in accordance with the [Consolidation and Revision Authority Bylaw No. 3514](#). These adjustments aim to ensure that the bylaw remains clear, consistent, and accurate without altering its substantive content.

D. Summary

Delegating authority for MDVPs is designed to streamline the approval process, reduce wait times for applicants, and allow Council to focus on higher-level priorities. While this approach offers significant

advantages, such as increased efficiency, a simplified experience for applicants, and more strategic use of Council's time, it also comes with certain considerations. The delegation reduces Council's direct involvement in specific decisions and places greater responsibility on staff to decide potentially subjective or contentious requests that may not necessarily be subject to clear policy direction.

In all cases where the delegate refuses an MDVP, the applicant is able to request that Council reconsider the matter. However, there is no ability for an aggrieved third party (such as a neighbour) to request reconsideration of any permit approval or denial. It should be noted that s.498.1 of the *Local Government Act* provides that neighbour notification of intent to consider a DVP does not apply to delegated DVP decisions.

While being brought forward ahead of the conclusion of the DAPR process, there will be subsequent opportunity for Council to consider further amendments to the delegation bylaw (and other bylaws) if recommended in the DAPR final report. Additionally, annual reporting to Council will ensure the process remains transparent and accountable, allowing for necessary adjustments.

OPTIONS

1. **(Recommended Option)** THAT Council gives first, second and third readings to:
 - (1) Delegation of Authority Bylaw Amendment Bylaw No. 3975,
 - (2) Fees and Charges Bylaw Amendment Bylaw No. 3981, and
 - (3) Development Procedures Bylaw Amendment Bylaw No. 3983.

2. THAT Council defers consideration of Delegation of Authority Bylaw Amendment Bylaw No. 3975, Fees and Charges Bylaw Amendment Bylaw No. 3981, and Development Procedures Bylaw Amendment Bylaw No. 3983, and requests further information (or substantial changes) to:
 - *(Council to identify information or changes required)*

3. THAT Council rejects the recommended change to the Delegation of Authority Bylaw Amendment Bylaw No. 3975, Fees and Charges Bylaw Amendment Bylaw No. 3981, and Development Procedures Bylaw Amendment Bylaw No. 3983.
 - This option would preserve the existing process and maintain Council's decision-making function for all variances.

IMPLICATIONS

Implications	Concerns or Impacts to North Cowichan
Financial	An amendment to the Fees and Charges Bylaw No. 3784, 2020 is proposed in order to create new categories of fees for minor variances to reflect reduced administration of development planning applications more accurately. No further financial implications are anticipated.
Policy/Legislation	Amendments are required for the <i>Fees and Charges Bylaw, Delegation of Authority Bylaw, and Development Procedures Bylaw Amendment Bylaw</i> . No additional policy or legislative impacts are expected.

Implications	Concerns or Impacts to North Cowichan
Strategic Priority	This bylaw amendment aligns with North Cowichan's strategic priorities of enhancing operational efficiency and improving service delivery. It supports North Cowichan's adaptive approach to meeting community needs.
Governance	Annual reporting to Council will ensure transparency and consistency in the handling of delegated variances. This reporting process safeguards public trust and addresses any concerns regarding potential reductions in public oversight.
Sustainability	No significant impacts are anticipated.
Communication	Staff will ensure that any changes related to the <i>Delegation of Authority Bylaw, Fees and Charges Bylaw, and Development Procedures Bylaw</i> , are communicated clearly to the public through established North Cowichan channels, promoting transparency.
Staffing implications	Delegating the authority for minor variances to the Council delegate will reduce Council's workload, improve staff efficiency in processing applications, and allow Council to focus on more complex and high-priority matters.

RECOMMENDATION

THAT Council gives first, second and third readings to:

- (1) Delegation of Authority Bylaw Amendment Bylaw No. 3975,
- (2) Fees and Charges Bylaw Amendment Bylaw No. 3981, and
- (3) Development Procedures Bylaw Amendment Bylaw No. 3983.

Report prepared by:



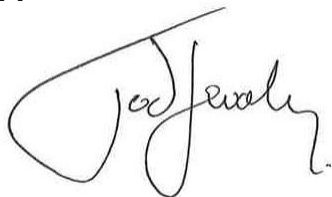
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Attachments:

- (1) Delegation of Authority Bylaw Amendment Bylaw No. 3975
- (2) Fees and Charges Bylaw Amendment Bylaw No. 3981
- (3) Development Procedures Bylaw Amendment Bylaw No. 3983
- (4) *Local Government Act*, Section 498.1 - Delegation of Authority
- (5) MDVP Criteria Examples