

DATE OF MEETING July 28, 2025

AUTHORED BY KRISTINE MAYES, PLANNER, CURRENT PLANNING

SUBJECT **DELEGATION OF AUTHORITY BYLAW UPDATE &  
CONSIDERATION OF VARIANCES POLICY**

## **OVERVIEW**

### **Purpose of Report**

To present for Council consideration amendments to the City of Nanaimo “Officer Designation and Delegation of Authority Bylaw, 2022 No. 7353” (Delegation Bylaw) to update delegated approval authority for development permits and to add delegated approval authority for development variance permits, and to bring forward a Council Policy for the consideration of variances.

### **Recommendation**

That:

1. “Officer Designation and Delegation of Authority Amendment Bylaw 2025 No. 7353.04” (a bylaw to update delegated approval authority for development permits and to add delegated approval authority for development variance permits) pass first reading;
2. “Officer Designation and Delegation of Authority Amendment Bylaw 2025 No. 7353.04” pass second reading;
3. “Officer Designation and Delegation of Authority Amendment Bylaw 2025 No. 7353.04” pass third reading; and,
4. Direct Staff to bring forward draft Council Policy COU-246 – Consideration of Variances Policy for consideration of endorsement concurrent with adoption of “Officer Designation and Delegation of Authority Amendment Bylaw 2025 No. 7353.04”.

## **BACKGROUND**

The City of Nanaimo’s “Officer Designation and Delegation of Authority Bylaw 2022 No. 7353” (Delegation Bylaw) sets out where Council delegates its powers, duties, and functions to a Council member, a Council committee, an officer or employee, or to another body established by Council. Successfully delegating its powers can enable Council to focus and streamline its agenda and assign more routine responsibilities to staff. Presently, Section 22 of the Delegation Bylaw outlines where the Director of Planning & Development (the “delegate”) is delegated the power to issue a development permit. The bylaw provisions establish criteria for which development applications are minor in scale, or involve minor variances, and may be delegated for approval as opposed to those that require Council approval.

Staff have completed a review of the Delegation Bylaw and have prepared amendments for Council’s consideration which propose to expand the delegated authority for development permit (DP) approvals, add delegated approval authority for development variance permits (DVPs), align with provincial legislation to delegate decisions on minor DVP; and implement recommendations within the City of Nanaimo’s 2024 [Development Approval Process Review \(DAPR\)](#), the [Integrated](#)

[Action Plan \(IAP\)](#), and [Small-Scale, Multi-Unit Housing \(SSMUH\) Provincial Policy Manual & Site Standards](#).

This bylaw update is part of a broader development approval process review to reduce approval timelines and facilitate efficient application reviews. The scope of the Delegation Bylaw review included:

- Researching applicable legislation and best practices in other local governments;
- Reviewing trends for previously issued development related variances;
- Expanding and updating delegated approval authority for DPs;
- Adding delegated approval authority for DVPs with minor variances;
- Simplifying existing provisions in the bylaw and clarify ambiguity; and,
- Drafting a new Council policy for the consideration of variances to guide applicants, City Staff, and Council in the preparation, review, and evaluation of DP applications with variances and DVP applications.

## **DISCUSSION**

The Delegation Bylaw update is part of a coordinated Staff review of City bylaws, guidelines, and procedural policies to support streamlined development approvals. This includes increasing the opportunities for Staff to approve applications rather than requiring Council approval. In recent years, general amendments to the Zoning Bylaw have reduced or eliminated the need for some of the commonly requested minor variances (e.g. heat pump setbacks). Additional opportunities to address commonly requested variances, where supported by City policy, are being considered through the review of Part 17 – Landscaping regulations (Form & Character Design Guidelines project), Parking Bylaw review, and Zoning Bylaw Update.

Staff have reviewed development related variances issued in a five year period from 2019 to 2024 to identify trends in commonly requested variances both for DPs and DVPs, noting that some applications include multiple variances. Other DPs without variances were also delegated for approval during this time period (e.g. multi-family developments of 100 units or less). As summarized in Figure 1, 309 individual variances were approved for DPs between 2019 and 2024. The majority of these variances related to building setbacks and height, landscaping and fence height. For example, 34 of the 76 building height variance requests were minor in nature (1m or less) and could be approved through delegated authority.

*Figure 1: Development Permits with Variances (Approved 2019-2024)*

Variance Type	Total Requested	Delegated Approval
Height (Building)	76	34
Height (Fence)*	45	23
Landscaping	54	18
Lot Coverage	2	2
Parking Spaces (quantity & small car ratio)	11	<i>Cannot delegate in existing bylaw</i>
Parking (Other)	29	<i>Cannot delegate in existing bylaw</i>
Setbacks (Building)	80	57
Setbacks (Watercourse)	12	<i>Exceed threshold for delegation</i>
	309	134

\* Note: Fence height as defined in the Zoning Bylaw includes retaining walls.

In many cases, the smaller scale of development could have allowed for delegated approval, however, the extent of variances needed to achieve a functional site plan triggered Council approval (e.g. reducing a portion of a landscape buffer by 100%, and any parking variances). Staff have reviewed these trends and identified the following opportunities to expand the delegation authority for DP approvals.

#### *Proposed Amendments for Delegated Development Permits*

Staff propose to maintain much of the existing approach to delegate DPs with variances, including variances that do not exceed 50% of the Zoning Bylaw standard, and variances that do not exceed 20% of the leave strip requirement. Attachment A summarizes the existing bylaw provisions and the proposed amendments for delegating DPs, including the following:

- Revise and clarify the bylaw language in positive terms (i.e. what is permitted to be delegated, rather than what is not permitted to be delegated);
- Change the maximum building height variance that may be delegated from 1m to 15% of the Zoning Bylaw standard. This would allow a proportional approach based on site context rather than an arbitrary approach;
- Allow all landscaping variances (up to 100%) to be delegated. The existing bylaw only allows variances up to 50% of the Zoning Bylaw standard to be delegated;
- Allow minor parking variances to be delegated (e.g. variance to the number of off-street parking spaces not exceeding 2 spaces or 15%, whichever is greater. The limit of 15% is consistent with the criteria for requiring a parking study in accordance with the Council Policy for Consideration of Parking Variances);
- Clarify the criteria for delegating sign bylaw variances;
- Increase the maximum number of dwelling units in a multi-family development form and character DP that may be delegated from 100 units to 150 units to support housing developments;
- Expand delegation of DPs that rely on technical assessments by qualified registered professionals to demonstrate compliance with applicable DP guidelines (e.g. Development Permit Area (DPA2): Hazardous Slopes which rely on geotechnical assessments);
- Update the criteria for requiring a security for landscaping or restoration as a condition of permit issuance as required by Section 502(5) of the *Local Government Act*; and,
- Add a new delegated authority to renew a previously issued DP (whether issued by Council or the delegate), provided the delegate issues the renewal prior to permit expiry. A DP is valid for two years after issuance. It is common that a DP will lapse before an applicant applies for, or is issued, a building permit (e.g. in cases where an applicant requires more time to secure financing). The applicant must reapply and obtain a new DP issuance ("renewal") before a building permit can be issued. Allowing DP renewals to be delegated will provide a more streamlined process for applicants to maintain active permits without burdening Council with administrative approvals.

#### *Proposed Amendments to Allow Delegated Development Variance Permits*

The authority enabling local governments to delegate minor variance requests within DVPs came into effect on 2021-NOV-25. Staff completed a review 28 municipalities throughout British Columbia and found that the majority (21 out of 28 jurisdictions) had expanded the scope of delegated approvals to include DVPs for minor variances.

The existing Delegation Bylaw does not include provisions to delegate DVPs, as such, all DVP applications are currently considered by Council whether the variance is minor in nature or significant. The DVP approval process also requires public notification to owners and tenants of nearby properties. Bringing these applications to Council and completing public notification requires a substantial amount of administrative resources and time to complete. In many cases, the variance request is minor, or identified late in the detailed design and construction stage (e.g. the need for an overheight retaining wall to address site grading). Allowing some minor variances to be approved by Staff through delegated approval would provide a more streamlined approval path, particularly for minor variances that are necessary and supported by City policy and guidelines.

As summarized in Figure 2, 68 individual variances were approved for DVPs between 2019 and 2024. The majority of these variances related to building setbacks, signage, building height, gross floor area and fence height.

*Figure 2: Development Variance Permits (Approved 2019-2024)*

Variance Type	Total Requested
Gross Floor Area	8
Heat Pumps	2
Height (Buildings)	9
Height (Fence)	7
Height (Perimeter Wall)	2
Lot Coverage	2
Parking Spaces	5
Setbacks (Building)	22
Signs	11
	68

Based on current practice among other jurisdictions, and trends that Staff have seen in commonly requested variances, Staff recommend allowing a limited range of minor variances to be delegated, including:

- building or structure setback variances not exceeding 25% of the Zoning Bylaw standard;
- fence height variances not exceeding 50% of the Zoning Bylaw standard;
- parking variances not exceeding 50% of the Parking Bylaw standard (except a variance to the number of off-street parking spaces greater than 2 spaces); and,
- sign variances not exceeding 50% of the Sign Bylaw standard (not including animated signage and signage in the Parkway buffer).

Staff are not recommending delegated authority for other commonly requested variances such as building height and gross floor area at this time. These variance requests would continue to be considered by Council.

The *Local Government Act* requires that a bylaw permitting the delegation of DVPs must include criteria for determining whether a proposed variance is minor as well as the guidelines that the delegate must consider when issuing a DVP. As outlined in the proposed bylaw amendments (Attachment A and section 23.2 of the draft amendment bylaw), the delegate must consider:

- Consistency with applicable City policies;

- The scope and scale of the variance;
- The impacts on neighbouring properties;
- Whether the variance creates a hazardous condition; and,
- Whether strict compliance with the Zoning Bylaw is unreasonable.

#### *Council Policy for the Consideration of a Variance*

In conjunction with the proposed amendments to the Delegation Bylaw, Staff have prepared a new Council policy for the consideration of variances (attached to this report). The intent of the policy is to provide Council and City Staff with evaluation criteria to be used when reviewing DP applications with variances and DVP applications. This criteria will help standardize how variances are reviewed against applicable City policies and guidelines; demonstrate there is an acceptable justification for a variance; and consider how potential impacts associated with a variance (aesthetic, functional, or environmental impacts) will be minimized. For DPs with variances, this policy would be supplemental to any applicable guidelines (e.g. the Form and Character Design Guidelines). The policy will give more certainty to applicants in the scope of evaluating variance requests and can be used by applicants to inform their variance rationale in submitting an application.

#### *Notification*

Public notification is not required for DPs (with or without variances) or delegated DVPs in accordance with the *Local Government Act*. A review of notification procedures for other local governments indicates that a majority (13 of 21) have not chosen to notify surrounding properties when a delegated DVP is being considered. Given the limited range of minor variances that could be considered through the proposed bylaw amendments, Staff do not recommend public notification for delegated DVPs. This will help streamline approvals for minor variances, which will be considered in accordance with the guidelines in the Delegation Bylaw and the proposed policy for the consideration of variances. It is also noted that delegated DVPs with minor variances, would still be posted for public information on the City's What's Building in My Neighbourhood website.

DVP applications proposing major variances would continue to be considered by Council with the required public notification to neighbouring properties in accordance with the City's "Development Procedures and Notification Bylaw 2024 No. 7375".

### **CONCLUSION**

Updating the Delegation Bylaw and endorsing the Consideration of a Variance Council Policy would increase the number of DP applications considered through delegated authority and allow DVP applications with minor variances, to be delegated. Based on a review of applications between 2019 and 2024, approximately 43% (134 of 309) of the variances approved within DPs met the criteria to be delegated. If applying the proposed Delegation Bylaw amendments, 67% (209 of 309) of those variances would meet the criteria to be delegated. If applying the proposed amendment criteria for delegated DVPs, 24% of variances approved within DVPs (16 of 68) would meet the criteria to be delegated. Therefore, staff anticipate that the proposed amendments and supporting Council policy will provide more opportunities for streamlined development approvals, and clarity with standardized evaluation criteria, to implement the recommendations in the DAPR, IAP, and provincial guidelines for development approvals.

## **NEXT STEPS**

Should Council pass the first three readings of the proposed amendment bylaw, the bylaw will be brought forward for Council consideration of adoption at a future meeting concurrently with the endorsement of the proposed Consideration of Variances Policy. Once endorsed, the policy will be in force and effect. |

## **OPTIONS**

### 1. | That:

1. "Officer Designation and Delegation of Authority Amendment Bylaw 2025 No. 7353.04" (a bylaw to update delegated approval authority for development permits and to add delegated approval authority for development variance permits) pass first reading;
2. "Officer Designation and Delegation of Authority Amendment Bylaw 2025 No. 7353.04" pass second reading;
3. "Officer Designation and Delegation of Authority Amendment Bylaw 2025 No. 7353.04" pass third reading; and,
4. Direct Staff to bring forward draft Council Policy COU-246 – Consideration of Variances Policy for consideration of endorsement concurrent with adoption of "Officer Designation and Delegation of Authority Amendment Bylaw 2025 No. 7353.04".
  - The advantages of this option: The City's Delegation Bylaw will be updated with expanded provisions for delegated approvals, which are consistent with best practices and support streamlined development approvals in accordance with the DAPR, IAP, and provincial guidelines. Additionally, the Consideration of Variances Policy will provide Council and City Staff with evaluation criteria to support the review of applications with variances.
  - The disadvantages of this option: None identified.

### 2. That Council provide alternative direction. |

## **SUMMARY POINTS**

- If adopted, "Officer Designation and Delegation of Authority Amendment Bylaw 2025 No. 7353.04" will expand the delegation of authority for DPs and add the delegation of authority for DVPs, to support more streamlined development approvals.
- Staff have reviewed best practices and previously approved DPs and DVPs to propose amendments to the Delegation Bylaw that align with the DAPR, IAP, and provincial guidelines.
- Staff have also prepared a supporting draft policy that outlines evaluation criteria to assist Council and City Staff in the review and consideration of applications with variances.

## **ATTACHMENTS**



ATTACHMENT A: Summary of Proposed Amendments to the Delegation Bylaw  
"Officer Designation and Delegation of Authority Amendment Bylaw 2025 No. 7353.04"  
"Council Policy COU-246 – Consideration of Variances Policy" |

**Submitted by:**

Lainya Rowett  
Manager, Current Planning |

**Concurrence by:**

Jeremy Holm  
Director, Planning & Development |