

NO: R103

COUNCIL DATE: May 30, 2022

REGULAR COUNCIL

TO: **Mayor & Council** DATE: **May 19, 2022**

FROM: **Acting General Manager, Planning & Development** FILE: **0125-01**
General Manager, Corporate Services

SUBJECT: **Proposed City of Surrey Development Variance Permit Delegation Bylaw and**
Bylaw Amendments Related to Bill 26

RECOMMENDATION

The Planning & Development and Corporate Services Departments recommend that Council:

1. Receive this report for information;
2. Approve the proposed amendments to *Council Procedure By-law, 2004, No. 15300*, as amended (“Council Procedure By-law”), to clarify when a public hearing is not required, as documented in Appendix “I”, and to authorize the City Clerk to give notice of the intended changes in accordance with the *Community Charter*;
3. Approve the proposed amendments to the *Surrey Notice of Public Hearings Mailing By-law, 1981, No. 6727*, as amended (“Public Hearings Mailing By-law”), to clarify the public notification requirements as documented in Appendix “II” of this report;
4. Approve the proposed amendments to the *Development Application Fees Bylaw, 2016, No. 18641*, as amended (“Development Application Fees Bylaw”), to clarify the public notification fees as documented in Appendix “III” of this report;
5. Approve the proposed new *Development Variance Permit Delegation Bylaw, 2022, No. 20620*, as generally described in this report and documented in Appendix “IV”; and
6. Authorize the City Clerk to bring forward the related bylaws for the required readings.

INTENT

The purpose of this report is to authorize bylaw amendments to clarify when a public hearing is not required, bring forward a new Development Variance Permit Delegation Bylaw, and to clarify the public notification requirements in response to *Bill 26 – 2021, Municipal Affairs Statutes Amendment Act (No. 2), 2021*, (“Bill 26”). To facilitate changes to the public hearing requirement, as directed by Council in Corporate Report No. R010; 2022 (attached as Appendix “V”), amendments are also proposed to the Public Hearings Mailing By-law and the Development Application Fees Bylaw.

BACKGROUND

In June 2021, a report was released from the Canada-British Columbia Expert Panel on the Future of Housing Supply and Affordability. The report provided recommendations to increase the supply of housing and improve affordability Province-wide. In response to the report and associated consultation, the Province has put forward Bill 26, which in part, addressed some of these issues. Bill 26 was aimed at increasing housing supply by supporting local governments to move forward more efficiently on developments, bypassing barriers, and speeding up housing proposals. Bill 26 received royal assent on November 25, 2021 and is now law.

Bill 26 removed the default requirement for local governments to hold public hearings for zoning bylaw amendments that are consistent with the Official Community Plan (the “OCP”). Previously, local governments could “waive” the holding of a public hearing (*Local Government Act* s. 464). Under the amendments, which came into effect on February 28, 2022, local governments are “not required” to hold a public hearing. Bill 26 also included new regulations to delegate to staff the authority to issue minor Development Variance Permits (“DVPs”).

On January 17, 2022, Council approved recommendations in Corporate Report No. R010; 2022 (Appendix “V”). In the report, staff recommended that public hearings not be held for Zoning Bylaw amendments intended to facilitate a subdivision creating five or fewer new single-family residential lots that are either consistent with an approved Secondary Plan and/or consistent with the existing zoning and lot pattern in the immediate surrounding neighbourhood. Staff recommended that for larger and/or more significant developments, public hearings remain an important step in amending the Zoning Bylaw and generally the benefits of holding public hearings for these projects outweigh the detriments.

Council also approved recommendations in Corporate Report No. R010; 2022 that authorized staff to bring forward for Council’s consideration a bylaw delegating to staff the authority to issue DVPs for “minor” variances, establishing the criteria for determining whether a proposed variance is “minor” and establishing guidelines the delegate must consider in deciding whether to issue a DVP.

Subsequent to the January 17, 2022, Corporate Report, the Province brought into force on February 28, 2022, further amendments to the *Community Charter* to allow new alternative public notice options. These more recent changes provide local governments with alternative public notice options under Section 94 of the *Community Charter*. These more recent changes are not the subject of this report and will be brought forward to Council in a separate report.

DISCUSSION

To facilitate changes outlined in Bill 26 and Corporate Report No. R010; 2022 regarding public hearing requirements and delegation of minor variances, amendments are proposed to the Council Procedure By-law, Public Hearings Mailing By-law, and Development Application Fees Bylaw. Also, a new Development Variance Delegation Bylaw is proposed.

Proposed Council Procedure By-law Amendment

Section 51 of the Council Procedure By-law currently requires that all persons who believe that their interest in property may be affected by a proposed rezoning have a reasonable opportunity to be heard. This is inconsistent with situations where no public hearing will be held.

It is proposed that Section 51 of the Council Procedure By-law be amended to require public hearings unless Council resolves otherwise. Further, a new Section 51.2 will create an exemption from holding a public hearing based on criteria described below, and as outlined in Appendix “I”.

The proposed changes remove the requirement for a public hearing where the proposed zoning bylaw meets the following criteria:

- a) It is in relation to a subdivision creating five or fewer new single-family residential lots;
- b) The Official Community Plan is in effect for the area that is the subject of the zoning bylaw;
- c) It is consistent with the Official Community Plan; and
- d) Either:
 - (i) It is consistent with an approved Secondary Plan area; or
 - (ii) If not located in an approved Secondary Plan area, the proposed zoning bylaw is compatible with the existing zoning and lot pattern in the immediately surrounding neighbourhood to the satisfaction of the General Manager, Planning & Development, or designate.

Section 124 of the *Community Charter* requires that public notice be given of intended amendments to the Council Procedure By-law before the amendments are adopted. If the recommendations in this report are adopted, the City Clerk will give notice of the intended changes in accordance with Section 94 of the *Community Charter*.

Proposed Public Hearings Mailing By-law Revision

The Public Hearings Mailing By-law requires that notice of a public hearing must be mailed or otherwise delivered at least 10 days before the date of the hearing to owners and occupiers of real property within certain areas prescribed by the Public Hearings Mailing By-law.

Section 467 of the *Local Government Act* requires that a similar notice be sent even where a public hearing is not held. It is recommended that the Public Hearings Mailing By-law be amended to require that notice be sent to owners and occupiers of real property within certain areas prescribed by the Public Hearings Mailing By-law, as outlined in Appendix "II".

Digital Notification of Public Hearing

It would be impractical to deliver the notices discussed above via email or social media, as the City does not have email or social media addresses for all residents and property owners in the City. Mailing continues to be the simplest and most effective method of delivering notices.

Proposed Development Application Fees Bylaw Revision

The Development Application Fees Bylaw imposes fees for rezoning, subdivision, development applications, and public notification for public hearings. Currently, under the Development Application Fees Bylaw, if a public hearing is not held, a notice is still provided in the newspaper and by mail as required by the *Local Government Act* and *Community Charter*. There is a cost incurred for posting the required notice in the newspaper and the mail out; however, the current Development Application Fees Bylaw would not capture these costs.

It is recommended that the Development Application Fees Bylaw be amended to permit recovery of notification costs associated with public notification required under the *Local Government Act* and *Community Charter* when a public hearing is not required, as outlined in Appendix "III".

Proposed Development Variance Delegation Bylaw

DVP applications considered by Council may vary regulations in the zoning bylaw or subdivision servicing bylaw, but cannot be used to change density or use of a property.

Prior to the resolution of Bill 26, local governments were not permitted to delegate the power to issue DVPs to staff. Historically staff forwarded all DVP applications to Council for their consideration, unless the application was considered minor and deemed to be a hardship with potential to be considered by the Surrey Board of Variance.

Under the newly established Section 498 of the *Community Charter*, and Section 498.1 of the *Local Government Act*, local governments may now delegate the power to issue DVPs to staff where the proposed variance is minor and varies bylaw provisions falling 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 or to preserve, protect, restore and enhance natural environment; and other provisions prescribed by regulation by the Province.

The intent of allowing local government authority to delegate minor variances is intended to increase housing supply by supporting local governments to move forward more efficiently on developments, bypassing barriers and speeding up housing proposals.

Any local government wishing to delegate this power must do so by way of bylaw. In consideration of the recent *Local Government Act* changes, staff have therefore proposed specific procedures to process delegated DVP applications as proposed in the new *Development Variance Permit Delegation Bylaw, 2022, No. 20620*, as documented in Appendix "IV". It is proposed that the Delegated Official is the General Manager, Planning & Development Department and/or any approving officer for the City.

Delegation authority for variances related to off-street parking and loading space requirements have not been included in the proposed Development Variance Permit Delegation Bylaw at this time. Parking related policies and regulations are being considered comprehensively through development of transportation demand management framework, currently underway, and will be brought forward to Council consideration at a later date.

Delegated Development Variance Permit Assessment Criteria and Guidelines

Section 498.2 of the *Local Government Act* requires that a bylaw delegating the power to issue a DVP must include criteria for determining whether a proposed variance is minor and guidelines that the delegate must consider in deciding whether to issue a DVP. The following criteria is proposed for the Delegated Official to determine and evaluate minor DVPs, as well as how applications can be reconsidered in the event a DVP is denied by the Delegate.

Criteria for Determining if a DVP is “Minor”

The following criteria is proposed for the Delegated Official to determine if a DVP is “minor”.

In order for a DVP request to be considered “minor”, the requested variance(s):

- Must pertain to one or more of the following regulations as defined under *Surrey Zoning By-law, 1993, No. 12000, as amended*:
 - Yards and setbacks;
 - Height of buildings and structures; or
 - Landscaping and screening.
- Must pertain to signage regulations under *Surrey Sign By-law, 1999, No. 13656, as amended*;
- Must not vary land use or density;
- Must not pertain to any regulations under Part 7A Streamside Protection, or Part 8 Floodproofing of *Surrey Zoning By-law, 1993, No. 12000, as amended*;
- Must not be associated with another development application type that needs to proceed to Council (i.e., rezoning, development permit, plan amendment);
- Must be consistent with the OCP;
- Must not conflict with the *Land Title Act* or the *Agricultural Land Commission Act*, or deal with any Land Use Contracts or heritage conservation issues;
- Must not apply to the *Surrey Subdivision and Development By-law, 1986, No. 8830*;
- Must not conflict with any statutes, bylaws, orders, legislation, or laws; and
- Must not impose any costs on the municipality.

Guidelines for Evaluation of Minor DVPs

The Delegated Official should consider the following when evaluating minor DVP applications:

- Comments received by public notification;
- City policies and guidelines (such as OCP, secondary plans, etc.);
- Neighbourhood context, including established neighbourhood character; and
- Impacts to neighbouring properties.

Referral to Council

The Delegated Official would refer a variance request for Council consideration:

- Where the request does not meet the criteria established for a minor variance;
- Where, in the opinion of the Delegated Official, the request has merit for consideration, but the notification results show a high level of neighbourhood concern; and/or
- In the event the Delegated Official denies issuance of a DVP, the applicant can request that the application be reconsidered by Council.

Housekeeping Amendments

Finally, the amendments include a number of minor housekeeping matters to ensure consistency and clarity.

Next Steps

Should Council approve the recommendations of this report, staff will provide Council a report in early 2023 advising of the effectiveness of these changes, and any opportunities to adjust them, including adjusting the number of lots a subdivision may create that require a Public Hearing.

Legal Services Review

Legal Services has reviewed this report and has no concerns.

SUSTAINABILITY CONSIDERATIONS

The recommendations of this report support the objectives of the City's Sustainability Charter 2.0. In particular, the recommendations relate to Sustainability Charter 2.0 themes of Built Environment & Neighbourhoods, Economic Prosperity & Livelihood, and Inclusion. Specifically, the recommendations support the following Strategic Direction ("SD") and Desired Outcomes ("DO"):

- Neighbourhoods and Urban Design SD5: Leverage, incentivize and enhance community benefits through the planning and construction of new development;
- Economy DO6: Efficient land use and well-managed transportation infrastructure are in place to attract businesses and support a thriving economy; and
- Community Pride and Engagement DO21: All residents have opportunities to be meaningfully engaged in civic issues and to contribute to community life.

CONCLUSION

Based on the above information, it is recommended that Council receive this report as information and approve the proposed amendments to the Council Procedure By-law, Public Hearings Mailing By-law, Development Application Fees Bylaw, and a new Development Variance Procedure and Delegation Bylaw. The amendments set out when public hearings will not be held, and the new Development Variance Procedure and Delegation Bylaw establishes procedures for the issuance of Delegated DVPs.

The amendments also ensure that public notice fees for rezonings may be recovered for notifications required under the *Local Government Act* and *Community Charter* when a public hearing is not required.

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Planning & Development

Rob Costanzo
General Manager,
Corporate Services

RG/SL/PH/MK/cc

Appendix "I" – Proposed Amendments to Council Procedure By-law
Appendix "II" – Proposed Amendments to Public Hearing Mailing By-law
Appendix "III" – Proposed Amendments to Development Application Fees Bylaw
Appendix "IV" – Proposed Development Variance Permit Delegation Bylaw
Appendix "V" – Corporate Report No. R010; 2022

Summary of Proposed Amendments to "Council Procedure By-law, 2004, No. 15300"

The "Council Procedure By-law, 2004, No. 15300", as amended, is further amended as follows:

- (a) PART THIRTEEN: DELEGATIONS TO COUNCIL, is amended by deleting section 51 in its entirety, and replacing with new sections 51, 51.1 and 51.2 as follows:

- "51. Subject to Section 51.2, unless Council resolves otherwise, a public hearing is required for any proposed zoning bylaw.
- 51.1 If there is a public hearing in relation to a proposed zoning bylaw, all those persons who believe that their interest in property may be affected shall have a reasonable opportunity to be heard. Public hearings must comply with the *Local Government Act*, the *Community Charter* and all applicable City bylaws."
- 51.2. No public hearing is required for a proposed zoning bylaw which meets the following criteria:
- (a) it is in relation to a subdivision creating five or fewer new single-family residential lots;
 - (b) the Official Community Plan is in effect for the area that is the subject of the zoning bylaw;
 - (c) it is consistent with the Official Community Plan; and
 - (d) either:
 - (i) it is consistent with an approved Secondary Plan area; or
 - (ii) if not located in an approved Secondary Plan area, the proposed zoning bylaw is compatible with the existing zoning and lot pattern in the immediately surrounding neighbourhood to the satisfaction of the General Manager, Planning and Development, or designate."

CITY OF SURREY

COUNCIL PROCEDURE BY-LAW NO. 15300

As amended by By-law No: 16011, 05/08/06; 19513, 03/12/18; 20056, 04/20/20

THIS IS A CONSOLIDATED BY-LAW PREPARED BY THE CITY OF SURREY FOR CONVENIENCE ONLY. THE CITY DOES NOT WARRANT THAT THE INFORMATION CONTAINED IN THIS CONSOLIDATION IS CURRENT. IT IS THE RESPONSIBILITY OF THE PERSON USING THIS CONSOLIDATION TO ENSURE THAT IT ACCURATELY REFLECTS CURRENT BY-LAW PROVISIONS.

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PART ONE: INTRODUCTION

Title

1. This By-law may be cited as "Council Procedure By-law, 2004, No.15300".

Definitions

2. In this By-law,

"Chair" means Presiding Officer;

"City" means the City of Surrey;

"City Hall" means City Hall located at 13450 – 104 Avenue, Surrey, British Columbia;

"City Manager" means Chief Administrative Officer;

"City Clerk" means Corporate Officer;

"Code of Conduct" means the standards applicable to members of Council of the City of Surrey, as set out in the Council Code of Conduct bylaw, as may be amended or replaced from time to time;

"Commissioner" means the individual or body established by Council to investigate and report on complaints arising from a member of Council's conduct under the Code of Conduct;

"Committee" means a standing, select, or other committee of Council;

"Corporate Officer" means the Corporate Officer for the City;

"Council" means the Council of the City of Surrey;

"Mayor" or "Presiding Officer" means the Mayor of the City of Surrey, and includes a Councillor acting as Mayor;

"Member" or "Council member" means a voting member of the Council, including the Mayor or any Councillor;

"Public Notice Posting Place" means the bulletin board in the main floor lobby at City Hall.

PART TWO: COUNCIL MEETINGS

Council Schedule

3. (1) Council's meeting schedule shall include Regular Council Land Use, Regular Council, and Regular Council Public Hearing.

- (2) In December of each year, the City Clerk shall submit to Council, for Council approval prior to December 20, a schedule of regular Council meetings for the following year.
- (3) Council may resolve to add meetings or delete them from its schedule, as needed.
- (4) No meeting shall be scheduled during the month of August.

Notice of Council Meeting Schedule

4. (1) Upon approval by Council of a schedule of Council meetings for the following year, the approved schedule of the dates, times and places of Regular Council meetings for the following year, shall be posted at the Public Notice Posting Place.
- (2) Council must give notice annually, on or before December 31, of the time and duration that the schedule of Regular Council meetings will be made available to the public.
- (3) Where revisions are necessary to the annual schedule of Regular Council Land Use, Regular Council and Regular Council Public Hearing meetings, the City Clerk must, as soon as possible, post a notice at the Public Notice Posting Place which indicates any revisions to the date, time and place or cancellation of a Regular Council Land Use, Regular Council or Regular Council Public Hearing meeting.

Inaugural Meeting

5. Following a general local election, the first Council meeting must be held on the first Monday in December.

Regular Council Land Use

6. (1) Regular Council Land Use meetings must be held in the Council Chamber at City Hall, unless Council resolves to hold meetings elsewhere.
- (2) Regular Council Land Use meetings must:
 - (a) be held at least once a month (except in the month of August) on a Monday afternoon; and
 - (b) be held between the hours of 1:00 p.m. to 6:00 p.m. with the City Clerk establishing the start time of the meeting on the Friday immediately preceding the Monday meeting.

Regular Council

7. (1) Regular Council meetings must be held in the Council Chamber at City Hall, unless Council resolves to hold meetings elsewhere.
- (2) Regular Council meetings may:

- (a) be held as required (except in the month of August) on a Monday evening; and
- (b) be held at 7:00 p.m.

Regular Council Public Hearing

- 8. (1) Regular Council Public Hearing meetings must be held in the Council Chamber at City Hall, unless Council resolves to hold meetings elsewhere.
- (2) Regular Council Public Hearing meetings must:
 - (a) be held at least once a month (except in the month of August) on a Monday evening; and
 - (b) be held at 7:00 p.m.

Closed Council Meetings

- 9. (1) Closed Council meetings may be held as required.
- (2) In order to close a meeting to the public, the requirements of Section 90 of the *Community Charter* must be met.

Special Council Meetings

- 10. Special Council meetings are Council meetings other than statutory, regular or adjourned meetings. Special Council meetings may be called in accordance with Section 126 of the *Community Charter* and, unless waived by unanimous vote of all members of Council, notice of a Special Council meeting must be given at least 24 hours before the time of the meeting by:
 - (a) posting a copy of the notice on the Council Chamber doors at City Hall;
 - (b) posting a copy of the notice at the Public Notice Posting Place at City Hall; and
 - (c) sending by fax or courier a copy of the notice to the home of each Council member.

Council-in-Committee Meetings

- 11. Council-in-Committee meetings shall be held as required on a Monday afternoon and shall be for the purpose of hearing public delegations and considering other items such as corporate reports and information items. All recommendations from Council-in-Committee must be adopted at a Regular Council meeting.

PART 3: COUNCIL MEETING AGENDAS

Council Meeting Agendas

- 12. Prior to each:
 - (a) Regular Council Land Use meeting;
 - (b) Regular Council meeting;
 - (c) Regular Council Public Hearing meeting;

the City Clerk, in consultation with the Mayor and City Manager, must prepare an agenda of all items to be considered by Council at such meetings, and Council must proceed in the order set out, unless that order is varied by Council.

The agendas for the Council meetings may be structured as follows:

- (a) Regular Council Land Use – may consist of items mainly relating to land use issues.
- (b) Regular Council – may consist of any items of interest to Council or requiring Council action/direction.
- (c) Regular Council Public Hearing – immediately after the adoption of minutes, under Delegations – Public Hearing, Council will hear from any persons wishing to speak to any of the by-laws scheduled for public hearing. The agenda for Regular Council Public Hearing may also include any items of interest to Council or requiring Council action/direction.
- (d) Special Council meetings – shall include only those items which are included in the notice of such meeting. Other business may be considered at the discretion of the Chair or a two-thirds majority vote of those present. In the case of Special Closed meetings, the only items that may be considered must fall under Section 90 of the *Community Charter*, and have been stated in the notice.

Availability of Council Meeting Agendas

13. The agenda of Council meetings must be made available to the public as follows:
 - (a) Regular Council Land Use – on the Friday of the week preceding each such meeting.
 - (b) Regular Council – on the Friday of the week preceding each such meeting.
 - (c) Regular Council Public Hearing – on the Friday of the week preceding each such meeting.

All agendas must be posted at the Public Notice Posting Place as soon as available on the Friday of the week preceding such meeting.

Council Meeting Agenda Additions and Deletions

14. Council may, at the beginning of a Council meeting, add or delete any items from the agenda of that meeting, provided a resolution to add or delete the item, is adopted.

PART 4: DESIGNATION OF MEMBER TO ACT IN PLACE OF MAYOR

Method of Designation

15. (1) Annually, in December of each year, Council must, from amongst its members, designate Councillors to serve on a rotating basis as the member responsible for acting in the place of the Mayor when the Mayor is absent or otherwise unable to act or when the office of the Mayor is vacant.
- (2) Each member shall serve for a period of up to two months.

- (3) Each Councillor designated under section 15(1) must fulfill the responsibilities of the Mayor in his or her absence.
- (4) If both the Mayor and the member designated under section 15(1) are absent from the Council meeting, the Council members present must choose a Councillor to preside at the Council meeting.
- (5) The member designated under section 15(1) or chosen under section 15(4), has the same powers and duties as the Mayor in relation to the applicable matter.

PART FIVE: OPENING OF COUNCIL MEETING PROCEEDINGS

Quorum of Council

16. A quorum of Council is 5 members of Council.

Call to Order

17. (1) As soon after the time specified for a meeting as there is a quorum present, the Mayor must take the chair and call the Council meeting to order, however, where the Mayor is absent, the acting Mayor must take the chair and call such meeting to order.
- (2) Where neither the Mayor nor the acting Mayor are present 10 minutes after the time specified for a Council meeting, the City Clerk must call the members to order, and if a quorum is present, the members must choose a member to chair the Council meeting until the arrival of the Mayor or acting Mayor.
- (3) If a quorum is not present 15 minutes after the time specified for a Council meeting, the City Clerk must record the names of the members present and that Council meeting is deemed to have been cancelled.

PART SIX: MINUTES OF COUNCIL AND COMMITTEES/BOARDS/COMMISSIONS

Minutes of Council and Council Committee Meetings - General

18. Minutes of all Council and Council Committee meetings must be taken by the City Clerk or his or her designate.

Required Content – Council Minutes

19. (1) Minutes of Closed Council, Regular Council Land Use, Regular Council and Regular Council Public Hearing meetings must:
 - (a) contain a heading;
 - (b) contain a brief description of the item before Council; and
 - (c) record all resolutions adopted by Council on the item, and if no resolution, note that no action was taken by Council, or note that the item was deferred or not in order.

- (2) No discussion will be recorded in the minutes, except in Regular Council Public Hearing minutes, where a brief overview of the issues raised by each speaker shall be recorded.

Required Content – Committee/Board/Commission Minutes

20. (1) Minutes of Closed and Open Committee/Board Commission meetings must:
 - (a) contain a title/heading;
 - (b) contain a brief description of the item before the Committee; and
 - (c) record all resolutions adopted by the Committee on the item, and if no resolution, note that no action was taken by the Committee, or note that the item was deferred or not in order.
- (2) Discussion will be recorded in the minutes.

Circulation of Minutes

21. Not less than 48 hours before each Regular Council meeting, the City Clerk must provide to each member a copy of the minutes of:
 - (a) the last Regular Council Land Use meeting;
 - (b) the last Regular Council meeting;
 - (c) the last Regular Council Public Hearing meeting; and
 - (d) any committee, board or commission meetings,

for their adoption, and in the case of (d), receipt and adoption of recommendations, if applicable.

Following the adoption of the minutes, all minutes will be signed by the Presiding Officer, and signed and certified correct by the City Clerk.

Closed Meeting Minutes

22. Not less than 48 hours before each Council meeting, the City Clerk must provide to each member, a copy of the minutes of:
 - (a) the last Closed Council meeting;
 - (b) any closed committee, board or commission meetings,

for their adoption, and in the case of (b), receipt and adoption of recommendations, if applicable.

Following the adoption of the minutes, all minutes will be signed by the Presiding Officer, and signed and certified correct by the City Clerk.

PART SEVEN: RULES OF CONDUCT IN COUNCIL MEETINGS

Addressing Mayor and Council

23. Every member must, while in a Council meeting:
- (a) address the Mayor as "Mr. Mayor", or as "Madam Mayor", whichever is the case, or as "Your Worship", and must refer to the members as "Councillor"; and
 - (b) abide by the ruling of the Mayor on points of order and the interpretation of this by-law, subject to the right of appeal of such ruling under Section 31.

Rules of Decorum

24. While in a Council meeting, a member must not:
- (a) speak disrespectfully of any person;
 - (b) use words which are offensive; or
 - (c) disturb or interrupt the member who is speaking except to raise a point of order.
- 24.1 While in a Council meeting, a member must comply with the Code of Conduct.

Authority of the Chair Regarding Conduct of Members

25. Where in the opinion of the Chair, a member contravenes the provision of Section 24, the Chair may:
- (a) inform the member of the alleged contravention of the Code of Conduct;
 - (b) ask the member to cease the behavior contravening the Council Code of Conduct; and
 - (c) request an apology from the member.

If a member is dissatisfied with the resolution of the matter at the meeting, the member may refer the matter to the Commissioner in accordance with the provisions of the Code of Conduct.

26. If a member refuses to apologize after a request from the Chair, the Chair may order the member to leave the meeting. If a member ordered by the Chair to leave the Council Chambers refuses to leave the meeting, a peace officer may enforce the order as if it were a court order. Notwithstanding an order from the Chair that a member must leave the meeting, Council may by a majority vote permit the member to resume his or her seat in the meeting.

PART EIGHT: RULES OF DEBATE IN COUNCIL MEETINGS

Debating Motions

27. (1) A Council member who wishes to speak or make a motion at a meeting shall wait to be recognized by the Presiding Officer.

- (2) The Council member who moves a motion shall be entitled to speak on it for the first time in preference to other members, but shall not have the right of speaking last.
- (3) Each Council member shall be entitled to speak up to two times on each debatable motion – each time no longer than four minutes, except when granted permission by Council to exceed these limits.
- (4) A Council member who wishes to speak for the second time on the same motion shall wait until those who wish to speak on it for the first time have spoken.
- (5) Where applicable, a member may request that the Chair take the vote separately, where it is practical to separate into two or more votes on a motion.

Mayor to Speak to a Motion

28. The Mayor may speak to a motion from the chair.

Confidentiality

29. Council members shall abide by their obligations in the Code of Conduct to keep in confidence information considered in any part of a closed Council or Committee meeting.

Points of Order, Information and Privilege

30. (1) A member may, through the Mayor, raise a point of order on a motion to which a member is currently speaking, whereupon the Mayor must:
 - (a) immediately suspend the debate; and
 - (b) rule as to whether or not the point of order is valid.
- (2) A member may, through the Mayor, raise a point of information after a member has finished speaking on a motion, and the Mayor must, before any other members have spoken, provide:
 - (a) the member who raised the point of information the opportunity to explain the nature of the information in question; and
 - (b) the member against whom the point of information has been raised, the opportunity to respond,in order to clarify the matter before debate resumes.
- (3) A member may, through the Mayor, raise a point of privilege after a member has finished speaking on a motion, and the Mayor must, before any other members have spoken, provide:
 - (a) the member who raised the point of privilege the opportunity to explain the nature of the breach of privilege; and

- (b) if applicable, a member against whom the point of privilege was raised, the opportunity to respond,

in order that the remarks in question may, if applicable, be withdrawn or clarified before debate resumes.

- (4) Where the Mayor is of the opinion that a motion or proceeding is out of order the mayor must advise the members accordingly.

Appeal the Decision of the Chair

- 31. (1) In accordance with the provisions of the *Community Charter*, a member who is dissatisfied with a decision of the Mayor has the right to appeal such a decision by challenging the chair.
- (2) The Mayor shall immediately then ask: "Shall the Chair be sustained?" and the question shall be decided without debate.
- (3) The Mayor or other presiding officer must not vote on the question, "Shall the chair be sustained?"
- (4) The motion passes in the affirmative if the votes are equal.
- (5) Where council has voted not to sustain the chair, the decision of the Mayor which was the subject of the appeal is negated, and the business of Council must proceed as if such decision had never been made.

PART NINE: MOTIONS

Proposing and Withdrawing of Motions

- 32. When a motion has been moved by a member and seconded by another member, it is then a motion on the floor, and is deemed to be in the possession of Council, and such motion:
 - (a) must be recorded in the minutes; and
 - (b) may only be withdrawn by the mover and seconder of the motion, with the consent of all members present.

Order of Precedence of Motions

- 33. When a motion is on the floor and before the question has been called, only the following motions are permitted, in the following order:
 - (a) a motion to refer;
 - (b) a motion to table;
 - (c) a motion to amend.

Referral Motions

- 34. (1) A member may propose a motion to refer either:

- (a) a matter which is on the agenda of a Council meeting, but on which a motion has not yet been made; or
 - (b) a motion which is on the floor.
- (2) Upon a motion to refer being seconded, such motion:
- (a) is debatable, but only as to the merits of referral;
 - (b) may not be tabled or amended; and
 - (c) applies to an amendment, or an original motion.
- (3) Where a referral motion has been adopted, which refers an original motion which has been amended, the referral applies to the original motion as amended.
- (4) Before the question is called on a referral motion any member may give direction on such motion on matters which the member feels should be investigated further before the matter is presented to Council again.

Tabling Motions

35. (1) A member may propose a motion to table a motion which is on the floor either:
- (a) to a later time during the same meeting and in such motion must specify when in the order of business, or after which circumstances, the motion will be dealt with; or
 - (b) to another meeting and in such motion may specify:
 - (i) the date of the meeting at which the tabled motion is to be considered; or
 - (ii) any conditions which must be fulfilled in order for the tabled motion to be considered further,

or both (a) and (b).

A tabling motion is debatable, but only to the merits of tabling.

- (2) A member may propose a motion to table a matter indefinitely, in which case:
- (a) the motion is debatable; and
 - (b) there is no obligation to take the resolution up at a future meeting.

Amending Motions

36. (1) A member, other than the mover of a motion, may propose an amendment to a motion, and that amendment must be disposed of before any subsequent amendments are proposed.
- (2) When an amendment to a motion has been moved and seconded, a member may request that the original motion and the amendment be stated, with the debate being limited to the amendment only.

- (3) If the amendment is defeated, debate may continue on the original motion, and if no further amendments are proposed, the Mayor must call the question on the original motion.
- (4) If the amendment is adopted, and no further amendments are proposed, the Mayor must then call the question on the original motion, as amended.

Sub-Amendments

37. (1) A member may propose a sub-amendment to an amendment.
- (2) A member may not propose a sub-amendment to a sub-amendment.
- (3) The Mayor must call the question on a motion which has been amended, in the following order:
 - (a) a sub-amendment, if any;
 - (b) an amendment to the original motion;
 - (c) the original motion.

Scope of Amendments

38. The amendments permitted by Sections 36 and 37 may take the form of deletion, addition, or substitution of words or figures, provided such deletions, additions or substitutions do not, in the opinion of the Mayor, affect the original motion.

Notice of Motion

39. A Member may, at any meeting, give notice of a motion he or she wishes to be considered at the next Regular Council meeting by reading out the motion.

The motion and any relevant backup information will be placed on the agenda of the next Regular Council meeting for consideration.

If the Member who submitted the motion is not in attendance at the Council meeting where the motion is brought forward, the matter will be held over until the Member who submitted the motion is in attendance.

PART TEN: VOTING ON A MOTION

Method of Voting

40. (1) Whenever a vote of Council is taken, each member present must vote on the motion by raising his or her hand. The Mayor must then declare the result and name those members voting in the negative, which the City Clerk must record in the minutes.
- (2) A member who abstains from voting on a motion is deemed to have voted in favour of the motion.

- (3) If the votes of the members present are equal for and against a motion, the motion is defeated.

Severability of Motions

41. (1) If requested by any member, the question on a motion which comprises several clearly identified parts, sections or clauses, must be called separately on such parts, sections or clauses, and in such circumstances a new mover and seconder are not required.
- (2) Where a motion does not contain clearly identified parts, sections or clauses, and where in the opinion of the Mayor it is not possible to separate such motion into clearly identified components, the question must be called on the entire motion.
- (3) The provisions of Section 41(1) regarding the severability of motions applies whether or not such motion has been the subject of amendments.
- (4) A member voting either in favour or against the motion is deemed to have voted in favour or opposition to the entire motion where either:
 - (a) a request has not been made by such member to call the question separately on any parts, section or clauses; or
 - (b) a request has been made by such member in accordance with Section 41(1), but such request has been rejected by the Mayor.

PART ELEVEN: BRINGING BACK MOTIONS BEFORE COUNCIL

Mayor May Bring Back for Reconsideration

42. (1) The Mayor may bring a resolution, by-law or proceeding back before the Council for reconsideration under Section 131 of the *Community Charter*:
 - (a) at the same meeting as the vote took place; or
 - (b) within the 30 days following that meeting, anda matter may not be reconsidered under Section 131 of the *Community Charter* if:
 - (a) it has had the approval of the electors or the assent of the electors and was subsequently adopted by the Council, or
 - (b) there has already been a reconsideration under this section in relation to the matter.
- (2) On a reconsideration under this section, the Council:
 - (a) must deal with the matter as soon as convenient; and
 - (b) on that reconsideration, has the same authority it had in its original consideration of the matter, subject to the same conditions that applied to the original consideration.

- (3) If the original decision was the adoption of a by-law or resolution and that decision is rejected on reconsideration, the by-law or resolution is of no effect and is deemed to be repealed.

Bringing Back Adopted Motions

43. (1) A resolution or by-law which was adopted may be brought back before Council by a motion to reconsider, rescind or amend something previously adopted, provided:
 - (a) Council has given due consideration to any actions taken by an officer, employee, or agent of the City; and
 - (b) the resolution or by-law has not had the approval of the electors or the assent of the electors.
- (2) A motion to reconsider or rescind an adopted resolution or by-law:
 - (a) may be made at the same meeting; or
 - (b) may be made at the next Regular Council Land Use, Regular Council, or Regular Council Public Hearing meetings, whichever is applicable; and
 - (c) may only be made by a member who voted in favour of it.
- (3) A motion to rescind or amend an adopted resolution or by-law:
 - (a) may be made at a future meeting, by a member giving notice under Notice of Motion (does not apply to same meeting or next meeting) at a Regular Council Land Use, Regular Council or Regular Council Public Hearing meeting; and
 - (b) may be made by any member, regardless of how he or she voted the first time.
- (4) A motion to reconsider:
 - (a) is debatable;
 - (b) if adopted, the resolution or by-law shall be reopened for debate; and
 - (c) if reopened for debate, may be referred, amended, postponed, or voted on for a second time.
- (5) A motion to rescind:
 - (a) is debatable; and
 - (b) if adopted, the motion is no longer applicable, and it would be in order to move a subsequent motion.
- (6) If a motion to reconsider or rescind something previously adopted is defeated twice within three months, the same or substantially the same motion to rescind or amend may not be renewed for at least six months, except if Council, by a two-thirds majority vote, permits such renewal.

Bringing Back Defeated Motions

44. (1) A resolution or by-law which was defeated may be brought back before Council by a motion to reconsider or rescind something previously defeated, provided:
- (a) Council has given due consideration to any actions taken by an officer, employee, or agent of the City.
- (2) A motion to reconsider or rescind a defeated resolution or by-law:
- (a) may be made at the same meeting; or
 - (b) may be made at the next Regular Council Land Use, Regular Council, or Regular Council Public Hearing meeting, whichever is applicable;
 - (c) may only be made by a member who voted on the prevailing side.
- (3) A motion to rescind a defeated resolution or by-law:
- (a) may be made at a future meeting, by a member giving notice under Notice of Motion (does not apply to same meeting or next meeting) at a Regular Council Land Use, Regular Council or Regular Council Public Hearing meeting;
 - (b) may be made by any member, regardless of how he or she voted the first time.
- (4) A motion to reconsider:
- (a) is debatable;
 - (b) if adopted, the resolution or by-law shall be reopened for debate; and
 - (c) if reopened for debate, may be referred, amended, postponed, or voted on for a second time.
- (5) A motion to rescind:
- (a) is debatable; and
 - (b) if adopted, the motion is no longer applicable, and it would be in order to move a subsequent motion.
- (6) If a motion to reconsider or rescind something previously defeated is defeated twice within three months, the same or substantially the same motion to rescind or amend may not be renewed for at least six months, except if Council, by a majority vote, permits such renewal.

PART TWELVE: RECESSES AND ADJOURNMENT

Recess

45. At any time while the meeting is in progress, the Mayor may call for Council to recess for a short period, and may state the approximate time that the meeting will be recessed.

Adjournment

46. If a motion to adjourn the meeting has been moved and seconded, the Mayor must call the question, and if approved by a majority of Council, the meeting is adjourned and cannot be reconvened.

PART THIRTEEN: DELEGATIONS TO COUNCIL

Applications

47. Any person, group or organization may request, in writing and giving a brief explanation for the request, permission to speak at a Council meeting as a delegation, by submitting the required letter to the City Clerk to be placed on an appropriate Council agenda for consideration.

Council Direction

48. After consideration of the application to speak as a delegation, Council may:
 - (a) agree to hear the applicant at a Closed Council, Regular Council Land Use, Regular Council, Regular Council Public Hearing or Council-in-Committee meeting, with the date and time to be determined by the City Clerk;
 - (b) request further information to be submitted prior to further consideration of the application;
 - (c) refer the application to staff for a report prior to further consideration of the application;
 - (d) refer the application to a Committee to be heard; or
 - (e) refuse the application.

Presentations by Public Delegations

49. A presentation by a delegation at a Council or Committee meeting shall be limited to fifteen minutes and shall be confined to the subject which was indicated in the application unless otherwise specified by Council.
50. Questions of members of Council shall be limited to seeking clarification or additional details, and should not engage the delegation in a debate on the merits of the issue.

Presentations by Public at Regular Council Public Hearing Meetings

- ~~51. Pursuant to Section 890 of the *Local Government Act*, all those persons who believe that their interest in property may be affected by the proposed rezoning shall have a reasonable opportunity to be heard.~~
51. Subject to Section 51.2, unless Council resolves otherwise, a public hearing is required for any proposed zoning bylaw.
- 51.1. If there is a public hearing in relation to a proposed zoning bylaw, all those persons who believe that their interest in property may be affected shall have a reasonable opportunity to be heard. Public hearings must comply with the *Local Government Act*, the *Community Charter* and all applicable City bylaws.

51.2. No public hearing is required for a proposed zoning bylaw which meets the following criteria:

- (a) it is in relation to a subdivision creating five or fewer new single-family residential lots;
- (b) the Official Community Plan is in effect for the area that is the subject of the zoning bylaw;
- (c) it is consistent with the Official Community Plan; and
- (d) either:
 - (i) it is consistent with an approved Secondary Plan area; or
 - (ii) if not located in an approved Secondary Plan area, the proposed zoning bylaw is compatible with the existing zoning and lot pattern in the immediately surrounding neighbourhood to the satisfaction of the General Manager, Planning and Development, or designate.

52. Speaking and non-speaking lists will be available for the public to sign in the foyer of City Hall approximately one-half hour prior to the appointed start time of the Regular Council Public Hearing meeting. For those persons who do not sign the lists, or who arrive too late to sign the lists, the Mayor shall ask three times: "Are there any other speakers wishing to speak to this by-law?"

52.1 A person speaking at a Regular Council Public Hearing shall be limited to 5 minutes per application and the person's comments shall be confined to the matters contained in the application that is the subject of the hearing, unless otherwise permitted by the Chair.

53. Council members who are asking questions of a delegation shall limit themselves to seeking clarification or additional details, and shall avoid engaging the delegation in a debate on the merits of the issue.

PART FOURTEEN: BY-LAWS AND BY-LAW READINGS

By-law Procedures

54. Every proposed by-law:
- (a) must be in written form when it is considered by Council and a copy must be available to each member; and
 - (b) if a public hearing is required, must, upon being given first and second readings, be submitted to the next Regular Council Public Hearing meeting for which all statutory notification and advertising requirements can be satisfied, unless otherwise directed by Council.

55. Every proposed by-law shall receive three separate readings prior to its final adoption, and all three readings may be given on the same day, except those by-laws requiring a public hearing, whereby the first and second reading and the setting of a public hearing shall be given on the same day.
56. The readings of a by-law may be given in a short form.
57. The only motion required for the passage of a by-law shall be: "That by-law (number) be given (number) reading."
58. The only motion required for the final adoption of a by-law after reconsideration shall be: "That by-law (number) be finally adopted."

PART FIFTEEN: COMMITTEES

Notice

59. The City Clerk must give weekly public notice of all Council appointed Committee, Commission and Board meetings by posting notices at the Public Notice Posting place on the Friday immediately preceding the meeting.
60. The City Clerk must give further public notice of the meeting by:
 - (a) posting a copy of the agenda at the Public Notice Posting Place; and
 - (b) leaving copies of the agenda at the Legislative Services reception counter at City Hall.

Closed Committee/Board/Commission Meetings

61. If the agenda for the meeting contains a proposed resolution to close all or part of the meeting to the public, the notice must state the basis under Section 90 of the *Community Charter* by which the meeting is to be closed.

Rules of Procedure

62. The rules of procedure of Council shall apply to Committee, Commission and Board meetings as far as is practical, and the number of times that committee members may speak on a motion shall not be limited.

Sub-Committees

63. Council may establish sub-committees, shall establish the terms of reference of such sub-committees, and may appoint members of the general public as sub-committee members.

Quorum and Membership

64. (1) A quorum of a Committee/board/commission is one-half plus one; i.e. if the total membership is seven members, a quorum will be four members.
- (2) Where a quorum is not present fifteen minutes after the time established for a

Committee/board/commission meeting, such meeting is deemed to have been cancelled.

- (3) The Mayor is an ex-officio and voting member of all standing and select Committees.
- (4) Members may attend the meetings of a standing or select Committee of which they are not a member, and:
 - (a) may speak to a motion upon being recognized by the Committee chair; but
 - (b) must not vote on any motion.

Mandate of Standing and Select Committees

65. The mandate of each standing and select Committee includes the following:
- (a) to report to Council from time to time, as often as the interests of the City require, on all items within its mandate and to recommend such action by Council as may be deemed necessary; and
 - (b) to consider and report upon all items referred to such Committee by Council.

Ratification By Council

66. All resolutions adopted by a Committee must be presented to Council for ratification except for the following:
- (a) resolutions referring items to staff;
 - (b) resolutions deferring an item;
 - (c) resolutions receiving a report or information; and
 - (d) defeated resolutions.

PART SIXTEEN: BUSINESS LICENSE COMMITTEE HEARING PROCEDURES

Business License Committee Hearing Procedures

67. The following is a procedure to be followed for all appeals on business license matters:

Opening Remarks by Chair

Opening remarks by counsel for the City of Surrey:

1. introduction of Applicant/Applicant's counsel/interpreter
2. review of legal tests
3. review of rules of natural justice

Testimony by City of Surrey witnesses:

1. examination-in-chief by counsel for the City of Surrey
2. questions to the witness from the Business License Hearing Committee members
3. cross-examination of the witness by Applicant/Applicant's counsel

Concluding Remarks by City of Surrey counsel

Opening Remarks by Applicant/Applicant's counsel

Calling of witnesses (if any) by Applicant/Applicant's counsel:

1. examination-in-chief by Applicant/Applicant's counsel
2. questions to the witness from the Business License Hearing Committee members
3. cross-examination of the witness by City of Surrey's counsel

Closing submissions by counsel for the City of Surrey

Reply/Closing submissions by the Applicant/Applicant's counsel

Discussion by Business License Hearing Committee members:

1. discussion of evidence
2. discussion of range of penalties

Decision by Business License Hearing Committee:

1. referral from Manager, By-laws & Licensing – Council may grant, refuse, revoke or suspend
2. appeal from suspension by Manager, By-laws & Licensing – Council may uphold the decision, overturn the decision, grant a longer suspension, or revoke the business license entirely

Council Resolution setting out the recommendation of the Business License Hearing Committee, containing reasons if it is recommended that the license is suspended or revoked

Adjournment

PART SEVENTEEN: REPEAL OF BY-LAW 13600

68. "Council Procedure By-law, 1999, No. 13600" and "Council Procedure By-law, 1999, No. 13600, Amendment By-law, 2000, No. 13950" are hereby repealed.

PASSED THREE READINGS on the 5th day of April, 2004.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 19th day of April, 2004.

_____ MAYOR

_____ CLERK

APPENDIX "II"

Summary of proposed amendments to "Surrey Notice of Public Hearings Mailing By-law, 1981, No. 6727", as amended.

1. The Bylaw Intent is amended as follows:
 - i. add the words "and Notices of Proposed Zoning Bylaw" after the word "Hearings"; and
 - ii delete the words "Section 892 of" and the words "R.S.B.C. 1996, c323,".
2. The Bylaw Preamble is amended by deleting the words "Section 892" and the words "R.S.B.C. 1996, c323,".
3. Section 1 is deleted in its entirety and replaced with a new section 1 and section 1.1 as follows:
 - "1. A copy of every Notice of Public Hearing required to be published pursuant to the *Local Government Act*, as amended will be mailed or otherwise delivered by the City Clerk at least ten (10) days before the date of the hearing to the owners and occupiers of all real property:
 - (a) within the area that is subject to the By-law alteration; and
 - (b) within a distance of one hundred (100) metres or within three lots in all directions, whichever is greater from all boundaries of the area that is subject to the By-law alteration.
 - 1.1 If a Public Hearing for a proposed zoning bylaw is not held in accordance with Section 51 or 51.2 of the Council Procedure By-law, 2004, No. 15300, as amended, a notice is still required to be published in accordance with Section 467 of the Local Government Act, as amended, and a copy of every notice will be mailed or otherwise delivered by the City Clerk at least ten (10) days before the date of the first reading of the proposed zoning bylaw to the owners and occupiers of all real property within the area that is subject to the By law alteration."
4. The citation of the bylaw in Section 4 is amended by inserting the words "and Proposed Zoning Bylaws" after the word "Hearings".

CITY OF SURREY

BY-LAW NO. 6727

A By-law to provide for mailing of Notices of Public Hearings and Notices of Proposed Zoning Bylaw pursuant to ~~Section 892 of the Local Government Act, R.S.B.C. 1996, c.323,~~ as amended

.....

WHEREAS the Council of the City of Surrey is required by ~~Section 892 of the Local Government Act, R.S.B.C. 1996, c.323,~~ as amended, to provide that notice of ~~the hearing of~~ a rezoning, official community plan amendment, or a modification to an existing land use contract (the "By-law alteration") must be mailed or otherwise delivered to the owners as shown on the assessment roll as at the date of first reading of the By-law and to any tenants in occupation, as at the date of the mailing, (the "owners and occupiers"), of all parcels, any part of which is the subject of the By-law alteration or is within a distance specified by By-law from that part of the area that is subject to the By-law alteration.

THEREFORE, the City Council of the City of Surrey, in open meeting assembled, ENACTS AS FOLLOWS:

1. ~~On or after the first day of August, 1981, a~~ copy of every Notice of Public Hearing required to be published pursuant ~~to Section 892 of the Local Government Act, R.S.B.C. 1996, c.323,~~ as amended ~~wil~~shall be mailed or otherwise delivered by the City Clerk at least ten (10) days before the date of the hearing to the owners and occupiers of all real property:
 - ~~(a) Within within~~ the area that is subject to the By-law alteration; and
 - ~~(a)~~
 - ~~(b) Within within~~ a distance of one hundred (100) metres or within three lots in all directions, whichever is greater from all boundaries of the area that ~~is subject to the By-law alteration~~

~~Notwithstanding Section 1 above, if a Public Hearing for a proposed rezoning zoning bylaw is not required held in accordance with Section 51 or 51.2 of the Council Procedure By-law, 2004, No. 15300, as amended, a notice of Rezoning is still required to be published in accordance with Section 467 of the Local Government Act, as amended, and a copy of every Notice of Rezoning will be mailed or otherwise delivered by the City Clerk at least ten (10) days before the date of the first reading of the rezoning proposed zoning bylaw to the owners and occupiers of all real property within the area that is subject to the By-law alternation.”;~~

~~2.~~—This By-law shall come into full force and effect on the first day of January, 2012.

~~3.2.~~___

~~4.3.~~ "Surrey Notice of Public Hearings Mailing By-law, 1973, No. 4041" is hereby repealed.

~~5.4.~~ This By-law may be cited for all purposes as "Surrey Notice of Public Hearings and Notices of Proposed Rezoning Zoning Mailing By-law, 1981, No. 6727."

INTRODUCED AND PASSED on the 13th day of July, A.D., 1981.

RECONSIDERED, PASSED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 20th day of July, A.D., 1981.

_____"D.A. ROSS"_____MAYOR

_____"W. VOLLRATH"_____CLERK

**Summary of proposed amends to " Development Application Fees Bylaw, 2016, No. 18641"
as amended**

1. In Part **B. PROVISIONS**, Section 19. replace the fee title “PUBLIC HEARING FEE” with the fee title “PUBLIC NOTICE FEE” and replace the word “Hearing” with the word “Notice” after the word “Public”.
2. In Part **B. PROVISIONS**, Section 19.1. replace the fee title “FIRST PUBLIC HEARING” with the fee title “FIRST PUBLIC NOTICE”.
3. In Part **B. PROVISIONS**, Section 19.2. replace the title “ADDITIONAL PUBLIC HEARINGS” with the title “ADDITIONAL PUBLIC NOTICES”.
4. In Part **B. PROVISIONS**, Sub-Section 19.2a. replace all the instances of the word “Hearing” with the word “Notice”.

INSTITUTIONAL	\$2,837.00
COMMERCIAL OR INDUSTRIAL	\$3,964.00
AGRICULTURAL	\$2,837.00
RECREATIONAL	\$3,964.00
ANY COMBINATION OF LAND USE TYPES	\$5,676.00
* (a) EXTRAS: Fees in Section 18 may apply.	
15. LAND USE CONTRACT AMENDMENT <i>Existing Land Use Contracts NOT involving changes to Use or Density</i>	BY APPLICATION TYPE
APPLICATION TYPE	
USING A DEVELOPMENT VARIANCE PERMIT	See Section 19
USING A DEVELOPMENT PERMIT	See Section 20.1
MINOR AMENDMENTS NOT REQUIRING COUNCIL APPROVAL BUT REQUIRING APPROVAL FROM THE PLANNING GENERAL MANAGER OR A BUILDING INSPECTOR	\$354.00
16. LAND USE CONTRACT DISCHARGE	
<i>With a Rezoning</i>	\$0*
<i>Without a Rezoning</i>	\$712.00
* (a) EXTRAS: Additional fees in Section 18 may apply.	
17. TEMPORARY USE PERMIT	\$2,073.00
18. PUBLIC INFORMATION MEETING FEE	\$476.00
19. PUBLIC HEARING NOTICE FEE*	
When a Public Hearing Notice is required, the following fees apply:	
19.1 FIRST PUBLIC NOTICE HEARING Required for: Rezoning, Official Community Plan Amendment, Land Use Contract Amendment or Discharge, Liquor License, Gaming License, Heritage Revitalization Agreement, Heritage Alteration Permit or Heritage Covenant Applications OR Any combination of the above	\$1,313.00
19.1.b Agricultural Land Reserve (ALR) Exclusions	\$2,500.00
19.2 ADDITIONAL PUBLIC NOTICE HEARINGS As determined by the City of Surrey	\$1,313.00
* (a) REFUNDS: In the event that an application does not proceed to a Public Notice Hearing for any reason, the Public Notice Hearing Fee, as paid, may be refunded at the written request of the applicant, provided that preparation for the Public Notice Hearing has not already commenced.	
20. DEVELOPMENT VARIANCE PERMIT	
<i>General</i>	\$1,762.00
<i>Land Use Contract Amendment</i> (Not for Use or Density)	\$1,557.00

CITY OF SURREY

BYLAW NO. 20620

A bylaw to establish procedures for the
delegation of council authority for minor development variance permits

WHEREAS pursuant section 498.1 of the *Local Government Act*, [RSBC 2015] c. 1 (the “*Local Government Act*”), Council may delegate powers, duties and functions to an officer or employee of the City to issue a minor Development Variance Permit;

NOW THEREFORE the Council of the City of Surrey, enacts as follows:

TITLE

1. This Bylaw may be cited as "Development Variance Permit Delegation Bylaw, 2022, No. 20620".

INTERPRETATION

2. In this Bylaw:

“City” means the City of Surrey;

"Delegated Official" means any one of the General Manager, Planning and Development Department and an Approving Officer for the City of Surrey, appointed in accordance with the *Land Title Act*, [RSBC 1996] c. 250, as amended;

"Development Variance Permit" means a permit under section 498 of the *Local Government Act*; and

"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 and guidelines set out in this Bylaw.

3. In this Bylaw, any reference to an enactment will be a reference to that enactment as it may be amended or replaced from time to time.
4. Council hereby delegates to the Delegated Official the powers of Council to issue a Minor Development Variance Permit, or to issue a minor amendment to an existing Development Variance Permit.

APPLICATION REVIEW PROCEDURE

5. An application for a Development Variance Permit shall be made by the owner to the City pursuant to Surrey Development Application Procedure By-law, 2011, No. 17409.
6. Upon receiving a processed application for a Development Variance Permit from the Planning Department, the Delegated Official will determine whether to consider the application as one for a Minor Development Variance Permit, or refer the application to Council.

CRITERIA FOR MINOR DEVELOPMENT VARIANCE PERMITS

7. An application for a Development Variance Permit may be considered as one for a Minor Development Variance Permit by the Delegated Official if the requested variance(s):
 - (a) pertains to one or more of the following regulations under Surrey Zoning By-law, 1993, No. 12000:
 - i. yards and setbacks;
 - ii. height of buildings and structures; or
 - iii. landscaping and screening;
 - (b) does not vary land use or density;
 - (c) pertains to signage regulations under Surrey Sign By-law, 1999, No. 13656;
 - (d) does not pertain to any regulations under Part 7A Streamside Protection, or Part 8 Floodproofing of Surrey Zoning By-law, 1993, No. 12000;
 - (e) is not associated with another development application type that needs to be considered by Council (e.g., rezoning, development permit, secondary land use plan amendment, etc.);
 - (f) is consistent with the Official Community Plan Bylaw, 2014, No. 18020;
 - (g) does not apply to a property subject to a Land Use Contract;
 - (h) does not apply to the Surrey Subdivision and Development By-law, 1986, No. 8830;
 - (i) does not apply to a property for which authorization for Heritage Conservation alterations are required;
 - (j) does not apply to a property that contains a feature or characteristic of Heritage Conservation;
 - (k) does not apply to a property for which a Heritage Revitalization Agreement is in effect;
 - (l) does not impose any costs on the City; and
 - (m) does not conflict with any statutes, by-laws, orders, legislation, or laws.

GUIDELINES FOR THE DELEGATED OFFICIAL

8. If the Delegated Official has determined that the application satisfies the criteria set out in section 7 for a Minor Development Variance Permit, the Delegated Official may in their discretion issue the permit, and include any conditions the Delegated Official determines appropriate, if the variance does not:
 - (a) result in inappropriate development of the property or adversely affect the natural environment;
 - (b) substantially affect the use and enjoyment of adjacent land; or
 - (c) defeat the intent of this Bylaw.

NOTICE

9. The obligation to give notice to affected property owners and tenants under Section 499 of the *Local Government Act* does not apply to Minor Development Variance Permits, however the Delegated Official may, if they determine that it is in the public interest, notify the owners and tenants of the subject property and all land that is adjacent to the subject property prior to issuing the variance. The notice shall describe in general terms the variance applied for and instructions on how recipients of the notice may provide comments to the City.

REFERRAL BY DELEGATED OFFICIAL FOR COUNCIL CONSIDERATION

10. Where the Delegated Official has decided not to issue a Minor Development Variance Permit upon considering the criteria in section 7 and guidelines in section 8, the Delegated Official may refer the application to City Council for Council's consideration if the Delegated Official determines that it would be in the public interest to do so.

DECISION BY DELEGATED OFFICIAL AND COUNCIL RECONSIDERATION

11. Subject to the owners right of reconsideration under section 12, or unless Council resolves otherwise, the decision of the Delegated Official to issue or not to issue a Minor Development Variance Permit, or whether or not to refer the matter to Council, is final.
12. Council may reconsider the decision of the Delegated Official regarding the issuance or non-issuance of a Minor Development Permit if, within thirty (30) days from the decision, the owner of the property makes a written request to the Delegated Official to have the matter reconsidered by Council.
13. Upon receiving a request for reconsideration that complies with Section 12, the matter will be referred to City Council.



CORPORATE REPORT

NO: R010

COUNCIL DATE: Jan 17, 2022

REGULAR COUNCIL

TO: Mayor & Council

DATE: January 13, 2022

FROM: General Manager, Corporate Services
Acting General Manager,
Planning and Development

FILE: 0125-01

SUBJECT: Recent Amendments to Provincial Enactments Affecting Local Governments

RECOMMENDATION

The Corporate Services Department and the Planning and Development Department recommend that Council:

1. Receive this report for information;
2. Authorize staff to bring forward for Council's consideration a bylaw to remove the requirement to hold public hearings when the proposed Zoning By-law amendment is:
 - a. consistent with the Official Community Plan; and
 - b. intended to facilitate a subdivision creating five or fewer new single family residential lots that are consistent with an approved Secondary Plan, and/or consistent with the existing zoning and lot pattern in the immediately surrounding neighbourhood;
3. Authorize staff to bring forward for Council's consideration a bylaw with the following:
 - a. delegating to staff the authority to issue development variance permits for "minor" variances related to 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 or to preserve, protect, restore and enhance natural environment; and other provisions prescribed by regulation by the Province, if any;
 - b. establishing the criteria for determining whether a proposed variance is "minor"; and
 - c. establishing guidelines the delegate must consider in deciding whether to issue a development variance permit; and

4. Authorize staff to bring forward for Council's consideration a bylaw to implement a non-refundable \$10.00 application fee for freedom of information requests in line with the prescribed application fee under section 75(1)(a) of the *Freedom of Information and Protection of Privacy Act* ("FOIPPA").

INTENT

The purpose of this report is to provide Mayor and Council with information regarding amendments by the Province regarding various enactments relating to local governments including changes related to public hearing requirements for zoning bylaw amendments, delegating to staff the authority to issue development variance permits, codes of conduct for Council Members, public notice requirements, and freedom of information application fees.

BACKGROUND

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

Bill 26 – 2021, Municipal Affairs Statutes Amendment Act (No. 2), 2021, ("Bill 26") received royal assent on November 25, 2021. The amendments in *Bill 26* that have come into force and are now law include those related to public hearings and delegating to staff the authority to issue development variance permits. The amendments related to public notice and codes of conduct for council members will become law through regulation of the Lieutenant Governor in Council. It is not presently known when that will occur.

The Province has stated in a press release that some of the amendments are aimed at increasing housing supply by supporting local governments to move forward more efficiently on developments, bypassing barriers and speeding up housing proposals. They were identified during consultation with local governments, housing providers and builders, and other stakeholders as part of the Province's Development Approvals Process Review, and as summarized in Corporate Report R203; 2021 Land Development Approval Process Improvements and Review of Housing Supply for Affordability Report, a copy of which is attached to this report as Appendix "I".

Bill 22 – 2021, Freedom of Information and Protection of Privacy Amendment Act, 2021

Bill 22 – 2021, Freedom of Information and Protection of Privacy Amendment Act, 2021 ("Bill 22") received royal assent on November 25, 2021 and is now law. *Bill 22* amends various provisions of FOIPPA. This resulted in amendments to a regulation made under FOIPPA, which introduces a \$10.00 freedom of information ("FOI") application fee that is intended to reinforce the spirit and intent of FOIPPA by encouraging FOI applicants to be focused and purposeful when making requests unrelated to the applicant's own personal information. Clear requests help ensure more timely processing and keep the process working effectively for everyone.

Under FOIPPA, there is no application fee or processing fees for FOI applicants who request access to their own personal information, which is defined in FOIPPA as "recorded information about an identifiable individual other than contact information."

The City currently collects fees for processing FOI requests, as authorized under FOIPPA. This includes fees for commercial applicants and specific services provided to non-commercial

applicants. With respect to the non-commercial applicants, only larger FOI requests generate a fee. Most FOI requests do not require more than 3 hours to retrieve the requested records and therefore do not require a fee given that the first three hours to locate and retrieve the records is free of charge as per legislation. To this end, in 2021 the City received a total of 719 FOI requests and only 20 of these requests generated a fee estimate. There is no change to this fee structure.

DISCUSSION

The amendments are summarized below:

1. Removal of Public Hearings for Some Zoning By-law Amendments

The amendments in *Bill 26* removed the default requirement for local governments to hold public hearings for Zoning By-law amendments that are consistent with the Official Community Plan (the "OCP"). Previously, local governments could "waive" the holding of a public hearing (*Local Government Act* s. 464). Under the amendments, local governments are "not required" to hold a public hearing. We anticipate the following challenges arising from this proposed amendment:

- Council will no longer have to formally pass a resolution to waive a public hearing on each individual application, rather a public hearing will simply not be required in cases where the application is already consistent with the OCP. A resolution by Council not to hold a public hearing may be controversial in some instances. Since Council will no longer have to pass a resolution, the amendments may result in less controversy in cases where a public hearing is not held;
- The OCP contains broad statements of objectives and policies to guide decisions on planning and land use management. Very few rezoning applications include OCP amendments. The vast majority are consistent with the OCP. If Council does not require public hearings for rezoning applications consistent with the OCP, then this could result in significantly fewer public hearings. In 2021, there were 123 public hearings, of which staff consider that 92 of those zoning applications were consistent with the OCP. However, the overall impact of the amendments is uncertain. For example, whether a rezoning bylaw is "consistent" with the OCP may be unclear in certain instances. It may be particularly difficult to assess whether a Zoning By-law amendment is consistent with the broad statements of objectives and policies in an OCP. Therefore a public hearing may still be held for such applications out of an abundance of caution;
- Processing times are not anticipated to be significantly reduced as the rezoning would still require four readings of the bylaw and the same overall application review and approval process. Further, without a public hearing, it may be harder for Council to gauge the level of community support for an application. However, the proposed amendments may make it easier for Council to proceed with applications with limited community support as compared to the current public hearing setting as the application would not receive the same direct opposition; and
- Staff anticipate that given the effect of the OCP on rezoning applications, there may be more public interest when the review of the OCP begins next year.

Below is a summary of the benefits versus the detriments of holding public hearings:

- The benefits of holding Public Hearings:
 - Council will have the opportunity to hear from those who believe that their interests will be affected by a proposed development. Council may benefit from this additional input in making its decision, and may receive new, relevant information that is not contained in the staff report and existing record. Even if no new information is presented, appreciating the level of support or opposition to a development through a public hearing may assist Council;
 - Persons will more likely believe that their views have been sufficiently considered by Council. They may be less likely to challenge Council's decision on procedural fairness grounds (i.e., for being denied the right to be heard). Otherwise, the means by which the public may express their views on Zoning By-law amendments may be limited to writing directly to Council or speaking to staff at public information sessions, which may not be satisfactory to certain individuals;
 - Given that a public hearing provides interested persons a venue to air their concerns, it may reduce attempts by individuals to present their views by other means, such as calling staff or individual Councillors outside of the Council meeting. Without public hearings, staff may be compelled to engage the public in more extensive consultation to ensure their opinions are heard which could reduce the ability of staff to process the application;
 - Public hearings are perceived to be an important component of the democratic process, fostering transparency and accountability in Council's decision-making process. Without them, the City may be criticized for not consulting with or listening to the public;
 - There may be circumstances where it is not clear whether a public hearing is required. Therefore, having public hearings as a matter of course is the safer option;
 - Applicants may feel more accountable to the public where a Public Hearing is part of the process, and may be more amenable to providing concessions beneficial to the community as a result. The element of public scrutiny through Public Hearings may foster higher quality development projects (such as improved urban design, architectural character and quality, and open space), and community amenities (such as rental and/or affordable housing, child care space, etc.);
 - Controversial Zoning By-law amendments may result in critical commentary or even backlash after amendments are approved by Council without a public hearing;
 - Council meetings may be shorter, but the application process would still take a similar amount of time since Zoning By-law amendments will still follow the existing process, except that public-hearings will not be held;

- Even if a Zoning By-law amendment is consistent with the OCP, it may not be consistent with the neighbourhood concept plan (“NCP”). Therefore, it may be beneficial to hold a public hearing so that Council may hear the public’s concerns regarding any inconsistency with the NCP; and
 - NCPs are approved by way of Council resolution and no public hearing is required, unless there is a corresponding OCP amendment, which is not always the case. As such, the public is not able to speak directly to Council in a public hearing on issues related to the development and approval of an NCP. If public hearings are also removed for some Zoning By-law amendments, then the public will have limited methods of providing direct input to Council on land use and planning in some neighbourhoods.
- Detriments of hosting Public Hearings:
 - The duration of Council meetings are longer;
 - Council may find it more difficult to proceed with controversial Zoning By-law amendments if there is a public hearing. For example, certain developments may be in the interests of the City, as a whole (such as employment, housing, services), but immediate neighbours may object to it (i.e., localized opposition);
 - Public hearings may add confusion about a development if, for example, misleading or incorrect information is provided by the public to Council;
 - Speakers can be repetitive, and may not add substantial relevant information; and
 - There is a greater risk of incivility with public hearings, particularly over controversial developments.

Public hearings typically generate less public participation for smaller developments that are consistent with the OCP, an approved Secondary Plan (such as a “NCP”, Town Centre Plan (“TCP”), Local Area Plan (“LAP”), etc.), and/or match the character of an established neighbourhood.

Staff recommend that public hearings not be held for Zoning Bylaw amendments intended to facilitate a subdivision creating five or fewer new single family residential lots that are either consistent with an approved Secondary Plan, and/or consistent with the existing zoning and lot pattern in the immediate surrounding neighbourhood.

Staff recommend that for larger and/or more significant developments that public hearings remain an important step in amending the Zoning By-law and generally the benefits of holding public hearings outweigh the detriments.

2. Delegation of Power to Issue Development Variance Permits

Currently, local governments are not permitted to delegate the power to issue development variance permits to staff [*Local Government Act*, s. 498(4)]. Under the amendments, local governments may delegate the power to issue development variance permits to staff where the

proposed variance is minor and varies bylaw provisions falling 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 or to preserve, protect, restore and enhance natural environment; and other provisions prescribed by regulation by the Province. A local government wishing to delegate this power must do so by way of bylaw.

The positive implications of this amendment appear to include reduced application processing as it would allow minor variances to proceed without being considered by Council. Applicants would not be required to wait for scheduled Council meetings.

However, whether a significant number of development variance permit applications would be captured by the amendment would depend on what will be considered a “minor” variance. The legislation does not provide a clear definition of what may constitute a minor variance. The determination of what is “minor” has been largely left to municipalities to decide. The amendment requires municipalities, to establish a bylaw that provides the criteria for determining whether a proposed variance is minor, accompanied by a guideline that the delegate must consider in deciding whether to issue a development variance permit.

In addition, the amendment allows owners to require the decision of the delegate to be reconsidered by Council. This will have the effect of potentially increasing the processing time for some applications since the application would have to be scheduled and heard by Council after the delegate has made a decision.

3. Code of Conduct for Council Members

Bill 26 includes new provisions in the *Community Charter* regarding a code of conduct for Council Members. Within six months of its first regular meeting following the civic election, Councils will be required to consider developing a code of conduct for Council Members or reviewing current codes of conduct if any already exist. If Council ultimately decides not to establish a new code, or declines to review an existing code, reasons for this decision must be made publicly available.

Council will be required to reconsider its decision not to establish or review a code. This reconsideration must occur within six months after the first regular Council meeting following a general local election. If Council confirms its prior decision not to establish or review a code, reasons for this confirmation must be made publicly available upon request.

There are several things a Council must do when either deciding whether to develop or update a code of conduct or reconsidering a decision not to develop or update a code. In both circumstances, Council must consider the prescribed principles for codes of conduct; consider any other prescribed matters; and comply with any prescribed requirements. What these prescribed principles, matters, and requirements will entail is not yet certain. However, it is likely that subsequent regulation will provide clearer criteria outlining what must be considered in this process.

Since Council has already adopted *Council Code of Conduct Bylaw, 2020, No. 20020* (the “Code”) and established the Surrey Ethics Commissioner Office, the main impact of the amendments will be the requirement to review the Code and to reconsider any decision not to review the Code.

4. Other Notable Amendments to *Bill 26*

Public notice requirements under the *Community Charter* are being amended to enable local governments to provide for an alternative means of publishing notice instead of publishing the notice in a newspaper. This amendment has not yet become law and it is not presently known when that will occur. Although the proposed amendments do not specify the acceptable alternative means of publication, they do allow the Province to make regulations specifying this in the future. It is unclear whether the Province will make such regulations. Subject to the regulations, staff are supportive of the amendments since newspaper advertisements presently reach a limited audience and are costlier than other more effective mediums, such as the City's online platforms.

A local government must adopt a bylaw enabling it to provide the alternative means of publishing a notice, unless publication in a newspaper is not practicable and meets other criteria in the proposed amendments.

5. Application Fees for FOI Requests Under FOIPPA

The City's Legislative Services Division manages formal requests for information, and all aspects of the City's privacy and personal information protection obligations under FOIPPA.

Public access to City records that are not readily available to the public are handled through the FOI process. This includes any information that is not readily available to the public from the City's website, or information that cannot be obtained by members of the public at a City facility. It may include information that may be available to provide to an FOI applicant at either no cost, or for a fee-for-service.

In 2020, the City moved its freedom of information services to an online portal allowing FOI applicants to easily submit an FOI request through the City's online portal. Applicants can continue to also submit an FOI request by fax, email, or by submitting a request in writing.

The City receives and processes a significant number of FOI requests each year:

Year	No. of FOI Requests
2021	719
2020	552
2019	567

Many requests received by the City are of a non-personal and very broad nature requiring significant communication between staff and the FOI applicant to help narrow down their search. The \$10.00 application fee will encourage FOI applicants to make clearer FOI requests and will also help offset some of the costs associated with request processing and document disclosure.

Presently, the *Freedom of Information By-law, 1999, No. 13662*, ("the Bylaw") does not contain an FOI application fee. Staff propose amendments to the Bylaw to include an application fee in the amount of \$10.00.

Next Steps

Upon receiving this report, Council is requested to provide direction to staff concerning what amendments Council desires pursuant to *Bill 26* and *Bill 22*. Staff will then bring forward a corporate report with those amendments for Council's approval at a regular meeting.

Legal Services Review

Legal Services has reviewed this report and has no concerns.

SUSTAINABILITY CONSIDERATIONS

The recommendations of this report support the objectives of the City's Sustainability Charter 2.0. In particular, the recommendations relate to Sustainability Charter 2.0 themes of Built Environment & Neighbourhoods, Economic Prosperity & Livelihood, and Inclusion. Specifically, the recommendations support the following Strategic Direction ("SD") and Desired Outcomes ("DO"):

- Built Environment & Neighbourhoods: SD5: Leverage, incentivize and enhance community benefits through the planning and construction of new development.
- Economic Prosperity & Livelihood: DO5: Efficient land use and well-managed transportation infrastructure are in place to attract businesses and support a thriving economy.
- Community Pride and Engagement DO21: All residents have opportunities to be meaningfully engaged in civic issues and to contribute to community life.

CONCLUSION

Based on the above information, it is recommended that Council receive this report as information and provide direction to staff concerning potential bylaw amendments related to *Bill 26* and *Bill 22*.



Rob Costanzo
General Manager, Corporate Services



Ron Gill
Acting General Manager, Planning & Development

Appendix "T" – Corporate Report R203; 2021

Note: Appendix available upon request