



## Consolidated Bylaw No. 14427C

### Burnaby Development Procedures Bylaw 2022 Bylaw No. 14427

Purpose: to implement procedures for review and approval of certain development applications

The following document is a consolidated version of the above-named parent Bylaw in which every current enforceable amendment made to that Bylaw has been **CONSOLIDATED FOR CONVENIENCE** only. This consolidation is not a legal document. Certified copies of the original bylaws should be consulted for all interpretations and applications of the bylaws on this subject.

To view an amendment bylaw made to **Bylaw No. 14427**, click on the following link:

<https://heritageburnaby.ca/>

<b>Burnaby Development Procedures Bylaw 2022</b>			
No.	Amendment Bylaw No.	Final Adoption (or Repeal) Date	Purpose
2	14547	2023 Feb 27	Definitions; Minor Variances; add Schedule A
1	14493	2022 Oct 03	s.s 3.1(c) deleting "Burnaby Planning and Building Fees Bylaw" and replacing it with "Burnaby Consolidated Fees and Charges Bylaw" (effective 2023 Jan 01)
Original	14427	2022 Mar 07	

**UNOFFICIAL CONSOLIDATION**

**CITY OF BURNABY**

**BYLAW NO. 14427**

A bylaw to implement procedures for review  
and approval of certain development applications

(Consolidated for convenience with Bylaws  
14493 and 14547)

The Council of the City of Burnaby ENACTS as follows:

**PART 1: CITATION**

- 1.1 This Bylaw may be cited as **BURNABY DEVELOPMENT PROCEDURES BYLAW 2022.**

**PART 2: DEFINITIONS**

- 2.1 In this Bylaw, unless the context otherwise requires,

“agent”	means the person, firm or corporation representing the <b>owner</b> of a <b>site</b> designated by an <b>owner’s authorization form</b>
“applicant”	means the <b>owner</b> , or <b>agent</b> , of a <b>site</b> that is the subject of an application for a <b>permit</b> under this <b>bylaw</b>
“application form”	means a form for an application for a <b>permit</b> under this <b>bylaw</b> , in form and content established by the <b>General Manager Planning and Development</b>
“bylaw”	means this bylaw, including all schedules attached hereto
“City”	means the City of Burnaby
“Council”	means the council of the <b>City</b>
“development variance permit”	means a development variance permit authorized under the <i>Local Government Act</i> (BYLAW 14547)
“General Manager Planning and Development”	means the head of the <b>City’s</b> Planning and Development Department, or designate

“ <b>Local Government Act</b> ”	means the <i>Local Government Act</i> , R.S.B.C. 2015, c. 1, as amended or replaced from time to time
“ <b>lot</b> ”	means an area of land designated as a separate and distinct parcel on a legally recorded subdivision plan or description filed in the Land Title Office
“ <b>minor variance</b> ”	has the meaning set out in 4A.1 of this bylaw (BYLAW 14547)
“ <b>owner</b> ”	includes the registered owner of an estate in fee simple of land, and also where the context or circumstances so require:  (a) a tenant for life under a registered life estate;  (b) a registered holder of an agreement for sale;  (c) a holder or occupier of land held in the manner mentioned in sections 228 and 229 of the <i>Community Charter</i> ;  (d) a lessee with the permission of the registered owner(s);  and in respect of water includes an occupier, tenant or holder of an interest in respect of the surface of the water
“ <b>owner’s authorization form</b> ”	means a form, in form and content established by the <b>General Manager Planning and Development</b> , by which an <b>owner</b> designates an <b>agent</b> as the representative of the <b>owner</b> in respect to an application for a <b>permit</b> under this <b>bylaw</b>
“ <b>permit</b> ”	means a <b>temporary use permit</b> or a <b>development variance permit</b> (BYLAW 14547)
“ <b>security</b> ”	means cash, a certified cheque, bank draft or a clean, unconditional, irrevocable letter of credit satisfactory to the <b>City</b>
“ <b>site</b> ”	means the land or lands that is the subject of an application for <b>permit</b> under this <b>bylaw</b>
“ <b>temporary use permit</b> ”	means a temporary use permit authorized under the <i>Local Government Act</i>
“ <b>Zoning Bylaw</b> ”	means the Burnaby Zoning Bylaw 1965 (BYLAW 14547)

### PART 3: APPLICATION

- 3.1 An application for a **permit**, or renewal of a **permit**, shall:
- (a) be made on an **application form** signed by the **applicant**;
  - (b) if the **applicant** is not the **owner** of each **lot** comprising the **site**, be accompanied by an **owner's authorization form** signed by the **owner**;
  - (c) be accompanied by the fees for the application as set out in the Burnaby Consolidated Fees and Charges Bylaw (BYLAW 14493)
  - (d) be accompanied by a title search for each **lot** comprising the **site**, that is obtained not more than fourteen (14) days prior to the date of the application, together with copies of all non-financial charges, including covenants, statutory rights of way and easements; and
  - (e) be accompanied by such other information and documents as may be required by the **General Manager Planning and Development** which, in the opinion of the **General Manager Planning and Development**, are required to process the application, at the sole cost of the **applicant**.
- 3.2 The completed **application form** and all documents accompanying an application for a **permit** under this **bylaw** become the property of the **City**, and are subject to the *Freedom of Information and Protection of Privacy Act* (BC).
- 3.3 If an **applicant** does not provide, or show any action to provide, information or documents requested by the **City** in respect to an application within six (6) months of the request, the application may be cancelled at the discretion of the **General Manager Planning and Development** and the **applicant** will be required to submit a new application in accordance with this **bylaw**.
- 3.4 If an **applicant** withdraws an application, this **bylaw** applies to any reapplication for the same **permit** as it were a new application.
- 3.5 If **Council** refuses an application for a **permit** in accordance with section 4.3(c) of this **bylaw** or following reconsideration of a **permit** application under Section 4A.5 of this **bylaw**, the **applicant** shall not reapply for the same **permit** for one (1) year after the date of the open **Council** meeting at which the application was considered, except that the time limit may be varied in relation to a specific reapplication with an affirmative vote of at least 2/3 of members of **Council** eligible to vote on the reapplication and this **bylaw** applies to the reapplication as if it were a new application. (BYLAW 14547)
- 3.6 If the **General Manager Planning and Development** refuses an application for a **development variance permit** in respect to **minor variances** under Part 4A of this bylaw, the applicant shall not reapply for the same **permit** for one (1) year after the date of issuance of the decision of the **General Manager Planning and Development**. (BYLAW 14547)
- 3.7 An application for a **permit** shall be approved or refused by **Council** or the **General**

**Manager Planning and Development**, as applicable, within one (1) year after the date the application was made, except that the time limit may be extended by the **General Manager Planning and Development** for up to one (1) year upon receipt of a written request from the **applicant**. (BYLAW 14547)

#### **PART 4: COUNCIL APPROVAL PROCESS**

- 4.1 Prior to the **Council** meeting at which the issuance of a **permit** will be considered, the **General Manager Planning and Development** shall prepare a report that includes the following:
- (a) a review and analysis of the application;
  - (b) comments from any referrals to City departments and/or external agencies;
  - (c) if approval from a Provincial Ministry is required, confirmation that such approval has been obtained;
  - (d) if applicable, a copy of undertakings signed by the **applicant**;
  - (e) if applicable, the amount of **security** required to be provided and the form of the **security**;
  - (f) if applicable, the expiration date for the **permit**;
  - (g) a copy of the proposed **permit**; and
  - (h) a recommendation as to whether to approve the application, with or without conditions, or refuse the application.
- 4.2 Following public notification in accordance with Part 5 of this **bylaw**, the report of the **General Manager Planning and Development** under section 4.1 of this **bylaw** shall be placed on the agenda of an open **Council** meeting and all correspondence in relation to the application received prior to the meeting shall be provided to **Council**.
- 4.3 At the open **Council** meeting at which the application for a **permit** is considered, **Council** may:
- (a) approve the issuance of the **permit**, as proposed or with additional terms or conditions;
  - (b) refer the application with direction for further review to the **General Manager Planning and Development**; or
  - (c) refuse the application.

## PART 4A: MINOR VARIANCES

4A.1 For the purpose of this **bylaw**, **minor variance** means a variance that meets all of the following criteria:

- (a) varies the requirements of the *Zoning Bylaw* relating to:
  - (i) siting, size, and dimensions of a building or structure, or a portion thereof, except those related to fences and retaining walls, clearance at intersections, lot coverage, and minimum or maximum floor area of a dwelling unit or living unit; and/or
  - (ii) siting of a permitted use;
- (b) does not exceed 25 percent of the applicable requirements of the *Zoning Bylaw*; and
- (c) does not result in a change to the use, density, residential rental tenure, and flood plain requirements specified in the *Zoning Bylaw*. (BYLAW 14547)

4A.2 Pursuant to section 498.1 of the *Local Government Act*, **Council** delegates to the **General Manager Planning and Development** the authority to:

- (a) issue a **development variance permit** in respect to **minor variances**;
- (b) amend a **development variance permit** issued in respect to **minor variances**, provided that the combined variances do not exceed 25 percent of the applicable requirements of the *Zoning Bylaw*; and
- (c) impose terms and conditions in a **development variance permit** in respect to **minor variances** to ensure public safety, improve livability, maintain neighbourhood character, preserve the natural environment, retain heritage character, and/or enhance sustainability, in accordance with applicable **City** policies. (BYLAW 14547)

4A.3 The **General Manager Planning and Development** shall consider the following guidelines in determining whether to issue a **development variance permit** for **minor variances**:

- (a) the requested variance facilitates the efficient use and development of the **site**, taking into account the specific **site** conditions and/or special circumstances have unreasonably compromised the potential development of the **site**;
- (b) the **applicant** has made reasonable efforts to eliminate the need for, or reduce the extent of, the requested variance;
- (c) the proposed development is generally compatible with the adjacent neighbourhood and uses;
- (d) the proposed development will not have significant impacts on adjacent uses,

- streetscapes, or the natural environment;
- (e) the requested variance generally meets the intent of the *Zoning Bylaw*; and
  - (f) the proposed development and the requested variance are generally in compliance with other **City** policies and regulations. (BYLAW 14547)
- 4A.4 The **General Manager Planning and Development** may refer an application for a **development variance permit** in respect to a **minor variance** to **City** departments and/or external organizations prior to making a decision about the application. (BYLAW 14547)
- 4A.5 An **owner** of a **site** that is subject to a decision of the **General Manager Planning and Development** in accordance with section 4A.2 of this **bylaw** may request **Council** reconsider the decision by submitting a written request for reconsideration to the Director Legislative Services within 10 days after the date of issuance of the decision. The written request shall include the reasons for seeking reconsideration, including grounds on which the **owner** considers the decision of the **General Manager Planning and Development** should be overturned or varied and what terms and conditions, if any, should be overturned or varied. (BYLAW 14547)
- 4A.6 The public notification requirements in Part 5 of this **bylaw** shall apply to an application to the **General Manager Planning and Development** and reconsideration by **Council** under this Part 4A. (BYLAW 14547)

## PART 5: PUBLIC NOTIFICATION

- 5.1 Where notice is required to be provided in the *Local Government Act* or under this **bylaw** for an application for a **permit**, the distance for the mailing or delivery of notices is 50 m (164 ft.) from that part of the site that is subject to the **permit**. (BYLAW 14547)
- 5.2 The **City** shall give notice of an application for a **permit** or **Council** reconsideration of a decision under this **bylaw** in accordance the following, as applicable:
- (a) for a **temporary use permit**, in accordance with section 494 of the *Local Government Act*;
  - (b) for a **development variance permit** to be considered by **Council**, in accordance with section 499 of the *Local Government Act*, and
  - (c) for a **development variance permit** in respect to **minor variances**, in accordance with section 499 of the *Local Government Act* as if the decision of the **General Manager Planning and Development** is a **Council** resolution. (BYLAW 14547)
- 5.3 In addition to all statutory notice requirements, an **applicant** shall post a sign on the **site** in

respect to an application for a **permit** or **Council** reconsideration of a decision under this **bylaw** in accordance with the following:

- (a) for a **permit** to be considered by **Council**, at least thirty (30) days prior to the date of the **Council** meeting at which the application will be considered;
- (b) for a **development variance permit** in respect to **minor variances**, no later than fifteen (15) days after the date the application was made in accordance with section 3.1 of this **bylaw**.
- (c) for **Council** reconsideration of a decision of the **General Manager Planning and Development** under Part 4A of this **bylaw**, at least ten (10) days prior to the date of the **Council** meeting at which the decision will be reconsidered. (BYLAW 14547)

5.4 The **General Manager Planning and Development** may establish requirements, including with respect to the number, size, form, location and content, for the sign(s) to be posted pursuant to section 5.3 of this **bylaw**. (BYLAW 14547)

5.5 The sign(s) required to be posted in accordance with sections 5.3 of this **bylaw** shall be removed from the **site** within ten (10) days after the decision of **Council** or the **General Manager Planning and Development**, as applicable, in respect to the application or reconsideration. If the **owner** fails to do so, the **City**, by its employees or contractors, may enter the **site** and remove the sign(s) and the **owner** shall pay the sign removal fee set out in the *Burnaby Consolidated Fees and Charges Bylaw*, and if such fee is unpaid by the 31<sup>st</sup> day of December of the year in which the expenses were incurred, shall be added to and form part of the property taxes payable in respect of the **site** as taxes in arrears. (BYLAW 14547)

## PART 6: SECURITY AND UNDERTAKINGS

6.1 As a condition of the issuance of a **permit**, **Council** or the **General Manager of Planning and Development**, as applicable, may require that the **applicant** provide **security**, in accordance with the guidelines set out in Schedule A of this **bylaw**, and pay the fees set out in the *Burnaby Consolidated Fees and Charges Bylaw* for reviewing and administering the **security**, in the event that:

- (a) a condition in the **permit** respecting landscaping is not satisfied;
- (b) an unsafe condition results as a consequence of a contravention of a condition in the **permit**;
- (c) damage to the natural environment results as a consequence of a contravention of a condition in the **permit**.

(BYLAW 14547)



- 6.2 If the **City** considers that any of the conditions in section 6.1(a), (b) or (c) of this **bylaw** applies, the **City** may:
- (a) undertake, at the expense of the holder of the **permit**, the works, construction or other activities required to satisfy the landscaping condition, correct the unsafe condition or correct the damage to the environment; and
  - (b) apply the **security** provided under section 6.1 of **bylaw** in payment of the cost of the works, construction or other activities, with any excess to be returned to the holder of the **permit**.
- 6.3 Any interest earned on the **security** provided under section 6.1 of this **bylaw** accrues to the holder of the **permit** and must be paid to the holder immediately on return of the **security** or, on default, becomes part of the amount of the **security**.
- 6.4 In addition to any **security** required under section 6.1 of this **bylaw**, **Council** may require, as a condition of issuing a **temporary use permit**, that the **owner** provide **security** to guarantee the performance of the terms of the **temporary use permit**.
- 6.5 If **security** is required pursuant to section 6.4 of this **bylaw**, the **temporary use permit** may provide for the means for determining:
- (a) when there is default under the **temporary use permit**; and
  - (b) the amount of the **security** that forfeits to the **City** in the event of default.
- 6.6 As a condition of issuing a **temporary use permit**, **Council** may require the **owner** to give an undertaking to:
- (a) demolish or remove a building or other structure; and
  - (b) restore the **site**, or a portion of the **site**, to a condition and by the date specified in the **temporary use permit**
- 6.7 An undertaking under section 6.6 must be attached to and forms part of the **temporary use permit**, and if the **owner** fails to comply with all of the undertakings given, the **City** may enter onto the **site** and carry out the demolition, removal or restoration at the expense of the **owner** and apply any **security** provided under Part 6 of this **bylaw** in payment of the cost of the demolition, removal or restoration.

## **PART 7: TERM, RENEWAL AND LAPSE**

- 7.1 A **temporary use permit** is valid until the expiry date or for the period of time specified in the **temporary use permit**, except that a **temporary use permit** shall expire no later than three (3) years after the **temporary use permit** was issued. (BYLAW 14547)
- 7.2 Subject to an application in accordance with section 3.1 of this **bylaw**, a **temporary use**

**permit** may be renewed on terms and conditions approved by **Council**. A **temporary use permit** may be renewed only once. (BYLAW 14547)

- 7.3 Subject to the terms of the **permit**, a **permit** lapses if the holder of the **permit** does not substantially start any construction with respect to which the **permit** was issued within two (2) years after the date of issuance of the **permit**.
- 7.4 Repealed. (BYLAW 14547)

## **PART 8: NOTICE ON TITLE**

- 8.1 The **City** shall file in the Land Title Office a notice on each **lot** comprising a **site** that is subject to a **permit** and any amendment or cancellation of the **permit**.
- 8.2 If a notice is filed under section 8.1, the terms of the **permit** or any amendment to it are binding on all persons who acquire an interest in the **lot** affected by the **permit**.

## **PART 9: SEVERABILITY**

- 9.1 If any definition, section, subsection, paragraph, subparagraph, clause or phrase in this **bylaw** is held invalid by a Court of competent jurisdiction, the invalid definition, section, subsection, paragraph, subparagraph, clause or phrase must be severed and the remainder of this **bylaw** is deemed to have been adopted without the severed definition, section, subsection, paragraph, subparagraph, clause or phrase.

Read a first time this 28<sup>th</sup> day of February, 2022  
Read a second time this 28<sup>th</sup> day of February, 2022  
Read a third time this 28<sup>th</sup> day of February, 2022  
Reconsidered and adopted this 7<sup>th</sup> day of March, 2022

MAYOR

CLERK

## Schedule “A”

### Security Guidelines

1. **Form of Security:** cash, a certified cheque, bank draft or a clean, unconditional, irrevocable letter of credit satisfactory to the **City**

2. **Amount of Security:**

- (a) **Security for Landscaping and Remediation** (to ensure the provision of landscaping and/or rectifying an unsafe condition or damage to the natural environment)

The amount of security is to be based on the final cost estimates to install and/or remedy the works, as submitted by a Landscape Architect, Qualified Environmental Professional, Professional Engineers and Geoscientists, or other qualified professional satisfactory to the **City**, which amount is to be approved by the **City**. All estimates must be provided by the applicant at the applicant’s expense.

- (b) **Security for Performance of Terms of Temporary Use Permit** (to ensure performance of other terms and conditions such as removal of building and restoration of land)

The amount of security should be based on the final cost estimates to undertake the works, submitted by a qualified professional and approved by the **City**, and the cost estimate at the time of expiration of the permit shall apply. All estimates must be provided by the applicant at the applicant’s expense.

3. In special circumstance, an alternate method of calculating the amount of **security** may be approved by the **General Manager Planning and Development.**”