Development Variance Permit

Application Procedures

What is a development variance permit:

A Development Variance Permit (DVP) allows the RDEK to vary requirements of a zoning or subdivision servicing bylaw. Typically, it is used to reduce a building setback or to allow an increase in building height where the physical limitations of the site make it impractical to comply with the provisions of a zoning bylaw. A DVP cannot be used to vary land use, density, or floodplain specifications.

The RDEK has two streams for DVPs: Minor and Regular. The RDEK Board of Directors has delegated the approval of Minor DVPs to staff. Minor DVPs must align with the Minor Variance Requirements identified in Schedule A of the RDEK Delegation Bylaw (see page 3). Staff will confirm the applicable stream for your DVP application. Processing times and fees vary depending on the application stream.

How and where to apply:

A non--refundable fee payable to the Regional District of East Kootenay is required. Staff will review the application's eligibility to be considered through the Minor DVP stream and will advise on the required fee payable. Payment is required prior to the application being processed. The applicable fees are:

- Minor DVP - $350
- Regular DVP - $600
- DVP Requiring a Qualified Professional Report - $800

Complete a development variance permit application form. These are available from the RDEK offices at:

- 19 - 24th Avenue South, Cranbrook BC
- 1164 Windermere Loop Road, Invermere BC

The application form is also available online at www.rdek.bc.ca

Include the following:

1. A detailed sketch of your property showing all buildings, well, septic system, access, and physical features (e.g. slope, watercourses, lakes).
2. A Title Search Print dated no more than 30 days before you file your application. These are available from the Land Title Office at www.ltsa.ca. If requested, a Title Search can be obtained by the RDEK for a document fee of $17.50.
3. An explanation of your proposal, rationale for the requested variance(s) and any other information, such as photographs in support of your application.
4. In some cases, approval from the Ministry of Transportation and Transit (MOTT) is required.

We recommend that you discuss your variance proposal with Development Services staff.

Points to consider:

- Approval is based on your specific development proposal.
- A decision to approve a DVP is at the discretion of the delegated staff person or the Board.
- The delegated staff person or the Board, as applicable, must be satisfied that an exception to the bylaw is justified.

- DVPs through the regular stream will include mailing of a notice of the proposed variance to properties within 100 m of the parcel and neighbors will be given an opportunity to comment.

What happens to your application:

RDEK staff will review your application to make sure it meets requirements of RDEK plans, policies and bylaws. Staff will determine which stream (Minor or Regular) your variance application will be processed under.

Staff will also Determine if a Qualified Professional Report is required.

Applications for Development Variance Permits that require a Qualified Professional Report require an additional fee due to the increase in staff time to review the Qualified Professional Report.

Minor Variance Stream:

A staff report and draft Minor DVP will be prepared. The application package, draft permit and staff recommendation will be reviewed by the delegated staff person in relation to the Minor DVP Consideration Guidelines. The permit will be issued if the permit is considered to comply with the Consideration Guidelines. When the permit is issued, it may include conditions of approval that must be met by the applicant.

If the Minor DVP does not meet the Consideration Guidelines and is turned down by the delegated staff person:

- You may ask the RDEK Board to reconsider the application, subject to the applicable fee.
- Reapplication for the same proposal may occur after six months, regardless of who denies the permit.
- You may apply for a different proposal at any time. You may also make a request for reconsideration by the delegated staff person provided the request is based on new information, is accompanied by the appropriate fee and application form, and is received in writing no more than 30 days after the final date of decision.

Regular Variance Stream:

Your application will be sent to the Advisory Planning Commission (APC), a group of residents in your area appointed by the RDEK Board to make recommendations on land use matters. If technical input is required from a provincial government ministry, the notice will also be sent to that ministry.

In addition, staff will prepare a Notice of Intent (NOI) and mail notices to property owners and tenants within 100 metres of your property to advise them of your variance proposal. Your neighbours have until the Board's next meeting to comment on your proposal. Their comments should be in writing.

Staff will then prepare a staff report and a draft DVP for consideration by the RDEK Board.

At its next meeting, the Board will consider your application, any comments made by your neighbours and the recommendation of the APC. If referral agencies (such as MOTI) have provided technical input, the Board will also consider those comments. If technical input has been requested but not received, the Board may defer your application until technical input has been received. Once the Board has reviewed the comments, they will direct staff to either issue the permit as originally presented, issue the permit as amended by the Board, postpone consideration of your application until a future meeting, refer your application to staff for more information, or turn down your application.

If the Regular DVP permit is turned down:

- Reapplication for the same proposal may proceed after six months.

- You may apply for a different proposal at any time. You may also make a request for reconsideration by the Board provided the request is based on new information, is accompanied by the appropriate fee and application form, and is received in writing no more than 30 days after the final date of decision.

Questions:

Call Development Services at **250-489-2791** or toll free at **1-888-478-7335.**

Minor Variance Requirements

(Excerpt Bylaw 3275 Schedule A – November 2023)

1. Minor Development Variance Permit Consideration Guidelines

The Delegated Official shall consider the following general guidelines in the evaluation of Minor Development Variance Permit applications. The proposed variance shall:

(1) be consistent with the goals, objectives and policies within any applicable RDEK Official Community Plan Bylaw;
(2) not defeat the explicit or implicit intent or purpose of the bylaw requirement being varied;
(3) be consistent with all floodplain management, building, sign, mobile home park, or campground bylaws, or any other RDEK bylaw;
(4) not contravene BC Building Code or any other statutory enactment other than the bylaw that is being varied;
(5) not permit a change of use, density or subdivision;
(6) be reasonable for the appropriate development or use of the land, building or structure;
(7) not unduly hinder the use, enjoyment or development of adjacent properties;
(8) not result in an unreasonable negative impact on neighbouring properties and shall fully consider mitigation measures to reduce any identified negative impacts;
(9) not impose any costs on the RDEK;
(10) not result in any health or safety issues; and,
(11) not be issued for an existing structure or other non-permitted development, where a permit was not obtained prior to the commencement of the construction or development.

2. Types of Minor Variances

Minor Development Variance Permit considerations shall only be considered regarding variances related to:

(1) the number of required parking spaces, or parking space site specifications, such as dimensions, siting, or access;
(2) building setbacks or size for principal and accessory buildings; or,
(3) parcel coverage and building height.

3. Specific Criteria for Minor Variances

In addition to the general guidelines above, the Delegated Official shall not issue a Minor Development Variance Permit which does not conform with the following:

(1) Building Siting

Setbacks from building(s) or structure(s) to a property line must not result in a setback that is less than:

(a) 1.5 m for a side or rear property line on parcels equal to or greater than 0.4 ha in area;
(b) 1.25 m for a side or rear property line on parcels less than 0.4 ha in area;
(c) 4.5 m for a front property line; or,
(d) 4.5 m for a property line abutting a controlled access highway.

(2) Building Size

(a) Height of building(s) or structure(s) may not be greater than 110% of the allowed height as set out in the zoning bylaw.
(b) Parcel coverage may not be greater than 105% of the allowed parcel coverage as set out in the zoning bylaw.

(3) Parking

(a) Number of parking spaces must not be less than 50% of the spaces required by the zoning bylaw.
(b) Size of parking spaces must not be less than 90% of the require parking space size as set out in the zoning bylaw.

Development Variance Permit
Application Form

SECTION 1 – APPLICANT INFORMATION

Registered Owner(s): _____	Agent: _____
Address: _____	Address: _____
Phone:_____ Email: _____	Phone:_____ Email: _____

SECTION 2 – DECLARATION AND AUTHORIZATION

I / we declare that the information in this application is, to the best of my / our knowledge, true and correct.

Signature of Applicant(s): _____ Date: _____

_____

If the application is submitted by an Agent, the owner(s) must sign the following statement or provide separate written authorization:

I / we consent to this application filed by the person or company whose name appears as the agent on page 1.

Signature of Owner(s): _____ Date: _____

_____

Personal Information requested on this form is collected under the authority of section 26 of the Freedom of Information and Protection of Privacy Act (FOIPPA) and will be used by the RDEK for the purpose of processing the application. Disclosure of personal information by the RDEK is subject to the requirements of FOIPPA. For questions about the collection, use or disclosure of your personal information in the RDEK, contact the Corporate Officer of the RDEK at 19 – 24th Ave S., Cranbrook BC, V1C 3H8 or 250-489-2791.

SECTION 3 – LAND UNDER APPLICATION

Legal description of all land proposed for development:

Lot _____ Block_____ Plan _____ District Lot_____

Extended legal description:_____

_____

Street Address: _____ Parcel Identifier Number (PID):_____

Size of property: _____ Zone Designation: _____

- **Describe water source and sewer method *[√ check appropriate box(s)]*:**

Potable water:

☐ None

☐ On-site well

☐ Community Water System

Name _____

Sewage disposal system:

☐ None

☐ Septic tank & field

☐ Community Sewer System

Name _____

SECTION 4 – PURPOSE OF APPLICATION *[√ check appropriate box(es)]*

☐ Vary the Zoning Bylaw / Land Use Bylaw

Name of Bylaw:_____

Section to be varied:_____

Vary from _____ to _____

☐ Vary the Subdivision Servicing Bylaw

Section to be varied:_____

Vary from _____ to _____

☐ Vary the Mobile Home Park Bylaw

Section to be varied:_____

Vary from _____ to _____

SECTION 5 – REASON FOR REQUESTED VARIANCE (√ check all that apply):

- ☐ Configuration of land impacts location of proposed building or structure.
- ☐ Topography (e.g. slopes)
- ☐ Physical limitations of the parcel (e.g. watercourses, waterbodies, ravines)
- ☐ Lot dimensions (e.g width, length)
- ☐ Building error (e.g. building or structure not built in accordance with required setbacks)
- ☐ Legal restrictions (e.g. right-of-way or easement)
- ☐ Other, provide detailed information below.

Supporting information in support of the above reasons (attach additional information if required):

_____

_____

_____

_____

_____

_____

SECTION 6 – DEVELOPMENT & LAND USE INFORMATION

- **Describe the existing use of the land:** _____

_____

_____

_____

_____

- **Describe the proposed development:** _____

_____

_____

_____

- **Attach a map or sketch showing:**
  - North arrow & scale
  - Lot lines with dimensions
  - All buildings & structures (existing & proposed)
  - Physical features (creeks, ponds, hills, gullies, etc.)
  - Access (roads, driveways)
  - Well or water intake
  - Septic tank & field
  - Proposed setbacks
  - Photographs *optional*

SECTION 7 – ENSURE THE FOLLOWING ARE ENCLOSED WITH YOUR APPLICATION:

- ☐ Application fee payable to the Regional District of East Kootenay
- ☐ Title Search Print dated no more than 30 days prior to the date of this application; **OR**
- ☐ Consent to the RDEK to conduct a Land Title Search on your behalf for a fee of $17.50.