

PLANNING AND DEVELOPMENT COMMITTEE

TO: MAYOR AND COUNCILLORS

**SUBJECT: PROPOSED ZONING BYLAW AMENDMENTS – HOUSEKEEPING
SEPTEMBER 2023**

RECOMMENDATION:

THAT the proposed amendments to Burnaby Zoning Bylaw 1965, as described in Section 3.0 of the report titled “Proposed Zoning Bylaw Amendments – Housekeeping September 2023” dated September 11, 2023, be approved; and

THAT the City Solicitor be authorized to bring forward amendments to Burnaby Zoning Bylaw 1965, substantially set out in Attachment 1 of the report, for advancement to a future Public Hearing.

REPORT

The Planning and Development Committee, at its meeting held on September 11, 2023, received and adopted the attached report proposing a number of amendments to the Burnaby Zoning Bylaw

On behalf of the Planning
and Development Committee,

Councillor P. Calendino
Chair

Councillor J. Keithley
Vice Chair

TO: PLANNING AND DEVELOPMENT COMMITTEE (PDC)
FROM: GENERAL MANAGER PLANNING AND DEVELOPMENT
SUBJECT: **PROPOSED ZONING BYLAW AMENDMENTS – HOUSEKEEPING
SEPTEMBER 2023**
PURPOSE: To propose a number of amendments to the Burnaby Zoning Bylaw.

RECOMMENDATIONS

THAT the proposed amendments to *Burnaby Zoning Bylaw, 1965*, as described in Section 3.0 of the report titled “Proposed Zoning Bylaw Amendments – Housekeeping September 2023” dated September 11, 2023, be approved; and

THAT the City Solicitor be authorized to bring forward amendments to *Burnaby Zoning Bylaw, 1965*, substantially as set out in *Attachment 1* of the report, for advancement to a future Public Hearing.

1.0 POLICY SECTION

The proposed amendments to the *Burnaby Zoning Bylaw, 1965* (“Zoning Bylaw”) align with the following Council-adopted policies: *Corporate Strategic Plan (2022)* and *Official Community Plan (1998)*.

2.0 BACKGROUND

As part of the ongoing review of the Zoning Bylaw, which usually takes place in the context of development enquiries and discussions regarding the intent of the Zoning Bylaw, text amendments are brought forward from time to time. Text amendment reports are submitted in order to clarify the intent of the regulations and to respond to changes in related legislation as well as changes in forms of development, land uses and social trends.

This report presents several Zoning Bylaw amendments regarding:

1. The definitions of “elevation, front average”, “elevation, rear average”, and “grade or grade level, natural”;
2. Retaining walls;
3. Temporary buildings;
4. Car wash facilities;
5. The definition of “family”;
6. In-law suites;
7. The definition of “carport”; and,
8. Development density for primary dwelling units in the R12 District.

3.0 ZONING BYLAW TEXT AMENDMENTS

The proposed text amendments are detailed in *Attachment 1* and a summary of the changes is provided below.

3.1 Definitions of “elevation, front average,” “elevation, rear average,” and “grade or grade level, natural”

The proposed Zoning Bylaw amendments introduce changes to three definitions to clarify how average elevations and grades are determined. The definitions of “elevation, front average” and “elevation, rear average” are being updated to align with the City’s current practice of calculating elevation based on the lower of the natural grade or finished grade. This change clarifies that if the grade of the site is lowered below the natural grade level, that buildings and structures will be measured from the new lowered grade, not the natural grade prior to manipulation. An amendment to the definition of “grade or grade level, natural” is also being proposed to: (1) clarify that it refers to the undisturbed ground level with no adjustments having been made, other than for minor slope equalization as approved by the Building Inspector; and (2) remove unnecessary language that describes the purposes for which the definition of natural grade level is used.

3.2 Retaining walls

The proposed amendments introduce two exceptions to the maximum permitted height of a retaining wall, which is 1.2 m (3.94 feet) under the current Zoning Bylaw. The first exception would enable the General Manager Planning and Development to vary the permitted height of a retaining wall to up to 3.0 m (9.84 feet) where a retaining wall has minimal visual impact on adjacent properties, uses, or the public realm. The proposed amendment is intended to allow for the construction of higher retaining walls, so long as they do not overshadow neighbouring properties, degrade the overall character of the area, or negatively impact the public realm. Enabling the General Manager of Planning and Development to vary retaining wall height in these circumstances would reduce the number of retaining wall applications to the Board of Variance. The second exception would allow an existing retaining wall that was constructed or approved for construction by the issuance of a building permit, on or before July 6, 2020—the date the current retaining wall height regulations were introduced—and is higher than 1.2 m (3.94 feet) to be rebuilt to its existing height and configuration where it is located entirely within the legal boundaries of the lot and is on a constrained site such that it would not be feasible to comply with the maximum 1.2 m (3.94 feet) height limitation, as determined by the Chief Building Inspector. In all cases where a retaining wall greater than 1.2 m (3.94 feet) in height is either approved or permitted under the proposed amendments to the Zoning Bylaw, professional design and field review by a registered professional would still be required in accordance with the *Burnaby Building Bylaw, 2016*.

3.3 Temporary buildings

A minor amendment to the Zoning Bylaw is proposed to allow for the placement of temporary buildings on sites with private schools for the purposes of providing additional classroom space. Temporary buildings are currently permitted for additional classroom

space for public schools. The proposed amendment would allow private schools to respond to fluctuations in enrollment and utilize temporary buildings in order to provide additional classroom space in the same way as public schools.

3.4 Car wash facilities

The proposed Zoning Bylaw amendments would reduce the number of car wash facilities required in multiple family residential districts and require that additional functional elements be provided with each car wash stall to improve the usability of the washing facilities. Under the current Zoning Bylaw, 1 car wash stall for every 100 dwelling units is required. Staff are proposing to require 1 car wash facility for developments that provide 11-300 off-street parking spaces and 1 additional car wash facility for each additional 300 off-street parking spaces provided, or part thereof. Functional amenities required in conjunction with each car wash facility would include a pressurized hose, waste receptacle, vacuum, hot and cold water supply and a bicycle rack. In addition, a car wash facility would need to be separated from other parking spaces by a partition. The proposed changes more accurately reflect the demand for such spaces and would ensure that the proper features are included for washing a range of vehicle types.

3.5 Definition of “family”

An amendment to the definition for “family” is proposed that would better reflect the diversity of contemporary household compositions, which often include a mix of related and unrelated persons in combinations not addressed by the current definition. Under the current Zoning Bylaw, the definition of family restricts the number of unrelated people living together to 5. The proposed amendment would allow for more than 5 unrelated people to live together as one “non-profit” household, meaning that the household operates cooperatively as a group living arrangement and not as a boarding or rooming house or other commercial enterprise. The proposed amendment would not preclude the keeping of two boarders or lodgers by a family, which is permitted under the definition of home occupation. Occupant load would continue to be regulated under the BC Fire Code and BC Building Code to ensure life safety.

3.6 In-law suites

In-law suites are accessory suites for family members or caregivers and were removed as a permitted use after the introduction of secondary suites in 2014. Since that time, property owners have been required to obtain an annual licence in order to maintain an in-law suite as a legal non-conforming use. This requirement is stated in the Zoning Bylaw definition of “in-law suite.” However, as legal non-conforming uses are regulated by Section 528 of the *Local Government Act*, the licensing requirement is not necessary and places an administrative burden on property owners. This report recommends eliminating the in-law suite definition and other in-law suite provisions in the Zoning Bylaw thereby eliminating the licensing requirement. Existing in-law suites will continue to be permitted as legal non-conforming uses under Section 528 of the *Local Government Act*.

3.7 Definition of “carport”

An amendment to the definition of “carport” is proposed to clarify that a carport may be attached to a laneway home. This would support new parking regulations enacted under Phase 1a of the Housing Choices Program that will require a lot with a laneway home to provide the required parking space on an uncovered outdoor parking pad or in a carport. The proposed Zoning Bylaw amendments under Phase 1a of the Housing Choices Program can be found in the Council report titled “Housing Choices – Phase 1a Zoning Bylaw Amendments,” dated July 10, 2023.

3.8 Development density for primary dwelling units in the R12 District

A minor amendment is proposed to Section 112.5 of the Zoning Bylaw regarding permitted development density for two-family dwellings in the R12 District. This change would more clearly differentiate the permitted density for “primary” dwelling units in contrast to secondary suites. This would mirror recent Zoning Bylaw amendments enacted in the R4 and R5 Districts under Phase 1a of the Housing Choices Program. These proposed amendments under Phase 1a of the Housing Choices Program can be found in the Council report titled “Housing Choices – Phase 1a Zoning Bylaw Amendments,” dated July 10, 2023.

4.0 COMMUNICATION AND COMMUNITY ENGAGEMENT

The Zoning Bylaw amendments will require a Public Hearing prior to adoption. Notice of the Public Hearing will be published on the City’s website and distributed through the City’s email subscription service, not less than 3 days and not more than 10 days before the Public Hearing, and posted at the City’s public notice posting place.

5.0 FINANCIAL CONSIDERATIONS

There are no financial considerations related to the proposed Zoning Bylaw amendments.

Respectfully submitted,

E.W. Kozak, General Manager Planning and Development

ATTACHMENTS

Attachment 1 – Proposed Zoning Bylaw Amendments

REPORT CONTRIBUTORS

This report was prepared by Kaitlynn Given, Planner 1 and Andrew Macaulay, Planner 2, and reviewed by Mark Norton, Planner 3, Lily Ford, Planner 3, Johannes Schumann, Director Development and Urban Design, and Jennifer Wong, Assistant City Solicitor, and Lee-Ann Garnett, Deputy General Manager Planning and Development.

Attachment 1 – Proposed Zoning Bylaw Amendments

This attachment outlines the proposed amendments to the *Burnaby Zoning Bylaw, 1965*. The proposed amendments are provided in the following set of tables, which indicate the relevant Zoning Bylaw section, the existing text, and the proposed text. Proposed text additions are underlined and proposed text removals are struck through.

The tables are organized under the following topics:

1. The definitions of “elevation, front average”, “elevation, rear average”, and “grade or grade level, natural”;
2. Retaining walls;
3. Temporary buildings;
4. Car wash facilities;
5. The definition of “family”;
6. In-law suites;
7. The definition of “carport”; and,
8. Development density for primary dwelling units in the R12 District.

Definitions of elevation and grade

Section	Current	Proposed
3	"ELEVATION, FRONT AVERAGE" means the average elevation of the natural grade along the exterior of the building facing the front lot line.	"ELEVATION, FRONT AVERAGE" means the average elevation of the <u>lower of the natural grade or finished grade</u> along the exterior of the building facing the front lot line.
3	"ELEVATION, REAR AVERAGE" means the average elevation of the natural grade along the exterior of the building facing the rear lot line or, for a through lot, the other front lot line.	"ELEVATION, REAR AVERAGE" means the average elevation of the <u>lower of the natural grade or finished grade</u> along the exterior of the building facing the rear lot line or, for a through lot, the other front lot line.
3	"GRADE OR GRADE LEVEL, NATURAL" means, for the purpose of measuring the height of a building or determining a basement or cellar, the ground level adjacent to the exposed wall of a building, with no adjustment having been made to the existing undisturbed ground level except for a minor slope equalization as approved by the Building Inspector.	"GRADE OR GRADE LEVEL, NATURAL" means, for the purpose of measuring the height of a building or determining a basement or cellar, the ground level adjacent to the exposed wall of a building, with no adjustment having been made to the existing undisturbed ground level <u>with no adjustment having been made</u> except for a minor slope equalization as approved by the Building Inspector.

Retaining Walls

Section	Current	Proposed
6.14.1	(1) In all zoning districts, retaining walls shall not exceed 1.2 m (3.94 ft.) in height, as measured at any point along the retaining wall.	(1) In all zoning districts retaining walls shall not exceed 1.2 m (3.94 ft.) in height, as measured at any point along the retaining wall, <u>except:</u> (a) <u>the Director of Planning & Building may vary the maximum permitted height to up to 3.0 m (9.84 ft.) where a retaining wall has minimal visual impact on adjacent properties, uses, or the public realm;</u> <u>or</u> (b) <u>where a retaining wall that exists, or that was approved for construction by the issuance of a building permit, on or before July 6, 2020, is being replaced and all of the following apply:</u> (i) <u>it is constructed in the same location and to the same height;</u> (ii) <u>it is located entirely within the legal boundaries of the lot;</u> <u>and</u> (iii) <u>site conditions make it not feasible to comply with the maximum allowable heights of this section, as determined by the Chief Building Inspector.</u>

Temporary Buildings

Section	Current	Proposed
6.7(1)(e)	(e) for additional classroom space on lands being used as a public school for a period not to exceed 10 years.	(e) for additional classroom space on lands being used as a public school <u>or private school</u> for a period not to exceed 10 years.

Car Wash Facilities

Section	Current	Proposed
3	"CAR WASH STALL" means a space that (a) has minimum dimensions 3.7 m (12.14 ft.) x 5.5 m (18.04 ft.), (b) is located in an underground parking area or in a roofed covered area integrated with a building,	"CAR WASH STALL FACILITY" means a space that is used for the purpose of washing vehicles and bicycles. <u>(a) has minimum dimensions 3.7 m (12.14 ft.) x 5.5 m (18.04 ft.),</u>

	(c) provides a facility for washing vehicles, and, (d) drains to a sanitary sewer.	(b) is located in an underground parking area or in a roofed covered area integrated with a building, (c) provides a facility for washing vehicles, and, (d) drains to a sanitary sewer.								
201.10 (RM1) 202.10 (RM2) 203.11 (RM3) 204.11 (RM4) 205.11 (RM5) 206.13 (RM6) 207.12 (RM7) 308.12 (C8) 309.12 (C9) 511.14 (P11)	One car wash stall with a "No Parking" sign affixed to it shall be provided for each 100 dwelling units.	One car wash stall with a "No Parking" sign affixed to it shall be provided for each 100 dwelling units.								
700.2(2)	Exceptions to the applicable parking and loading, carwash stall, screening and landscaping, fence and retaining wall, minimum frontage of a business, projection into required yards and bulk regulations of this Bylaw may be permitted, provided that the floor area ratio and density for the development as a whole are in conformity with the applicable requirements of this Bylaw, and that such exception results in an improved relationship between the various parts of the proposed development.	Exceptions to the applicable parking and loading, carwash stall car wash facility, screening and landscaping, fence and retaining wall, minimum frontage of a business, projection into required yards and bulk regulations of this Bylaw may be permitted, provided that the floor area ratio and density for the development as a whole are in conformity with the applicable requirements of this Bylaw, and that such exception results in an improved relationship between the various parts of the proposed development.								
800.9	N/A	<p>Section 800.9 – Car Wash Facility</p> <p>(1) <u>In the RM1, RM2, RM3, RM4, RM5, RM6, RM7, C8, C9, and P11 Districts the following minimum number of car wash facilities shall be provided:</u></p> <table border="1"> <thead> <tr> <th>Total Provided Off-Street Parking Spaces</th> <th>Car Wash Facilities Required</th> </tr> </thead> <tbody> <tr> <td>1-10</td> <td>0</td> </tr> <tr> <td>11-300</td> <td>1</td> </tr> <tr> <td>For each additional 300 parking spaces provided or part thereof.</td> <td>1 additional facility</td> </tr> </tbody> </table> <p>(2) <u>Car wash facilities must:</u></p>	Total Provided Off-Street Parking Spaces	Car Wash Facilities Required	1-10	0	11-300	1	For each additional 300 parking spaces provided or part thereof.	1 additional facility
Total Provided Off-Street Parking Spaces	Car Wash Facilities Required									
1-10	0									
11-300	1									
For each additional 300 parking spaces provided or part thereof.	1 additional facility									

		<ul style="list-style-type: none"> (a) <u>have a stall with the minimum dimensions of 3.7 m (12.14 ft.) x 5.5 m (18.04 ft.);</u> (b) <u>drain into a sanitary sewer;</u> (c) <u>be located in an underground parking area, structured parking area or in a roofed covered area integrated with a building;</u> (d) <u>have a sign affixed to it saying “No Parking”;</u> (e) <u>provide equipment suitable for cleaning vehicles and bicycles including a pressurized hose, waste receptacle, vacuum, hot and cold water supply, and a bicycle rack; and</u> (f) <u>be separated from other parking spaces with a partition.</u>
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Definition of family

Section	Current	Proposed
3	"FAMILY" means (a) an individual, or two or more persons related by blood, marriage, common-law relationship, adoption, or foster care, together with their live-in employees, boarders, and lodgers; or (b) a group of not more than five persons, including live-in employees, boarders, and lodgers, who are not related by blood, marriage, common-law relationship, adoption, or foster care, living together in one dwelling unit and using common cooking facilities, except such maximum number of unrelated persons shall not apply to those living in a dormitory, group home, or boarding, lodging or rooming house.	"FAMILY" means <u>one or more people living together in a dwelling unit as a single non-profit household.</u> (a) an individual, or two or more persons related by blood, marriage, common-law relationship, adoption, or foster care, together with their live-in employees, boarders, and lodgers; or (b) a group of not more than five persons, including live-in employees, boarders, and lodgers, who are not related by blood, marriage, common-law relationship, adoption, or foster care, living together in one dwelling unit and using common cooking facilities, except such maximum number of unrelated persons shall not apply to those living in a dormitory, group home, or boarding, lodging or rooming house.

In-law Suites

Section	Current	Proposed
3	"IN-LAW SUITE" means one or more habitable rooms used for living and sleeping purposes by relatives of the owner or tenant pursuant to a licence	"IN-LAW SUITE" means <u>one or more habitable rooms used for living and sleeping purposes by relatives of the owner or tenant pursuant to a licence issued by</u>

	issued by the Building Department the continued use of which is subject to section 911 of the Local Government Act.	the Building Department the continued use of which is subject to section 911 of the Local Government Act. (B/L No. 13258 14-01-27)
6.7.1(1)(b)	(b) a secondary suite shall not be permitted in a single family dwelling that contains an in-law suite;	(b) a secondary suite shall not be permitted in a single family dwelling that contains an in-law suite;
6.29(b)(v)	(v) a dwelling unit that contains an in-law suite, a boarding use, a boarding, lodging or rooming house, a child care facility, a home-based child care facility, a group home, a private hospital, a supportive housing facility, or a home occupation that includes on-site client services; and	(v) a dwelling unit that contains an in-law suite, a boarding use, a boarding, lodging or rooming house, a child care facility, a home-based child care facility, a group home, a private hospital, a supportive housing facility, or a home occupation that includes on-site client services; and

Definition of carport

Section	Current	Proposed
3	"CARPORT" means a detached accessory building or portion thereof or a portion of a principal building that is used as a private garage and has 60 percent or less of the perimeter enclosed by walls, doors or windows.	"CARPORT" means a detached accessory building or portion thereof or a portion of a principal building <u>or laneway home</u> that is used as a private garage and has 60 percent or less of the perimeter enclosed by walls, doors or windows.

Development density for primary dwelling unit

Section	Current	Proposed
112.5	<p>Development Density. Two-Family Dwelling:</p> <ul style="list-style-type: none"> (1) For a lot that is less than 464.5 m² (5,000 sq.ft.), the combined gross floor area of the two dwelling units shall not exceed 0.60 of the lot area. (2) For a lot that is 464.5 m² (5,000 sq.ft.) or more, the combined gross floor area of the two dwelling units shall not exceed the lesser of 0.30 of the lot area plus 139.35 m² (1,500 sq.ft.), or 370 m² (3,982.8 sq.ft.). (3) The gross floor area of each dwelling unit shall not exceed 185.8 m² (2,000 sq.ft.). 	<p>Development Density. Two-Family Dwelling:</p> <ul style="list-style-type: none"> (1) For a lot that is less than 464.5 m² (5,000 sq.ft.), the combined gross floor area of the two <u>primary</u> dwelling units shall not exceed 0.60 of the lot area. (2) For a lot that is 464.5 m² (5,000 sq.ft.) or more, the combined gross floor area of the two <u>primary</u> dwelling units shall not exceed the lesser of 0.30 of the lot area plus 139.35 m² (1,500 sq.ft.), or 370 m² (3,982.8 sq.ft.). (3) The gross floor area of each <u>primary</u> dwelling unit shall not exceed 185.8 m² (2,000 sq.ft.).