

CITY OF BURNABY

BYLAW NO. 14542

A BYLAW to amend the *Zoning*

Bylaw to address cellars in the R10, R11 and R12 Districts
and clarify other provisions related to cellars and basements

The Council of the City of Burnaby ENACTS as follows:

1. This Bylaw may be cited as **BURNABY ZONING BYLAW 1965, AMENDMENT BYLAW NO. 1, 2023.**

2. *Burnaby Zoning Bylaw 1965*, as amended, is further amended:

- (a) at Section 3, Definitions, by repealing the definitions of “FLOOR AREA, GROSS” and “SUITE READY”.

- (b) at Section 3, Definitions, by repealing the definition of “FLOOR AREA RATIO”, in its entirety and replacing it with the following:

““**FLOOR AREA RATIO**” means the figure obtained by dividing the gross floor area of all buildings on a lot by the area of the lot.”

- (c) at Section 3, Definitions, by adding the following definitions in alphabetical order:

““**GROSS FLOOR AREA**” means:

- (a) in respect of a lot, the total floor area of all floors of all buildings on the lot;
and
- (b) in respect of a portion of a building, the total floor area of such portion of the building,

in each case measured to the outer limit of the applicable building, buildings or portion of the building on the lot, and in accordance with Sections 6.20 and 6.20.1 of this bylaw.

“**ROUGH-IN SECONDARY SUITE**” means a portion of a single family dwelling constructed to a rough-in design and standard, as determined by the Chief Building Inspector, to facilitate the future conversion of that portion of the single family dwelling to a secondary suite in accordance with the British Columbia Building Code.”

- (d) at Section 6.9, by repealing subsection (3) in its entirety and replacing it with the following:
 - “(3) In the R Districts, for the purpose of providing vehicular access to a basement or cellar, the surface of the ground adjoining a building may be lowered without affecting the determination between a basement and cellar, or the calculation of principal building height, if the lowered surface does not exceed a width of 6.7 m (22 ft.) along the wall.”
- (e) at Section 6.9, subsection (4), by adding the words “or the calculation of principal building height,” after the words “determination between a basement and cellar,”.
- (f) at Section 6.9, subsection (5), by adding the words “or the calculation of principal building height,” after the words “determination between a basement and cellar,”.
- (g) at Section 6.9, by repealing subsection (6) in its entirety and replacing it with the following:
 - “(6) In the R1, R2, R3, R4, R5, R9, R10, R11, and R12 Districts, on a lot developed with a single family dwelling containing a cellar with a gross floor area exceeding 30.0 m² (322.9 ft.), the single family dwelling shall contain a rough-in secondary suite, except where there is an existing secondary suite constructed in the single family dwelling, or where a secondary suite is proposed to be constructed anywhere within the single family dwelling.”
- (h) at Section 6.20, by repealing subsections (2)(a)(i) and (ii) in their entirety and replacing them with the following:
 - “(i) in the R1, R2, R3, R4, R5, R9, R10, R11 and R12 Districts on a lot developed with a single family dwelling, where such garage or carport is located in a cellar; and
 - (ii) in the R10 and R11 Districts on a lot with lane access, where such garage or carport is attached to any portion of the principal building other than the cellar, unless the Director Engineering is satisfied that access from a lane is not feasible due to an extreme grade, or other restrictions.”
- (i) at Section 6.20.1, by repealing subsection (b) in its entirety and replacing it with the following:
 - “(b) less the lesser of:
 - i. the area of the over-height portion(s) of the building; or
 - ii. 9.3 m² (100.1 sq. ft.),
 for each dwelling unit with a ceiling which exceeds the height specified in

this section.”

- (j) at Section 101.4, by adding the following as subsection (5):

“(5) For a principal building that exists on December 16, 1991, and that contains a basement:

- (a) the basement shall not have a floor area that exceeds the floor area of the floor next above it; and
- (b) the floor area of the first floor located above the basement shall not exceed the greater of:
 - i. the maximum gross floor area permitted under subsection 101.5(1) less 0.15 of the lot area; and
 - ii. the gross floor area of the first floor that existed, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023.”

- (k) at Section 101.4, by repealing subsection (4) in its entirety and replacing it with the following:

“(4) The gross floor area of all cellars other than those constructed in the “a” sub-district, including any garage or carport located in a cellar, shall not exceed the gross floor area of the floor next above it.”

- (l) at Section 101.5, by repealing subsection (4) in its entirety and replacing it with the following:

“(4) For a single family dwelling, other than one located in an R1a District, that exists, or that was approved for construction by the issuance of a building permit, on or before March 25, 2019, the gross floor area of the first floor located above a cellar shall not exceed the greater of:

- (a) the maximum gross floor area permitted under subsection (1) or (2), as applicable, less 0.15 of the lot area; or
- (b) the gross floor area of the first floor that existed, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023.”

- (m) at Section 101.5, by adding the following as subsection (5):

“(5) For a single family dwelling other than one that exists, or that was approved for construction by the issuance of a building permit, on or before March 25, 2019, and other than one located in an R1a District, the gross floor

area of the first floor located above a cellar shall not exceed the maximum gross floor area permitted under subsection (2) less 0.15 of the lot area.”

- (n) at Section 102.4, by repealing subsection (4) in its entirety and replacing it with the following:
 - “(4) The gross floor area of all cellars other than those constructed in the “a” sub-district, including any garage or carport located in a cellar, shall not exceed the gross floor area of the floor next above it.”
- (o) at Section 102.4, by adding the following as subsection (5):
 - “(5) For a principal building that exists on December 16, 1991, and that contains a basement:
 - (a) the basement shall not have a floor area that exceeds the floor area of the floor next above it; and
 - (b) the floor area of the first floor located above the basement shall not exceed the greater of:
 - i. the maximum gross floor area permitted under subsection 102.5(1) less 0.15 of the lot area; and
 - ii. the gross floor area of the first floor that existed, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023.”
- (p) at Section 102.5, by repealing subsection (4) in its entirety and replacing it with the following:
 - “(4) For a single family dwelling, other than one located in an R2a District, that exists, or that was approved for construction by the issuance of a building permit, on or before March 25, 2019, the gross floor area of the first floor located above a cellar shall not exceed the greater of:
 - (a) the maximum gross floor area permitted under subsection (1) or (2), as applicable, less 0.15 of the lot area; or
 - (b) the gross floor area of the first floor that existed, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023.”
- (q) at Section 102.5, by adding the following as subsection (5):
 - “(5) For a single family dwelling other than one that exists, or that was approved for construction by the issuance of a building permit, on March 25, 2019, and

other than one located in an R2a District, the gross floor area of the first floor located above a cellar shall not exceed the maximum gross floor area permitted under subsection (2) less 0.15 of the lot area.”

- (r) at Section 103.4, by repealing subsection (4) in its entirety and replacing it with the following:

“(4) The gross floor area of all cellars other than those constructed in the “a” sub-district, including any garage or carport located in a cellar, shall not exceed the gross floor area of the floor next above it.”

- (s) at Section 103.4, by adding the following as subsection (5):

“(5) For a principal building that exists on December 16, 1991, and that contains a basement:

- (a) the basement shall not have a floor area that exceeds the floor area of the floor next above it; and
- (b) the floor area of the first floor located above the basement shall not exceed the greater of:
 - i. the maximum gross floor area permitted under subsection 103.5(1) less 0.15 of the lot area; and
 - ii. the gross floor area of the first floor that existed, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023.”

- (t) at Section 103.5, by repealing subsection (4) in its entirety and replacing it with the following:

“(4) For a single family dwelling, other than one located in an R3a District, that exists, or that was approved for construction by the issuance of a building permit, on or before March 25, 2019, the gross floor area of the first floor located above a cellar shall not exceed the greater of:

- (a) the maximum gross floor area permitted under subsection (1) or (2), as applicable, less 0.15 of the lot area; or
- (b) the gross floor area of the first floor that existed, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023.”

- (u) at Section 103.5, by adding the following as subsection (5):

“(5) For a single family dwelling other than one that exists, or that was approved

for construction by the issuance of a building permit, on March 25, 2019, and other than one located in an R3a District, the gross floor area of the first floor located above a cellar shall not exceed the maximum floor area permitted under subsection (2) less 0.15 of the lot area.”

(v) at Section 104.4, by adding the following as subsection (1)(c):

“(c) in an R4 District, for a principal building that exists on December 16, 1991, and that contains a basement:

i. the basement shall not have a floor area that exceeds the floor area of the floor next above it; and

ii. the floor area of the first floor located above the basement shall not exceed the greater of:

A. the maximum gross floor area permitted under subsection 104.5(1) less 0.15 of the lot area; and

B. the gross floor area of the first floor that existed, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023.”

(w) at Section 104.4, by repealing subsection (4) in its entirety and replacing it with the following:

“(4) For a single family dwelling other than one located in an R4a District, the gross floor area of all cellars, including any garage or carport located in a cellar, shall not exceed the gross floor area of the floor next above it.”

(x) at Section 104.5, by repealing subsection (6) in its entirety and replacing it with the following:

“(6) For a single family dwelling, other than one located in an R4a District, that exists, or that was approved for construction by the issuance of a building permit, on or before March 25, 2019, the gross floor area of the first floor located above a cellar shall not exceed the greater of:

(a) the maximum gross floor area permitted under subsection (1) or (2), as applicable, less 0.15 of the lot area; or

(b) the gross floor area of the first floor that existed, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023.”

(y) at Section 104.5, by adding the following as subsection (7):

“(7) For a single family dwelling other than one that exists, or that was approved for construction by the issuance of a building permit, on or before March 25, 2019, and other than one located in an R4a District, the gross floor area of the first floor located above a cellar shall not exceed the maximum floor area permitted under subsection (2) less 0.15 of the lot area.”

(z) at Section 105.4, by adding the following as subsection (1)(c):

“(c) in an R5 District, for a principal building that exists on December 16, 1991, and that contains a basement:

- (i) the basement shall not have a floor area that exceeds the floor area of the floor next above it; and
- (ii) the floor area of the first floor located above the basement shall not exceed the greater of:
 - A. the maximum gross floor area permitted under subsection 105.5(1) less 0.15 of the lot area; and
 - B. the gross floor area of the first floor that existed, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023.”

(aa) at Section 105.4, by repealing subsection (4) in its entirety and replacing it with the following:

“(4) For a single family dwelling other than one located in an R5a District, the gross floor area of all cellars, including any garage or carport located in a cellar, shall not exceed the gross floor area of the floor next above it.”

(bb) at Section 105.5, by repealing subsection (6) in its entirety and replacing it with the following:

“(6) For a single family dwelling, other than one located in an R5a District, that exists, or that was approved for construction by the issuance of a building permit, on or before March 25, 2019, the gross floor area of the first floor located above a cellar shall not exceed the greater of:

- (a) the maximum gross floor area permitted under subsection (1) or (2), as applicable, less 0.15 of the lot area; or
- (b) the gross floor area of the first floor that existed, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023.”

(cc) at Section 105.5, by adding the following as subsection (7):

“(7) For a single family dwelling other than one that exists, or was approved for construction by the issuance of a building permit, on or before March 25, 2019, and other than one located in an R5a District, the gross floor area of the first floor located above a cellar shall not exceed the maximum gross floor area permitted under subsection (2) less 0.15 of the lot area.”

(dd) at Section 109.4, by repealing subsection (4) in its entirety and replacing it with the following:

“(4) The gross floor area of all cellars other than those constructed in the “a” sub-district, including any garage or carport located in a cellar, shall not exceed the gross floor area of the floor next above it.”

(ee) at Section 109.4, by adding the following as subsection (5):

“(5) For a principal building that exists on December 16, 1991, and that contains a basement:

- (a) the basement shall not have a floor area that exceeds the floor area of the floor next above it; and
- (b) the floor area of the first floor located above the basement shall not exceed the greater of:
 - i. the maximum gross floor area permitted under subsection 109.5(1) less 0.15 of the lot area; and
 - ii. the gross floor area of the first floor that existed, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023.”

(ff) at Section 109.5, by repealing subsection (4) in its entirety and replacing it with the following:

“(4) For a single family dwelling, other than one located in an R9a District, that exists, or was approved for construction by the issuance of a building permit, on or before March 25, 2019, the gross floor area of the first floor located above a cellar shall not exceed the greater of:

- (a) the maximum gross floor area permitted under subsection (1) or (2), as applicable, less 0.15 of the lot area; or
- (b) the gross floor area of the first floor that existed, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023.”

(gg) at Section 109.5, by adding the following as subsection (5):

“(5) For a single family dwelling other than one that exists, or that was approved for construction by the issuance of a building permit, on or before March 25, 2019, and other than one located in an R9a District, the gross floor area of the first floor located above a cellar shall not exceed the maximum gross floor area permitted under subsection (2) less 0.15 of the lot area.”

(hh) at Section 110.4, by repealing subsection (1) in its entirety and replacing it with the following:

“(1) For a principal building that exists on July 22, 1991, and that contains a basement:

- (a) the basement shall not have a floor area that exceeds the floor area of the floor next above it; and
- (b) the floor area of the first floor located above the basement shall not exceed the greater of:
 - i. 67% of the maximum above grade floor area permitted under subsection 110.5(1); or
 - ii. the gross floor area of the first floor that existed, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023.”

(ii) at Section 110.4, by adding the following as subsection (4):

“(4) The gross floor area of all cellars, including any garage or carport located in a cellar, shall not exceed the gross floor area of the floor next above it.”

(jj) at Section 110.5, by repealing subsections (3) and (4) in their entirety and replacing them with the following:

“(3) A maximum 42.0 m² (452.1 sq. ft) of a garage or carport attached to any part of the principal building other than the cellar shall not be included as above grade floor area under subsections (1) and (2), except where the lot has lane access, unless the Director Engineering is satisfied that access from the lane is not feasible due to an extreme grade, or other restrictions.

(4) In a principal building that exists, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023, the gross floor area of the first floor located above any crawl space, ground surface, or cellar shall not exceed the greater of:

- (a) 67% of the maximum above grade floor area permitted under

subsection (1) or (2), as applicable; or

- (b) the gross floor area of the first floor located above such crawl space, ground surface, or cellar that existed, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023.
- (5) In a principal building other than one that exists, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023, the gross floor area of the floor next above a cellar shall not exceed 67% of the maximum above grade floor area permitted under subsection (2).
- (6) The second floor located above any cellar, crawl space, or ground surface shall have a gross floor area not greater than 50% of the gross floor area of the floor immediately below it. For the purpose of this subsection, the gross floor area of the second floor located above any cellar, crawl space, or ground surface shall include the area(s) of any over-height portion(s) of the building which extend to such second floor and that are subject to Section 6.20.1 of this bylaw.”

(kk) at Section 110.9, by adding the following as subsection (3):

- “(3) The side yard setbacks for the second floor located above any cellar, crawl space or ground surface shall:
 - (a) be not less than 1.5 m (4.9 ft.) on each side; and
 - (b) be not less than the sum of 7.0 m (23.0 ft.) for both side yards, but this requirement shall not be applied so as to require an overall width of less than 9.8 m (32.2 ft.) for that second floor except where the lot has a width less than 12.9 m (42.3 ft.).”

(ll) by repealing Section 111.4 in its entirety and replacing it with the following:

“111.4 Development Density. Gross Floor Area:

- (1) For a principal building that exists on October 1, 1994, or that is constructed after October 1, 1994, with a height of 6.1 m (20.0 ft.) or less, and that contains a basement:
 - (a) the basement shall not have a floor area that exceeds the floor area of the floor next above it; and
 - (b) the floor area of the first floor located above the basement shall not exceed the greater of:

- i. 67% of the maximum above grade floor area permitted under subsection 111.4.1(1); or
 - ii. the gross floor area of the first floor that existed, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023.
- (2) A maximum of 42.0 m² (452.1 sq.ft.) of a garage or carport shall not be included as gross floor area, except where such garage or carport is attached to a principal building on a lot with lane access. In cases where the Director Engineering is satisfied that access from a lane is not feasible due to an extreme grade, or other restrictions, a maximum 42.0 m² (452.1 sq.ft.) of the garage or carport attached to the principal building shall not be included as gross floor area.
- (3) The gross floor area of all accessory buildings on a lot shall not exceed 56.0 m² (602.8 sq. ft.).
- (4) The gross floor area of all cellars, including any garage or carport located in a cellar, shall not exceed the gross floor area of the floor next above it.”

(mm) by adding the following as Section 111.4.1:

“111.4.1 Development Density. Above Grade Floor Area:

- (1) For a principal building that exists on October 1, 1994, or that is constructed after October 1, 1994, with a height of 6.1 m (20.0 ft.) or less, the gross floor area for all floors located above a cellar, basement, crawl space, or ground surface shall not exceed the lesser of 0.30 of the lot area or 185.8 m² (2,000.0 sq. ft.).
- (2) For a principal building that is constructed after October 1, 1994 with a height greater than 6.1 m (20.0 ft.):
 - (a) the gross floor area for all floors, excluding the cellar, shall not exceed the lesser of 209.0 m² (2,250.0 sq. ft.), or 112.0 m² (1,206.0 sq. ft.) plus 0.20 of lot area; and
 - (b) the gross floor area of the second floor above grade shall not exceed 74.32 m² (800.0 sq. ft.).
- (3) In a principal building that exists, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023, the gross floor area of the first floor located above any crawl space, ground surface, or cellar shall not exceed the greater of:
 - (a) 67% of the maximum above grade floor area permitted under

subsection (1) or (2)(a), as applicable; or

- (b) the gross floor area of the first floor located above such crawl space, ground surface, or cellar that existed, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023.
 - (4) In a principal building other than one that exists, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023, the gross floor area of the floor next above a cellar shall not exceed 67% of the maximum above grade floor area permitted under subsection (1) or (2)(a), as applicable.
 - (5) A maximum 42.0 m² (452.1 sq. ft) of a garage or carport attached to any part of the principal building other than the cellar shall not be included as above grade floor area under subsections (1) or (2)(a), except where the lot has lane access, unless the Director Engineering is satisfied that access from the lane is not feasible due to an extreme grade, or other restrictions.”
- (nn) by repealing Section 112.4 it in its entirety and replacing it with the following:

“112.4 Development Density. Gross Floor Area. Single Family Dwelling

- (1) For a principal building of a single family dwelling that exists on October 1, 1994, and that contains a basement:
 - (a) the basement shall not have a floor area that exceeds the floor area of the floor next above it; and
 - (b) the floor area of the first floor located above the basement shall not exceed the greater of:
 - i. the maximum gross floor area permitted under subsection 112.4.1(1) less 0.15 of the lot area; or
 - ii. the gross floor area of the first floor that existed, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023.
- (2) The gross floor area of all accessory buildings on a lot shall not exceed 56.0 m² (602.8 sq. ft.).
- (3) The gross floor area of all cellars, including any garage or carport located in a cellar, shall not exceed the gross floor area of the floor next above it.
- (4) A maximum of 42.0 m² (452.1 sq. ft.) of an attached garage or carport shall not be included as gross floor area under subsection (1).”

(oo) by adding the following as Section 112.4.1:

“112.4.1 Development Density. Above Grade Floor Area. Single Family Dwelling

- (1) For a principal building of a single family dwelling that exists on October 1, 1994, the gross floor area for all floors located above a cellar, basement, crawl space or ground surface shall not exceed the greater of:
 - (a) 0.20 of the lot area plus 130.0 m² (1,399.4 sq. ft.), or
 - (b) 0.40 of the lot area.
- (2) For a principal building of a single family dwelling that is constructed after October 1, 1994, the gross floor area for all floors, excluding the cellar, shall not exceed the greater of:
 - (a) 0.20 of the lot area plus 130.0 m² (1,399.4 sq. ft.), or
 - (b) 0.40 of the lot area.
- (3) In a principal building of a single family dwelling that exists, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023, the gross floor area of the first floor located above any crawl space, ground surface, or cellar shall not exceed the greater of:
 - (a) the maximum gross floor area permitted under subsection (1) or (2), as applicable, less 0.15 of the lot area; or
 - (b) the gross floor area of the first floor located above such crawl space, ground surface, or cellar that existed, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023.
- (4) In a principal building of a single family dwelling other than one that exists, or that was approved for construction by the issuance of a building permit, on or before February 6, 2023, the gross floor area of the floor next above a cellar shall not exceed the maximum floor area permitted under subsection (2) less 0.15 of the lot area.

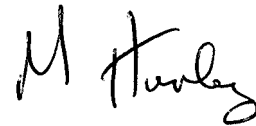
- (5) A maximum 42.0 m² (452.1 sq. ft) of a garage or carport attached to any part of the principal building other than the cellar shall not be included as above grade floor area under subsections (1) and (2).”

Read a first time this 12th day of January 2023

Read a second time this 6th day of February 2023

Read a third time this 13th day of February 2023

Reconsidered and adopted this 13th day of February 2023.



MAYOR



CORPORATE OFFICER