

ITEM	4
MANAGER'S REPORT NO.	61
COUNCIL MEETING	1979 09 10

RE: RESIDENTIAL OCCUPANCY STANDARDS
(ITEM 17, REPORT NO. 49, 1979 JULY 16)
(ITEM 19, REPORT NO. 51, 1979 JULY 30)
(ITEM 4, IN-CAMERA REPORT NO. 52, 1979 JULY 30)

Following is a further report from the Director of Planning on Residential Occupancy Standards.

RECOMMENDATION:

1. THAT the recommendation of the Director of Planning be adopted.

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1979 September 05

TO: MUNICIPAL MANAGER
FROM: DIRECTOR OF PLANNING
RE: RESIDENTIAL OCCUPANCY STANDARDS

RECOMMENDATION:

1. THAT the proposed Zoning By-law amendments, as set forth in Section "C", and adopted by the Council, be advanced to a Public Hearing on 1979 October 16.

REPORT

A. BACKGROUND

The Council, in considering the report on Residential Occupancy Standards on 1979 July 30, adopted the following recommendations:

- (1) THAT the report of the Planning Department be received and the preparation of a by-law by the Municipal Solicitor be requested to permit the introduction of the proposed text amendments into the Burnaby Zoning By-law and that these amendments be advanced to a Public Hearing.
- (2) THAT representation be made to the Province to request the amendment of the Strata Titles Act to provide that all strata plan applications, whether or not new and unoccupied buildings are involved, be made subject to the approval of the Approving Officer of the municipality, and that this be followed, if necessary, by the submission of a resolution to the 1980 annual convention of the Union of British Columbia Municipalities.

With respect to the first of the above recommendations, the Council directed that, prior to the setting of a new Public Hearing date, a review be conducted of the proposed amendments based on the following points:

- a) having "floor" not defined;
- b) the proposed definition of "storey";
- c) the apparent overlap of jurisdiction or redundancy of items (7) and (8);
- d) the feasibility of using either item (9) or (10) (Height) but not both restrictions;
- e) the effect of the definitions on single family homes apart from controlling unauthorized dual or multiple family uses;
- f) that the text amendments be circulated to appropriate municipal departments for critical post-draft review.

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B. REVIEW OF POINTS RAISED BY COUNCIL

a) The Non-Defining of "Floor":

In the Definitions Section of the Zoning By-law (Section 3) the words or terms defined are confined to those which require further amplification of their intended meaning in order to provide the necessary basis for the effective administration of the by-law regulations (i.e. "basement", "cellar", "coverage", "dwelling unit", "family", "grade or grade level", "habitable room", "height of building", "home occupation", "in-law suite", etc.). In each of these cases, the definition spells out the meaning that applies in this municipality and which, if not defined, would be unclear and open to various interpretations.

On the other hand, there are words with generally accepted meanings that require no further explanation, which tends to keep the definitions section in its proper perspective. It is considered that commonly used building or structural terms like "ceiling", "chimney", "door", "roof", "wall" and "window", as well as "floor", fall into this category.

b) The Proposed Definition of "Storey":

The proposed amended definition of "storey" involves the deletion of the last sentence of the existing definition (i.e. "A basement which contains habitable accommodation shall be considered as a storey") and its replacement by: "A basement shall be considered as a storey". A "basement" is currently defined as "that portion of a building between two floor levels which is partly underground, but which has at least one half of its height from finished floor to finished ceiling above average adjacent finished grade as determined by the Building Inspector. The height measured between floor and ceiling surfaces shall be not less than 1900 mm (6.23 feet)".

Under the existing regulations, a semi-detached (side by side) two-family dwelling may include two storeys and thus provide the basis for fourplexing. By making a basement a storey, and limiting the height of the building to one storey, the current practice of developing additional units in a basement would be removed in the case of semi-detached two-family dwellings.

Where duplex (up and down) two family dwellings are concerned the available alternatives would include the provision of a basement and a storey above to provide the two units or the development of a two storey structure on a slab or over a cellar. In either case, the height of the building would not exceed 9.0 m (29.53 feet) nor two storeys.

With respect to single family dwellings, the number of permitted storeys would remain at 2½ under the proposed regulations. Thus, a house could consist of a basement plus 1½ storeys above or, alternatively, a 2½ storey structure on a slab or over a cellar. This would tend to reduce building heights in the case of the first of the above alternatives, particularly where the floor of a basement is mainly at grade. On the other hand, it would prevent the construction of unduly high buildings in residential areas and assist in the view protection which has also been a cause of concern to Council in the past. This would also apply to two-family dwellings.

c) The Apparent Redundancy of Items (7) and (8):

In Section "C" of the report, which spells out the proposed Zoning By-law text amendments, the applicability of the by-law regulations "regardless of the form of ownership or tenure" is covered under item (7), while item (8) introduces a new section to the by-law which reads as follows:

"6.18 Development Under the Strata Titles Act:

Where a parcel of land is divided into strata lots under the Strata Titles Act, such parcel and any buildings which occupy it shall conform in all respects with the bulk regulations of this by-law."

As pointed out by the Chief Building Inspector in a recent letter to this department - "We believe items (7) and (8) to be complementary to one another and in no way redundant.". The proposed addition set out in item (7) is a more all embracing measure which is intended to include all forms of ownership or tenure. Strata titling is specifically covered under Section 6.18 (item 8). We would agree that these two provisions are complementary, as well as being supportive of one another.

d) Height Regulations:

The feasibility of using either item (9) or (10) (height), but not both, has been put forward.

In order to clarify this matter, it should be noted that each of the district categories in the Zoning By-law contains a section which specifies the maximum height of buildings permitted in that zone. Items (9) and (10), as well as item (11) in Section "C" of this report (Proposed Zoning By-law Amendments) set forth the height regulations in the R1, R2 and R3 Districts respectively and their retention is therefore considered necessary.

With respect to the use of maximum height, as well as number of storeys, both are considered necessary in the regulations. Otherwise, it could be possible to provide more than 2½ storeys within the prescribed height limitation or, alternatively, to have storeys of excessive height if there were no height limit specified.

e) The Effect of the Definitions on Single-Family Dwellings:

Single family dwellings in relation to the definition of "storey" and building heights are referred to under the preceding item b). In all other respects the regulations governing this type of accommodation would remain unchanged from those which presently apply in the Zoning By-law. The Chief Building Inspector has indicated in his review of the proposed text amendments that "we see no adverse effect in the proposed regulations on single-family dwellings".

f) Comments on the Text Amendments from Appropriate Municipal Departments:

A copy of the report, "Residential Occupancy Standards" and the points raised by Council on 1979 July 30 were forwarded to the Chief Building Inspector and the Municipal Solicitor for review. Some of the Chief Building Inspector's comments have already been noted.

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In summary, both the Chief Building Inspector and the Municipal Solicitor have indicated their agreement with the proposed Zoning By-law amendments, which follow. It is recommended that these be advanced to a Public Hearing on 1979 October 16.

C. PROPOSED ZONING BY-LAW AMENDMENTS

The following amendments are proposed to the regulations governing residential occupancy in the Burnaby Zoning By-law:

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1. Definition of "Building"

The deletion of the last sentence from the definition of "Building" in Section 3 which is as follows:

"When a structure is separated by party walls located upon lot lines, then each portion of such structure shall be deemed a separate building."

2. Definition of "Cellar"

The addition of the following sentence to the definition of "Cellar" in Section 3:

"No dwelling unit, housekeeping unit, sleeping unit, bedroom or living quarters of any kind shall be permitted in a cellar."

3. Definition of "Dwelling, Duplex"

The addition of the following definition to Section 3:

"Dwelling, Duplex means a two-family dwelling wherein the two dwelling units are placed one above the other."

4. Definition of "Dwelling, Semi-Detached"

The addition of the following definition to Section 3:

"Dwelling, Semi-Detached means a two-family dwelling wherein the two dwelling units are placed side by side under one roof."

5. Definition of "Home Occupation"

The deletion of Clause (3) under the definition of "Home Occupation" in Section 3 and its replacement by:

"Within a single family dwelling only, the keeping of not more than 2 boarders or lodgers or not more than 4 foster children."

6. Definition of "Storey"

The deletion of the last sentence from the definition of "Storey" in Section 3 and its replacement by:

"A basement shall be considered as a storey."

7. Regulations applicable Regardless of Form of Ownership

The amendment of Section 4.1 (Application) to read as follows:

"Within the Corporation of the District of Burnaby no land, buildings or structures, regardless of the form of ownership or tenure, and including the surface of water, shall hereafter be used or occupied, and no building or structure or part thereof shall be erected, moved, altered or enlarged, unless in conformity with this By-law, and the contrary shall be unlawful."

8. The addition of a new Section (6.18) to the by-law (Supplementary Regulations)
- "6.18 Development Under The Strata Titles Act:
- Where a parcel of land is divided into strata lots under the Strata Titles Act, such parcel and any buildings which occupy it shall conform in all respects with the bulk regulations of this by-law."
9. Height of Buildings in the R1 District
- The deletion of Section 101.2 (Height of Buildings) and its replacement by:
- "The height of a building shall not exceed 9.8 m (32.12 feet) nor 2½ storeys."
10. Height of Buildings in the R2 District
- The deletion of Section 102.2 (Height of Buildings) and its replacement by:
- "The height of a building shall not exceed 9.8 m (32.12 feet) nor 2½ storeys."
11. Height of Buildings in the R3 District
- The deletion of Section 103.2 (Height of Buildings) and its replacement by:
- "The height of a building shall not exceed 9.8 m (32.12 feet) nor 2½ storeys."
12. Uses Permitted in the R4 District
- The deletion of Clause (2) of Section 104.1 (Two-family dwellings) and its replacement by:
- "Semi-detached or duplex dwellings with a maximum gross floor area of 116 m² (1247.30 square feet) per dwelling unit."
13. Height of Buildings in the R4 District
- The deletion of Section 104.2 (Height of Buildings) and its replacement by:
- "(1) The height of a single family dwelling shall not exceed 9.8 m (32.12 feet) nor 2½ storeys.
(2) The height of a duplex dwelling shall not exceed 9.0 m (29.53 feet) nor 2 storeys.
(3) The height of a semi-detached dwelling shall not exceed 5.5 m (18 feet) nor 1 storey."
14. Uses Permitted in the R5 District
- The deletion of Clause (2) of Section 105.1 (Two-family dwellings) and its replacement by:
- "Semi-detached or duplex dwellings with a maximum gross floor area of 116 m² (1247.30 square feet) per dwelling unit."

15. Height of Buildings in the R5 District

The deletion of Section 105.2 (Height of Buildings) and its replacement by:

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- "(1) The height of a single family dwelling shall not exceed 9.8 m (32.12 feet) nor 2½ storeys.
- (2) The height of a duplex dwelling shall not exceed 9.0 m (29.53 feet) nor 2 storeys.
- (3) The height of a semi-detached dwelling shall not exceed 5.5 m (18 feet) nor 1 storey."


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