
COMMUNITY DEVELOPMENT COMMITTEE

*HIS WORSHIP, THE MAYOR
AND COUNCILLORS*

SUBJECT: ZONING BYLAW TEXT AMENDMENT - TEMPORARY BUILDINGS

RECOMMENDATION:

1. THAT Council authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw as outlined in Section 4.0 of this report for advancement to First Reading and Public Hearing at a future date.

REPORT

The Community Development Committee, at its 'Open' meeting held on 2009 April 28, received and adopted the *attached* report proposing a text amendment to the Burnaby Zoning Bylaw related to the definition and regulation of a Temporary Building.

Respectfully submitted,

Councillor C. Jordan
Chair

Councillor D. Johnston
Vice Chair

Councillor P. Calendino
Member

Copied to: City Manager City Solicitor Director Planning & Building Director Engineering Chief Building Inspector

TO: CHAIR AND MEMBERS
COMMUNITY DEVELOPMENT
COMMITTEE

DATE: 2009 April 21

FROM: DIRECTOR PLANNING AND BUILDING

FILE: 42000.20
Reference Bylaw Text Amnd.

SUBJECT: ZONING BYLAW TEXT AMENDMENT - TEMPORARY BUILDINGS

PURPOSE: To propose a text amendment to the Burnaby Zoning Bylaw related to the definition and regulation of a Temporary Building.

RECOMMENDATION:

1. **THAT** Council be requested to authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw as outlined in Section 4.0 of this report for advancement to First Reading and Public Hearing at a future date.

REPORT

1.0 INTRODUCTION

1.1 As part of the ongoing review of the Burnaby Zoning Bylaw, which usually takes place in the context of development enquiries and discussions regarding the intent of the bylaw and the general need to update the bylaw, text amendments are brought forward from time to time. These text amendment reports are submitted in order to provide clarification and improvements to the wording of the bylaw, and to respond to changes in related legislation and changes in forms of development, land uses and social trends.

1.2 A number of issues have arisen in recent years related to a) the time frame in which a temporary building may exist on a lot; b) the classification of a building as “temporary” or “permanent”; and c) the regulation of these buildings and structures, as a result of the current definition and regulation of temporary buildings. This report outlines an approach to update the City’s regulatory requirements with respect to temporary buildings for consideration by the Committee for advancement to Council.

2.0 EXISTING REGULATIONS

2.1 The Burnaby Zoning Bylaw defines a temporary building as follows:

“BUILDING, TEMPORARY” means a building (except a private garage or other accessory building) not having its exterior walls supported on

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continuous concrete or masonry foundations or walls, and includes boat shelters, bunkhouses, skid shacks, huts, tents, trailers or any other similar types of portable buildings or structures, whether or not the same be placed on foundations or affixed to the land in any way, but shall not include a mobile home which is located in a mobile home park nor permanent prefabricated dwellings, industrial, warehouse or storage buildings.”

(Section 3, Definitions)

This section of the Bylaw defines a temporary building based on its built form and construction: “not having its exterior walls supported on continuous concrete or masonry foundations or walls”. This section of the Bylaw also provides a description of the types of buildings and structures which would be considered temporary, as well as building which would not qualify as temporary.

2.2 Temporary buildings are subject to additional regulations in Sections 6.7 and 6.7A of the Bylaw. Section 6.7 states:

6.7 Temporary Buildings:

- (1) A temporary building or structure shall not be used for dwelling purposes except in the case of a recreational vehicle when located on a short term or temporary basis in a recreational vehicle park or authorized motel or auto court.
- (2) A temporary building or structure may be erected for construction purposes on a lot being developed for a period not to exceed the duration of such construction.
- (3) In all other cases, temporary buildings or structures shall be subject to the following requirements:
 - (a) Application shall be made in writing to the Chief Building Inspector for a permit to erect a temporary building or structure.
 - (b) If the Chief Building Inspector is satisfied that the proposed temporary building or structure would not constitute or cause a public hazard or public nuisance, nor obstruct unnecessarily any public right-of-way, he shall grant a permit for a period of not more than 6 months, provided, however, that such permit may be renewed, upon written application for a further period, not to exceed 6 months.

- (c) At the expiration of a permit such temporary building or structure shall be removed and the site thereof restored as nearly as possible to its former condition.

(Section 6.7, Supplementary Regulations)

In summary, temporary buildings which are erected for construction purposes on a lot being developed are permitted for a period of time not to exceed the duration of such construction. In all other cases, temporary buildings are permitted on a lot for a period of time not to exceed 6 months (but may be granted an extension for an additional 6 months), provided that the Chief Building Inspector is satisfied that the placement and use of the building on the lands will not constitute or obstruct unnecessarily any public right-of-way. The above regulations allow that some minor variances may be granted to the siting of temporary buildings and structures. The use of these temporary buildings is regulated by the prevailing zoning of the lands on which these buildings are placed. Temporary buildings, however, are not permitted to be used for residential purposes in any zoning district.

Recent amendments to the Zoning Bylaw included the addition of Section 6.7A, which addressed the temporary placement of a residential sales centre on a lot being developed:

6.7A Residential Sales Centres:

- (1) A residential sales centre may be temporarily erected or placed on lands having newly constructed and unoccupied multi-family residential developments or being developed for multi-family residential use.
- (2) A residential sales centre erected or placed under subsection (1) shall be removed upon the completion of the initial sales of all of the units in the multi-family residential development.

(Section 6.7A, Supplementary Regulations)

Residential sales centres are permitted for a period of time that is linked to the completion of the initial sales of all newly constructed and unoccupied units in the multi-family residential development. These buildings differ from other types of temporary buildings in that they are permitted on a lot for a period of time that is linked to a specified use of the building and not its form and construction.

- 2.3 While the above discussed regulations are applicable to all temporary buildings, development applications for a temporary building generally do not require Preliminary Plan Approval processing prior to the issuance of a (temporary) Building Permit. In addition, temporary buildings which are used for construction or seasonal purposes, or are less than 10 sq. m (108 sq. ft.) do not require a Building Permit.

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The following recent amendment to the Zoning Bylaw has required that development applications for temporary residential sales centres receive Preliminary Plan Approval, prior to the issuance of a (temporary) Building Permit:

7.3 Preliminary Plan Approval and Development Permits:

- (1) Any person wishing to undertake a development shall apply for and receive preliminary plan approval from the Director of Planning before the issuance of a Building Permit, except in the case of the following:
 - (f) The erection, construction or placing of temporary buildings as defined in this Bylaw, other than residential sales centres.
(Section 7.3(1)(f), Administration and Enforcement)

The intent of the above requirement is to ensure that the proposed development meets the requirements of the Bylaw, given that residential sales centres can have high vehicular and pedestrian traffic volume, necessitating safe siting and adequate provision of parking.

3.0 CURRENT PRACTICE

- 3.1 Some temporary buildings are required for a period that exceeds 6 months to accommodate a range of uses, including child care centres, film and movie-production related uses, and soil remediation structures. In practice, the standard 6 months period for a temporary building have been granted several extensions to their (temporary) Building Permit through applications to the Board of Variance (BOV). These applications were made on the basis of requesting an extension on the siting of the building. In recent years, the Board has become reluctant to approve these types of applications, as it could potentially result in extensions not in keeping with the Bylaw.
- 3.2 It is also acknowledged that the current definition of a temporary building has limited consideration for other innovative design solutions for permanent buildings because its exterior walls are not supported on continuous concrete or masonry foundations, and therefore, cannot qualify as a permanent building under the Bylaw. Examples of innovative building solutions that would be precluded by the Bylaw include, cable supported buildings, and buildings on concrete/wood blocks, piles and piers. Conversely, the current definition allows for the placement of buildings and structures such as skid shacks, huts, and tents, which may not necessarily in keeping with the current desired quality of development in Burnaby.
- 3.3 In view of the above, it is proposed that the definition and approach to temporary buildings be amended to fit with the contemporary needs of Burnaby residents and developers, as well as ensure that temporary buildings are properly sited and provide

adequate parking for the intended use in line with requirements of the Bylaw. Section 4.0 below discusses the proposed amendments.

4.0 PROPOSED BYLAW AMENDMENTS FOR TEMPORARY BUILDINGS

4.1 It is proposed that the definition of a “temporary building” be amended to mean the placement of a building on a lot for a period of time to accommodate the provisional uses discussed in Section 4.2 of this report. Any new use of a building or structure which is not temporary would be required to meet all regulations of the Zoning Bylaw prior to the issuance of a permanent Building Permit. Any existing building which has been issued a temporary Building Permit would have legal non-conforming status for the remaining duration of the permit, and upon the expiry of that permit, Preliminary Plan Approval for a permanent building may be pursued provided that the building can meet all regulations of the Bylaw. Consideration may also be given to specific proposals to retain existing temporary buildings permanently through rezoning to the CD Comprehensive Development District. In all other cases, existing temporary buildings would have to be removed upon the expiry of the current temporary Building Permit. It is noted that the Board of Variance will no longer need to consider extension applications for the siting of a temporary building, as its permit would be based on a condition of use and not its building form or construction.

4.2 It is proposed that temporary buildings be permitted only for the following purposes:

a) Construction purposes

A temporary building used for construction purposes on lots being developed (i.e. portable offices, storage buildings and structures, and soil remediation structures) is currently permitted in Section 6.7 (2) for the duration of such construction and has worked well in practice. It is proposed that use of temporary buildings for construction purposes continue to be permitted and that Preliminary Plan Approval prior to the issuance of a Building Permit for this purpose continue to not be required.

b) Accommodation of a commercial, industrial or institutional land use while a permanent building or structure is being structurally altered or improved

Structural alterations or improvements to a (permanent) building may require the temporary on-site relocation of an existing commercial, industrial or institutional land use within a temporary building. It is proposed that temporary buildings used for this purpose be permitted for a period of time following issuance of the permit for improvement to an existing permanent building or for a period not to exceed 30 days after the Chief Building Inspector has issued occupancy to the permanent building, and that Preliminary Plan Approval be required prior to the issuance of a Building Permit for the temporary building.

c) Residential sales centres

As previously discussed in this report, Council recently adopted a bylaw amendment which permits the use of a temporary building as a residential sales centre for a period

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of time that is linked to the completion of the initial sales of all newly constructed and unoccupied units in the multi-family residential development, and subject to Preliminary Plan Approval. The use of temporary buildings for residential sales centre purposes would continue to be permitted and Preliminary Plan Approval would continue to be required prior to the issuance of a Building Permit, as previously approved by Council.

d) Accommodation of an accessory storage or office use for rehearsal and production studios for television, motion picture, and similar productions.

Rehearsal and production studios may require the temporary use of a building to support, protect, or enclose persons or property. It is proposed that the temporary buildings used for this purpose be permitted for the duration of the production, but not to exceed a period of two years and that Preliminary Plan Approval be required prior to the issuance of a Building Permit.

e) School portables

Public schools may require the temporary use of a building to provide additional classroom space. While it is difficult to forecast the specified time frame in which school portables are needed to occupy a site, as the need for these types of buildings is based on the yearly enrollment of students, school portables are intended to accommodate a temporary need, while the School District plans for the long term expansion and development of existing and future school sites. From time to time, the School District may also transfer portables from one public school site to another. In view of the above, it is proposed that school portables be permitted for a period not to exceed ten years, effective upon Council's adoption of the Bylaw amendments. It is also proposed that school portables not require Preliminary Plan Approval prior to the issuance of a Building Permit, to allow for ease of management of school portable locations to meet student space needs. To differentiate school portables from other portable buildings which may be located on School District lands, it is proposed that a "School Portable" be defined in the Zoning Bylaw as the temporary use of a building to provide additional classroom space on a public school site.

In the future, additional uses for a temporary building may be advanced for amendment to the Zoning Bylaw. It is also noted that specific use proposals to erect a temporary building or structure for a specified period of time may be approved, subject to rezoning to the CD Comprehensive Development District. Rezoning applications of this type will be assessed on an individual basis to ensure that the building and/or structure is compatible with prevailing land uses; and would not constitute or cause a public hazard or nuisance, nor obstruct unnecessarily any public right-of-way.

4.3 The current approach to permit that minor variances to the siting and off-street parking requirements for the above discussed temporary buildings would continue to be applied. It is proposed, however, that the authority to grant these minor variances be with the Director of Planning and Building being satisfied that the proposed temporary building or

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structure would not constitute or cause a public hazard or public nuisance, nor obstruct unnecessarily any public right-of-way.

4.4 As noted above, Preliminary Plan Approval would be required for all temporary buildings and structures, except for those buildings and structures that are used for construction purposes and school portables.

4.5 It is also noted that recreation vehicles are currently considered temporary buildings, and Section 6.7(1) of the bylaw currently stipulates that recreational vehicles are the only type of temporary building that may be used for dwelling purposes. A recreational vehicle has never, in practice, been treated as a temporary building. To the best of our knowledge, the Building Division has not required a Building Permit for any of the recreational vehicles located at Burnaby’s only recreational vehicle park at 8765 Cariboo Road, and requiring a permit does not appear to be necessary.

The proposed amendment to the definition of “temporary building” would result in a recreational vehicle no longer being considered as such. The reference to recreational vehicles in Section 6.7(1) would therefore become redundant, and is recommended for deletion.

5.0 IMPACT OF PROPOSED AMENDMENTS AND NEXT STEPS

5.1 Currently, the City has issued 44 (temporary) Building Permits. Table 5.1 below provides a description of the Building Permits issued:

TABLE 5.1 CURRENT BUILDING PERMITS WITH ‘ISSUED’ STATUS *

USE	ISSUED	DURATION
Industrial offices, storage buildings and structures	14	3-10 years, subject to BOV
Commercial offices	2	1-3 years, subject to BOV
Institutional offices and storage buildings (excluding youth/child care centres)	9	2-10 years, subject to BOV
Residential sales centres	7	2-5 years, tied to the completion of initial sales of all unoccupied units
Youth/child care centres on School District or City-owned lands	7	10-15 years, subject to BOV
School portables for additional classroom space on School District lands	7	1-10 years

* Note: More than one temporary building may be permitted under a Building Permit.

- 5.1.1 A total of 25 (temporary) Building Permits have been issued for commercial, industrial and institutional offices, storage buildings and structures. With the approval of the amendments proposed in Section 4.0 of this report, these buildings would have to be removed or relocated upon the expiry of its (temporary) Building Permit or demonstrate through Preliminary Plan Approval process that the building meets all requirements of the prevailing zoning district as a permanent building. In a few cases where the building does not meet the requirements of the prevailing zoning district, consideration could be given to rezone the property to the CD Comprehensive Development District to allow for minor variances to the siting of the intended permanent building.
- 5.1.2 A total of 7 (temporary) Building Permits have been issued for residential sales centres. With the approval of the amendments proposed in Section 4.0 of this report, these residential sales centres would continue to be a permitted temporary building until the completion of the initial sales of all unoccupied units.
- 5.1.3 A total of 7 (temporary) Building Permits have been issued for youth/child care centres on School District and City-owned lands. With the approval of the amendments proposed in Section 4.0 of this report, these buildings would require Preliminary Plan Approval in order to remain as a permanent building following the expiry of their (temporary) Building Permit. A staff review of all youth centres and child care centres on School District and City-owned lands has determined that these building meet the requirements of the prevailing Zoning District and would receive Preliminary Plan Approval should they wish to remain on such lands as a permanent building.
- 5.1.4 A total of 7 Building Permits have been issued for school portables used for additional classroom space. With the approval of the amendments proposed in Section 4.0 of this report, these portables would continue to be a permitted temporary building for a total period of 10 years.
- 5.2 The revised approach to temporary buildings provides a number of benefits to Burnaby businesses and residents: permanent buildings would be able to have alternative foundation construction and building form options; buildings which are truly accommodating a temporary use would be permitted for a period of time which more suitably responds to the intended temporary use; and Preliminary Plan Approval would be required for all temporary buildings, except for those used for construction purposes or school portables for additional classroom space, to ensure safe siting and adequate provision of parking.
- 5.3 With Council's adoption of the proposed amendments, staff will contact all current (temporary) Building Permit holders to advise them of the amendments and will assist those permit holders seeking to retain their building/use following the expiry of their Permit with the necessary Preliminary Plan Approval and/or rezoning process.

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6.0 CONCLUSION

Temporary buildings are presently regulated in such a way that it does not address community needs for maintaining buildings for a longer period of time to meet specific temporary commercial, industrial and/or institutional needs. Nor, does the Bylaw allow for alternative foundation for permanent buildings. The proposed amendments, as outlined in Section 4.0 of this report, would bring the Bylaw in line with the contemporary needs for temporary buildings, as well as current practice. It is therefore recommended that Council authorize the City Solicitor to prepare the necessary bylaw amendments to the Burnaby Zoning Bylaw, as outlined in Section 4.0 of this report for advancement to First Reading and Public Hearing at a future date.



B. Luksun
DIRECTOR PLANNING AND BUILDING

ZM:gk

cc: City Manager
City Clerk
City Solicitor
Chief Building Inspector
Director Engineering