

PLANNING AND DEVELOPMENT COMMITTEE

*HIS WORSHIP, THE MAYOR
AND COUNCILLORS*

**SUBJECT: PROPOSED ZONING BYLAW AND PLANNING AND BUILDING FEES
BYLAW AMENDMENTS – FURTHER PANDEMIC REOPENING MEASURES**

RECOMMENDATIONS:

1. THAT Council authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw, 1965, to implement temporary amendments to off-street parking requirements, as outlined in Section 3.1 of the report, and further authorize bringing forward the amendments for three readings and final adoption without a public hearing;
2. THAT Council authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw, 1965, to implement certain temporary amendments to support pandemic reopening measures, as outlined in Section 3.2 of the report, and further authorize the waiver of a public hearing for such amendments; and,
3. THAT Council authorize the preparation of a bylaw amending the Burnaby Planning and Building Fees Bylaw, 2017, to waive the application fee for Preliminary Plan Approval applications for temporary accessory buildings, structures, or service trailers accessory to institutional, recreational, assembly, and educational establishments, as outlined in Section 4.0 of the report.

REPORT

The Planning and Development Committee, at its meeting held on 2021 March 30, received and adopted the attached report seeking Council authorization for amendments to the Burnaby Zoning Bylaw and Burnaby Planning and Building Fees Bylaw to implement further COVID-19 pandemic reopening measures.

Copied to: Acting City Manager Director Planning & Building Director Corporate Services Director Engineering Director Finance Director Public Safety & Community Services Chief Building Inspector City Solicitor
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Respectfully submitted,

Councillor P. Calendino
Chair

Councillor S. Dhaliwal
Vice Chair



Item
Meeting.....2021 March 30

COMMITTEE REPORT

TO: CHAIR AND MEMBERS
PLANNING AND DEVELOPMENT COMMITTEE

DATE: 2021 March 24

FROM: DIRECTOR PLANNING AND BUILDING

FILE: 42000 20
Reference: Bylaw Amendments

SUBJECT: **PROPOSED ZONING BYLAW AND PLANNING AND BUILDING FEES
BYLAW AMENDMENTS – FURTHER PANDEMIC REOPENING MEASURES**

PURPOSE: To propose amendments to the Burnaby Zoning Bylaw and Burnaby Planning and Building Fees Bylaw to implement further COVID-19 pandemic reopening measures.

RECOMMENDATIONS:

1. **THAT** Council authorize the preparation of a bylaw amending the *Burnaby Zoning Bylaw, 1965*, to implement temporary amendments to off-street parking requirements, as outlined in Section 3.1 of this report, and further authorize bringing forward the amendments for three readings and final adoption without a public hearing;
2. **THAT** Council authorize the preparation of a bylaw amending the *Burnaby Zoning Bylaw, 1965*, to implement certain temporary amendments to support pandemic reopening measures, as outlined in Section 3.2 of this report, and further authorize the waiver of a public hearing for such amendments; and,
3. **THAT** Council authorize the preparation of a bylaw amending the *Burnaby Planning and Building Fees Bylaw, 2017*, to waive the application fee for Preliminary Plan Approval applications for temporary accessory buildings, structures, or service trailers accessory to institutional, recreational, assembly, and educational establishments, as outlined in Section 4.0 of this report.

REPORT

1.0 BACKGROUND INFORMATION

All businesses, institutional, recreational, assembly, and educational establishments continue to follow province-wide restrictions related to Provincial Health Officer orders and guidelines regarding physical distancing to help stop the spread of COVID-19. To maintain physical distancing while continuing operations and providing services, many businesses and establishments have been required to temporarily re-configure their service areas. The City has considered amendments to the *Zoning Bylaw, Planning and Building Fees Bylaw*, and the Preliminary Plan Approval (PPA) process, in order to facilitate the temporary reconfiguration of service areas to help businesses and establishments. This report brings forward further amendments to the *Zoning Bylaw* and the *Planning and Building Fees Bylaw* to support institutional, recreational, assembly and educational establishments during the COVID-19 pandemic, and its immediate aftermath.

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2.0 CITY POLICY FRAMEWORK

The proposed amendments to the *Zoning Bylaw* and *Planning and Building Fees Bylaw* align with the following City policies:

Corporate Strategic Plan:

- enhance social connections throughout Burnaby.
- work collaboratively with businesses, educational institutions, associations, other communities and governments, and foster an environment that attracts new and supports existing jobs, businesses and industries.
- create more opportunities for the community to celebrate diversity, and provide opportunities that encourage and welcome all community members and create a sense of belonging.
- encourage opportunities for healthy living and well-being.
- encourage residents and businesses to give back to and invest in the community.

Official Community Plan:

- facilitate the development and ongoing sustainability of a community which enhances the physical, social, psychological and cultural well-being of Burnaby residents.

Economic Development Strategy:

- build a strong, livable, and healthy community.
- cultivate a “business friendly” reputation.

3.0 ZONING BYLAW AMENDMENTS

Issue

There is a need to amend Sections 6.26 and 800.4.2 of the *Zoning Bylaw* to facilitate pandemic reopening measures by accommodating temporary accessory buildings, structures, or service trailers in institutional, recreational, assembly and educational establishments, during the COVID-19 pandemic, and its immediate aftermath.

Discussion

In mid-2020, Council adopted a number of temporary amendments to the *Zoning Bylaw* as immediate pandemic reopening measures to facilitate business recovery during the COVID-19 pandemic. The purpose of these amendments was to help businesses reconfigure their service areas to meet the physical distancing restrictions while maintaining their patron capacity. These *Zoning Bylaw* amendments under Sections 6.26 and 800.4.2 facilitate the temporary expansion of outdoor seating areas for food and beverage establishments, as well as outdoor display and retail sale areas accessory to commercial and industrial establishments, subject to approval of the Director Planning and Building.

Following the adoption of the proposed *Zoning Bylaw* amendments, staff received a number of enquiries regarding the applicability of these temporary *Zoning Bylaw* amendments to institutional and assembly uses. This report brings forward further amendments to the *Zoning Bylaw* to extend the pandemic reopening measures to institutional, educational, recreational and assembly uses throughout the City.

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Meeting the physical distancing restrictions during the COVID-19 pandemic has significantly impacted the operation of institutional, recreational, and assembly establishments by reducing their customer or user capacity. The physical expansion of service areas in these establishments, similar to outdoor seating areas in cafes and restaurants, and outdoor display and retail sale areas in commercial and industrial establishments, can help these establishments maintain their customer or user capacity while meeting public health measures.

Accessory buildings, structures, or service trailers are options for providing temporary additional spaces for different purposes. Service trailers refer to a structure or vehicle that is either self-propelled or towed by a motor vehicle and can be used for the expansion of service areas. Examples include the use of trailers as changing rooms for recreational establishments, or as restrooms in public and institutional establishments, and the use of accessory buildings for the storage of non-perishable food bank items on a church site.

It is recommended that Sections 6.26 and 800.4.2 of the *Zoning Bylaw* be amended to accommodate accessory buildings, structures, or service trailers in institutional, recreational, assembly and educational establishments for the purpose of reconfiguring service areas for those establishments. If Council adopts this recommendation, the temporary *Zoning Bylaw* exceptions for outdoor seating areas, and outdoor display and retail sale areas will also apply to accessory buildings, structures or service trailers in institutional, educational, recreational and assembly establishments, as part of the City’s COVID-19 pandemic reopening measures. These temporary *Zoning Bylaw* exceptions to permit the reconfiguration of service areas without increasing patron capacity would include those set out in Sections 3.1 and 3.2 below.

3.1 Off-Street Parking Space Exemptions

The temporary exemptions to off-street parking requirements of the *Zoning Bylaw* that are recommended to be extended to apply to accessory buildings, structures, or service trailers in institutional, recreational, assembly and educational establishments for the purpose of reconfiguring service areas for those establishments, are as follows:

- ***at the discretion of the Director Planning and Building, reduction of the required off-street parking spaces in institutional, recreational, assembly and educational establishments:*** a reduction in the number of trips, and consequent reduction in the actual required number of off-street parking spaces during the COVID-19 pandemic provide an opportunity to temporarily utilize off-street parking spaces to accommodate temporary accessory buildings, structures, or service trailers, in order to physically expand service areas, where needed.

It should be noted that the location of off-street parking spaces to be used for the accommodation of temporary accessory buildings, structures, or service trailers must be reviewed by the City Engineer. The purpose of this review is to ensure that the location of such accessory buildings or structures or service trailers does not adversely interfere with pedestrian and vehicular movement, fire truck and fire hydrant access, or solid waste collection within and adjacent to the premises. In addition, accessible and van accessible parking spaces may not be used to accommodate such temporary accessory buildings or structures, or service trailers.

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- **suspension of the restriction on the use of the required off-street parking spaces when they are utilized to accommodate temporary accessory buildings, structures, or service trailers:** Section 800.5(1) of the *Zoning Bylaw* requires that all required off-street parking spaces shall be used only for the purpose of accommodating the vehicle of the users of the principal buildings or uses for which the parking area is provided. As such, those off-street parking spaces that are approved to be utilized to accommodate temporary accessory buildings or structures, or service trailers, would be exempted from Section 800.5(1) of the *Zoning Bylaw*. This is achieved through the exemption in Section 800.4.2(3) of the *Zoning Bylaw*, which is in place for all temporary pandemic reopening measures.

The proposed text amendments to the Burnaby *Zoning Bylaw* are detailed in Appendix 1, *attached*. Although contained within the City's *Zoning Bylaw*, off-street parking requirements are not "zoning" provisions which require a public hearing under the *Local Government Act*. The City's historic practice is to forward all *Zoning Bylaw* amendments to a public hearing. In order to expedite the approval of applications for temporary accessory buildings, structures, or service trailers within off-street parking spaces for institutional, educational, recreational and assembly establishments, staff intend to bring forward the proposed bylaw amendments concurrently with this report, and propose that Council give three readings to this bylaw without forwarding it to a public hearing, with final adoption to follow. The bylaw to implement these off-street parking amendments would appear elsewhere on the Council agenda. Once adopted, staff will be able to process and approve applications for temporary accessory buildings, structures, or service trailers in off-street parking spaces for institutional, educational, recreational and assembly establishments immediately.

3.2 Exemptions from Other Requirements of the Zoning Bylaw

The temporary exemptions to gross floor area, lot coverage and siting requirements of the *Zoning Bylaw* that are recommended to be extended to accommodate accessory buildings, structures, or service trailers in institutional, recreational, assembly and educational establishments for the purpose of reconfiguring service areas for those establishments, are as follows:

- **at the discretion of the Director Planning and Building, exemption of temporary accessory buildings, structures, or service trailers from the calculation of gross floor area:** under the *Zoning Bylaw*, the floor area of accessory buildings and structures is included in the calculation of gross floor area for the purpose of off-street parking calculations. However, due to reduced parking demand during the COVID-19 pandemic, and to ensure that a lack of off-street parking spaces does not preclude or restrict the ability of an institutional, recreational, assembly or educational establishment to accommodate temporary accessory buildings, structures, or service trailers, these areas will be exempted from the calculation of gross floor area for the purpose of off-street parking calculations.
- **at the discretion of the Director Planning and Building, exemption of temporary accessory buildings, structures or service trailers from lot coverage, and siting requirements of the Zoning Bylaw:** according to the *Zoning Bylaw*, all accessory buildings and structures, with some exceptions, shall be located outside of the required front and side yards, and shall be included in the calculation of lot coverage. Considering the temporary nature of these structures, and to ensure lot coverage and siting requirements of the *Zoning Bylaw* will not

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restrict the reconfiguration of service areas, it is recommended that temporary accessory buildings, structures, or service trailers authorized under the pandemic reopening measures be exempted from these requirements of the *Zoning Bylaw*. It should be noted that the design and location of these temporary accessory buildings, structures, and service trailers will be monitored through the Preliminary Plan Approval (PPA) process and Director Planning and Building approvals, to mitigate any negative impacts on neighbouring properties and adjacent streetscapes.

It should be noted that a Building Permit will be required for the construction of any temporary accessory buildings and structures exceeding 10 m² (107.6 sq. ft.), provided that such buildings or structures meet the requirements of the *BC Building Code*. In addition, the proposed temporary exemptions to the *Zoning Bylaw* to accommodate such temporary structures would be valid only until 2021 October 31, or another date determined by the Director Planning and Building in response to the COVID-19 pandemic. The proposed text amendments to the Burnaby *Zoning Bylaw* are detailed in Appendix 1, *attached*.

Unlike the off-street parking bylaw amendments, these *Zoning Bylaw* amendments relate to "zoning" matters and typically would entail a public hearing after first reading. In this case, the *Local Government Act* allows for the public hearing to be waived since the amendments are consistent with the City's Official Community Plan, provided that notices of the amendments and waiver of public hearing are published for two consecutive weeks in a local newspaper prior to third reading of the bylaw. In order to expedite the amendment process, staff intend to seek Council authorization to waive the public hearing for the amendments proposed in section 3.2 of this report. Staff intend to bring forward the amendment bylaw concurrently with the report to Council and propose that Council give first and second readings at that same Council meeting. Notices of the amendments and waiver of public hearing would then be published in two consecutive editions of the Burnaby Now, following which the amendments will be brought forward for third reading and final adoption at the next Council meeting. In the meantime, staff would receive and review applications involving temporary accessory buildings, structures, or service trailers that result in excess lot coverage and/or projections into yards, and approve such applications after adoption of the proposed bylaw amendments.

4.0 PLANNING AND BUILDING FEES BYLAW AMENDMENT

As part of the first phase of the COVID-19 pandemic reopening measures, an expedited PPA process was established for the review of applications for on-site outdoor seating areas, as well as outdoor display and retail sale areas accessory to commercial and industrial establishments. In addition, Schedule B of the *Planning and Building Fees Bylaw* was amended to waive the required minimum fee for such PPA applications.

The purpose of this report is also to propose the extension of the pandemic reopening measures to institutional, recreational, assembly and educational establishments. As such, it is recommended that Schedule B of the *Planning and Building Fees Bylaw*, which sets out PPA Application fees, be further amended to waive the minimum fee for PPA applications to permit the accommodation of temporary accessory buildings, structures, and service trailers in such situations. Those proposed amendments are detailed in Appendix 1, *attached*.

Recommended Zoning Bylaw Amendments Related to Off-Street Parking

Below is the recommended wording for the off-street parking amendments discussed in section 3.1 of this report:

1. **THAT** Sections 800.4.2 of the *Burnaby Zoning Bylaw, 1965*, be replaced with wording the same or similar to the following:

800.4.2 Temporary Off-Street Parking Reductions During COVID-19 Pandemic:

Notwithstanding any other provision of this bylaw, until 2021 October 31 or another date determined by the Director Planning and Building in response to the COVID-19 pandemic:

- (1) The required off-street parking spaces for cafes, restaurants, drive-in restaurants, and similar establishments for the sale and consumption of food and/or beverage on the premises, and commercial, industrial, institutional, recreational, assembly, and educational establishments, may be reduced with the written approval of the Director Planning and Building, subject to the following conditions:
 - (a) the area of the reduced off-street parking spaces is exclusively used for the purpose of accommodating:
 - (i) outdoor seating area for café, restaurant, drive-in restaurant, or similar establishments for the sale and consumption of food and/or beverage on the premises;
 - (ii) outdoor display and retail sale areas accessory to the commercial or industrial establishment on the premises; or,
 - (iii) accessory buildings or structures, or service trailers, accessory to the institutional, recreational, assembly or educational establishment on the premises;
 - (b) such outdoor seating area is located adjacent to the associated café, restaurant, drive-in restaurant, and similar establishment for the sale and consumption of food and/or beverage on the premises, or separated from such establishment by a pedestrian walkway;
 - (c) such outdoor seating areas, accessory outdoor display and retail sale areas, accessory buildings or structures, or service trailers are only used to physically expand the service area of the principal establishment and do not increase the permitted patron capacity of the principal establishment;
 - (d) the City Engineer is satisfied that the location of such outdoor seating areas, accessory outdoor display and retail sale areas, accessory buildings or structures, or service trailers do not interfere with pedestrian and vehicular movement, fire truck and fire hydrant access, and solid waste collection within and adjacent to the premises; and,
 - (e) such outdoor seating areas, accessory outdoor display and retail sale areas, accessory buildings or structures, or service trailers do not occupy or reduce any accessible parking space on the premises.

- (2) The outdoor seating areas, accessory outdoor display and retail sale areas, accessory buildings or structures, or service trailers approved by the Director Planning and Building in accordance with Section 800.4.2(1), or as otherwise permitted in this bylaw, shall be excluded from the calculation of floor area for the purpose of off-street parking calculations for the associated establishments, in accordance with this Schedule.
- (3) The restriction in Section 800.5(1) of this bylaw does not apply to any off-street parking spaces approved by the Director Planning and Building in accordance with Section 800.4.2(1) of this bylaw.
- (4) In this section unless the context otherwise requires, “service trailer” means any structure or vehicle that is either self-propelled or towed by a motor vehicle, and that is used or designed to be used to temporarily expand service areas accessory to institutional, recreational, assembly, and educational establishments.

Recommended Zoning Bylaw Amendments Related to Other Zoning Bylaw Amendments

Below is the proposed wording for the temporary *Zoning Bylaw* amendments, other than off-street parking requirements, described in section 3.2 of this report:

2. **THAT** Section 6.26 of the *Burnaby Zoning Bylaw, 1965*, be repealed in its entirety and replaced with wording the same or similar to the following:

6.26 Temporary COVID-19 Pandemic Reopening Measures:

- (1) Notwithstanding any other provision of this bylaw, until 2021 October 31 or another date determined by the Director Planning and Building in response to the COVID-19 pandemic, the following buildings, structures, or uses may project into required yards, are excluded from the calculation of lot coverage and gross floor area, and may be located outside of a completely enclosed building:
 - (a) temporary covered and/or enclosed outdoor seating areas at cafes, restaurants, drive-in restaurants, and similar establishments for the sale and consumption of food and/or beverage on the premises;
 - (b) temporary covered and/or enclosed outdoor display and retail sale areas accessory to commercial and industrial establishments; and,
 - (c) temporary accessory buildings or structures, or service trailers accessory to institutional, recreational, assembly, and educational establishments;

provided that such building, structure, or use is:

- (d) approved in writing by the Director Planning and Building; and,
- (e) only used to physically expand the service area provided for the principal use being made of the lot, and does not increase patron capacity.

- (2) In this section unless the context otherwise requires, “service trailer” means any structure or vehicle that is either self-propelled or towed by a motor vehicle, and that is used or designed to be used to temporarily expand service areas accessory to institutional, recreational, assembly, and educational establishments.

Recommended Planning and Building Fees Bylaw Amendments

3. **THAT** Schedule B of the *Burnaby Planning and Building Fees Bylaw, 2017*, be amended by replacing the second row under paragraph (d) relating to Section 7.3(2)(b.1) with the following:

Minimum Fee, except Temporary COVID-19 Pandemic Reopening Measures	\$284.00
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4. **THAT** Schedule B of the *Burnaby Planning and Building Fees Bylaw, 2017*, be amended by replacing the row relating to Section 6.26 and Schedule VIII (800.4.2) with the following:

Section 6.26 and Schedule VIII (Section 800.4.2)	Temporary COVID-19 Pandemic Reopening Measures	\$0.00
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