

TO: CHAIR AND MEMBERS
PLANNING AND DEVELOPMENT
COMMITTEE

DATE: 2021 September 23

FROM: DIRECTOR PLANNING AND BUILDING

FILE: 42000 20

Reference: Bylaw Amendments

**SUBJECT: PROPOSED ZONING BYLAW AMENDMENTS – EXTENSION OF
PANDEMIC REOPENING MEASURES TO SUPPORT BURNABY
BUSINESSES**

PURPOSE: To propose amendments to the Burnaby Zoning Bylaw to extend COVID-19 pandemic reopening measures to 2022 June 1.

RECOMMENDATIONS:

1. **THAT** Council authorize the preparation of a bylaw amending the *Burnaby Zoning Bylaw, 1965*, to extend the expiry of temporary measures to support businesses and establishments during the COVID-19 pandemic from 2021 October 31 to 2022 June 1, as outlined in *Section 3.0* of this report.
2. **THAT** Council authorize the waiver of a Public Hearing for such Zoning Bylaw amendments.

REPORT

1.0 INTRODUCTION

The Provincial Health Officer continues to set out restrictions 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 temporarily reconfigured their service areas. The City has made amendments to the *Zoning Bylaw, Planning and Building Fees Bylaw*, and the Preliminary Plan Approval (PPA) process to facilitate the temporary reconfiguration of service areas to help businesses and establishments.

Sections 6.26 and 800.4.2 of the *Zoning Bylaw*, set out the temporary COVID-19 reopening measures to facilitate the temporary reconfiguration of service areas. These measures are in effect until 2021 October 31, or another date determined by the Director Planning and Building in response to the COVID-19 pandemic.

Considering that the physical distancing and other restrictions are still in effect, and there is a need to continue to support businesses and establishments in Burnaby, this report brings forward further

To: Chair and Members
Planning and Development Committee
From: Director Planning and Building
Re: Burnaby Zoning Bylaw Amendments – Extension of Pandemic
Reopening Measures to Support Burnaby Businesses
2021 September 23.....Page 2

amendments to the *Zoning Bylaw* to extend COVID-19 pandemic reopening measures until 2022 June 1.

2.0 CITY POLICY FRAMEWORK

The proposed amendments to the *Zoning Bylaw* align with the following Council-adopted policies: *Corporate Strategic Plan* (2017), *Official Community Plan* (1998), *Economic Development Strategy* (2007), and *Social Sustainability Strategy* (2011).

3.0 ZONING BYLAW AMENDMENTS

3.1 Proposed Extension of Pandemic Reopening Measures

On 2020 May 22, the Liquor and Cannabis Regulation Branch (LCRB) approved a new Policy Directive to issue Temporary Expanded Service Area authorizations (TESA) to food primary, liquor primary, and manufacturing licences. This authorization has permitted licensees to temporarily expand their service areas to serve liquor, provided that the approved patron capacity of the establishment remains unchanged. At the time it was determined that the TESA provision in the Liquor Control and Licensing Regulations (LCLR) would be repealed on 2021 October 31.

To support the implementation of the LCRB policy, Council adopted a number of amendments to the *Zoning Bylaw* to permit the temporary expansion of outdoor seating areas for food and beverage establishments into on-site parking spaces and yards, together with other relaxations. These *Zoning Bylaw* amendments also permit the temporary expansion of outdoor display and retail sale accessory to commercial and industrial establishments, and temporary construction/erection of buildings, structures and service trailers accessory to institutional, educational, recreational and assembly establishments. The temporary COVID-19 pandemic reopening provisions of the *Zoning Bylaw* will be in effect until 2021 October 31, or as determined by the Director Planning and Building in response to the pandemic. This date was determined in line with the date on which the TESA provision in the LCLR will be in effect.

On 2021 June 15, the LCRB approved a new Policy Directive to defer the repeal of the TESA provision in the Regulation until 2022 June 1. The purpose of this extension is to:

- support the delivery of the Minister of Public Safety and Solicitor General's mandate commitment to make TESA authorization permanent; and
- provide additional time for licensees to apply to LCRB and the local governments for a permanent expansion to service areas, and reduce the risk of disruption in the use of the expanded service areas during the application process.

To continue to support businesses and establishments in Burnaby and facilitate the implementation of the LCRB's recently approved policy, it is recommended that the temporary COVID-19 pandemic reopening provisions of the *Zoning Bylaw* (Sections 6.26 and 800.4.2) be extended until 2022 June 1, or as determined by the Director Planning and Building in response to the pandemic.

To: Chair and Members
Planning and Development Committee
From: Director Planning and Building
Re: Burnaby Zoning Bylaw Amendments – Extension of Pandemic
Reopening Measures to Support Burnaby Businesses
2021 September 23.....Page 3

If Council adopts this recommendation, the existing temporary service areas which have been approved through the PPA process¹ may continue to be used until 2022 June 1, or as determined by the Director Planning and Building in response to the pandemic. The proposed extension would also apply to any new PPA application proposing to temporarily reconfigure the service areas accessory to food and beverage establishments, temporary outdoor retail and display areas accessory to commercial and industrial establishments, and temporary buildings, structures, and service trailers accessory to institutional, educational, recreational and assembly establishments.

To further support businesses and establishments, the PPA review process for the temporary expansion of service areas has been expedited and the application fee for such applications has been waived. If Council adopts the proposed bylaw to extend the application of temporary COVID-19 pandemic reopening measures, no application fee will be applied to such PPA applications until 2022 June 1, or as determined by the Director Planning and Building in response to the COVID-19 pandemic.

The proposed *Zoning Bylaw* amendments typically would entail a Public Hearing after First Reading. The *Local Government Act* allows for the Public Hearing to be waived if 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 approval process, staff intend to seek Council authorization to waive the Public Hearing for the amendments proposed in *Section 3.0* 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.

As noted in this report, the purpose of this extension is to allow businesses and establishments to apply for the permanent accessory service areas without any disruption in their services. Any service area that will continue to be used after 2022 June 1 will be required to meet the applicable requirements of the *Zoning Bylaw*, such as setbacks, lot coverage, and off-street parking spaces. Compliance with these requirements may preclude the permanent service areas or require changes to their location, size, and configuration. Staff will conduct the review of the *Zoning Bylaw* and the legislative tools to explore options for the permanent reconfiguration of service areas after 2022 June 1.

3.2 Recommended *Zoning Bylaw* Amendments

The following amendments are recommended in order to implement the proposed extension of the COVID-19 pandemic reopening measures:

¹ As of 2021 August 15, 28 PPA applications have been issued, and 9 additional applications have been under review, to permit on-site temporary service areas, in response to the COVID-19 pandemic. These applications do not include the temporary service area expansions on City roads and sidewalks which have been processed by the Engineering Department through the City's Active Sidewalks, Open Businesses program.

To: Chair and Members
Planning and Development Committee
From: Director Planning and Building
Re: Burnaby Zoning Bylaw Amendments – Extension of Pandemic
Reopening Measures to Support Burnaby Businesses
2021 September 23.....Page 4

1. **THAT** Section 6.26(1) of the *Burnaby Zoning Bylaw* be amended by replacing the words “2021 October 31” with the words “2022 June 1”.
2. **THAT** Section 800.4.2 of the *Burnaby Zoning Bylaw* be amended by replacing the words “2021 October 31” with the words “2022 June 1”.

4.0 CONCLUSION

The *Zoning Bylaw* amendments proposed in this report further the City’s support for businesses and establishments during the COVID-19 pandemic. It is recommended that Council approve the above proposed amendments outlined in *Sections 3.0* of this report, and authorize the waiver of a Public Hearing for such amendments.



E. W. Kozak, Director
PLANNING AND BUILDING

PS:sa

Copied to: Chief Administrative Officer
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