
TO: CHIEF ADMINISTRATIVE OFFICER **DATE:** 2022 April 28

FROM: GENERAL MANAGER **FILE:** 49500 10
PLANNING AND DEVELOPMENT *Reference:* RUZP

SUBJECT: HOUSING AGREEMENT BYLAWS FOR DEVELOPMENTS WITH
RENTAL USE ZONING POLICY REQUIREMENTS

PURPOSE: To propose a streamlined process and seek Council authorization to bring forward Housing Agreement bylaws for developments with Rental Use Zoning Policy requirements.

RECOMMENDATIONS:

1. **THAT** Council approve the key terms substantially outlined in this report for ongoing use in Housing Agreements for all developments with Rental Use Zoning Policy requirements.
2. **THAT** Council authorize the City Solicitor to bring forward bylaws to authorize entering into Housing Agreements in respect to those developments with Rental Use Zoning Policy requirements that have received Final Adoption.
3. **THAT** Council authorize the City Solicitor to bring forward bylaws, on an ongoing basis, to authorize entering into Housing Agreements in respect to those developments with Rental Use Zoning Policy requirements after the Rezoning Bylaw for the development receives Second Reading.

REPORT

1.0 INTRODUCTION

On 2020 March 09, Council endorsed the finalized Rental Use Zoning Policy to support the construction of new and replacement rental units in the City. Under the Rental Use Zoning Policy, there are three types of non-market rental units created:

1. **Replacement Rental Units:** Purpose-built rental units lost to redevelopment must be replaced, with right of first refusal for returning tenants.
2. **Required Inclusionary Units (Burnaby Affordable units):** Units rented at 20% below Canada Mortgage and Housing Corporation (CMHC) market median rents. All residential or commercial sites in Community Plan Areas that are being rezoned to RM3, RM4, RM5, RM7 or P11e must provide 20% of the total market unit count as Required Inclusionary Units.
3. **Optional Inclusionary Units:** Units rented at CMHC market median rents. All residential or commercial sites in Community Plan Areas that are being rezoned to RM3, RM4, RM5, RM7

To: Chief Administrative Officer
From: General Manager Planning and Development
Re: Housing Agreement Bylaws for Developments with
Rental Use Zoning Policy Requirements
2022 May 9..... Page 2

or P11e may use unused rental floor area density to add rental units at a ratio of one market rental unit to one Optional Inclusionary Unit.

Developments with any of these non-market unit types require a Housing Agreement to secure the non-market nature of the rental units, as discussed in *Section 3.0*. The purpose of this report is to propose a streamlined process for Housing Agreements and seek Council authorization to bring forward Housing Agreement bylaws and Section 219 covenants and rent charges in respect to those developments with Rental Use Zoning Policy requirements on an ongoing basis.

2.0 POLICY CONTEXT

There are several City Policies that support the provision of non-market housing in Burnaby including: *HOME: Housing and Homelessness Strategy (2021)*, *Burnaby Housing Needs Report (2021)*, *Mayor's Task Force on Community Housing Final Report (2019)*, *Corporate Strategic Plan (2017)*, *Burnaby Social Sustainability Strategy (2011)*, *Burnaby Economic Development Strategy (2007)*, and *Official Community Plan (1998)*.

3.0 HOUSING AGREEMENT TERMS FOR RENTAL USE ZONING POLICY DEVELOPMENTS

Pursuant to Section 482 and 483 of the *Local Government Act*, local governments may allow different densities through rezoning in exchange for the provision of non-market or special needs housing and can secure the non-market or special needs housing through a Housing Agreement. Housing Agreements secure details such as rent levels, income testing requirements, and target populations, and are filed on land title under Legal Notations. Housing Agreements are the legal instrument that can be used to secure provisions when the local government does not own the land; otherwise, the conditions could be secured in a lease that is registered on title. All current and future owners of the development are subject to the terms of a Housing Agreement. Housing Agreements are adopted by bylaw and generally, are accompanied by Section 219 covenants and rent charges for enforcement.

Staff recommend that non-market rental units created through the Rental Use Zoning Policy be secured through Housing Agreement bylaws and Section 219 covenants and rent charges. This recommendation is included as a condition of rezoning in the Public Hearing Reports received by Council for each project with Rental Use Zoning Policy requirements.

Since adoption, the Rental Use Zoning Policy has been applied to 83 rezoning applications. Of these rezoning applications, 11 have received Final Adoption, 24 have completed a Public Hearing as of the date of this report, three will hold a Public Hearing on 2022 May 31, and Public Hearing reports for an additional two applications are anticipated to come forward in May. *Appendix A* contains a list of projects with Rental Use Zoning Policy requirements that have received Final Adoption. *Appendix B* lists those projects that completed Public Hearing and *Appendix C* lists those developments that will hold a Public Hearing on 2022 May 31 or are anticipated to have a Public Hearing on 2022 June 28.

While this report is seeking authorization to bring forward Housing Agreement bylaws for the rezoning applications referenced above going forward, for all new rezoning applications received where the Rental Use Zoning Policy is applied, Council authorization will be requested within the Public Hearing reports for each new application that proceeds to that stage.

To: Chief Administrative Officer
From: General Manager Planning and Development
Re: Housing Agreement Bylaws for Developments with
Rental Use Zoning Policy Requirements
2022 May 9..... Page 3

The key terms proposed for the Housing Agreements are as follows:

- **Housing Agreement Term:** Housing Agreements will apply in perpetuity.
- **No Strata Subdivision:** Non-Market Rental Units shall not be stratified.
- **Replacement Rental Units:** Replacement Rental Units must be rented to Returning Tenants, who are eligible for a replacement unit under the Tenant Assistance Policy (TAP) and Rental Use Zoning Policy. Replacement Rental Units must be rented at Returning Tenants' rents at move-out from the building to which TAP was applied, plus any annual increases allowed by the Residential Tenancy Branch between move-out and occupancy of the Replacement Rental Units. After a Returning Tenant's tenancy in a Replacement Rental Unit ends, the Replacement Rental Unit becomes a Required Inclusionary Unit.
- **Required Inclusionary ("Burnaby Affordable") Units:** Required Inclusionary Units must be rented to households with incomes at or below BC Housing's Housing Income Limits (HILs). These units must be rented at 20% below the CMHC market median rent for the appropriate location (e.g. Central Park/Metrotown) and building type (e.g. apartment). The owner or operator is encouraged, where possible, to offer Required Inclusionary Units to tenants who were ineligible under the TAP but who meet the applicable income eligibility requirements.
- **Optional Inclusionary Units:** Optional Inclusionary Units must be rented to households with incomes below HILs + 20%. These units must be rented at the CMHC market median rent for the appropriate location and building type. The owner or operator is encouraged, where possible, to offer Optional Inclusionary Units to tenants who were ineligible under the TAP but who meet the applicable income eligibility requirements.
- **Rent Increases:** During tenancy, rent increases will be in accordance with Residential Tenancy Branch limits. When a tenancy ends, the rent for a new tenancy can be calculated using the most recent CMHC market median rent data available at that time.
- **No Additional Fees/Charges:** The owner/operator will not require the tenant or any permitted occupant to pay any extra charges or fees for utilities or services that are applied to the building as a whole.
- **Operations:** Non-market units must be operated by an entity that is (1) licensed for Rental Property Management by the BC Financial Services Authority; (2) exempt from licensing requirements but with requisite experience managing rental housing; or, (3) an experienced non-profit housing provider.
- **Reporting:** Upon request from the City, the owner/operator will be required to provide a statutory declaration and supporting documentation confirming compliance with the terms of the Housing Agreement.
- **Insurance:** Full replacement cost insurance will be required to be maintained by the owner.
- **Damage or Destruction:** The owner is required to promptly repair or restore any non-market units that are partially damaged. Where damage exceeds 75% of full replacement value, the owner is required to reconstruct or restore the non-market units within 2 years of damage or destruction, or such longer period approved by the City.

It is recommended that the above key terms be applied to the Housing Agreements for the developments listed in Appendices A, B, and C, if those listed in Appendix C receive Second Reading, as well as future developments with Rental Use Zoning Policy requirements. Through the development approvals process, if staff determine that a development has unique needs that require substantial adjustments to the key terms outlined in this report, which may include those developments utilizing

To: Chief Administrative Officer
From: General Manager Planning and Development
Re: Housing Agreement Bylaws for Developments with
Rental Use Zoning Policy Requirements
2022 May 9Page 4

funding programs from other levels of government, staff would bring forward a separate report requesting approval of the terms specific to that development.

4.0 NEXT STEPS

Should Council approve staff's recommendations, the City Solicitor will bring forward bylaws to authorize entering into a Housing Agreement for each development and register the Housing Agreements on title for the properties in *Appendix A* that have already received Final Adoption. The City Solicitor will also begin the same for properties in *Appendix B* and *Appendix C*, should those developments in Appendix C receive Second Reading, prior to Final Adoption of the Rezoning Bylaw for each development. The City Solicitor will also prepare accompanying Section 219 covenants and rent charges for all Housing Agreements, which will also be registered on title.

For future projects with Rental Use Zoning Policy requirements, staff will request, in the Public Hearing reports for the projects, that the City Solicitor prepare and bring forward Housing Agreement bylaws for the non-market rental units, substantially on the terms outlined in this report. Staff will then bring forward the Housing Agreement bylaws after Second Reading and prior to Final Adoption of the Rezoning Bylaw for the development, without a further report to Council on the Housing Agreement. The exception will be for developments that have unique needs which require substantial adjustments to the key terms outlined in this report, in which case staff would bring forward a separate report requesting approval of the Housing Agreement terms specific to that development.

5.0 CONCLUSION

This report streamlines the process for Housing Agreements for development projects with Rental Use Zoning Policy requirements. Staff recommend that Council:

- Approve the terms substantially outlined in this report for use in Housing Agreement bylaws for all developments with Rental Use Zoning Policy requirements;
- Direct the City Solicitor to bring forward bylaws to authorize entering into Housing Agreements in respect to those developments with Rental Use Zoning Policy requirements that have received Final Adoption; and
- Direct the City Solicitor to bring forward bylaws, on an ongoing basis, to authorize entering into Housing Agreements in respect to those developments with Rental Use Zoning Policy requirements, after the Rezoning Bylaw for each development receives Second Reading and prior to Final Adoption of the Rezoning Bylaw.



E.W. Kozak, General Manager
PLANNING AND DEVELOPMENT

EG/CS:sa
Attachments

Copied to: Deputy Chief Administrative Officer and Chief Financial Officer
Director Development and Urban Design

City Solicitor
City Clerk

Appendix A: Developments with Rental Use Zoning Policy Requirements and Final Adoption

Address	Rezoning Reference	Legal Identifier
5977 Wilson Avenue	17-32	Lot 58 DLs 151 and 153 Group 1 NWD Plan 25603
5970, 5986, and 5994 Kathleen Avenue	19-42	Parcel "A" (Explanatory Plan 24921) Lots 11 and 12 DL 153 Group 1 NWD Plan 1191 Lot 13 and 14 DL 153 Group 1 NWD Plan 1191 Lot "B" DLs 151 and 153 Group 1 NWD Plan 6950
6438 Byrnepark Drive	18-09	Lot 8 DL 155a Group 1 NWD Plan LMP 30202
6444 Willingdon Avenue and 4241 Maywood Street	17-27	Lot G DL 151 Group 1 NWD Plan 2069 Lot 50 DL 151 Group 1 NWD Plan 25004
4275 Grange Street	18-44	All of the lands and premises within Strata Plan NWS 683 including Strata Lots 1 to 53 DL 34 Group 1 NWD Strata Plan NWS 683
6525 Telford Avenue	17-26	Lot 66 DL 153 Group 1 NWD Plan 26877
4960 Bennett Street	16-13	Lot A (Explanatory Plan 29292) DL 152 Group 1 NWD Plan 4955
6075 Wilson Avenue	17-28	Parcel "B" (J65071E) of Lot 13 Block 4 DL 90 Group 1 NWD Plan 555
5895 Barker Avenue	17-40	Lot 102 DL 151 Group 1 NWD Plan 34852
Portion of 4567 Loughheed Highway	17-42	Lot 6 DL 123 Group 1 NWD Plan EPP 108674
7911, 7915, and 7923 Edmonds Street and 7908 Wedgewood Street	15-10	Lot 1 DL 28 Group 1 NWD Plan 6655 Lot 3 DL 28 Group 1 NWD Plan 6655 Lot 4 DL 28 Group 1 NWD Plan 6655 Lot A DL 28 Group 1 NWD Plan LMP 34165

Appendix B: Developments with Rental Use Zoning Policy Requirements that have completed Public Hearing

Address	Rezoning Reference	Legal Identifier
Portion of 7201 11 th Avenue	17-07	Portion of Lot A DL 53 Group 1 NWD Plan EPP53090
6556, 6566, 6580, and 6596 Marlborough Avenue	17-30	Lot 12 DL 152 Group 1 NWD Plan 1520 Lot 11 DL 152 Group 1 NWD Plan 1520 Lot 9 Except the south 11 feet (Explanatory Plan 9886) DL 152 Group 1 NWD Plan 1520 Lot 10 DL 152 Group 1 NWD Plan 1520 Parcel "A" (Explanatory Plan 9886) of Lots 8 and 9 DL 152 Group 1 NWD Plan 1520
4330 Maywood Street	17-10004	Lot 78 DL 153 Group 1 NWD Plan 29417
4500 and 4554 Dawson Street, 2223 Alpha Avenue, and portion of 2350 Willingdon Avenue	19-25	Lot 136 DL 124 Group 1 Plan NWP 51591 Lot 15 Except: Parcel "A" (J1303e) DL 124 Group 1 Plan NWP 3343 Parcel "A" (J1303e) Lot 15 Except: South 10 Feet DL 124 Group 1 Plan NWP 3343 Lot 121 DL 124 Group 1 Plan NWP 35225
6450, 6486, 6488, and 6508 Telford Avenue	17-10009	Strata Lots 1 – 33 DL 153 Group 1 NWD Strata Plan NW 608; Lot 5 DL 153 Group 1 NWD Plan 1566 Strata Lots 1 – 5 DL 153 Group 1 NWD Strata Plan NW 1563 Lot 7 DLs 152 and 153 Group 1 NWD Plan 1566
6958 and 6984 Kingsway, 7243 Greenford Avenue, 6957 and 6961 Beresford Street	18-43	Lot 1 Block 22 DL 95 Group 1 NWD Plan 1930A Lot A DL 95 Group 1 NWD Plan 5795 Lot 1, Block 22 DL 95 Group 1 NWD Plan 1930A Lot B, Block 22 DL 95 Group 1 NWD Plan 1930A Lot 8, Except Part on Plan A44067 Block 22 DL 95 Group 1 NWD Plan 1930A
6620 and 6630 Sussex Avenue	18-20	Lots 42-46 District Lot 153 Group 1 NWD Plan 1566
5900 Olive Avenue	17-10001	Lot "D" (Reference Plan 29509) DL 151 Group 1 NWD Plan 2155
6615 Telford Avenue	18-13	Lot 64 DL 153 Group 1 NWD Plan 26877
6540 Marlborough Avenue	18-31	Lot "B" DL 152 Group 1 NWD Plan 1520
3550 Wayburne Drive	19-62	Lot 5 DL 73 Group 1 NWD Plan 29441
7109 18 th Avenue and 7358 and 7378 18 th Street	19-70	Lot "F" DL 95 Group 1 NWD Plan 12860 Strata Lots 1 and 2 DL 95 Plan BCS 763 Strata Lots 1 and 2 DL 95 Plan NW 2412

Address	Rezoning Reference	Legal Identifier
4653, 4669, and 4673 Kingsway and 4638 and 4638, 4646, 4654, 4662, and 4670 Hazel Street and portion of lane right-of-way	19-64	Lot 3 Except Parcel "C" (Explanatory Plan 10925) and Parcel "C" (Explanatory Plan 10925) Plan 5957 Lots 19 and 20 Plan 8362 Lots A and B Plan 21775 Lot 20 Plan 1768 Parcel A Reference Plan 70310 all of DL 153 Group 1 NWD Plan 5957
6280 and 6350 Willingdon Avenue	18-03	Lot "E" And "F" District Lots 151 And 153 Group 1 NWD Plan 2069
6877, 6891, 6913, 6939 and 6945 Palm Avenue	20-27	Lot 18 Block 4 and 5 DL 98 Group 1 NWD Plan 2066; Lot 17 Blocks 4 and 5 DL 98 Group 1 NWD Plan 2066 Parcel "C" (Explanatory Plan 10392) Lots 15 and 16 Blocks 4 and 5 DL 98 Group 1 NWD Plan 2066 Lot 15 Except: Explanatory Plan 10392 Block 4 DL 98 Group 1 NWD Plan 2066 Lot 104 DL 98 Group 1 NWD Plan 2066
6433 McKay Avenue and 6366 Cassie Avenue	17-34	Lot "B" DL 153 Group 1 NWD Plan 8356 Lot 100 DLs 151 and 153 Group 1 NWD Plan 34561
4355 Maywood Street	18-21	Lot "B" DL 153 Group 1 NWD Plan 2666
6444 Silver Avenue	17-39	Lot 80 DL 153 Group 1 NWD Plan 30367
6630 Telford Avenue	18-23	Lot "A" (Reference Plan 29171) DL 153 Group 1 NWD Plan 1566
2160 and 2210 Springer Avenue and portion of 5334 Loughheed Highway	21-30	Lot 1, DL 125, Group 1, NWD Plan 12069 Lot 51 except part subdivided by Plan 43624, DL 125, Group 1, NWD Plan 40102 Lot 54, DL 125, Group 1, NWD Plan 43624
3249 and 3355 North Road	16-06	Lot 2 DL 6 Group 1, NWD Plan 4155 except Parcel B (Reference Plan 33125) Plan EPP 10718 Lot A DL 6 Group 1 NWD Plan 77707 except Plan EPP10717
6449 and 6469 Selma Avenue	16-33	Lots 5 and 6 Block 9 DL 94 Group 1 NWD Plan 1117
5044 and 5056 Imperial Street	20-36	Lot 4 Block 9 DL 98 Plan NWP8184 Lot 1 District Lot 98 Plan NWP4299
2330 Douglas Road and 2230, 2252, 2270 Springer Avenue	21-22	Lot 2 DL 125 Group 1 NWD Plan 12069 Lot 3 DL 125 Group 1 NWD Plan 12069 Lot 4 DL 125 Group 1 NWD Plan 12069 Lot 5 DL 125 Group 1 NWD Plan 12069

Appendix C: Developments with Rental Use Zoning Policy Requirements and Public Hearing on May 31 or Anticipated on June 28, 2022

Address	Rezoning Reference	Legal Identifier
Public Hearing to be held on May 31, 2022		
9850 Austin Road and 9858 and 989 Gatineau Place	18-32	Lot 101 DLs 2 and 4 Group 1 NWD Plan 43016 except Plans LMP 44608, LMP 52074, and Plan EPP 15369 Lot 2 except firstly part on Statutory Right of Way Plan 21111, secondly park on Statutory Right of Way Plan 4829, thirdly park on Statutory Right of Way LMP 52075 DL 2 Group 1 NWD Plan 4286 Parcel "A" DL 2 Group 1 NWD Plan 4286
3846 Carrigan Court	20-18	Lot 80 DL 4 Group 1 NWD Plan 36433
4818, 4828 Dawson Street, 2285, 2311 Delta Avenue, and 2316 Beta Avenue	21-31	Lot 4 District Lot 124 Plan: BCP20675 Block 86 District Lot 124 Plan: NWP3348 Lot D District Lot 124 Plan: NWP3348 District Lot 124
Public Hearing Anticipated on June 28, 2022		
4612, 4664 Lougheed Highway, 2040, 2140 and 2150 Alpha Avenue	21-34	Lot A District Lot 124 Plan BCP48057 District Lot 124 Plan NWP3348 Lot 6 District Lot 124 Plan NWP3343 Rem 11 District Lot 124 Plan NWP3343 Pt 11 District Lot 124 Plan NWP3343
4567 Lougheed Highway	21-44	Lot 1 District Lots 123 and 124 Group 1 New Westminster District Plan EPP31990 Except Plans EPP40171, EPP59173 and EPP108674