

PLANNING AND DEVELOPMENT COMMITTEE

*HIS WORSHIP, THE MAYOR
AND COUNCILLORS*

SUBJECT: SHORT-TERM RENTALS – PROPOSED BYLAW AMENDMENTS

RECOMMENDATIONS:

1. THAT Council authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw, 1965, to implement the regulatory framework for short-term rentals, as outlined in Section 3.0 of the report, for advancement to a future Public Hearing.
2. THAT Council authorize the City Solicitor to bring forward bylaws to amend the following bylaws to implement the licensing, fee and enforcement framework for short-term rentals:
 - (a) Burnaby Business Licence Bylaw 2017;
 - (b) Burnaby Business Licence Fee Bylaw 2017; and
 - (c) Burnaby Bylaw Notice Enforcement Bylaw 2009,as outlined in Section 4.0 of the report.

REPORT

The Planning and Development Committee, at its meeting held on 2020 November 24, received and adopted the *attached* report seeking Council authorization for amendments to the Burnaby Zoning Bylaw, Business Licence Bylaw, Business Licence Fee Bylaw, and Bylaw Notice Enforcement Bylaw regarding short-term rentals.

Respectfully submitted,

Copied to: City Manager Director Corporate Services Director Engineering Director Finance Director Planning and Building Director Public Safety and Community Services Chief Building Inspector City Solicitor

Councillor P. Calendino
Chair

Councillor S. Dhaliwal
Vice Chair



Item
Meeting.....2020 November 24

COMMITTEE REPORT

TO: CHAIR AND MEMBERS
PLANNING AND DEVELOPMENT COMMITTEE

DATE: 2020 Nov 18

FROM: DIRECTOR PLANNING AND BUILDING
DIRECTOR PUBLIC SAFETY AND COMMUNITY SERVICES

FILE: 42000 20
Reference: Bylaw Amendments

SUBJECT: SHORT-TERM RENTALS - PROPOSED BYLAW AMENDMENTS

PURPOSE: To propose amendments to the Burnaby Zoning Bylaw, Business Licence Bylaw, Business Licence Fee Bylaw, and Bylaw Notice Enforcement Bylaw regarding short-term rentals.

RECOMMENDATIONS:

1. **THAT** Council be requested to authorize the preparation of a bylaw amending the *Burnaby Zoning Bylaw, 1965*, to implement the regulatory framework for short-term rentals, as outlined in Section 3.0 of this report, for advancement to a future Public Hearing.
2. **THAT** Council be requested to authorize the City Solicitor to bring forward bylaws to amend the following bylaws to implement the licensing, fee and enforcement framework for short-term rentals:
 - (a) *Burnaby Business Licence Bylaw 2017*;
 - (b) *Burnaby Business Licence Fee Bylaw 2017*; and
 - (c) *Burnaby Bylaw Notice Enforcement Bylaw 2009*,as outlined in Section 4.0 of this report.

REPORT

1.0 BACKGROUND INFORMATION

On 2020 July 06, Council adopted a report proposing a regulatory and enforcement framework for short term rentals in Burnaby. Council also authorized staff to prepare bylaws amending the Burnaby Zoning Bylaw, as well as the Business Licence Bylaw, the Business Licence Fees Bylaw, and Bylaw Notice Enforcement Bylaw in line with the framework. The proposed framework recommends the regulation of short-term rentals in Burnaby with a focus on the following objectives:

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- protect long-term rental housing supply;
- maintain and improve neighbourhood livability and stability;
- support economic opportunities, including tourism in Burnaby and opportunities for Burnaby residents and local businesses; and,
- provide a regulatory program that is clear and inspires high levels of compliance.

In general, the proposed regulatory and enforcement framework for short-term rentals in Burnaby includes the following:

- A limit on the operation of short-term rentals to the principal residence of the registered owners: This will ensure that housing supply, including rental housing, will be maintained for residents of Burnaby, while providing an income generating opportunity for homeowners to offset the costs of homeownership.
- Prohibition of the use of rental units, secondary suites and flex units for short-term rental: This will ensure that the supply of rental housing, including affordable rental housing, is maintained for the use of the residents of Burnaby.
- A limit on the number of guests permitted in a short-term rental to four unrelated persons, or six persons related by blood, marriage, adoption, or foster care, at any one time: This will reduce the impacts of short-term rentals, including traffic, parking, and noise, on the surrounding neighbourhood, while providing alternative accommodations, other than hotels, for families.
- A limit on the number of nights for the operation of short-term rentals to 90 nights per calendar year, including 28 nights during which the registered owner may be absent from their principal residence: This will reduce the impacts of short-term rentals on the surrounding neighbourhood, allow short-term rentals of the entire principal residence without impacting the housing supply, provide options for tourist accommodation by allowing access to the entire principal residence, and provide an income generating opportunity for homeowners to temporarily rent their entire principal residence when they are absent.
- Requirement for a short-term rental business licence to operate a short-term rental: This will further regulate the operation of short-term rentals in Burnaby, ensure compliance with the City's bylaws, allow the City to track the number of short-term rentals in Burnaby, and provide enforcement options for those who violate City bylaws.

To implement the adopted regulatory and enforcement framework for short-term rentals in Burnaby, amendments to a number of City's Bylaws are required. This report, brings forward amendments to the *Burnaby Zoning Bylaw, 1965* (as detailed in Section 3.0 of this report), as well as to the *Burnaby Business Licence Bylaw 2017* (as detailed in Section 4.1 of this report), *Burnaby Business Licence Fees Bylaw 2017* (as detailed in Section 4.2 of this report), and *Burnaby Bylaw Notice Enforcement Bylaw 2009* (as detailed in Section 4.3 of this report) for Council's consideration.

2.0 CITY POLICY FRAMEWORK

The proposed amendments to the Zoning Bylaw, the Business Licence Bylaw, Business Licence Fees Bylaw, and Bylaw Notice Enforcement Bylaw related to short-term rentals support the following City-wide policies:

Official Community Plan

- Residential Goals
 - Goal 3: To maintain and improve neighbourhood livability and stability.
 - Goal 4: To help ensure that the needs of people with special and affordable housing requirements are met.
- Social Planning Goal
 - To facilitate the development and ongoing sustainability of a community which enhances the physical, social, psychological and cultural well-being of Burnaby residents.

Social Sustainability Strategy

- Strategic Priority 1 – Meeting Basic Needs.
- Strategic Priority 5 – Enhancing Neighbourhoods.

Economic Development Strategy

- G1: Building a Strong, Livable, Healthy Community.
- S6: Tourism, Sport/Tournaments, Arts/Culture, Retail – Work with Tourism Burnaby to promote billeting and the availability of bed and breakfast accommodations.

Further to the above, the proposed amendments also align with the following goals and sub-goals of the *Corporate Strategic Plan*:

- ***A Safe Community***
 - Crime prevention and reduction – Ensure citizens and businesses feel safe in our community.
- ***An Inclusive Community***
 - Serve a Diverse Community – Ensure City services fully meet the needs of our dynamic community.
- ***A Dynamic Community***
 - Community Development – Manage change by balancing economic development with environmental protection and maintaining a sense of belonging.
 - Economic Opportunity – Foster an environment that attracts new and supports existing jobs, businesses and industries.
- ***A Thriving Organization***
 - Communication – Practice open and transparent communication among staff, Council and the community.

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3.0 ZONING BYLAW TEXT AMENDMENTS

To implement the proposed regulatory framework for short-term rentals, the Zoning Bylaw text amendments set out in this Section 3.0 are recommended. Per section 5.0 of this report, these amendments will be effective on 2021 June 1. See *Attachment #1* for proposed wording for the recommended amendments.

3.1 Short-term Rentals Regulations

Definitions

Short-term rentals are generally used for the temporary accommodation of visitors and tourists during their visit. According to the adopted framework, short-term rentals may be permitted in a portion of a dwelling unit (one or more bedrooms with or without access to the rest of the dwelling unit), or an entire dwelling unit subject to a number of conditions.

The Zoning Bylaw defines a “dwelling unit” as a self-contained unit consisting of one or more habitable rooms that is the permanent home or residence of one family only. The Zoning Bylaw does not define “permanent home or residence.” In the absence of a definition for “permanent home or residence”, this term has been used to describe a person’s principal residence providing permanent accommodation for a period of more than 30 consecutive days. This suggests that short-term rentals providing temporary accommodation for visitors are generally used for a period of less than 30 consecutive days at any one time. However, staff review indicates that short-term rentals may also be used by visitors for a period of more than 30 consecutive days.

According to the adopted framework, short-term rental operations will be limited to a maximum of 90 nights per calendar year in any dwelling unit used for this purpose. As such, to provide options for the operators of short-term rentals, and to respond to visitors’ need when longer accommodation is requested, especially during the COVID-19 Pandemic, it is recommended that the duration of each booking not be limited to a maximum of 30 consecutive days. Should this recommendation be adopted, short-term rental operations in any dwelling unit will be limited to a maximum of 90 nights per calendar year without limiting the duration of each booking.

To further clarify the difference between the use of a dwelling unit for the permanent accommodation of residents of a dwelling unit, and the temporary accommodation of guests, it is recommended that the definition of “dwelling unit” be amended. Accordingly, a “dwelling unit” is recommended to be defined as a self-contained unit occupied as the principal residence of one family only. Under the proposed definition, the term “permanent home or residence” is replaced with the term “principal residence”. The recommended definitions for “dwelling unit” and “principal residence” are as follows:

“DWELLING UNIT” means one or more habitable rooms constituting one self-contained unit with a separate entrance, which is occupied or intended to be occupied as a principal residence for one family only. A dwelling unit shall not contain more than one cooking facility.

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“PRINCIPAL RESIDENCE” means a dwelling unit in which one or more occupants of the dwelling unit make their home, and from which such occupant or occupants conducts their daily affairs, including, without limitation, paying bills and receiving mail, and is generally the dwelling unit with the residential address used on documentation related to billing, identification, taxation and insurance purposes, including, without limitation, income tax returns, Medical Services Plan documentation, driver’s licenses, personal identification, vehicle registration and utility bills.

To differentiate short-term rental from other uses which involve providing accommodation for boarders and lodgers, it is recommended that a new definition for “short-term rental” be added to the Zoning Bylaw in line with the adopted framework. Under the proposed definition for “short-term rental”, one or more rooms within a dwelling unit, or an entire dwelling unit (with the latter only permitted for a maximum of 28 nights per calendar year as per the proposed Business Licence Bylaw amendments) may be used for the temporary accommodation of visitors. The number of guests at any one time shall not exceed four unrelated persons, or six family members related by blood, marriage, adoption or foster care. The maximum number of nights that short-term rental is permitted in any dwelling unit will be regulated in the Business Licence Bylaw. The recommended definition of “short-term rental” under the Zoning Bylaw is as follows:

“SHORT-TERM RENTAL” means a dwelling unit or a portion of a dwelling unit used for the temporary accommodation of the transient public, not exceeding four unrelated persons, or six persons related by blood, marriage, adoption or foster care, at any one time. Short-term rental does not include a boarding use, or a boarding, lodging or rooming house.

Section 6.28 Short-term Rentals

Currently, the Zoning Bylaw does not contain any regulation related to short-term rentals. To regulate short-term rentals in line with the adopted framework, it is recommended that Section 6.28 be added to the Zoning Bylaw based on the following principles:

- **Where short-term rentals will be permitted:** short-term rentals are the commercial use of residential units for tourist accommodation. Short-term rental as a principal use imposes impacts on the surrounding residential neighbourhood, and results in the loss of housing supply through the conversion of dwelling units to tourist accommodation.

As such, it is recommended that short-term rentals be permitted as an accessory use to residential uses, including single and two family dwellings, townhouse and row housing dwellings, and multiple family dwellings. These residential uses are generally permitted in the R Residential, RM Multiple Family Residential, C8 Urban Village Commercial (Hastings), C9 Urban Village Commercial, P11 SFU Neighbourhood, and A Agricultural Districts. To ensure operators of short-term rentals are restricted to the registered owners of dwelling units, it is further recommended that short-term rentals only be permitted in the principal residence of a registered owner of the dwelling unit.

- **Where short-term rentals will not be permitted:** protection of the rental housing supply is one of the objectives of the adopted framework for short-term rentals. In Burnaby, different forms of rental housing are permitted under various land use categories, as follows:

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- market and non-market rental units located in purpose-built rental housing, permitted in the RM, P11/P11e, and a number of C Commercial Districts;
- secondary suites as an accessory use to single family dwellings in a number of R Districts, and the RM6, and A Districts;
- flex-units as an accessory use to multi-family flex-unit permitted in the P11e SFU Neighbourhood District for the accommodation of students;
- dormitory units consisting of rental sleeping units for the accommodation of students or staff affiliated with the institutional uses permitted in the P5 Community Institutional and a number of RM Districts;
- senior citizen housings consisting of rental dwelling units for seniors, permitted in the P5 District;
- residential accommodations consisting of rental sleeping units or dwelling units for the accommodation of students or staff affiliated with the institutional uses permitted in the P6 Regional Institutional, P11, and P11e District;
- supportive housing facilities consisting of rental sleeping units or dwelling units with supportive services such as meal and emergency medical responses, permitted in a number of R or RM Districts, and in the C8, C9, and P5 Districts;
- dwelling units primarily used for a caretaker, watchman, or other persons employed for similar purposes, permitted in the C4, M1, M5 through M8, P1 through P6, and P9 Districts;
- boarding, lodging or rooming houses consisting of rental sleeping units, permitted in a number of R and RM Districts;
- keeping of two boarders or lodgers as an accessory use to dwelling units permitted in the R, RM, M4 Special Industrial, P5, P11, P11e, A, and a number of C Districts; and,
- secondary rental housing units which are the dwelling units provided by homeowners for rental purposes.

To maintain the supply of rental housing, it is recommended that short-term rentals be prohibited in:

- rental units, secondary suites, and flex-units;
- the P5 and P6 Districts to prevent the use of senior citizen housing and residential accommodation affiliated with institutional uses for short-term rentals;
- care taker residences;
- supportive housing facilities; and,
- secondary rental housing units, by requiring that short-term rentals should only be permitted in the principal residence of a registered owner.

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It should be noted that dormitory units will not be subject to short-term rentals requirements of the Zoning Bylaw given that they are not considered a dwelling unit and as such, do not meet the definition of “short-term rentals.”

Short term rentals would not be permitted in supportive housing facilities. Considering that supportive housing facilities are not generally classified as “multiple family dwellings”, they will not be subject to the short-term rentals requirements of the Zoning Bylaw applicable to multiple family dwellings. However, for clarity, it is recommended that “supportive housing

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facilities” be excluded from the definition of “multiple family dwelling”. This will ensure that short-term rentals will not be permitted in supportive housing facilities.

In addition, to mitigate the impacts of short-term rentals on surrounding residential neighbourhoods, including pedestrian and vehicular traffic, noise, and parking, it is recommended that short-term rentals be prohibited in a dwelling unit that contains other residential, institutional, or commercial uses. This would include dwelling units containing in-law suites, boarding uses, child care facilities, group homes, private hospitals, supportive housing facilities, or home occupations that include on-site client services. The operation of short-term rentals in a single family dwelling containing a secondary suite, or a multi-family flex-unit will also be prohibited due to increased impacts on the surrounding neighbourhoods. Considering that short-term rentals provide overnight accommodations, it is further recommended that these operations be prohibited in any accessory building or structure. This would prevent the illegal conversion of accessory buildings to dwelling units.

Exemption of Short-term Rentals from Preliminary Plan Approval

Section 7.3(1) of the Zoning Bylaw requires that any person wishing to undertake a development shall apply for and receive a Preliminary Plan Approval (PPA) prior to issuance of a Building Permit or a Business Licence. A PPA is not required for the operation of home occupations, such as home-based child care facilities, or the keeping of two boarders or lodgers, as accessory uses incidental to the use of dwelling units.

Considering that short-term rentals will be permitted as an accessory use to dwelling units, and due to their similarity to other home occupations, it is recommended that short-term rentals be exempted from the PPA requirements.

Off-street Parking for Short-term Rentals

Parking is one of the main concerns raised by residents with respect to short-term rentals, particularly in single and two family residential neighbourhoods. These concerns primarily relate to difficulties in finding parking in the neighbourhood due to the use of street parking by short-term rental guests, or blocking neighbouring property driveways or entrances. As such, to mitigate the impact of short-term rentals on surrounding neighbours with regards to parking, it is recommended that an additional parking space be required for any single family, two family, and row housing dwelling containing short-term rentals. This requirement is in line with off-street parking requirements of the Zoning Bylaw for secondary suites accessory to single family dwellings.

According to Section 800.6(4) of the Zoning Bylaw, the provided off-street parking for residential uses shall be located on the same lot as the residential building. This requires that short-term rental operators designate an off-street parking space on their property for the specific use of their short-term rental guests.

To facilitate the provision of an additional off-street parking for short-term rentals on the property, it is recommended that the additional parking space may be provided in a tandem arrangement with the parking spaces required for the principal residential use. This would permit the location of parking spaces for short-term rentals on driveways accessing a garage or carport, or in the required front, side or rear yards depending on the configuration of the property. As part of the Business Licence application, a site plan showing the location of the provided parking space will be required to ensure

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the additional parking space is located within the property, and that such arrangement will not interfere with pedestrian and vehicular movement, fire truck and fire hydrant, or any other access.

Subject to Section 800.6(1) of the Zoning Bylaw, off-street parking may not be located within the required front yard, with a number of exceptions. Sections 800.6(2)(a) and 800.6(2)(b) of the Zoning Bylaw also prohibit the location of parking areas in a side yard subject to conditions. If Council adopts the recommendation to require an additional parking space for short-term rentals, further amendments to the Zoning Bylaw would be required to permit the location of such parking space in front yards or side yards, when it is required. This would facilitate the provision of a parking area for a short-term rental on a property without impacting the adjacent street parking.

While the provision of an additional parking space within the property in single family, two family, and row housing dwellings containing short-term rentals is generally feasible, meeting this requirement in townhouse and multiple family dwellings is challenging. These strata-titled developments generally do not contain surplus parking spaces that can be rented or leased for short-term rentals. In addition, the use of visitor parking spaces for short-term rentals may not be permitted by the strata corporation, or an unused privately owned parking space within the development may not be available for rent or lease for the specific use of short-term rentals. These limitations make the operation of short-term rentals impractical, if an additional parking space will be required for any townhouse and multiple family dwellings containing short-term rentals.

Generally the strata corporation is responsible for the management of visitor parking spaces, and the lease or rent of surplus parking spaces that are held in common ownership by the strata corporations. As such, staff recommend that the management and enforcement of parking for short-term rentals be the responsibility of the strata corporation, instead of regulation through the Zoning Bylaw. In dealing with parking issues associated with short-term rentals, strata corporations may choose to prohibit any short-term rental, permit or restrict the use of visitor parking spaces by short-term rentals, or require payment for the use of visitor parking for these purposes.

If Council adopts this recommendation, the Zoning Bylaw will not require an additional parking space for townhouse and multiple family dwellings containing short-term rentals. Applicants of short-term rental business licences located in a townhouse or multiple-family dwelling will be required, under the proposed amendments to the Business Licence Bylaw, to provide a letter of authorization from the strata corporation confirming that the proposed short-term rental is permitted in the strata complex and that the strata corporation has considered the impact of the proposed short-term rental on parking. In addition, staff will continue to monitor street parking in neighbourhoods adjacent to townhouse and multiple family dwellings containing short-term rentals to ensure that the proposed approach will not result in increased complaints regarding street parking, and increased enforcement of the Street and Traffic Bylaw.

3.2 Boarding Uses vs. Short-term Rentals

According to the Zoning Bylaw, the keeping of a maximum of two boarders or lodgers in each dwelling unit may be permitted as a home occupation in the R, RM, M4, P5, P11, P11e, A, and in a number of C Districts. In the absence of a definition for the “keeping of boarder or lodgers”, this has been historically used to allow short-term or long-term accommodation of a person, other than a family member, in a sleeping unit located within a dwelling, with or without meal services, in return for payment.

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If Council adopts the proposed bylaw related to short-term rentals in Burnaby, for clarity and enforcement purposes, it will be necessary to differentiate between short-term rentals and the keeping of boarders or lodgers. As such, it is recommended that “the keeping of boarders or lodgers” be replaced with “boarding use” throughout the Zoning Bylaw, where it is applicable. It is further recommended that “boarding use” be defined as follows:

“BOARDING USE” means the use of one or more sleeping units within a dwelling unit for the accommodation of a maximum of two boarders or lodgers, for a duration of not less than 30 days at any one time. The boarding use may include the provision of meal services, but does not include a short-term rental.

Under the proposed definition for “boarding use”, long-term accommodation (not less than 30 days) of a maximum of two boarders or lodgers within a dwelling unit should be considered as “boarding use.” A dwelling unit containing a boarding use should be occupied as the principal residence of the boarders or lodgers. Unlike short-term rentals, where boarding use is permitted, a dwelling unit may be used for this purpose without any restriction on the number of nights per calendar year. In addition, “boarding use” should not be utilized for the temporary accommodation of the transient public. The following table summarizes and compares the requirements of short-term rentals and boarding uses:

	Short-term Rentals	Boarding Uses
Max. occupancy at any one time	4 unrelated persons, or 6 persons related by blood, marriage, adoption, or foster care	2 persons
Total number of nights per calendar year to operate	90 nights, inclusive of 28 nights to rent out the entire dwelling units	Unlimited
Duration of each stay	The min. duration of a stay is not defined. However, the duration of a stay shall not exceed a max. of 90 nights	A min. of 30 Days
Types of space available for rent	Dwelling unit (up to a max. of 28 nights), or sleeping unit (up to a max. of 90 nights)	Sleeping unit
Types of accommodation	Temporary accommodation of transient public	Principal residence of non-transient public

It is further recommended that an additional 1 parking space for each 2 sleeping units be required for boarding uses where they are located in single family, two family, or row housing dwellings. This parking requirement is in line with the required parking spaces for boarding, lodging or rooming houses. As previously discussed in this report, the additional parking requirement will not apply to townhouse or multiple family dwellings containing boarding uses. To facilitate the provision of an additional parking space on a property containing a boarding use, it is proposed that tandem parking be permitted, provided that the City Engineer is satisfied that such arrangement will not interfere with pedestrian and vehicular movements, fire truck and fire hydrant, or any other access.

3.3 Boarding, Lodging or Rooming Houses vs. Short-term Rentals

According to the Zoning Bylaw, “boarding, lodging or rooming house” is a dwelling containing a minimum of two sleeping units to be rented to more than 2 and not exceeding 15 persons, other than members of the family of the lessee, tenant, or owner. Although not specifically stated in the definition,

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boarding, lodging or rooming houses are generally used for the long-term accommodation of boarders or lodgers as their principal residence.

In order to differentiate between “boarding, lodging or rooming houses” and “short-term rentals”, it is recommended that the definition of “boarding, lodging or rooming house” be amended by excluding “short-term rentals” from “boarding, lodging or rooming houses”.

According to the Zoning Bylaw, “club or lodge” is a building or establishment used by an association or organization for the use of club members and their guests for social or recreational purposes, and may include limited private sleeping units. Considering that sleeping units in a club or lodge are exclusively used for the temporary accommodation of club members for recreational purposes, it is further recommended that “club or lodge” be exempted from the definition of “boarding, lodging or rooming house.”

4.0 BUSINESS LICENCE REGULATIONS AND ENFORCEMENT

In order to adequately regulate and enforce the policy framework for short-term rentals, amendments to the *Burnaby Business Licence Bylaw 2017*, the *Burnaby Business Licence Fees Bylaw 2017*, and the *Burnaby Bylaw Notice Enforcement Bylaw 2009* will be required. Per section 5.0 of this report, these amendments will be effective on 2021 June 1.

4.1 Business Licence Bylaw Regulations

The business regulations for short-term rental operations are proposed to be included in a new Schedule “G” to be attached to the *Burnaby Business Licence Bylaw 2017*. See **Attachment #2** for proposed wording for the regulations. Below is a summary of the key requirements and restrictions.

The proposed regulations require all short-term rental operators obtain a Burnaby Business Licence, and to renew the licence on an annual basis. Advertising a short-term rental would not be permitted without a valid short-term rental business licence.

Only a registered owner of the property, who occupies the dwelling as their principal residence, would be eligible to apply for a short-term rental business licence. Tenants, family members who are not registered on title, or other occupiers of the property would not be eligible to obtain a short-term rental business licence. Corporations also would not be eligible for a short-term rental business licence. To prevent multiple registered owners from obtaining individual licences for a single property, the proposed bylaw regulations would only permit one short-term rental business licence to be issued for a single dwelling unit.

The proposed regulations will require a short-term rental operator or a designated responsible person to attend at the short-term rental within two hours of being requested to do so and be available at all times to respond to any complaints received in respect of the short-term rental.

The proposed regulations will require all short-term rental operators of a short-term rental that is not located in a strata lot (such as single family dwellings, two family dwellings and row housing dwellings) to provide neighbouring properties located within a 30 meter (100 feet) radius an annual notification

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with the name and contact information of the short-term rental operator and an additional “responsible person” (as defined in the proposed bylaw).

The neighbourhood notification requirement will not apply to short-term rentals in a strata lot. Instead, all short-term rental business licence applicants who apply to operate a short-term rental in a strata lot will be required to provide written authorization from the strata corporation as part of their short-term rental business licence application. This requirement will ensure the strata corporation is aware, and permits, the operation of short-term rental within the strata lot.

The proposed bylaw regulations will also require that all short-term rental business licence holders maintain a written record detailing:

- the dates they operated a short-term rental;
- whether the short-term rental operator was present at or absent from the principal residence unit on each of those dates;
- the number of guests for each short-term rental booking;
- copies of receipts or invoices for each short-term rental booking, including the booking date(s); and,
- if applicable, a copy of the notification provided to their neighbours and a record of every address to which the short-term rental operator delivered the notification, and the date the notification was delivered to each address.

All short-term rental business licence holders would be required to provide inspection staff with the above-listed information upon request.

Short-term rental operators would also be required to provide guests with information on relevant City bylaws, including those regarding quiet hours, parking restrictions, and garbage and recycling, and to post a fire safety plan by all entrances and exits to the short-term rental.

4.2 Business Licence Fee

The proposed fee for a short-term rental business licence is \$250 per year (plus an additional \$50 application processing fee that would only be charged in the first year). This licence fee has been established on a cost recovery or partial cost recovery basis and includes the cost of enforcement and administration staff, engaging the services of a third party data management provider, and supplying applicants with information materials.

The following addition to the *Burnaby Business Licence Fees Bylaw 2017* is required in order to implement the proposed licence fee of \$250 for short-term rentals:

Business Category	Initial Licence Fee	Prorated Initial Licence Fee (effective July 1)	Renewal Licence Fee	Shared Location Fee
Short-Term Rental	\$250	N/E	\$250	N/E

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4.3 Bylaw Enforcement and Violations

The *Burnaby Bylaw Notice Enforcement Bylaw 2009* sets out the bylaws and bylaw contraventions that may be dealt with by way of bylaw violation notices. It is recommended that any violation of the proposed short-term rental regulations contained in the Business Licence Bylaw also be enforced through bylaw violation notices. This would require an amendment to the *Burnaby Bylaw Notice Enforcement Bylaw 2009*.

Rather than a complaints-based enforcement approach, an active enforcement approach is proposed. Enforcement staff will work with a third party data monitoring firm to identify properties advertising short-term rentals in Burnaby to ensure these properties are licensed under the Business Licence Bylaw and comply with City bylaws.

The recommended penalty amounts for bylaw violations are as follows:

Burnaby Business Licence Bylaw 2017 - Schedule "G"				
Section	Short Term Rental Regulations	Penalty Amount \$	Discounted Penalty \$ (within 15 days)	Compliance agreement available (50% reduction)
2.1	Failure to obtain a valid business licence	500	400	NO
2.2	Market short-term rental without a business licence	500	400	NO
3.1	Operate short-term rental on property that is not principal residence	500	400	NO
3.4	Failure to list business licence number in marketing material	300	240	YES
3.5	Market more than one short term rental	300	240	YES
3.6	Operate short-term rental for more than 90 nights or be absent for more than 28 nights	500	400	NO
4.2 (a)(i)	Failure to maintain copies of notification	300	240	NO
4.2 (a)(ii)	Failure to maintain record of delivery	300	240	NO
4.2(b)	Failure to provide documents on request	400	320	NO

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Burnaby Business Licence Bylaw 2017 - Schedule "G"				
4.3	Failure to post business licence	200	160	YES
4.4	Failure to provide information to guests	300	240	YES
4.5	Failure to attend	500	400	NO
4.6(a)	Failure to maintain record	300	240	NO
4.6(b)	Failure to maintain copies	300	240	NO
4.6 (c)	Failure to provide documents on request	400	320	NO
4.7	Failure to post fire safety plan	400	320	YES

5.0 PROGRAM COMMENCEMENT DATE, PUBLIC HEARING AND PUBLIC NOTICES, AND COMMUNICATIONS PLAN

5.1 Program Commencement Date

Should the short-term rental regulations and bylaw amendments outlined in this report be adopted by Council in 2021 February, staff propose that the bylaws come into force on 2021 June 1. The delayed commencement date will allow time for the completion of the development of the detailed business licence and enforcement program, including the request for proposal process to hire a third party data management firm, coordinating the reporting content and timing with the third party, training staff on new active enforcement program and development of materials for the business licencing process. To monitor the implementation of the program, staff will bring forward a report regarding a one year review of the Short Term Rental program a year after the commencement date.

5.2 Public Hearing and Public Notices

The Zoning Bylaw text amendments are proposed to be brought forward to the 2021 January 28 Public Hearing. In addition to the Public Hearing for the Zoning Bylaw text amendments, the proposed regulations of the Business Licence Bylaw and Business Licence Fee Bylaw also entail publishing of notices and an opportunity for submissions to be made by those who consider they may be affected by the proposed bylaw amendments. Advertisements in the Burnaby Now newspaper will be posted for both the Public Hearing and the Public Notification as is required by the *Local Government Act* and *Community Charter*.

5.3 Communications Plan

A Communications Plan for the short term rentals program is underway. Initial content for the City's website was developed in Phase 1 of the plan. Phase 2 will focus on communicating opportunities for public input on the proposed regulations that would permit short term rentals. Phase 2 actions include the following:

To: Planning and Development Committee
From: Director Planning and Building
Director Public Safety and Community Services
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- A media release after Council approves the Zoning Bylaw text amendments to go to Public Hearing;
- Social media posts to inform the public about the proposed regulations and opportunities for public input;
- Ads in the Burnaby Now advertising the public input opportunities; and,
- Development of guides for Hosts and Guests, as well as the application process for a short term rental business licence.

Phase 3 of the plan will place emphasis on the information concerning the adopted regulations and business licencing requirements of the program. Actions in this phase will include:

- News release for the adopted program;
- Updated website content, including information on how to obtain a business licence; and,
- Social media posts directing people to the business licence process information and informing the public regarding the program's commencement date.

6.0 CONCLUSION

The above bylaw amendments are proposed in order to implement Council adopted regulatory and enforcement framework for short-term rentals in Burnaby. It is recommended that Council approve the proposed Zoning Bylaw text amendments, as outlined in Section 3.0 of this report, and direct that the amendments be advanced to a future Public Hearing. It is further recommended that Council approve the proposed amendments to the *Burnaby Business Licence Bylaw 2017*, *Burnaby Business Licence Fees Bylaw 2017* and *Burnaby Bylaw Notice Enforcement Bylaw 2009*, as outlined in Section 4.0 of this report. The effective date of these bylaw amendments are proposed to be 2021 June 1.


for: E.W. Kozak, Director
PLANNING AND BUILDING


Dave Critchley, Director
PUBLIC SAFETY AND COMMUNITY
SERVICES

PS/DL/CS:tn
Attachments

cc: City Manager
Director of Engineering
Director Public Safety and Community Services
City Solicitor

Director Finance
Director Corporate Services
Chief Building Inspector
City Clerk

PROPOSED ZONING BYLAW AMENDMENTS

1. **THAT** Section 3.0 of the Zoning Bylaw be amended by adding new definitions for “boarding use”, “flex-unit”, “principal residence”, and “short-term rental” with wording the same or similar to the following:

“BOARDING USE” means the use of one or more sleeping units within a dwelling unit for the accommodation of a maximum of two boarders or lodgers, for a duration of not less than 30 days at any one time. Boarding use may include the provision of meal services, but does not include a short-term rental.

“FLEX-UNIT” means an accessory dwelling unit within a multi-family flex-unit.

“PRINCIPAL RESIDENCE” means a dwelling unit in which one or more occupants of the dwelling unit make their home, and from which occupant or occupants conduct their daily affairs, including, without limitation, paying bills and receiving mail, and is generally the dwelling unit with the residential address used on documentation related to billing, identification, taxation and insurance purposes, including, without limitation, income tax returns, Medical Services Plan documentation, driver’s licenses, personal identification, vehicle registration and utility bills.

“SHORT-TERM RENTAL” means a dwelling unit or a portion of a dwelling unit used for the temporary accommodation of transient public, not exceeding four unrelated persons, or six persons related by blood, marriage, adoption or foster care, at any one time. Short-term rental does not include a boarding use, or a boarding, lodging or rooming house.

2. **THAT** the definitions of “boarding, lodging or rooming house”, “dwelling unit” and “multiple family dwelling” in section 3.0 of the Zoning Bylaw be amended with wording the same or similar to the following:

“BOARDING, LODGING OR ROOMING HOUSE” means a dwelling in which more than 2 sleeping units are rented, with or without meals being provided, to more than 2 and not exceeding 15 persons, other than members of the family of the lessee, tenant or owner, and excludes the preparation of meals within the rented units. Boarding, lodging and rooming house does not include a short-term rental, or a club or lodge.

“DWELLING UNIT” means one or more habitable rooms constituting one self-contained unit with a separate entrance, which is occupied or intended to be occupied as a principal residence of one family only. A dwelling unit shall not contain more than one cooking facility.

“DWELLING, MULTIPLE FAMILY” means any building consisting of three or more dwelling units, but does not include a supportive housing facility.

3. **THAT** the definition of “home occupation” in section 3.0 of the Zoning Bylaw be amended by repealing paragraph (b) and replacing it with wording the same or similar to the following:

(b) boarding use,

ATTACHMENT #1

4. **THAT** section 6.7.1(1)(h) of the Zoning Bylaw be amended by replacing the words “keeping of boarders or lodgers” with the words “a boarding use”.
5. **THAT** paragraph (a) in section 6.8A(4) of the Zoning Bylaw be repealed and replaced with the words “a boarding use”.
6. **THAT** Section 6.28 be added to the Zoning Bylaw with wording the same or similar to the following:

6.28 Short-term Rentals:

- (1) short-term rental may be permitted as an accessory use to a single family dwelling, two-family dwelling, row housing dwelling, town house dwelling, and multiple family dwelling in R, RM, C8, C9, P11, and A Districts, all of their sub-districts, and the Comprehensive Development District, or portion thereof, based on the above noted Districts, subject to the following conditions:
 - (a) short-term rental shall only be permitted in the principal residence of a registered owner of the dwelling unit;
 - (b) short-term rental shall not be permitted in:
 - (i) a rental unit;
 - (ii) a single family dwelling containing a secondary suite, including within the secondary suite;
 - (iii) a multi-family flex unit, including within the flex-unit;
 - (vi) a dwelling unit that is primarily used for a caretaker, watchman, or other persons employed for similar purposes;
 - (v) a dwelling unit that contains an in-law suite, a boarding use, a boarding, lodging or rooming house, a child care facility, a home-based child care facility, a group home, a private hospital, a supportive housing facility, or a home occupation that includes on-site client services; and
 - (iv) an accessory building or structure;
7. **THAT** Section 7.3(1)(h) be added to the Zoning Bylaw with wording the same or similar to the following:
 - (h) Short-term rental.
8. **THAT** section 800.4(4.1) be added to the Zoning Bylaw with wording the same or similar to the following:

<ol style="list-style-type: none">(4.1) Boarding use within single family dwellings, two family dwellings, and row housing dwellings.	<p>1 for each 2 sleeping units. Parking spaces may be provided in tandem with parking space provided for the principal residential use, provided that the City Engineer is satisfied that such arrangement will not interfere with pedestrian and vehicular movement, fire truck and fire hydrant, or any other access.</p>
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ATTACHMENT #1

9. **THAT** section 800.4(42) be added to the Zoning Bylaw with wording the same or similar to the following:

- | | |
|---|--|
| (42) Short-term rental within single family dwellings, two family dwellings, and row housing dwellings. | 1 for each dwelling unit, or a portion of a dwelling unit that is used for short-term rentals, in addition to the required parking space for the principal residential use. Parking space for short-term rental may be provided in tandem with parking space provided for the principal residential use, provided that the City Engineer is satisfied that such arrangement will not interfere with pedestrian and vehicular movement, fire truck and fire hydrant, or any other access. |
|---|--|

10. **THAT** section 800.6(7) be added to the Zoning Bylaw with wording the same or similar to the following:

- (7) Notwithstanding anything in this section contained, the required off-street parking space for a short-term rental may be located within a required front yard or a side yard.

PROPOSED SCHEDULE TO BUSINESS LICENCE BYLAW

SCHEDULE "G"
SHORT-TERM RENTAL REGULATIONS

1.0 Definitions**1.1 In this Schedule,**

"dwelling unit"	has the same meaning as in the <i>Zoning Bylaw</i> ;
"market"	means to offer for sale, promote, canvass, solicit, advertise, or facilitate short-term rental , and includes placing, posting or erecting advertisements physically or online, but does not include the mere provision of a neutral space or location for such marketing in newspapers, bulletin boards, or online;
"multiple family dwelling"	has the same meaning as in the <i>Zoning Bylaw</i> ;
"neighbour"	means an owner or occupier of a property located within a 30 meter (100 feet) radius of the short-term rental operator's principal residence unit , where such distance is measured from the perimeter property lines of such principal residence unit , provided that where a property located within such 30 meter (100 feet) radius of the short-term rental operator's principal residence unit is a multiple family dwelling that is managed and controlled by a strata corporation , "neighbour" means the strata corporation of such multiple family dwelling;
"notification"	means the information that a short-term rental operator delivers to their neighbours in accordance with section 4.1 of this Schedule;
"principal residence unit"	means the dwelling unit which a registered owner of the dwelling unit makes their home and from which such registered owner conducts their daily affairs, including, without limitation, paying bills and receiving mail, and is generally the dwelling unit with the residential address used on documentation related to billing, identification, taxation and insurance purposes, including, without limitation, income tax returns, Medical Services Plan documentation, driver's licenses, personal identification, vehicle registration and utility bills;
"responsible person"	means a person designated by the short-term rental operator who, at all times that the short-term rental is operated, has access to the short-term rental and authority to make decisions in relation to the short-term rental and the rental agreement;
"row housing dwelling"	has the same meaning as in the <i>Zoning Bylaw</i> ;
"short-term rental"	has the same meaning as in the <i>Zoning Bylaw</i> ;
"short-term rental operator"	means a person who carries on the business of providing short-term rental ;
"single family dwelling"	has the same meaning as in the <i>Zoning Bylaw</i> ;
"strata corporation"	has the same meaning as in the <i>Strata Property Act</i> ;
"strata lot"	has the same meaning as in the <i>Strata Property Act</i> ;
"Strata Property Act"	means the <i>Strata Property Act</i> , as amended or replaced from time to time,
"two family dwelling"	has the same meaning as in the <i>Zoning Bylaw</i> ; and
"Zoning Bylaw"	means the <i>Burnaby Zoning Bylaw, 1965</i> , as amended or replaced from time to time.

2.0 Licence Required

- 2.1 No person shall carry on business as a **short-term rental operator** without having first obtained a **business licence** to do so from the **Chief Licence Inspector**.
- 2.2 No person shall **market** any **short-term rental** unless they hold a **business licence** as a **short-term rental operator** for that **short-term rental**.
- 2.3 The **Chief Licence Inspector** may not issue more than one **business licence** for a **short-term rental operator** for a **dwelling unit**.
- 2.4 Without limiting the generality of section 4.1(d) of this **Bylaw**, a person applying for the issuance or renewal of a **business licence** to carry on business as a **short-term rental operator** shall:
 - (a) provide, in the form satisfactory to the **Chief Licence Inspector**, evidence that the **dwelling unit** in which the **short-term rental** will be operated is the applicant's **principal residence unit**; and
 - (b) if the short-term rental is located within a **strata lot**, provide authorization from the **strata corporation** in the form satisfactory to the **Chief Licence Inspector**.

3.0 Regulations

- 3.1 No person shall carry on business as a **short-term rental operator** unless the **short-term rental** being provided is in the **principal residence unit** of that person.
- 3.2 No person may hold more than one **business licence** as a **short-term rental operator**.
- 3.3 No corporation may carry on the business of a **short-term rental operator**.
- 3.4 A **short-term rental operator** shall not **market** the **short-term rental** they are licensed to provide without including their City of Burnaby **business licence** number in a conspicuous place in any medium or material used to **market** the **short-term rental**.
- 3.5 A **short-term rental operator** shall not **market** more than one **short-term rental** under their **business licence**.
- 3.6 A **short-term rental operator** shall not operate a **short-term rental** for more than 90 nights in a calendar year, provided further that of those 90 nights, a **short-term rental operator** may not be absent from their **principal residence unit** for more than 28 nights. For clarity, the aforementioned 90 nights and 28 nights do not need to be consecutive nights.

4.0 Short-Term Rental Operator Obligations

- 4.1 A **short-term rental operator** whose **principal residence unit** is a **single family dwelling**, **two family dwelling**, or **row housing dwelling**, shall deliver the following information to their **neighbours** on an annual basis at least 10 days prior to the first day in a calendar year that a **short-term rental operator** operates a **short-term rental**:
 - (a) the name and telephone contact information of the **short-term rental operator** and a **responsible person**; and
 - (b) such other information as may be required by the **Chief Licence Inspector**, all in form and content satisfactory to the **Chief Licence Inspector**.
- 4.2 A **short-term rental operator** shall:
 - (a) maintain for each calendar year in which they operate a **short-term rental**:
 - (i) a copy of the **notification** provided to their **neighbours**; and
 - (ii) a record of every address to which the **short-term rental operator** delivered the **notification**, and the date the **notification** was delivered to each address; and
 - (b) upon request, provide to an **Inspector** the documents referred to in sections ☐ and ☐ of this Schedule.

- 4.3 A **short-term rental operator** shall at all times post a copy of their **short-term operator business licence** in a conspicuous place within the **short-term rental**.
- 4.4 A **short-term rental operator** shall provide the following information to guests in a **short-term rental**:
- (a) the name and telephone number of the **short-term rental operator** and a **responsible person** for emergency contact purposes;
 - (b) information on relevant City bylaws, including those regarding quiet hours, parking restrictions, and garbage and recycling; and
 - (c) such other information as required by the **Chief Licence Inspector**.
- 4.5 A **short-term rental operator** or **responsible person** shall attend at the **short-term rental** within two hours of being requested to do so and be available at all times to respond to complaints received in respect of the **short-term rental**.
- 4.6 A **short-term rental operator** shall:
- (a) maintain a written record, in English, of:
 - (i) the dates they operated a **short-term rental**;
 - (ii) whether the **short-term rental operator** was present at or absent from the **principal residence unit** on each of those dates; and
 - (iii) the number of guests for each **short-term rental** booking;
 - (b) maintain copies of receipts or invoices for each **short-term rental** booking; and
 - (c) upon request, provide to an **Inspector** the documents referred to in sections 4.6(a) and (b) of this Schedule.
- 4.7 A **short-term rental operator** shall post a fire safety plan by all entrances and exits to the **short-term rental**.