

**PLANNING AND DEVELOPMENT COMMITTEE**

**TO:** MAYOR AND COUNCILLORS

**SUBJECT: PROPOSED ZONING BYLAW AMENDMENTS – HOUSEKEEPING  
SEPTEMBER 2023**

**RECOMMENDATION:**

**THAT** the proposed amendments to Burnaby Zoning Bylaw 1965, as described in Section 3.0 of the report titled “Proposed Zoning Bylaw Amendments – Housekeeping September 2023” dated September 11, 2023, be approved; and

**THAT** the City Solicitor be authorized to bring forward amendments to Burnaby Zoning Bylaw 1965, substantially set out in Attachment 1 of the report, for advancement to a future Public Hearing.

**REPORT**

The Planning and Development Committee, at its meeting held on September 11, 2023, received and adopted the attached report proposing a number of amendments to the Burnaby Zoning Bylaw

On behalf of the Planning  
and Development Committee,

Councillor P. Calendino  
Chair

Councillor J. Keithley  
Vice Chair

**TO:** PLANNING AND DEVELOPMENT COMMITTEE (PDC)  
**FROM:** GENERAL MANAGER PLANNING AND DEVELOPMENT  
**SUBJECT:** **PROPOSED ZONING BYLAW AMENDMENTS – HOUSEKEEPING  
SEPTEMBER 2023**  
**PURPOSE:** To propose a number of amendments to the Burnaby Zoning Bylaw.

## RECOMMENDATIONS

**THAT** the proposed amendments to *Burnaby Zoning Bylaw, 1965*, as described in Section 3.0 of the report titled “Proposed Zoning Bylaw Amendments – Housekeeping September 2023” dated September 11, 2023, be approved; and

**THAT** the City Solicitor be authorized to bring forward amendments to *Burnaby Zoning Bylaw, 1965*, substantially as set out in *Attachment 1* of the report, for advancement to a future Public Hearing.

### 1.0 POLICY SECTION

The proposed amendments to the *Burnaby Zoning Bylaw, 1965* (“Zoning Bylaw”) align with the following Council-adopted policies: *Corporate Strategic Plan (2022)* and *Official Community Plan (1998)*.

### 2.0 BACKGROUND

As part of the ongoing review of the Zoning Bylaw, which usually takes place in the context of development enquiries and discussions regarding the intent of the Zoning Bylaw, text amendments are brought forward from time to time. Text amendment reports are submitted in order to clarify the intent of the regulations and to respond to changes in related legislation as well as changes in forms of development, land uses and social trends.

This report presents several Zoning Bylaw amendments regarding:

1. The definitions of “elevation, front average”, “elevation, rear average”, and “grade or grade level, natural”;
2. Retaining walls;
3. Temporary buildings;
4. Car wash facilities;
5. The definition of “family”;
6. In-law suites;
7. The definition of “carport”; and,
8. Development density for primary dwelling units in the R12 District.

**3.0 ZONING BYLAW TEXT AMENDMENTS**

The proposed text amendments are detailed in *Attachment 1* and a summary of the changes is provided below.

**3.1 Definitions of “elevation, front average,” “elevation, rear average,” and “grade or grade level, natural”**

The proposed Zoning Bylaw amendments introduce changes to three definitions to clarify how average elevations and grades are determined. The definitions of “elevation, front average” and “elevation, rear average” are being updated to align with the City’s current practice of calculating elevation based on the lower of the natural grade or finished grade. This change clarifies that if the grade of the site is lowered below the natural grade level, that buildings and structures will be measured from the new lowered grade, not the natural grade prior to manipulation. An amendment to the definition of “grade or grade level, natural” is also being proposed to: (1) clarify that it refers to the undisturbed ground level with no adjustments having been made, other than for minor slope equalization as approved by the Building Inspector; and (2) remove unnecessary language that describes the purposes for which the definition of natural grade level is used.

**3.2 Retaining walls**

The proposed amendments introduce two exceptions to the maximum permitted height of a retaining wall, which is 1.2 m (3.94 feet) under the current Zoning Bylaw. The first exception would enable the General Manager Planning and Development to vary the permitted height of a retaining wall to up to 3.0 m (9.84 feet) where a retaining wall has minimal visual impact on adjacent properties, uses, or the public realm. The proposed amendment is intended to allow for the construction of higher retaining walls, so long as they do not overshadow neighbouring properties, degrade the overall character of the area, or negatively impact the public realm. Enabling the General Manager of Planning and Development to vary retaining wall height in these circumstances would reduce the number of retaining wall applications to the Board of Variance. The second exception would allow an existing retaining wall that was constructed or approved for construction by the issuance of a building permit, on or before July 6, 2020—the date the current retaining wall height regulations were introduced—and is higher than 1.2 m (3.94 feet) to be rebuilt to its existing height and configuration where it is located entirely within the legal boundaries of the lot and is on a constrained site such that it would not be feasible to comply with the maximum 1.2 m (3.94 feet) height limitation, as determined by the Chief Building Inspector. In all cases where a retaining wall greater than 1.2 m (3.94 feet) in height is either approved or permitted under the proposed amendments to the Zoning Bylaw, professional design and field review by a registered professional would still be required in accordance with the *Burnaby Building Bylaw, 2016*.

**3.3 Temporary buildings**

A minor amendment to the Zoning Bylaw is proposed to allow for the placement of temporary buildings on sites with private schools for the purposes of providing additional classroom space. Temporary buildings are currently permitted for additional classroom

space for public schools. The proposed amendment would allow private schools to respond to fluctuations in enrollment and utilize temporary buildings in order to provide additional classroom space in the same way as public schools.

**3.4 Car wash facilities**

The proposed Zoning Bylaw amendments would reduce the number of car wash facilities required in multiple family residential districts and require that additional functional elements be provided with each car wash stall to improve the usability of the washing facilities. Under the current Zoning Bylaw, 1 car wash stall for every 100 dwelling units is required. Staff are proposing to require 1 car wash facility for developments that provide 11-300 off-street parking spaces and 1 additional car wash facility for each additional 300 off-street parking spaces provided, or part thereof. Functional amenities required in conjunction with each car wash facility would include a pressurized hose, waste receptacle, vacuum, hot and cold water supply and a bicycle rack. In addition, a car wash facility would need to be separated from other parking spaces by a partition. The proposed changes more accurately reflect the demand for such spaces and would ensure that the proper features are included for washing a range of vehicle types.

**3.5 Definition of “family”**

An amendment to the definition for “family” is proposed that would better reflect the diversity of contemporary household compositions, which often include a mix of related and unrelated persons in combinations not addressed by the current definition. Under the current Zoning Bylaw, the definition of family restricts the number of unrelated people living together to 5. The proposed amendment would allow for more than 5 unrelated people to live together as one “non-profit” household, meaning that the household operates cooperatively as a group living arrangement and not as a boarding or rooming house or other commercial enterprise. The proposed amendment would not preclude the keeping of two boarders or lodgers by a family, which is permitted under the definition of home occupation. Occupant load would continue to be regulated under the BC Fire Code and BC Building Code to ensure life safety.

**3.6 In-law suites**

In-law suites are accessory suites for family members or caregivers and were removed as a permitted use after the introduction of secondary suites in 2014. Since that time, property owners have been required to obtain an annual licence in order to maintain an in-law suite as a legal non-conforming use. This requirement is stated in the Zoning Bylaw definition of “in-law suite.” However, as legal non-conforming uses are regulated by Section 528 of the *Local Government Act*, the licensing requirement is not necessary and places an administrative burden on property owners. This report recommends eliminating the in-law suite definition and other in-law suite provisions in the Zoning Bylaw thereby eliminating the licensing requirement. Existing in-law suites will continue to be permitted as legal non-conforming uses under Section 528 of the *Local Government Act*.

**3.7 Definition of “carport”**

An amendment to the definition of “carport” is proposed to clarify that a carport may be attached to a laneway home. This would support new parking regulations enacted under Phase 1a of the Housing Choices Program that will require a lot with a laneway home to provide the required parking space on an uncovered outdoor parking pad or in a carport. The proposed Zoning Bylaw amendments under Phase 1a of the Housing Choices Program can be found in the Council report titled “Housing Choices – Phase 1a Zoning Bylaw Amendments,” dated July 10, 2023.

**3.8 Development density for primary dwelling units in the R12 District**

A minor amendment is proposed to Section 112.5 of the Zoning Bylaw regarding permitted development density for two-family dwellings in the R12 District. This change would more clearly differentiate the permitted density for “primary” dwelling units in contrast to secondary suites. This would mirror recent Zoning Bylaw amendments enacted in the R4 and R5 Districts under Phase 1a of the Housing Choices Program. These proposed amendments under Phase 1a of the Housing Choices Program can be found in the Council report titled “Housing Choices – Phase 1a Zoning Bylaw Amendments,” dated July 10, 2023.

**4.0 COMMUNICATION AND COMMUNITY ENGAGEMENT**

The Zoning Bylaw amendments will require a Public Hearing prior to adoption. Notice of the Public Hearing will be published on the City’s website and distributed through the City’s email subscription service, not less than 3 days and not more than 10 days before the Public Hearing, and posted at the City’s public notice posting place.

**5.0 FINANCIAL CONSIDERATIONS**

There are no financial considerations related to the proposed Zoning Bylaw amendments.

Respectfully submitted,

E.W. Kozak, General Manager Planning and Development

**ATTACHMENTS**

Attachment 1 – Proposed Zoning Bylaw Amendments

**REPORT CONTRIBUTORS**

This report was prepared by Kaitlynn Given, Planner 1 and Andrew Macaulay, Planner 2, and reviewed by Mark Norton, Planner 3, Lily Ford, Planner 3, Johannes Schumann, Director Development and Urban Design, and Jennifer Wong, Assistant City Solicitor, and Lee-Ann Garnett, Deputy General Manager Planning and Development.