

February 10, 2016

To: Members,
Regina Planning Commission

Re: Proposed Zoning Bylaw Amendment (15-Z-02)
Response to MN 14-6: Municipal and Provincial Daycare Regulations

RECOMMENDATION

1. That the proposed amendments to *Bylaw No. 9250, A Bylaw of the City of Regina to Provide for the Zoning of the City of Regina for the Purpose of Controlling the Use of Land to Provide for the Amenity, Health, Safety and General Welfare of the Inhabitants of the City of Regina* (commonly known as the Zoning Bylaw) be APPROVED as specified in Appendix A-1;
2. That the City Solicitor be directed to prepare the necessary bylaw to authorize the respective Zoning Bylaw amendment;
3. That this report be forwarded to the February 29, 2016 City Council meeting, which will allow sufficient time for advertising of the required public notices for the respective bylaws; and
4. That MN 14-16 be removed from the List of Outstanding Items for the Regina Planning Commission.

CONCLUSION

Amendments to the Zoning Bylaw will align municipal regulation for child care services with Provincial Legislation, *The Child Care Act* (the Act). The amendments to the Zoning Bylaw will increase in the number of children that can receive care in a Child Daycare Home as a permitted use to 12, which is consistent with the Act.

BACKGROUND

City Council passed motion MN 14-6 at the December 15, 2014 City Council Meeting and it was resolved that:

1. Administration undertake discussion with the Ministry of Education on the provincial licensing requirements for the regulation of daycare centres with a focus on opportunities and recommendations to strengthen the alignment between the regulation of these facilities under the Zoning Bylaw and the licensing provisions for daycare centres under Provincial legislation; and
2. A report regarding the recommended course of action with respect to aligning the regulations be provided to Executive Committee in the first quarter of 2015.

While the above motion references a report back to the Executive Committee, it was confirmed through follow-up discussion with the Clerk's Office that the more appropriate committee to provide the report back to would be the Regina Planning Commission.

This report addresses the above motion and is being considered pursuant to the Zoning Bylaw, *Design Regina: The Official Community Plan Bylaw No. 2013-48* (OCP) and *The Planning and Development Act, 2007*.

DISCUSSION

Regulation of Child Care Services

Both the City of Regina and the Government of Saskatchewan support and encourage the provision of child care services. The OCP supports complete neighbourhoods which are comprised of a mix of housing choices, amenities and services. The Statement of Provincial Interest Regulations encourages municipalities to identify residential needs of the community along the entire housing continuum and to allow for a range of housing types. With the City of Regina's projected growth, within the OCP, the need for child care services will increase with population growth. The Government of Saskatchewan regulates child care services through *The Child Care Act*, while the City of Regina regulates child care services through the Zoning Bylaw and through the business licensing process.

During the consideration of a recent Discretionary Use Application in 2014 it was discovered that the Government of Saskatchewan and the City of Regina have a different approach for regulating dwelling units that provide child care services to more than eight children and less than 13 children at one time (between nine and 12 children). The difference between the Government of Saskatchewan's regulations and the City regulations has caused confusion for service providers and approving authorities.

City of Regina Regulatory Approach

The Zoning Bylaw currently has two separate daycare land use classifications:

1. A **Child Daycare Home** is defined as: "a private residence, where care, protection, and supervision are provided:
 - (a) on a regular basis of at least twice a week;
 - (b) to not more than eight children, including the children of the adult provider; and
 - (c) for more than two hours a day per any one child."

A Child Daycare Home is accommodated as a Residential Business, which is a permitted use within all residential zones. A residential business license is required on an annual basis, which has an application fee of \$225.00. According to the Zoning Bylaw definition, a Child Daycare Home must be occupied as a private residence; however, there is no definition for "private residence" so this is assumed to mean any type of dwelling unit as defined by the Zoning Bylaw and allowed for in a residential zone.

2. A **Child Daycare Centre** is defined as: "any facility with the exception of a child daycare home or school, where care, protection, and supervision are provided:

- (a) on a regular schedule of at least twice a week;
- (b) for more than two hours a day per any one child; and
- (c) for which a license is required or has been obtained under The Child Protection Act.”

A Child Daycare Centre includes detached dwellings that are occupied as a residence where child care services are provided to more than eight children and less than 13 children at one time (between nine and 12 children). A Child Daycare Centre also includes any other facility (not occupied as a residence) for the care of any amount of children.

A Child Daycare Centre is a discretionary use within all residential zones, except for the Transitional Area Residential Zone (TAR), where it is a permitted use. The discretionary use process is standard and requires all applicants to submit a development permit application along with plans for the intended use and a fee in the amount of \$2500.00. The development permit application is circulated to internal and external stakeholders for review, including property owners within 75 metres of the site where the development is proposed. Based on the analysis of the development permit application and the comments received from the circulation, Administration prepares recommendations for the Regina Planning Commission and City Council to consider during permit review. If approved by City Council, the Child Daycare Centre development permit is issued. The typical timeframe for a discretionary use development permit application to receive approval is three to four months.

The Zoning Bylaw outlines regulations for passenger drop-off spaces, which is in accordance with the number of children accommodated by the Child Daycare Centre, as well as off street parking (one space per centre).

Government of Saskatchewan Regulatory Approach

The Child Care Act has three classification for child care services:

1. **Family Child Care Home** means residential premises in which child care services are provided to not more than eight children at any one time.

A Family Child Care Home may be licensed or unlicensed. The maximum number of children within this classification shall be eight and whether licensed or unlicensed must adhere to *The Child Care Act* and the accompanying The Child Care Regulations, 2001.

2. **Group Family Child Care Home** means residential premises in which child care services are provided to not more than 12 children at any one time.

A Group Family Child Care Home must be licensed if there are more than eight children receiving child care services and the maximum number of children that can be provided child care services at any one time is 12. Any Group Family Child Care Home providing child care services to more than eight children at any one time must be assisted by another individual who is at least 18 years of age. A Group Family Child Care Home must adhere to *The Child Care Act* and the accompanying The Child Care Regulations, 2001.

3. **Child Care Centre** means a facility that provides child care services, but does not include:

- (a) a family child care home; or
- (b) a group family child care home.

A Child Care Centre includes any facility not located within a dwelling unit. All Child Care Centres must adhere to *The Child Care Act* and the accompanying The Child Care Regulations, 2001.

The Government of Saskatchewan's Ministry of Education Early Years Branch regulates and licenses all Family Child Care Homes, Group Family Child Care Homes and Child Care Centres. The Government of Saskatchewan's regulations focus on the safety, health, and well-being of children. Requirements for licensing include criminal record checks, municipal fire inspections, first aid training, tuberculin tests, and continuing education classes. The Act also regulates adult to child ratios for supervision according to age.

According to the Government of Saskatchewan, this initial licensing process typically takes three to six months to complete.

Current Status

Provincial Group Family Child Care Homes are defined in the Zoning Bylaw as a Child Day Care Centre and are a Discretionary Use in most residential zones. This has become an issue because Provincial Group Family Child Care Homes are conducted within a residence and are very similar in nature to a Provincial Family Child Care Home. However, Provincial Family Child Care Homes are defined in the bylaw as a Child Daycare Home and are accommodated as a Permitted Use in all residential zones.

	Provincial Regulation – <i>The Child Care Act</i>	Municipal Regulation – Regina Zoning Bylaw No. 9250
Current Definitions	<p>“CHILD CARE CENTRE” means a facility that provides child care services, but does not include:</p> <ul style="list-style-type: none"> (a) a family child care home; or (b) a group family child care home 	<p>“DAYCARE CENTRE, CHILD” – any facility with the exception of a child day care home or school, where care, protection and supervision are provided:</p> <ul style="list-style-type: none"> (a) on a regular schedule of at least twice a week; (b) for more than two hours a day per any one child; and (c) for which a license is required or has been obtained under The Child Protection Act. <p><i>*DISCRETIONARY USE IN MOST RESIDENTIAL ZONES</i></p>
	<p>“GROUP FAMILY CHILD CARE HOME” means residential premises in which child care services are provided to not more than 12 children at any one time</p>	
	<p>“FAMILY CHILD CARE HOME” means residential premises in which child care services are provided to not more than eight children at any one time</p>	<p>“DAYCARE HOME, CHILD” – a private residence, where care, protection, and supervision are provided:</p> <ul style="list-style-type: none"> (d) on a regular basis of at least twice a week; (e) to not more than eight children, including the children of the adult provider; and, (f) for more than two hours a day per any one child. <p><i>*PERMITTED USE IN ALL RESIDENTIAL ZONES</i></p>

The City of Regina's process for regulating child care services within a dwelling unit is different when the services are provided for eight or less children than when the service is provided for between nine to 12 children. The Government of Saskatchewan only requires demonstration for municipal approval when licensing a Child Care Centre, as defined by the Act, which does not include any child care services in a dwelling unit (Family Child Care Home or Group Family Child Care Home). As a result many licensed Group Family Child Care Homes have obtained Provincial approval but have neglected to obtain municipal approvals (Discretionary Use Development Permit Approval for Child Day Care Centre and a Business License).

As of October 2015, there are 29 provincially licensed Group Family Child Care Homes. None of these homes obtained development permit approval for a Child Daycare Centre or for a Residential Business (Child Daycare Home). The City has endeavoured to review the service requests related to the provision of child care services within a home. According to the City of Regina Bylaw Enforcement Branch, in 2014 there were approximately 18 service requests related to the provision of child care services with noise and child welfare being the biggest concern. Only a few of these service requests were actually related to Group Family Child Care Homes and some service requests related to the fact that these service providers were licensed by the Government of Saskatchewan but did not have municipal approvals.

Proposed Recommendations

Administration recommends amendments to the Zoning Bylaw to strengthen the alignment between the Government of Saskatchewan and the City of Regina regulatory processes, and to simplify and clarify the requirements for child care service providers while still respecting the intent of the Zoning Bylaw regulations, which is to mitigate development impact on surrounding properties.

After discussing the licensing and approval requirements for the provision of child care services in Saskatchewan with the Ministry of Education, the City of Regina Bylaw Enforcement Branch, the City of Regina Business Licensing, and the City of Regina Fire Services, Administration has concluded that the discretionary use development permit process is too onerous and costly for small residential child care service providers who accommodate up to 12 children. The difference in impacts on surrounding properties for the accommodation of 12 children as opposed to eight children is negligible. Child care services in a home for up to 12 children is similar in scale to a Supportive Living Home, which provides care for up to 10 residents and is a permitted use in all residential zones. All homes that provide child care services for more than eight children are required to be licensed by the Government of Saskatchewan.

The Administration proposes the following changes to the Zoning Bylaw as specified in Appendix A-1 to this report:

1. A Child Daycare Home will include a Family Child Care Home and a Group Family Child Care Home, as defined by *The Child Care Act*, and will allow up to 12 children within a residence.
2. As part of the business license process, any Child Daycare Home applying for more than eight children will need to provide the City of Regina with a copy of their Provincial License to operate a Provincial Group Family Child Care Home. Residential Business regulations in Chapter 6 will include provisions to regulate this.

3. A Child Daycare Centre will include a Child Care Centre, as defined by *The Child Care Act*, which allows for the provision of child care service in a facility that is not used as a residence.
4. A Child Daycare Home with more than eight children will be required to have on-street parking capacity to serve as a drop-off area without impeding traffic flow, plus one additional off-street parking space which will be reviewed at time of business license approval.

The net outcome of these amendments is that Child Daycare Centres will be prohibited within a residence and will remain a Discretionary Use in most residential zones and a Permitted Use in most commercial zones. Child Daycare Homes will remain a Permitted Use in all residential zones and up to 12 children may be accommodated, provided the appropriate Provincial Licenses have been obtained and parking requirements of the Zoning Bylaw have been met. If a Child Daycare Home cannot provide proof of a Provincial License for up to 12 children and parking requirements cannot be met, only eight children will be accommodated.

RECOMMENDATION IMPLICATIONS

Financial Implications

None with respect to this report.

Environmental Implications

None with respect to this report.

Policy/Strategic Implications

The proposal is consistent with the policies contained within *Design Regina: The Official Community Plan Bylaw No. 2013-48* by:

Complete Neighbourhoods

- Providing opportunities for daily lifestyle needs, such as services, convenience shopping, and recreation.

Social Development

- Providing locally based attainable childcare facilities, which are essential to enabling parents to secure access to employment.

Land Use and Built Environment

- Being compatible with adjacent residential land use through the minimization of off-site impacts.

The Child Daycare Home provides child care services to the surrounding neighbourhood. With up to 12 child care spaces, it is compatible with adjacent residential land use as it is relatively incidental to the use of the residential premise and limited in extent.

Other Implications

None with respect to this report.

Accessibility Implications

None with respect to this report.

COMMUNICATIONS

Public notification signage posted on	N/A
Will be published in the Leader Post on	February 13 & 20
Letter sent to immediate property owners	N/A
Public Open House held	N/A
Number of Public Comments Sheets received	0

Through the review process that Administration communicated and consulted with the Government of Saskatchewan. The Administration will follow up in writing with the outcome of City Council's decision and follow-up with daycare operators.

DELEGATED AUTHORITY

City Council's approval is required, pursuant to *Part V of The Planning and Development Act, 2007*.

Respectfully submitted,



Louise Folk, Director
Development Services

Respectfully submitted,



Diana Hawryluk, A/Executive Director
City Planning and Development