

## Zoning Bylaw Update - Industrial and Mixed-Use Zones

<b>Date</b>	April 7, 2021
<b>To</b>	Regina Planning Commission
<b>From</b>	City Planning & Community Development
<b>Service Area</b>	Planning & Development Services
<b>Item No.</b>	RPC21-34

### RECOMMENDATION

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Regina Planning Commission recommends that City Council:

1. Approve the amendments to *The Regina Zoning Bylaw, 2019* as directed by Appendix A of this report.
2. Instruct the City Solicitor to prepare the necessary bylaw to give effect to the recommendations, to be brought forward to the meeting of City Council following approval of the recommendations by Council and the required public notice.
3. Approve these recommendations at its meeting on April 14, 2021.

### ISSUE

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*The Regina Zoning Bylaw, 2019-19* (Zoning Bylaw) came into effect on December 21, 2019 after receiving ministerial approval. At the August 26, 2019 meeting of City Council when the Zoning Bylaw was adopted, Administration committed to return to Council with an update on how the bylaw is performing after approximately one year of working with the new regulations.

In the first year of the bylaw, Administration brought forward two reports that have addressed administrative and housekeeping type amendments to improve the regulations, provide clarity and implementation. Staff will continue to monitor functionality of the bylaw with periodic reports to Council. This report goes beyond administrative and minor changes with a focus on improvements to the industrial and mixed-use zones to remove unnecessary barriers to development. The proposed amendments are provided for approval

in Appendix A.

## IMPACTS

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### Policy/Strategic Impact

The recommendations of this report are consistent with the following policies from *Design Regina: The Official Community Plan Bylaw No. 2013-48* (OCP):

- Policy 12.2: *Minimize regulatory barriers to economic growth to the greatest possible extent while balancing the needs and aspirations of all Regina residents, fee-and tax-payers, and the sustainability of the city.*

The proposed amendments aim to remove barriers and create clear and consistent rules for developments and re-developments in industrial and mixed-use areas.

- Policy 7.24: *Within industrial areas, permit supporting services or amenities that complement industrial uses or cater to industrial employees or customers.*

Some regulations in the new Zoning Bylaw created unnecessary restrictions for local commercial services (e.g. retail, food & beverage) within industrial areas that were not present in the former bylaw. This is discussed in more detail in the discussion section of this report.

## OTHER OPTIONS

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Alternative options would be:

1. Approve the amendments in part by removing individual proposed amendments from the bylaw (amendments numbered separately in Appendix A to allow for ease of reference).
2. Refer the report back to Administration. Should City Council have specific concerns with the report and proposed amendments it may refer the report back to Administration and direct that it be reconsidered by Regina Planning Commission or brought directly back to Council following further review by Administration.
3. Deny the proposed amendments. This would impact economic development opportunities, especially in existing industrial and mixed-use areas of the city.

## COMMUNICATIONS

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Public notice of the public hearing to be conducted upon consideration of the proposed bylaw amendments will be given in accordance with *The Public Notice Policy Bylaw, 2020*. The proposed amendments and associated City Council meeting will be advertised on CityPage in the *Regina Leader-Post*, posted on the City's public notice board at City Hall and online at Regina.ca.

## DISCUSSION

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The primary driving force behind the project to develop a comprehensive new Zoning Bylaw for Regina was to align it with the City's new OCP – Design Regina. Overall Administration is confident that the new Zoning Bylaw is and will continue to deliver on the goals and policies of the OCP to move the city forward with respect to sustainable growth and development. With any comprehensive re-write of a complex bylaw such as the Zoning Bylaw, it was always anticipated that certain aspects of the bylaw may need to be monitored and amended in response to its performance or changes in development trends. Often the only way to identify issues with a new bylaw is to test the regulations. Since the bylaw came into effect, staff have received positive feedback about organization and readability. For instance, zones were consolidated, and each chapter effectively acts as a 'one-stop shop' for most of the regulations you will need to know about your property. Administration will continue to work on formatting and ease of use and identify improvements through subsequent administrative and housekeeping amendment reports.

### Stakeholder Interviews

Planning staff have heard from a variety of industry stakeholders who regularly use the Zoning Bylaw that there are challenges with some of the industrial and mixed-use regulations. Administration decided to focus on these challenges as part of the one-year update on the performance of the Zoning Bylaw. A variety of stakeholders who frequently use the bylaw and those who staff knew were experiencing barriers were interviewed to form the recommendations of this report. Some themes emerged through stakeholder consultation as follows:

- The size thresholds in industrial zones that take a project from a permitted use to a discretionary use (needing Council approval) are too low. This is expanded further in the following section.
- There are too many uses that are discretionary under the bylaw that were permitted under the former *Zoning Bylaw 9250*.
- The required 100 metre separation distance from certain commercial services uses to residential in light industrial and industrial prestige zones prevents investment in existing areas and is more restrictive than the previous bylaw.
- New definitions and land use classifications are hard to understand.

Administration also considered, through the review of this report, specific requests from stakeholders about challenges they are having with certain properties and the regulations beyond the issues noted above.

### Discretionary Use Thresholds

The new Zoning Bylaw established more thresholds than the previous bylaw. Thresholds in zoning mean that land uses are allowed in a zone, up to a certain size (e.g. height, gross floor area, etc.). For example, a land use may be permitted up to a maximum specified gross floor area, after which point the development requires City Council approval including a public review up to a higher gross floor area. In certain instances, in the bylaw there is a maximum limit of the discretionary requirements after which the use will be prohibited in the zone.

Many of the size thresholds were intentionally established lower than in the previous bylaw because the new bylaw was originally drafted with the expectation that certain low-impact discretionary uses would be delegated from Council down to Administration (the Development Officer) to approve. When the bylaw was brought forward to Council for consideration, Council had concerns and unanswered questions about how the delegation of authority would work so that aspect of the bylaw was removed from the final version, while at the same time the low thresholds were retained. Delegation of discretionary use approval to Administration will be considered in a subsequent report. Regardless of the outcome of that report, Administration believes now after utilizing the Bylaw for over a year that many thresholds, particularly in the industrial zones, are too low, which results in unnecessary discretionary use applications that could have otherwise simply gone through a development permit and building permit review with no related land use impacts or compatibility issues.

Various changes are presented in the proposed amendments to increase thresholds and remove the upper limits of discretionary use like what was found in the former bylaw. For example, 'Retail Trade, Shop', which includes a range of uses such as retail stores, bakeries, furniture store, etc. were either permitted or discretionary under the former bylaw with no size limit. Under the current bylaw 'Retail Trade, Shop' uses are permitted under 300 square metres and discretionary from 300 square metres to 1,000 square metres in the Industrial Light (IL) zone. There is value in having thresholds for certain uses to direct the scale of use to the most appropriate zone, but in the cases identified in Appendix A the low thresholds are not justified, will inhibit reinvestment and intensification of existing areas, and are unnecessary to achieve policy objects in the OCP. This is making it challenging for owners of older, existing multi-tenant buildings to reuse spaced in an efficient manner. In addition, the new regulations have created legally non-conforming business in these developments.

#### Industrial and Mixed-Use Zone Use Restrictions on Uses

Related to the above issue, Administration reviewed the industrial and mixed-use zones to determine if any uses should be permitted that were under the former bylaw and/or they are low impact uses that are appropriate in the zone and do not require City Council's discretion to approve. Numerous uses are proposed in Appendix A for consideration to take them from discretionary to permitted uses. Examples include 'Storage, Personal' (e.g. personal self-storage) and 'Institution, Training' (e.g. adult training centres) in the Industrial Prestige (IP) zone. These uses meet the intent of the zone to "gradually integrate low-intensity industrial development in suitable locations in or near neighbourhoods with a mix of uses."

#### Separation of Commercial Uses in Industrial Zones

Similar to how thresholds were established to restrict the size of certain uses, the new bylaw also introduced required separation distances for establishing commercial and quasi-commercial uses within industrial areas. The regulations require that uses like 'Retail Trade, Shop' and 'Wholesale Trade Outdoor' in the Industrial Light zone must be at least 100 metres or further from a lot zoned Residential or Mixed-Use. The rationale for these regulations was to align with the following OCP policies from Part A – Citywide Plan, Section D5: Land Use and Built Environment:

- Policy 7.21: Ensure an adequate supply of serviced industrial land to maintain a

diverse range of development opportunities.

- Policy 7.23: Protect industrial lands by avoiding re-designations of industrial areas, except where the City determines that a different land use is more beneficial.

The goal was to avoid situations where prime industrial lands might be used for non-industrial activities. This is likely more of a concern with respect to new industrial areas on the periphery of the city where employment lands might compete, to a certain degree, with other commercial/mixed-use areas on the periphery of the city. Staff heard from stakeholders that these regulations are creating non-conformities with existing sites in built up industrial areas of the city and are more restricted than they were under *Regina Zoning Bylaw 9250* because there are residential or mixed-use properties within 100 metres. An example of this is the Saskatchewan Drive corridor between Elphinstone Avenue and Albert Street on the south side of the street where properties are limited by their proximity to residential properties in north Cathedral. Upon further review, these areas are more of a transition Industrial area.

As noted in the Policy/Strategic Implications section of the report, the following policy required consideration:

- Policy 7.24: Within industrial areas, permit supporting services or amenities that complement industrial uses or cater to industrial employees or customers.

The proposed amendments have considered the above policies and are better aligned with Policy 7.24. Council would still have an opportunity to determine the suitability of the uses if they are higher intensity uses that exceed the defined thresholds in the bylaw as amended.

#### Residential as a Discretionary Use in the Mixed Large-Market Zone

Through the stakeholder interviews a comment was made that they City should consider contemplating stand-alone residential developments in the Mixed Large-Market (MLM) zone as a discretionary use where the site will integrate with an adjacent commercial/mixed-use development.

Currently the MLM zone allows for residential uses on the condition that they occur on the same site or within the same building as a commercial use with the intention that residential developments are integrated with commercial development. Policy encourages residential and mixed-use development in these locations, but this regulation ultimately impedes implementation of this policy because integrating commercial and residential on the same parcel or building is less suitable for some developments. In response, the Administration proposes to allow residential-only developments in the MLM zone as a discretionary use where context of the site can be evaluated based on planned or existing land uses. This will reduce a barrier for implementation of mixed-use development while ensuring the overall development policy is achieved.

#### Improvements to Definitions

Under the new bylaw, land uses were consolidated so there are fewer land use classes. Instead the Zoning Bylaw uses larger umbrella categories to define land uses based on impact, whereas the former *Regina Zoning Bylaw (9250)* defined many land uses. For example, the land use class of 'Industry, Light' captures many uses such as a machine

shop and glass cutting that were separate uses under the former bylaw. The downside to the new approach of consolidated land use classes is that some of the new terms are not immediately identifiable. The reader must refer to the definitions section of the bylaw (Chapter 2) to understand where their land use fits. Further, Administration has noted some inconsistencies with the definitions where certain uses should fall under another land use class or where a more specific land use should be regulated differently. For instance, Administration is recommending a specific land use for 'Retail Trade, Fuel Station' (i.e. gas bar/ station) whereas it currently falls into the same land use category as a vehicle repair shop. These two land uses may be appropriate in separate contexts, and therefore require separate definitions.

Administration did not undertake a comprehensive review of all definitions. One of the challenges for stakeholders that staff heard during the interviews is simply getting accustomed to new terms and a different organization of the bylaw. Administration will endeavour to continue educating users on how this bylaw functions. Select improvements are provided in Appendix A, while continual improvements will be brought forward in subsequent housekeeping and administrative amendments reports.

### **DECISION HISTORY**

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On August 26, 2019, City Council adopted *The Regina Zoning Bylaw, 2019* to replace the former *Regina Zoning Bylaw (9250)*. The Ministry of Government Relations subsequently approved *The Regina Zoning Bylaw, 2019* effective December 21, 2019.

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

Respectfully Submitted,



Fred Searles, Director, Planning & Development Services

Respectfully Submitted,



Diana Hawryluk, Executive Director, City Planning & Community Dev.

3/31/2021

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### **ATTACHMENTS**

Appendix A - Proposed Amendments - Final RPC