



Meeting 2017 August 28

## COUNCIL REPORT

**TO:** CITY MANAGER **DATE:** 2017 August 23

**FROM:** DIRECTOR PLANNING AND BUILDING **FILE:** 42000 20  
*Reference: Text Amendment*

**SUBJECT:** PROPOSED ZONING BYLAW TEXT AMENDMENTS – 2017 AUGUST

**PURPOSE:** To propose a number of text amendments to the Burnaby Zoning Bylaw.

**RECOMMENDATION:**

1. THAT Council be requested to authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw, as outlined in Section 2.0 of this report, for advancement to the Public Hearing on 2017 October 17.

**REPORT****1.0 BACKGROUND INFORMATION**

As part of the ongoing review of the Burnaby Zoning Bylaw, which usually takes place in the context of development enquiries and discussions regarding the intent of the bylaw and the general need to update the bylaw, text amendments are brought forward from time to time. These text amendment reports are submitted in order to provide clarification and improvements to the wording of the bylaw, and to respond to changes in related legislation and changes in forms of development, land uses, and social trends.

This report presents four Zoning Bylaw text amendments regarding: 1) screening requirements for a child care facility or home-based child care facility operated as a home occupation in R Districts; 2) Preliminary Plan Approval (PPA) for a child care facility operating in a single-family dwelling; and 3) crematoria and mausoleums in the P4 Cemetery District.

**2.0 PROPOSED BYLAW TEXT AMENDMENTS****2.1 *Screening Requirements for a Child Care Facility or Home-Based Child Care Facility Operated as a Home Occupation in R Districts*****Issue**

Section 6.15(1)(e) of the Zoning Bylaw requires that, in R Districts, where a child care facility or home-based child care facility is operated as a home occupation, a 1.8 m (5.91 ft.) high fence shall be provided along the rear boundary of the required front yard setback. The purpose of the requirement is to ensure that the outdoor play area in a child care facility is appropriately enclosed.

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This requirement is unnecessary as the Community Care and Assisted Living Act (CCALA) and the Child Care Licensing Regulation (CCLR) are Provincial regulations that set out the minimum health, safety, and care standards that must be met by all licensed child care facilities, including appropriate enclosure.

**Discussion**

In 2012, Council adopted a Zoning Bylaw amendment to allow a child care facility with up to ten children to operate in a single-family dwelling as a home occupation, subject to a number of conditions. One such condition was that the subject property must be screened with a 1.8 m (5.91 ft.) high solid fence along the rear of the front yard setback.

Child care facilities are regulated under the CCALA, which is administered by the Fraser Health Authority through the CCLR. Fraser Health regulates the establishment of child care facilities, including employee qualifications, group size, employee to child ratios, indoor and outdoor physical space limits, and other general care requirements. According to Division 2 of the CCLR, a licensee must ensure that the entire play area in a child care facility is enclosed in a manner that is suitable for the age and development of children.

Considering that the Fraser Health Authority is an administrative body to ensure that the CCALA and CCLR are being met, the additional Zoning Bylaw requirement for a 1.8 m fence along the rear boundary of the required front yard setback is redundant, and as such it is recommended that the Zoning Bylaw screening requirement, applicable to a child care facility or home-based child care facility operated as a home occupation, be repealed.

**Recommended Bylaw Amendment**

- 1. THAT Section 6.15(1)(e) of the Zoning Bylaw be repealed.

***2.2 Preliminary Plan Approval for a Child Care Facility Operating in a Single Family Dwelling***

**Issue**

Section 7.3(1)(g) of the Zoning Bylaw exempts home occupations from PPA requirements, except for the operation of a child care facility in a single-family dwelling. Given recent and proposed Zoning Bylaw amendments, the PPA requirement is redundant and should be removed.

**Discussion**

In 2012, Council adopted a Zoning Bylaw amendment to allow a child care facility with up to ten children and one non-resident employee in a single-family dwelling, as a home occupation. The intent was to simplify the approvals process for a child care facility with nine or ten children in care and operating in a single-family dwelling, which previously required a rezoning to the R“b”

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subcategory. While eliminating the rezoning process, PPA became necessary to ensure that such proposals could meet the requirements of the Zoning Bylaw, including off-street parking and screening requirements.

Since 2012, an amendment to the CCALA lowered the occupancy threshold for home-based child care facilities from ten to eight children. On 2016 December 12, Council adopted a Zoning Bylaw amendment which defined a child care facility operating in a single dwelling as a “home-based child care facility” and referenced such a facility to the definition and requirements of the CCALA. The 2016 Zoning Bylaw amendment also permitted one non-resident employee in all home-based child care facilities. Given that the PPA requirement for child care facilities operating in a single-family dwelling was intended to apply only to facilities with nine or ten children in care, the PPA requirement is now redundant.

Furthermore, if Section 6.15(1)(e) of the Zoning Bylaw is repealed as recommended in section 2.1 of this report, the PPA requirement for a child care facility operating in a single-family dwelling would in effect, serve only as a check on parking compliance.

The removal of the PPA requirement for a child care facility operating in a single-family dwelling will benefit Burnaby residents by simplifying the City’s approvals process, and reducing the time and costs to process such applications. Applicants would be advised of the required parking provision to be met, similar to other home occupation applications. Therefore, in view of the above, it is recommended that the text “except for the operation of a child care facility in a single-family dwelling” be deleted from Section 7.3(1)(g) of the Zoning Bylaw.

#### **Recommended Bylaw Amendment**

1. THAT Section 7.3(1)(g) of the Zoning Bylaw be amended by deleting the text “except for the operation of a child care facility in a single family dwelling”.

### **2.3 Crematoria and Mausoleums in the P4 Cemetery District**

#### **Issue**

Crematoria and mausoleums are currently permitted through the PPA process subject to compliance with setback, height, parking, and loading requirements of the P4 Cemetery District. Given the scale and nature of such developments, and the proximity of cemeteries to residential and emerging high-density mixed-use neighbourhoods, the current approvals process does not provide adequate opportunity for public input and City review.

#### **Discussion**

Crematoria and mausoleums are currently permitted in the P4 Cemetery District, provided that such uses are located within a cemetery and are not less than 30 m (98.43 ft.) from any lot line, nor less than 61 m (200.13 ft.) from any lot in an A, R or RM District. Such uses must also not exceed 12 m (39.37 ft.) and 2 storeys, and must comply with applicable parking and loading

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requirements. Crematoria or mausoleum proposals that meet the above requirements are permitted through the PPA process, without public input or review by Council.

Despite the above setback and height restrictions, which are intended to minimise the impact of crematoria and mausoleums on surrounding land uses, past crematoria and mausoleum proposals have caused significant concern from neighbouring residents. Primary concerns included perceived loss of open space, proximity to the deceased, emissions from crematoria, and a lack of public input in the approvals process. Recent inquiries have again raised concerns regarding the efficacy of the current approvals process for crematoria and mausoleums, and their compatibility with surrounding land uses, particularly in the context of Brentwood Town Centre, where high-density mixed-use developments are planned in close proximity to multiple cemeteries.

Given the above, staff acknowledge the need for a more balanced approach to the approvals process for crematoria and mausoleums, that allows for discretionary review and public input, particularly on aspects such as siting, size, and architectural design. Therefore, it is recommended that the Zoning Bylaw be amended to require review of all proposed crematoria and mausoleums through a Comprehensive Development (CD) District rezoning process. This requirement will ensure that the community will have sufficient input in the approvals process, and that full review and consideration can be given to such development proposals. It will also ensure that any changes to an approved plan of development will require further rezoning approval.

It is also recommended that current setback requirements for crematoria and mausoleums be retained as a condition of approval. This will ensure that setbacks cannot be varied below current setback requirements through the CD rezoning process.

### **Recommended Bylaw Amendment**

1. THAT Section 504.1(3) of the Zoning Bylaw be amended as follows:

(3) Crematoria and mausoleums, subject to the following conditions:

- (a) the use is located within a cemetery and not less than 30 m (98.43 ft.) from any lot line, nor less than 61 m (200.13 ft.) from any lot in an A, R or RM District; and,
- (b) the use is included as part of a comprehensive development plan subject to the CD (Comprehensive Development) District.

### **3.0 CONCLUSION**

The above Zoning Bylaw text amendments are proposed in order to clarify certain aspects of the Bylaw, make amendments in support of existing practices and Council policies, and achieve other regulatory changes. It is recommended that Council authorize preparation of a Zoning

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Bylaw text amendment to implement the amendments outlined in Section 2.0 of the report, for advancement to the Public Hearing on 2017 October 17.

  
Lou Pelletier, Director  
PLANNING AND BUILDING

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cc: Director Engineering  
Chief Building Inspector  
Chief Licence Inspector  
City Solicitor  
City Clerk

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