

**TO:** CHAIR AND MEMBERS  
PLANNING AND DEVELOPMENT COMMITTEE **DATE:** 2019 June 19

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

**SUBJECT:** PROPOSED ZONING BYLAW TEXT AMENDMENTS – 2019 JUNE

**PURPOSE:** To propose two text amendments to the Burnaby Zoning Bylaw.

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**RECOMMENDATION:**

1. **THAT** Council be requested to authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw, as outlined in Section 3.0 of this report, for advancement to a Public Hearing on 2019 July 30.

**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 for its update, 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, forms of development, land uses and social trends.

This report presents two Zoning Bylaw amendments regarding: 1) outdoor play areas in child care facilities; and 2) accessible parking.

**2.0 POLICY**

The advancement of the proposed Zoning Bylaw amendment aligns with the following goals and sub-goals of the Corporate Strategic Plan:

- **An Inclusive Community**
  - Serve a diverse community – Ensure City services fully meet the needs of our dynamic community
  - Enhance City workforce diversity – Support a diversified City workforce by identifying barriers and implementing proactive strategies

- **A Dynamic Community**
  - Economic opportunity – Foster an environment that attracts new and supports existing jobs, businesses and industries

### **3.0 PROPOSED BYLAW TEXT AMENDMENTS**

#### **3.1 Outdoor Play Areas in Child Care Facilities**

##### **Issue**

There is a need to regulate the location of child care facilities' outdoor play areas to ensure children's safety, maintain a uniform streetscape and to protect the neighbouring properties' privacy.

##### **Discussion**

The Zoning Bylaw allows child care facilities in a number of multi-family residential, commercial and institutional districts. All child care facilities are regulated by the *Community Care and Assisted Living Act* and accompanying *Child Care Licensing Regulation*, which are administered by the Fraser Health Authority.

The Fraser Health Community Care Facilities Licensing Program uses a provincial tool to conduct the risk assessments of facilities, including the physical facility, equipment and furnishings (outdoor play areas). The Fraser Health assessment and continuous monitoring of the facilities are to ensure children's health and safety.

While the *Child Care Licensing Regulation* regulates the outdoor play area specifications, the Zoning Bylaw may control its location on the lot and in relation to the neighbouring properties and abutting streets. The Zoning Bylaw generally does not allow location of any buildings or uses, including parking and storage areas, in the required front yard in order to maintain a uniform streetscape. Similarly, in order to maintain visual uniformity along the property lines abutting a street, and to protect children's health and safety, it is recommended that outdoor play areas be located outside of the required front yards and side yards adjoining a flanking street.

The *Child Care Licensing Regulation* requires a minimum 6.0 m<sup>2</sup> (64.58 sq. ft.) per child for outdoor play areas. The required side yards generally do not provide adequate space to meet this outdoor play area requirement. Considering the insufficiency of the area within the side yards, and to limit privacy and noise impacts on neighbouring properties, it is also recommended that outdoor play areas be located outside of the required side yards. The outdoor play areas' enclosures shall meet the requirements of the *Child Care Licensing Regulation* and shall comply with the fence regulations in Section 6.14 of the Zoning Bylaw.

The Zoning Bylaw requires that in commercial districts, all businesses and undertakings shall be conducted within an enclosed building with the exception of uses that should be located in the open, such as parking and loading areas. Therefore, it is recommended that the outdoor play

areas be exempted from the enclosure requirement of the Bylaw, in the districts where child care facilities are permitted.

### **Recommended Bylaw Amendments**

1. **THAT** the definition of “Outdoor Play Area” be added to Section 3 (Definition) of the Zoning Bylaw with wording the same or similar to the following:

*“OUTDOOR PLAY AREA” means an open area designated for physical activity of the children in a child care facility or a home-based child care facility, in accordance with the Community Care and Assisted Living Act and the Child Care Licensing Regulation, as amended or replaced from time to time.*

2. **THAT** Section 6.2 of the Zoning Bylaw be amended by adding the bolded text in the heading as follows:

*6.2 Location and Siting of Buildings **and Uses**:*

3. **THAT** Section 6.2(4) be added to the Zoning Bylaw with wording the same or similar to the following:

*(4) No outdoor play area shall be located in any required front or side yard.*

4. **THAT** Sections 301.2(1)(f), 302.2(1)(g), 303.2(1)(g), 304.2(1)(g) be added to the Zoning Bylaw with wording the same or similar to the following:

*outdoor play areas.*

5. **THAT** Section 308.3(1) of the Zoning Bylaw be amended by adding the bolded text as follows:

*(1) Every business or undertaking shall be conducted within a completely enclosed building except for parking and loading facilities, produce and garden displays, outdoor restaurant seating, **outdoor play areas**, and mobile retail carts.*

6. **THAT** Section 309.3(1) of the Zoning Bylaw be amended by adding the bolded texts as follows:

*(1) Every business or undertaking shall be conducted within a completely enclosed building except for parking and loading facilities, produce and garden displays, **outdoor play areas**, and outdoor restaurant seating.*

## **3.2 Accessible Parking**

### **Issue**

Section 800.3.1 of the Zoning Bylaw requires that the parking spaces for the use of disabled persons be subject to the requirements of the British Columbia Building Code (BCBC). However, the accessible parking requirements were removed from the 2018 BCBC. In the absence of the accessible parking regulations in the BCBC, it is necessary to include these requirements including design standards for accessible parking spaces in the Zoning Bylaw.

### **Discussion**

The *Building Act* establishes the Province as the primary authority to regulate the building requirements that are used consistently across the province. At the same time, the Province recognizes that the need for consistency must be balanced with flexibility in order for local governments to meet the specific community's needs. Section 5.0 of the Act allows for such flexibility, by providing local governments the authority to establish building requirements for matters identified as unrestricted by regulation.

In 2016, the Province approved "parking for persons with disabilities" as an unrestricted matter under the Building Act, for which local governments could retain or establish their own requirements. As a result of the Building and Safety Standards Branch's consultation with stakeholders, it was determined that the BCBC's accessible parking requirements were not sufficient. Therefore, to address the regulatory overlap between the BCBC and the municipal bylaws, the accessible parking requirements were removed from the 2018 BCBC.

Presently, Section 800.3.1 of the Zoning Bylaw requires that the number and the design of parking spaces for persons with disabilities be regulated by the BCBC's parking requirements. Given the removal of such requirements from the 2018 BCBC and that the Zoning Bylaw currently defers to the BCBC on this matter, it is therefore necessary to include these requirements in the Zoning Bylaw.

To regulate accessible parking, staff reviewed the 2012 and 2018 BCBC, SPARC BC guidelines, the Ministry of Transportation and other municipalities' parking bylaws and regulations. Due to the growing number of people with physical disabilities, and consequently the number of issued disabled parking permits, there is a need to consider a parking standard that reflects this need in the community. To address the increasing demand for accessible parking spaces, it is recommended:

- to reduce the threshold for requiring accessible parking for all uses, in order to ensure a minimum of one accessible parking space is provided on most sites;
- to increase the ratio of accessible parking for all uses, particularly the ones that are used regularly by people with disabilities, including adaptable housing units, accessible housing units, medical offices, supportive housing facilities, and similar uses;

- to require that the location of accessible parking spaces be close to the elevator, vestibule, and the building entrance in order to ensure safety and convenience of access for people with disabilities;
- to require van accessible parking spaces with greater width than the regular accessible parking spaces to allow wheelchair access for a driver or a passenger, and to accommodate accessible vehicles with platform lifts or side ramps. It is recommended that for every three accessible parking spaces, one shall be van accessible;
- to clearly mark accessible parking spaces in order to prevent unauthorized use of these parking spaces;
- to require at least one of the visitor parking spaces be van accessible, where the total number of visitor parking spaces provided on site exceeds five;
- to require that in a strata titled development, accessible parking spaces be held in common ownership and not be assigned to any strata lot;
- to require that the pedestrian routes connecting the accessible parking spaces to the elevator, vestibule, and building or lobby entrance, where they are located in the maneuvering aisles, be marked clearly to improve visibility of the pedestrian by drivers. In addition, the route is required to have a continuous width of not less than 1.2 m (3.9 ft.), and a slope of not more than 1:20; and,
- to increase the clear height of all levels of parking structures containing accessible parking spaces, in order to accommodate over height vehicles equipped with a wheelchair lift or ramp.

Section 800.1 of the Zoning Bylaw states that the parking regulations contained in Schedule VIII of the Bylaw, shall not be applied to the buildings, structures or uses existing on the effective date of the Bylaw, with the exception of any future addition or change thereto. It is acknowledged that a future change of use on an existing site may trigger the provision of additional accessible parking. However, this may not be feasible on an existing site, particularly a small one. Therefore, it is recommended that a change of use on an existing site that does not involve substantial construction, be exempted from application of the proposed accessible parking requirements.

The proposed accessible parking requirements shall apply to any new development, or addition to existing buildings, structures or uses.

**Recommended Bylaw Amendments**

1. **THAT** the definition of “Parking Space, Accessible” be added to Section 3 (Definition) of the Zoning Bylaw with wording the same or similar to the following:

***“PARKING SPACE, ACCESSIBLE” means a parking space provided for the use of persons with disabilities.***

2. **THAT** the definition of “Parking Space, Van Accessible” be added to Section 3 (Definition) of the Zoning Bylaw with wording the same or similar to the following:

***“PARKING SPACE, VAN ACCESSIBLE” means a parking space to accommodate vans and other vehicles equipped with platform lifts or side ramps, for the use of persons with disabilities.***

3. **THAT** Section 800.1(3) be added to the Zoning Bylaw with wording the same or similar to the following:

***(3) Notwithstanding Section 800.1(1) accessible and van accessible parking spaces shall be provided and maintained in accordance with this Schedule for any addition to such existing building, structure or use.***

4. **THAT** Section 800.3.1 of the Zoning Bylaw be repealed and replaced with wording the same or similar to the following:

**800.3.1 Parking Spaces for Persons with Disabilities:**

- (1) Accessible and van accessible parking spaces for all developments for which the rezoning bylaw has received Second Reading, or a preliminary plan approval, or a Building Permit application has been submitted after 2019 November 01, shall comply with this Section 800.3.1.***
- (2) Accessible parking spaces shall be provided in accordance with the following:***

<b>USE</b>	<b>REQUIRED ACCESSIBLE PARKING SPACES</b>
<i><b>(a) Adaptable housing units, and accessible housing units.</b></i>	<i><b>1 for each 2 dwelling units.</b></i>
<i><b>(b) Senior citizen housings, category A and B supportive housing facilities, hospitals, rest homes, private hospitals, medical and dental offices and</b></i>	<i><b>1 for 1-15 required parking spaces. 2 for 16-30 required parking spaces. 3 for 31-60 required parking spaces. 4 for 61-90 required parking spaces. 5 for 91-150 required parking</b></i>

<i>clinics, group homes, and similar uses.</i>	<i>spaces. 1 additional accessible parking for every 100 parking spaces or portion thereof, in excess of 150.</i>
<i>(c) All uses other than single family dwellings, two family dwellings, row housing dwellings, townhouse dwellings, and uses referred to in Clause (a) and (b).</i>	<i>1 for 1-25 required parking spaces. 2 for 26-50 required parking spaces. 3 for 51-100 required parking spaces. 1 additional accessible parking for every 100 parking spaces or portion thereof, in excess of 100.</i>
<i>(d) All uses</i>	<i>For every 3 accessible parking spaces required, 1 shall be a van accessible parking space.</i>
<i>(e) For multiple family dwellings including townhouses and apartments, non-profit housing developments that receive rent supplement assistance from a government or government agency, and rental dwelling units in the RM and P Districts, where the total number of visitor parking spaces provided on site exceeds 5 parking spaces.</i>	<i>A minimum of 1 visitor parking space shall be van accessible parking space.</i>

- (3) *The minimum dimensions of accessible and van accessible parking spaces are:*

<b><i>Type of Accessible Parking Space</i></b>	<b><i>Length</i></b>	<b><i>Width</i></b>	<b><i>Height</i></b>
<i>Regular accessible parking space</i>	<i>5.5 m (18.04 ft.)</i>	<i>2.6 m (8.53 ft.)</i>	<i>2.3 m (7.55 ft.)</i>
<i>Parallel accessible parking space</i>	<i>7.3 m (23.95 ft.)</i>	<i>2.6 m (8.53 ft.)</i>	<i>2.3 m (7.55 ft.)</i>

<i>Regular van accessible parking space</i>	<i>5.5 m (18.04 ft.)</i>	<i>3.4 m (11.15 ft.)</i>	<i>2.3 m (7.55 ft.)</i>
<i>Parallel van accessible parking space</i>	<i>7.3 m (23.95 ft.)</i>	<i>3.4 m (11.15 ft.)</i>	<i>2.3 m (7.55 ft.)</i>

- (4) *All levels of a parking garage, structured parking, or underground parking containing accessible and van accessible parking spaces shall have a minimum clear height of 2.3 m (7.55 ft.).*
- (5) *Accessible and van accessible parking spaces shall:*
- (a) *be located close to the elevator, vestibule, and building or lobby entrance, with a direct and unobstructed access thereto;*
  - (b) *have an adjacent access aisle on one side of the regular accessible and van accessible parking space, and to the rear of the parallel accessible and van accessible parking space, with a minimum width of 1.2 m (3.94 ft.). A single access aisle used jointly by two adjacent regular accessible and van accessible parking spaces shall have a minimum width of 1.5 m (4.92 ft.). The adjacent access aisle shall be marked with diagonal markings or paintings on the surface;*
  - (c) *have a firm, slip-resistant and level surface with a slope not greater than 1:50;*
  - (d) *be clearly marked with a pole mounted sign not less than 1.5 m (4.92 ft.) above ground level, in conformance with the specifications in Schedule 2 of Division 23 of the Motor Vehicle Act. A van accessible parking space, except where it is provided as visitor parking, shall also be identified by a minimum of 0.15 m (0.49 ft.) by 0.3 m (0.98 ft.) signage noting "VAN ACCESSIBLE" attached to the pole; and,*
  - (e) *have the parking surface marked with the international symbol for wheelchair accessibility.*



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- (6) *In a strata titled development, accessible and van accessible parking spaces shall be held in common ownership and shall not be assigned to any strata lot.*
- (7) *A pedestrian route connecting the accessible and van accessible parking spaces to the elevator, vestibule, and building or lobby entrance shall:*
  - (a) *have a continuous and unobstructed width of not less than 1.2 m (3.9 ft.).*
  - (b) *not exceed a slope of 1:20.*
  - (c) *be marked with markings or paintings if it is located on a maneuvering aisle.*

- 5. **THAT** Section 800.7(2.2)(b) of the Zoning Bylaw be amended by replacing the text “disabled” with “accessible and van accessible”.
- 6. **THAT** Section 800.8(1) of the Zoning Bylaw be amended by replacing the text “Section 800.4” with the text “Sections 800.4 and 800.3.1(2)”.

#### 4.0 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 approve the above proposed text amendments, as outlined in Section 3.0 of this report, for advancement to a Public Hearing on 2019 July 30.



E.W. Kozak, Director  
PLANNING AND BUILDING

PS:sa

cc: City Manager  
Director Corporate Services  
Director Public Safety and Community Services  
Chief Licence Inspector  
Chief Building Inspector  
City Solicitor  
City Clerk