

# Committee of the Whole Report

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**To:** Her Worship Mayor McKortoff and Members of Council

**From:** Christopher Garrish, Contract Planner

**Date:** February 27, 2024

**Subject:** Zoning Bylaw Review – Child Care Facilities

**Tracker No:** BLW-389

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## **RECOMMENDATION:**

That the zones in which “child care facilities” is listed as a principal permitted use in the Town’s Draft Zoning Bylaw be expanded to include the low density residential, downtown commercial and neighbourhood commercial zones.

## **CAO Comments:**

Approved for Council consideration.

## **Executive Summary:**

The purpose of this report is to provide Council with options in relation to “child care centre” as a permitted use in the Town’s proposed new zoning bylaw.

## **Background:**

At its meeting of February 13, 2024, the Committee of the Whole (COTW) of Council considered a *Childcare Needs Assessment & Childcare Plan* (January 2024) prepared by Cornerstone.

This Plan noted the presence of zoning challenges in Osoyoos, such as “limited options for childcare centres with respect to the zones that can accommodate them.”

In response, the Plan recommended, amongst other things, that Council “update zoning bylaws to allow childcare facilities to be in areas that are currently restricted” and that this could include permitting “multi-age group care childcare facilities in more than just the PI zone (direct).”

## **Statutory Requirements:**

Under Section 20 of the *Community Care and Assisted Living Act*, a licensed in-home child care provider who cares for eight (8) or less children is exempt from local government bylaw requirements, such as zoning that specifically prohibits child care in a residential zone.

Such home-based locations must, however, still meet any applicable requirements outlined in the BC Building Code.

## **Official Community Plan (OCP) Bylaw:**

The Town’s OCP is generally silent on child care facilities, other than to suggest that they be encouraged and also considered as a possible amenity to be acquired through a density bonusing scheme applied to rezoning applications.

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## Zoning Bylaw:

Under the Town's Zoning Bylaw No. 1085, 1998, "child care facility" is currently defined as meaning "a facility licensed and used as a child care facility pursuant to the *Community Care and Assisted Living Act*".

While the bylaw further suggests that "day care for up to five (5) pre-school children as regulated under the *Community Care and Assisted Living Act*" is a permitted form of "Level II" "home occupation" in applicable residential zones, the proper allowance under the Act is eight or less children.

Finally, the only zone in which a "child care facility" use is permitted is the Public and Private Institution (PI) Zone.

The preparation of a new Zoning Bylaw has been a Council priority since 2022, and background research and drafting work has been on-going throughout 2023.

## Analysis:

In considering the recommendations of the *Childcare Needs Assessment & Childcare Plan* (2024), Administration notes that these are generally consistent with the recommendations contained within the *Child Care Planning Guides for BC's Local Governments* (2021) published by the Union of BC Municipalities (UBCM). Specifically, the Guide suggests that:

*Local governments seeking to expand the supply of child care in their jurisdictions should first ensure there are no barriers to child care in their zoning bylaws, related guidelines and policies. As a first step, the definition(s) of child care within the zoning bylaw must be up-to-date and consistent with the Child Care Licensing Regulation under the Community Care and Assisted Living Act.*

*Listing child care as an Outright Approval Use wherever it is deemed compatible with the other outright approval, and where it does not impact other uses, provides the least complicated approval path for prospective applicants.*

In response, Administration will be proposing that the definition of "child care facility" be updated in the new Zoning Bylaw to ensure consistency with the Child Care Regulation:

**"child care facility"** means a building or structure in which child care services are provided for more than eight (8) children in accordance Child Care Licensing Regulation under the Community Care and Assisted Living Act;

It is further proposed that a provincially licenced day care providing care for no more than eight (8) persons be listed as a "Use Permitted in Every Zone" in the Draft Zoning Bylaw.

It is also recommended that the range of zones within which a "child care centre" is listed as a principal permitted use be expanded to include the following:

- all low density residential zones (e.g. RS1);
- the downtown commercial zone (e.g. C1); and
- the neighbourhood commercial zone.

Finally, it is recommended that the required on-site vehicle parking requirements be amended from the current 1.5 spaces per employee to 1.0 space per employee.

Conversely, Administration recognizes that the introduction of child care centres into residential neighbourhoods has proven contentious in other communities and that Council may wish to

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consider only expanding the range of zoning to the downtown and neighbourhood commercial zones.

This would require proposals seeking to establish a child care facility in a residential neighbourhood to obtain Council approval through a rezoning process – which is generally considered to be an impediment to the creation of new child care spaces.

With regard to vehicle parking requirements, other measurements such as the number of children (e.g. 1 space per every 10 children) or floor area (e.g. 1 space for every 100 m<sup>2</sup>) could also be considered while the status quo of 1.5 spaces per employee could also remain an option.

### Implementation:

The direction provided by Council on this issue will inform the drafting of the new Zoning Bylaw, however, there will be future opportunities for public input on the proposed bylaw prior to consideration of 1<sup>st</sup> reading – including the expanded range of zones within which “child care facility” will be listed as a permitted use.

### Options/discussion:

1. THAT the zones in which “child care facilities” is listed as a principal permitted use in the Town’s Draft Zoning Bylaw be expanded to include the low density residential, downtown commercial and neighbourhood commercial zones
2. Status quo.

### Implications:

- a) Community – Reducing barriers to establish child care facilities may provide additional child care options for the community.
- b) Organizational – Increased child care availability would assist Town staff and other businesses with an increased labour pool as some parents now must remain home due to lack of child care options.
- c) Budget
  - Financial/Risk Implications - N/A
- d) Significant Dates – A decision now will enable changes to be made within the current redrafting of the zoning bylaw.
- e) Sustainability- Increasing child care options offers additional options for families that would prefer to enter the labour force.

### Others Consulted:

Community Services  
Corporate Services  
Operational Services  
Protective Services

### Attachments:

1. Comparison of Child Care Facility Zoning Regulations

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## Attachment No. 1 – Comparison of Child Care Facility Zoning Regulations

### City of Penticton

Use Category:	Day Care Centre, Major: More than 8 children (permitted zones listed below) Day Care Centre, Minor: Less than 8 children (permitted in all zones)
Permitted Zones:	Low Density Cluster Housing (RD4) Low Density Multiple Housing (RM2) Medium Density Multiple Housing (RM3) Commercial Transition (C1) Neighbourhood Commercial (C2) Mixed Use Commercial (C3) General Commercial (C4) Urban Centre Commercial (C5) Urban Peripheral Commercial (C6) Service Commercial (C7) Tourist Commercial (CT1) Public Assembly (P1) Various CD Zones.
Vehicle Parking:	1 space per 50 m <sup>2</sup> net floor area

### District of Summerland

Use Category:	Child Care Centre, Major: More than 8 children (permitted zones listed below) Child Care Centre, Minor: Less than 8 children (permitted in all zones)
Permitted Zones:	Residential High Density (RHD) Neighbourhood Commercial (CN) Central Business (CB1) Mixed Use (MX1) Institutional (I)
Vehicle Parking:	2 spaces per 10 children, minimum of 4 spaces. An on-site drop off area is provided for picking up and dropping off children which avoids the use of any abutting highway right-of-way.

### Town of Oliver

Use Category:	Child Care Centre, Major: More than 8 children (permitted zones listed below) Child Care Centre, Minor: Less than 8 children (permitted in all zones)
Permitted Zones:	Town Centre (TC) Administrative, Institutional & Cultural (AI)
Vehicle Parking:	1 per 30.0 m <sup>2</sup> of gross floor area