

3. Temporary Zoning Amendment to Permit Schools (COVID-19 Reopening)

Modification temporaire du zonage afin de permettre la réouverture des écoles durant la COVID-19

Committee recommendation

That Council approve an amendment to Zoning By-law 2008-250 as detailed in Document 1, to allow Ottawa's schools the flexibility to locate portables, outdoor classroom spaces, and other school facilities in any Residential, Mixed-use/Commercial, Institutional or Open Space and Leisure zone and certain Rural zones, given the imperatives of the COVID-19 pandemic.

Recommandation du Comité

Que le Conseil approuve la modification au Règlement de zonage no 2008-250 comme le précise le document 1. Ce qui permettra aux écoles d'Ottawa, pendant la pandémie de COVID-19, d'aménager des salles de classe préfabriquées, d'utiliser des espaces extérieurs pour aménager des salles de classe, et toute autre installation scolaire nécessaire dans des zones résidentielles, des zones d'utilisations polyvalentes/commerciales, des zones institutionnelles, des zones d'espaces verts et de loisirs, et certaines zones rurales.

Documentation/Documentation

1. Director's report, Economic Development and Long-Range Planning, Planning, Infrastructure and Economic Development Department, dated August 14, 2020 (ACS2020-PIE-EDP-0023)

Rapport du Directeur, Développement économique et planification à long terme, Direction générale de la planification, de l'infrastructure et du développement économique, daté le 14 août 2020 (ACS2020-PIE-EDP-0023)

**Report to
Rapport au:**

**Planning Committee
Comité de l'urbanisme
27 August 2020 / 27 août 2020**

**and Council
et au Conseil
9 September 2020 / 9 septembre 2020**

**Submitted on 14 August 2020
Soumis le 14 août 2020**

Submitted by

Soumis par:

Don Herweyer,

Director / Directeur

**Economic Development and Long-Range Planning / Développement économique
et planification à longue terme**

**Planning, Infrastructure and Economic Development Department / Direction
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Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE File Number: ACS2020-PIE-EDP-0023

**SUBJECT: Temporary Zoning Amendment to Permit Schools (COVID-19
Reopening)**

**OBJET: Modification temporaire du zonage afin de permettre la réouverture
des écoles durant la COVID-19**

REPORT RECOMMENDATIONS

1. That Planning Committee recommend that Council approve an amendment to Zoning By-law 2008-250 as detailed in Document 1, to allow Ottawa's schools the flexibility to locate portables, outdoor classroom spaces, and other school facilities in any Residential, Mixed-use/Commercial, Institutional or Open Space and Leisure zone and certain Rural zones, given the imperatives of the COVID-19 pandemic; and
2. That Planning Committee approve the Consultation Details Section of this report be included as part of the 'brief explanation' in the Summary of Written and Oral Public Submissions, to be prepared by the Office of the City Clerk and submitted to Council in the report titled, "Summary of Oral and Written Public Submissions for Items Subject to the *Planning Act* 'Explanation Requirements' at the City Council Meeting of September 9, 2020", subject to submissions received between the publication of this report and the time of Council's decision.

RECOMMANDATIONS DU RAPPORT

1. Que le Comité d'urbanisme recommande au Conseil d'approuver la modification au *Règlement de zonage* n° 2008-250 comme le précise le document 1. Ce qui permettra aux écoles d'Ottawa, pendant la pandémie de COVID-19, d'aménager des salles de classe préfabriquées, d'utiliser des espaces extérieurs pour aménager des salles de classe, et toute autre installation scolaire nécessaire dans des zones résidentielles, des zones d'utilisations polyvalentes/commerciales, des zones institutionnelles, des zones d'espaces verts et de loisirs, et certaines zones rurales, et ;
2. Que le Comité de l'urbanisme donne son approbation à ce que la section du présent rapport consacrée aux détails de la consultation, en tant que « brève explication », dans le résumé des observations écrites et orales du public, qui sera rédigé par le Bureau du greffier municipal et soumis au Conseil dans le rapport intitulé « Résumé des observations orales et écrites du public sur les questions assujetties aux 'exigences d'explication' aux termes de la Loi sur l'aménagement du territoire, à la réunion du Conseil municipal prévue le 9 septembre 2020 », à la condition que les observations aient été reçues entre le moment de la publication du présent rapport et le moment de la décision du Conseil.

BACKGROUND

At its meeting of July 15, 2020, Council adopted a motion that read, in part:

"Moved by Councillor J. Harder / Seconded by Councillor E. El-Chantiry

BE IT RESOLVED that Council suspend the Rules of Procedure to permit the introduction of the following motion, in order to respond in a timely manner to support the school boards as they deal with restrictions imposed to address the COVID-19 pandemic:

WHEREAS the COVID-19 pandemic continues to evolve and is causing significant effects across the world and locally in Ottawa; and

WHEREAS on March 17, 2020, an emergency related to the COVID-19 outbreak was declared in the whole of the Province of Ontario, pursuant to Section 7.0.1 of the *Emergency Management and Civil Protection Act*, as set out in Order in Council 518/2020; and

WHEREAS school boards have been directed to come up with multiple options for the return to school; and

WHEREAS schools may need to temporarily expand in temporary spaces on existing school sites and possibly other leased spaces; and

WHEREAS the City's Zoning By-law 2008-250 regulates the location of and development standards applicable to schools; and

WHEREAS the City of Ottawa can support the safe return of students to school by providing greater flexibility for temporarily expanding school facilities within and onto lands in a manner prohibited by the current Zoning By-law 2008-250; and

THEREFORE BE IT RESOLVED that Council:

- i. Direct staff in Planning, Infrastructure and Economic Development to initiate a Temporary Zoning By-law amendment to amend the provisions pertaining to schools for the period commencing on the date of enactment and ending July 1, 2021, so as to permit schools in any residential, mixed-use/commercial, institutional or open space and leisure zone, as well as selected rural zones, notwithstanding any yard requirements, lot size requirements or parking requirements under the Zoning By-law; and

- ii. Direct that the report concerning the above-described Temporary Zoning By-law amendment shall, notwithstanding the ordinary procedure, be brought to the first possible meeting of Planning Committee after which it shall rise directly to Council without the need to proceed to Agricultural and Rural Affairs Committee (ARAC), though members of ARAC shall be welcome to attend at the said meeting of Planning Committee; and
- iii. Notwithstanding the City's Public Notice and Consultation Policy, direct that the usual comment period following public notification may be abridged as necessary to ensure all comments are received prior to the first possible meeting of Planning Committee.

DISCUSSION

This temporary Zoning By-law amendment would, notwithstanding any zoning provision to the contrary, allow schools to locate in any residential, mixed-use/commercial, institutional or open space and leisure zone, as well as most rural zones. Schools so permitted would also be exempt from the usual yard, lot size, parking and accessory building requirements.

The proposed amendment will give Ottawa's schools the maximum flexibility to locate portables, outdoor classroom spaces, and other school facilities as safely as possible, including physical distancing, given the imperatives of the COVID-19 pandemic.

RURAL IMPLICATIONS

The proposed temporary Zoning By-law amendment would enable schools to locate, expand or alter their Site Plans in all rural zones except agricultural (AG), rural industrial (RG and RH) and mineral extraction (ME and MR) zones.

CONSULTATION

Per Council's direction, the comment period for Zoning By-law amendments has been reduced from 28 days to just over two weeks. An advertisement was placed in French and in English in Le Droit and the Ottawa Citizen, respectively, on July 25, 2020. The advertisement was also sent by email to all contacts listed City-wide in the City's Public Notification System. The advertisement requested feedback by August 10, 2020, providing a comment period of 16 days.

COMMENTS BY THE WARD COUNCILLORS

This is a City-wide report – not applicable.

LEGAL IMPLICATIONS

There are no legal impediments to the implementation of the recommendations of this report.

Temporary Zoning By-laws are permitted pursuant to s. 39 of the *Planning Act* provided they are for a duration not exceeding three years. Temporary Zoning By-laws do not create a legal non-conforming use. After expiry of the period specified in Document 1, any structures which were constructed relying on this temporary Zoning By-law amendment would need to either be removed or brought into compliance with a Minor Variance or Zoning By-law amendment (unless the temporary Zoning By-law amendment was extended by Council).

RISK MANAGEMENT IMPLICATIONS

Temporarily suspending zoning regulations and restrictions on where schools may be located, particularly on an accelerated timeframe without extensive planning analysis, may carry some risk. However, on balance the risk of re-opening schools in a pandemic without taking every opportunity to minimize transmission of the virus, or to not open at all, appears more severe and immediate. The proposed temporary Zoning By-law amendment is an extraordinary measure for an extraordinary set of circumstances.

ASSET MANAGEMENT IMPLICATIONS

There are no direct asset management implications associated with the recommendations of this report.

FINANCIAL IMPLICATIONS

There are no direct financial implications.

ACCESSIBILITY IMPACTS

There are no accessibility impacts. Any development or building will still be subject to applicable law including the Building Code and Standards for Accessibility.

TERM OF COUNCIL PRIORITIES

This project addresses the following Term of Council Priorities:

- Thriving Communities: Promote safety, culture, social and physical well-being for our residents.
- Service Excellence Through Innovation: Deliver quality services that are innovative and continuously improve to meet the needs of individuals and communities.

SUPPORTING DOCUMENTATION

Document 1: Details of the Recommended Zoning

Document 2: Public Consultation

DISPOSITION

Zoning and Interpretations Unit, Policy Planning Branch, Economic Development and Long Range Planning Services to prepare the implementing by-law and forward to Legal Services.

Legal Services, Innovative Client Services Department, to forward the implementing by law to City Council.

Planning Operations Branch, Planning Services to undertake the statutory notification.

Document 1 – Details of the Recommended Zoning

Amend the Zoning By-law by adding the following as Section 75:

Section 75 - Temporary Provisions Related to COVID-19:

- (1) Despite any provision in this By-law to the contrary, a school:
 - (a) Is permitted in:
 - (i) any Residential zone;
 - (ii) the AM, GM, LC, MC, MD, TD and TM zones;
 - (iii) the I1 and I2 zones;
 - (iv) the L1, L2, L3 and O1 zones; and
 - (v) the RC, RI, RR, RU, VM, V1, V2 and V3 zones.
 - (b) Is permitted notwithstanding any required yard, minimum required lot size, limits on size or location of accessory buildings or structures, or minimum parking requirement.
 - (c) Except where a school is otherwise permitted by this by-law, any school permitted under this subsection is permitted for a temporary period ending on July 15, 2021, and its establishment under this section does not result in any nonconforming or noncomplying use rights.
 - (d) Clauses (b) and (c) apply to any lot containing an existing permitted or legally nonconforming school in any zone.

Document 2: – Public Consultation

The proposed amendment was published in French in Le Droit and in English in the Ottawa Citizen on Saturday, July 25, 2020. A copy of the advertisement was also sent by email to all stakeholder groups in the City's Public Notification System. Stakeholders were given 16 days, until August 10, 2020 to provide comments.

- 1) Rideau Valley Conservation Authority expresses concern that allowing schools notwithstanding any zoning provision to the contrary would include allowing such development in floodplains and flood fringes and goes against Provincial planning direction.

Response: Decisions to locate schools and facilities will be undertaken by school boards and the Province. The decision to do so amounts to a risk management question, where the dangers posed by COVID-19 must be weighed against the risk of flooding. On balance, Staff believes these risks are best managed by allowing the proposed amendment to take precedence over the usual flood plain and flood fringe considerations.

- 2) One commenter observed that there is at least one existing school located in one of the zones not covered by the draft amendment as circulated, and which would not benefit from the proposed temporary relaxation of zoning restrictions.

Response: The proposed zoning has been amended to include existing permitted or legally-nonconforming schools in any zone.