

## **Outdoor Café and Restaurant Parking Requirement Improvements**

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### **EXECUTIVE SUMMARY**

The purpose of this report is to support restaurants by removing the parking requirement for Outdoor Cafés and the possible requirement for more parking when a restaurant undertakes interior renovations. The proposed Land Use Bylaw (LUB) 1P2007 amendments support investment in existing restaurants and the local economy, removing requirements that may dissuade reinvestment in existing businesses. Attachment 1 contains the wording for the proposed amendments to the LUB.

Administration is proposing to delete the parking requirement for Outdoor Cafés to support and enhance a provincial initiative that came into effect on 23 May 2017. This initiative allows patrons of licensed establishments to access outdoor patios from outside the licensed premises, rather than through the indoor space. The provincial changes may mean that some licensed restaurants that were previously unable to develop an Outdoor Café because of building location or site design, may now be able to open one. These types of restaurants are also often located on sites with limited ability to provide extra parking stalls for a new café. Attachment 2 contains the definition and use rules for Outdoor Cafés.

This report also proposes to exempt restaurants from having to provide extra parking when they do interior renovations. Interior renovations often include rearranging interior space that could increase the space available for seating, which would currently result in an increase in the required number of parking stalls. Once a restaurant is established, additional parking may be difficult to provide. This amendment will provide businesses more flexibility to accommodate different internal layouts, without having to provide extra parking. The parking requirements will still apply if the restaurant is adding new floor area through an increase to the overall floor area.

The Municipal Government Act (MGA) requires advertising of proposed amendments to the LUB. The MGA now allows electronic means of advertising, but the City's current process is to publish amendments in a newspaper at least once a week for two consecutive weeks prior to the public hearing. To meet this requirement, Administration's recommendation is to delay a Public Hearing of Council.

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### **ADMINISTRATION RECOMMENDATION:**

That the Standing Policy Committee on Planning and Urban Development:

1. Direct Administration to:
  - a. prepare an amending bylaw to Land Use Bylaw 1P2007 as outlined as proposed text in Attachment 1;
  - b. forward the proposed bylaw directly to a Public Hearing of Council no later than 2018 March to accommodate the required advertising; and
2. Recommend that Council hold a Public Hearing and give three readings to the proposed Land Use Bylaw Amendment.

### **RECOMMENDATION OF THE SPC ON PLANNING AND URBAN DEVELOPMENT, DATED 2017 DECEMBER 13:**

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That Council:

1. Hold a Public Hearing on proposed **Bylaw 18P2018**; and
2. Give three readings to proposed **Bylaw 18P2018**.

### **PREVIOUS COUNCIL DIRECTION / POLICY**

None

### **BACKGROUND**

#### Provincial Rule Changes for Outdoor Patios

On 23 May 2017, the Alberta Gaming & Liquor Commission (AGLC) changed the rules for outdoor patios associated with licensed establishments. The changes make outdoor patios easier to open and operate. Prior to these changes, outdoor patios for licensed establishments were required to be accessed by patrons from within the premises. The AGLC changes now allow patios to be accessed from outside the premises, such as public sidewalks or private areas next to or in front of the premises.

The proposed LUB changes are not required by the provincial changes. Rather, Administration thinks the provincial initiative that provides more opportunities for restaurants can be enhanced by complementary municipal changes, which together can work together to assist restaurant businesses.

#### Parking Requirements

An outdoor patio is defined in Land Use Bylaw 1P2007 (LUB) as an Outdoor Café. The parking requirement in the LUB for Outdoor Café is 2.85 stalls per 10 square metres of outdoor area if the outdoor area is greater than 25 square metres. If the Outdoor Café is less than 25 square metres, no extra parking is required. There are a number of rules applicable to Outdoor Cafés as shown in Attachment 2. Depending on the circumstances, all of these rules can be relaxed by the Development Authority. The purpose of the rules that restrict the size, location, and the height above the first storey of Outdoor Cafés when they are located close to residential uses is

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to reduce their impact. Impacts can include noise, light, overlooking, traffic, social disorder (i.e. patron behaviour in public) and parking.

The parking requirement for restaurants in the LUB is either 1.7 or 2.85 stalls per 10 square metres of "public area". The lower requirement is for smaller restaurants that are neighbourhood-oriented. These restaurants often have a greater percentage of patrons that walk to the use. The higher number is for large restaurants that have a wider customer draw, where more customers use private vehicles to drive to the use.

The "public area" of a restaurant is defined as "... the floor area of a use that allows access to the public, but does not include washrooms, hallways accessing washrooms or entrance vestibules". Essentially, the "public area" is where patrons can be seated in a restaurant. It reflects the number of people who could occupy the floor area and hence the number of motor vehicles that might need parking stalls.

### **INVESTIGATION: ALTERNATIVES AND ANALYSIS**

#### Removing Constraints

The provincial rule changes may lead to a higher demand for Outdoor Cafés in Calgary. Currently, there are approximately 1,700 licensed establishments in Calgary and approximately 550 Outdoor Cafés associated with them. This demand may come from locations where the previous AGLC rules made Outdoor Cafés challenging, such as restaurants in buildings located on small parcels located close to the street, where restricting access to an Outdoor Café solely from inside a building would have made developing an Outdoor Café difficult. There are other locations where the previous AGLC rules would have also made Outdoor Cafés challenging, such as in small neighbourhood and community shopping centres. These types of buildings and site configurations often also face the additional constraint of not having any available 'surplus' parking stalls.

Outdoor Cafés can help build interesting public spaces and are often characteristic of a healthy retail street. In Calgary they usually operate only in the summer. This means that demand for parking stalls associated with Outdoor Cafés is also seasonal, occurring only 3 to 4 months per year. During the summer months, patron seating often shifts from the indoors to the Outdoor Café portion of a restaurant. This means that often the Outdoor Café part of a restaurant is in use while the indoor seating area is not. The unused parking already provided for the indoor area can be used by patrons on the patio. Even though the Outdoor Café temporarily increases the total floor area of the business, it generally does not result in a need for year-round additional parking. If there is additional parking demand associated with Outdoor Cafés, it is seasonal in conjunction with the Outdoor Café itself.

#### Experience from Applications

A review of Outdoor Café development permit application decisions since 2008 June 1, has found that the majority are approved, with a limited number of refusals. Refusal decisions for applications for Outdoor Cafés occur for many reasons, including: insufficient parking stalls; excessive size; distance to residential uses; design; location (e.g. rooftops) and planning policy. Planning policy is applied through the application of discretion by the Development Authority (e.g. the proposed development was inappropriate for the particular context). Examples of policies that influence decisions on Outdoor Cafés include: policies that state commercial

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development should not create negative impacts on adjacent residential uses; and policies that state commercial development should face the commercial street and not adjacent residential uses. Overall, insufficient parking is never the sole or primary reason an Outdoor Café application is refused.

A sample of 56 development permits for Outdoor Cafés approved between 2008 and 2017 found that 46 per cent exceeded 25 square metres in area and had an average size of 53 square metres. This extra outdoor area equates to eight additional parking stalls based on the LUB requirements. Ninety-six per cent of the Outdoor Cafés that exceeded 25 square metres in size were granted a relaxation and approved by the Development Authority.

### **Interior Renovations**

Through the review of some recent planning applications, Administration realized that there is an issue with parking stall requirements for restaurants that undertake interior renovations or alterations, but do not increase their floor area.

Sometimes the alterations change the amount of "public area". For example, a buffet area could be removed and replaced with seating. When this occurs, the amount of required parking stalls would increase by a small amount. If the buffet area was 10 square metres the restaurant would be required to provide an additional 3 parking stalls. The reason the parking requirement would increase is because a larger "public area" can accommodate more patrons and hence could generate the need for more parking.

Interior alterations are usually minor and may only generate small numbers of additional parking. As mentioned previously, it is often not possible to provide additional parking on site. For this reason, Administration recommends the LUB be amended to exempt additional required parking stalls due to interior alterations to following restaurant uses:

- Restaurant: Food Service Only – Large;
- Restaurant: Food Service Only – Medium;
- Restaurant: Food Service Only – Small;
- Restaurant: Licensed – Large;
- Restaurant: Licensed – Medium;
- Restaurant: Licensed – Small; and
- Restaurant: Neighbourhood.

The proposed exemption does not apply to Drinking Establishments, because it is possible that changes to the "public area" in Drinking Establishments can have a more significant impact on parking stall use compared to restaurants.

### **Stakeholder Engagement, Research and Communication**

The proposed amendments have been circulated to The Federation of Calgary Communities (FCC) and BILD Calgary Region – the association representing Calgary builders and developers. The FCC stated that it did not have any concerns at this time, and BILD Calgary indicated that it is likely its members would be supportive of the proposed changes.

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### **Strategic Alignment**

MDP policies state that Calgary should "... build a climate that supports and enhances economic activity...", and that it should "Protect the integrity of viable employment and retail areas by supporting the retention and growth of existing businesses." The proposed amendments will remove a barrier to reinvestment in existing restaurant business and a hurdle in the application process, helping to strengthen the local economy.

Furthermore, an objective of the MDP is to enhance the public realm. Outdoor Cafés both contribute to the quality of the public realm as well support local business activity.

### **Social, Environmental, Economic (External)**

#### **Social**

Outdoor Cafés can help build interesting public spaces and gathering places where people can socialize, communicate and exchange ideas and opinions. They can contribute to the over-all social well-being of a city.

#### **Environmental**

Reducing barriers to restaurants opening Outdoor Cafés in older, street-oriented buildings may encourage older buildings to be retained.

#### **Economic (External)**

Providing more opportunities, and reducing requirements, for businesses to open Outdoor Cafés and attract more business during the summer months will assist the local economy. Additionally, Outdoor Cafés contribute towards the creation of interesting public places and can help build great public streets and retail areas.

### **Financial Capacity**

#### ***Current and Future Operating Budget:***

No impacts have been identified

#### ***Current and Future Capital Budget:***

No impacts have been identified

### **Risk Assessment**

No significant risks have been identified as consequence to deleting minimum parking requirements for both Outdoor Cafés and interior alterations to existing approved restaurants, as both of these situations cause minor, if any, impacts to the need for parking. Outdoor Cafés are seasonal uses and are often used by patrons as a substitute for interior seating.

### **REASONS FOR RECOMMENDATIONS:**

The proposed amendments support and enhance the provincial initiative to promote business and improve experiences for restaurants patrons. The amendments also further the goals of the MDP by promoting economic activity and helping to create interesting public spaces.

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### **ATTACHMENTS**

1. **Attachment 1 – Proposed Bylaw 18P2018**
2. Attachment 2 – Outdoor Café definition and use rules.