

Statutory Plan Consideration

This attachment outlines the difference between statutory and non-statutory plans and Administration's considerations for the Guidebook being approved as a statutory or a non-statutory document. It also discusses why Administration originally proposed the Guidebook as a statutory document and Administration's recommendation for monitoring if the Guidebook is approved as a non-statutory document.

Statutory and Non-Statutory Documents

Calgary Council tasks City Administration with the development of strategies, policies, guidelines, and regulations that implement Council's vision and direction for the city. These documents can take the form of statutory bylaws or they can be adopted by resolution of Council in a non-statutory form. A key guiding vision document is the statutory Municipal Development Plan.

What are Statutory Plans?

Statutory plans embody clear decisions and direction from Council and are approved as planning policy bylaws under Part 17 of the Municipal Government Act (MGA). They must be presented at a public hearing of Council and the public must be given opportunity to submit their support or opposition to the proposed bylaw. Administration must advertise the proposed bylaw in advance of the public hearing so that the public is made aware of the proposal and can familiarize themselves with it.

Statutory plans are legally binding for planning application decision-makers and only allow for the discretion that Council applied when approving the bylaw. To make changes to a statutory bylaw, another public hearing must be held, and the bylaw must be replaced with a revised one. Key examples of statutory plans that are approved as bylaws are Area Structure Plans, Area Redevelopment Plans and the Municipal Development Plan.

What are Non-Statutory Plans?

Sometimes Council wants to provide guidance and make its intention clear but also allow for discretion and adaptation by Administration or users. In these cases, Council can choose to adopt policies by resolution, creating a non-statutory plan, rather than adopting the policy by bylaw through the requirements set out in the Municipal Government Act. Although non-statutory policies, strategies and plans may not be binding, Council does expect the spirit of its approval to be fulfilled as closely as possible.

Non-statutory plans are not required by law to be the subject of a public hearing of Council. However, Calgary Council does generally seek public input on proposed non-statutory documents when they are reviewed by the respective Standing Policy Committee, for example the Standing Policy Committee on Planning and Urban Development. Examples of non-statutory

documents are urban design guidelines, City strategies such as the Established Areas Growth and Change Strategy or City plans such as The City's Climate Action Plan.

Why was the Guidebook proposed as a statutory document?

The goal of the Guidebook for Great Communities is to modernize Calgary's planning process by making it more user-friendly, consistent, able to provide certainty, and to be more aligned with and able to implement the Municipal Development Plan. A key element toward modernizing Calgary's planning process is that the Guidebook is intended to contain Council-approved, statutory, best-practice planning policy in one document. This statutory Guidebook approach has already been applied in the following Council-approved plans: The New Community Guidebook, The Developed Areas Guidebook and The Centre City Guidebook.

Currently every single area redevelopment plan in Calgary contains statutory policies for all aspects of development in the community, such as built form, open spaces and transportation. These policies are repeated in more than 260 area redevelopment plans, but they are not identical. They differ slightly in each plan, which leads to different interpretations and inconsistent and uncertain outcomes. This situation demands that investors, applicants, businesses and The City must interpret the statutory policies contained in each community plan when developments are proposed. In turn, this leads to longer development approvals processes and can impede desired development, business activity or investment.

By containing all Council-approved policy in one statutory document (The Guidebook), Council can better ensure that development and investment throughout Calgary is consistently meeting Council's vision and the goals of the Municipal Development Plan in the local area plans. It is also easier and faster to update policies or introduce new policies and apply them with an approved local area plan as only one document must be reviewed and amended instead of potentially hundreds. Consistent policies and their consistent interpretation improve certainty for communities, businesses and investors.

By collecting the standard policies in one statutory Guidebook, each local area plan can be more concise and easier to use, and the local area planning process can be completed more quickly. Providing local area plans more quickly is important in order to provide all communities with new plans that enable development and investment in accordance with a modern community vision and the Municipal Development Plan.

This approach still allows the individual, statutory local area plans to focus on unique characteristics of the community and make slight adjustments in the plan to reflect them. However, it does not provide each community with the same amount of influence over each policy as has been the case in area redevelopment plans in the past.

Why should Council consider a non-statutory Guidebook?

The primary objective of approval as a non-statutory plan is to provide communities with more control and influence over the policies that apply in their communities. For the Guidebook policies to apply, they will have to be transferred to each local area plan. Communities would be

more able to amend the Guidebook policies at the local level to meet their vision. This ability would mitigate the concerns of communities who will be affected by the Guidebook in the future but were not actively involved in the development of its policies. It should be noted that each local area plan must still be reviewed and approved by Council as a statutory bylaw.

Although its approval as a non-statutory document would not be as binding as a statutory plan, Council would still expect the spirit of the Guidebook's policies to be implemented as closely as possible in the individual local area plans. However, the amendments and modifications at the local level may lead to a less consistent and less certain policy landscape across Calgary's communities.

The local area plans themselves will be longer because they will have to contain all applicable community policies including those found in the Guidebook. The potential exists that much time will be spent discussing the modification of policies in each individual plan which contradicts the goal of streamlining the planning process. The City will need more time to provide modern plans to all communities throughout Calgary. Applicants and businesses who invest in numerous communities will have to familiarize themselves with how each policy is implemented in each local area plan and how it may slightly differ from the policy in another local area plan. This will reduce the City's ability to meet the goal of modernizing Calgary's planning process by making it more user-friendly, consistent, able to provide certainty, and more aligned with the Municipal Development Plan.

Since non-statutory documents do not require a public hearing of Council and are not legal bylaws, the process of updating and refining the Guidebook's policies will be simpler. Administration will be able to identify policy improvements based on experience gained in the local area plans. It will be less time consuming to update the Guidebook. Public input to the updates will still be provided through the ability to participate in the Standing Policy Committee of Planning and Urban Development.

What if Council approves the Guidebook as a non-statutory policy?

If Council approves the Guidebook as a non-statutory document Administration recommends implementing a monitoring phase. During this phase the first four new local area plans will be developed using the Guidebook policies. Administration will monitor how they are being applied and amended in each plan and if consistency and certainty are being negatively impacted. This will inform improvements and amendments to the Guidebook's policies and is in keeping with Administration's commitment to sustain the policies and continually improve. Administration will also continue to engage with communities to introduce them to the Guidebook policies and planning approach and to provide them with an opportunity for early familiarization and input.

Administration will report back at the conclusion of the monitoring phase. Applying this staged implementation approach will ensure that lessons can be learned from each plan. Adjustments to the approach can also be made if community support and familiarity with the Guidebook's policies has been demonstrably enhanced.