

MISCELLANEOUS – BREWERIES, WINERIES AND DISTILLERIES
CITY WIDE
BYLAW 22P2016

EXECUTIVE SUMMARY

This report proposes a new definition called “Brewery, Winery and Distillery” for the Land Use Bylaw (LUB). It accommodates the manufacturing of all types of alcoholic beverages, such as beer, wine, spirits, cider or any beverage containing alcohol. It also allows for the on-premise consumption of beverages made on the premises, and for the retail sale of beverages made on the premises. It is proposed to be listed as a discretionary land use in most industrial and commercial land use districts.

Breweries and other beverage manufacturers are currently managed by the “General Industrial – Light” or “General Industrial - Medium” use definitions in the LUB. Brewpubs, where beer is made and sold for consumption on the premises, but not retailed on the premises or packaged and shipped to a distributor, have been accommodated under the “Drinking Establishment” and “Restaurant: Licensed” uses. “General Industrial – Light” and “General Industrial – Medium” uses are listed in most industrial districts, and “Drinking Establishments” and “Restaurant: Licensed” are listed mainly in the commercial districts, but also in some industrial districts.

Until recently the Alberta Gaming and Liquor Commission (AGLC) required that beer manufacturers have a minimum production capacity of 500,000 litres per year, inferring a significant investment to start a new brewery, and also meaning that most breweries were an industrial scale use. With removal of the minimum production requirement, mark-up reductions for small breweries and greater consumer interest in craft beer, there has been an increase in interest in starting new small micro or nano breweries in Calgary. Due to the new ability to brew small amounts of beer, there has also been interest to establish small breweries in the smaller spaces that are found in commercial districts and buildings.

Additionally, this report includes some minor amendments to the LUB, including one that makes existing non-conforming “Place of Worship – Medium” and “Place of Worship – Large” conforming to enable building maintenance and minor building modifications, but not intensification of the use.

PREVIOUS COUNCIL DIRECTION

None.

ADMINISTRATION RECOMMENDATION

2016 March 10

That Calgary Planning Commission recommends **APPROVAL** of the proposed amendments to the Land Use Bylaw (1P2007).

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RECOMMENDATION(S) OF THE CALGARY PLANNING COMMISSION

That Council hold a Public Hearing on Bylaw 22P2016; and

1. **ADOPT** the proposed amendments to the Land Use Bylaw (1P2007), in accordance with Administration's recommendation; and
2. Give three readings to the proposed Bylaw 22P2016.

REASONS FOR RECOMMENDATION:

Administration recommends approval of the amendments to the LUB that define "Brewery, Winery and Distillery" and list it as a discretionary use in most industrial and commercial districts, because the new definition manages a range of sizes and formats of breweries, as well as accommodating the manufacturing of a variety of alcoholic beverages. It is intended to help manage and foster the craft beverage industry in Calgary. Defining manufacturers of alcoholic beverages as a separate use, distinct from general manufacturing, allows it to be listed as use in districts where other types of manufacturing may not be appropriate.

Craft breweries and other manufacturers of alcoholic beverages can help foster tourism and local employment. For example, Portland, Oregon has about eighty craft breweries in a city with a metro population of about 2.3 million. In Canada, metro Vancouver has over fifty craft breweries in a similar sized region.

Calgary also has many craft breweries, with organised tours to breweries and other alcoholic beverage manufacturers in the city and region now available. There are also several new breweries under development in Calgary. The new definition and rules clarify that breweries and other manufacturers of alcoholic beverages can provide a small drinking area available to the general public for consumption of beverages made on the premises, as well as tasting areas for organised tours, and can retail the beverages made of the premises.

The minor amendments include making existing non-conforming "Place of Worship – Medium" and "Place of Worship – Large" into conforming uses, provided there is no expansion of the assembly area. The purpose of this amendment is to enable maintenance, repair and minor modifications to existing, sometimes historic, buildings. Currently, a development permit for repair or modifications to these uses must be refused because they are not listed uses in some districts where they exist.

ATTACHMENT

1. Proposed Bylaw 22P2016

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ADMINISTRATIONS RECOMMENDATION TO CALGARY PLANNING COMMISSION

Recommend that Council **ADOPT**, by bylaw, the proposed amendments to Land Use Bylaw 1P2007 (APPENDIX I).

Moved by: R. Wright

Carried: 9 – 0

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REGULATORY DISCUSSION

BACKGROUND

Manufacturers of alcoholic beverages have been managed in the LUB in two ways. Where the product is packaged and shipped to a distributor, they have been accommodated under the “General Industrial – Light” or “General Industrial – Medium” use definition. This use is listed in four industrial districts and in the CC-X district, as shown in APPENDIX II. Generally, the retail sale and private tasting of beverages at the place they have been manufactured has been allowed as a normal and customary activity in beverage manufacturers.

Brewpubs, where beer is manufactured and sold for consumption on the premises, but not retailed or packaged and shipped to a distributor, has been accommodated under the “Drinking Establishment” or “Restaurant: Licensed” use definitions. They are allowed in most commercial and some industrial districts as shown in APPENDIX II.

Until recently the Provincial Government required that a brewery have a minimum annual production capacity of 500,000 litres. This requirement inferred a relatively large business, one that was mostly industrial in scale. The removal of this requirement enables breweries that can use small spaces, including buildings in commercial areas.

At the end of 2014 the AGLC allowed manufacturers of alcoholic beverages to request a license to provide liquor service to the public as a tourist facility, similar to what occurs at recreational facilities, museums and art galleries.

Finally, at the end of 2015, the AGLC amended its mark-up schedule, so that for brewers in the New West Partnership region (Alberta, British Columbia and Saskatchewan), the first 10,000 hectoliters (hL) of production have a mark-up of \$0.10 per litre. For brewers outside the New West Partnership, the mark-up is \$1.25 per litre.

THE PROPOSED LAND USE BYLAW AMENDMENT - BREWERIES

The proposed single definition will accommodate breweries and other manufacturers of alcoholic beverages in both the commercial and industrial districts. It will also accommodate manufacturers that operate their businesses in different ways.

Some manufacturers will operate in a traditional way, producing beverages, packaging and shipping the product to a distributor or a retailer for sale and eventual consumption by the consumer. Other manufacturers may operate similar to the brewpub format, where beverages are manufactured and sold for consumption on the premises, with some also being sold in bottles, cans or filled into reusable ‘growlers’ (a reusable 1.89 litre container) and consumed off the premises.

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The proposed definition allows a “Brewery, Winery and Distillery”:

1. To manufacture, package and ship alcoholic beverages;
2. Retail the beverages made on the premises;
3. Contain a private hospitality area for private tours and tastings;
4. Contain a “public area” up to a maximum of 75 square metres for public consumption of alcoholic beverages made on the premises;
5. Prepare and sell food;
6. Combine with a “Drinking Establishment” or “Restaurant: Licensed”, only when one of those uses is listed in the same district, to achieve a larger “public area”; and
7. Combine with an “Outdoor Cafe” when it is listed in the same district.

Although the proposed rules allow a “Brewery, Winery and Distillery” to retail alcoholic beverages made on the premises, this is different from a “Liquor Store” because they cannot sell a broad range of alcoholic beverages, and hence no separation distance between these uses or from liquor stores is recommended at this time.

Additionally, the use of a “public area” in a “Brewery, Winery and Distillery” is different than a “Drinking Establishment” and a “Restaurant: Licensed”, because only the products that are manufactured are consumed. A “Brewery, Winery and Distillery” that would like to sell other types or brands of alcoholic beverages for on-premise consumption will require a combined development permit with either a “Drinking Establishment” or “Restaurant: Licensed”.

“Brewery, Winery and Distillery” is proposed as a discretionary use. This is the best way to manage a relatively complex use that can occur in a variety of sizes, districts and contexts with as few rules as possible. A discretionary use allows the development authority to apply policy and discretion, and it avoids the need to write complex rules to attempt to manage every possible scenario.

MUNICIPAL REGULATION IN OTHER JURISDICTIONS

In the United States, the number of breweries is now reported to be higher than at any other time in history, with the number increasing from under 100 breweries in the late 1970’s to over 2,500 in 2013.

Most of these new businesses are micro or nano in scale. Commonly, microbreweries produce less than 15,000 barrels of beverages per year, with a barrel being equivalent to 31 US gallons. This is equivalent to about 17,000 hectolitres (hL).

Many American jurisdictions list microbreweries or distilleries in mixed use and commercial districts, including Burlington Vermont, Columbia South Carolina, Dallas Texas, Fort Collins Colorado and Memphis Tennessee. Most of Calgary’s commercial districts are essentially mixed use districts as well, for example, the “Last Best” brewery and distillery in Calgary on

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11 Avenue SW in the Beltline is located in the CC-X district, which lists Dwelling Units, General Industrial – Light and Drinking Establishment – Medium as possible uses.

Defining breweries and distilleries separately from other industrial manufacturing uses allows them to be considered in locations that may not be suitable for other types of manufacturing uses that can occur in a more general manufacturing use category. For example, in 2014 the Mayor of Anaheim California announced a “Brew City” initiative to attract craft brewers to Anaheim, as part of a larger effort to brand the city as a place where new businesses can open more quickly. A new land use definition was proposed for alcoholic beverage manufacturing and it was listed in almost all commercial and industrial districts.

In Canada, a variety of regulatory approaches are taken with breweries and other manufacturers of alcoholic beverages. Some cities accommodate breweries as an accessory use to licensed restaurants and bars, common known as brewpubs.

Vancouver accommodates breweries in a variety of industrial, comprehensive and ‘historical’ land use districts. For example, the HA-3 Yaletown Historic Area district lists food and beverage manufacturers, commercial and residential uses.

The City of Toronto accommodates breweries in its “CR” Commercial Residential Zone Category and a variety of other districts.

BUSINESS AND COMMUNITY CONSULTATION

Administration formally met with industry stakeholders on 2016 February 16 to discuss the proposed definition and rules, and to answer questions and discuss building permit process and approval issues. Additionally, Administration has met with individual business owners and prospective owners to discuss how micro and nano breweries should be managed.

Finally, Administration distributed a draft bylaw amendment to community and BRZ groups in January 2016 for feedback.

THE PROPOSED LAND USE BYLAW AMENDMENT – OTHER MINOR AMENDMENTS

This report also contains a number of other minor LUB amendments, the most significant of which proposes that existing Place of Worship – Large and Place of Worship – Medium, be listed as discretionary uses in the land use districts where they are non-conforming (i.e. not a listed use) to allow minor building modifications and maintenance. These districts include R-C1, R-C2, M-CG, M-C1, M-C2, C-N2, C-COR2 and CC-MH.

The amendment will not allow the expansion of the “assembly area” of these uses, which are the areas in a building where people gather for ceremonies, religious services and educational, recreational and social events.

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APPENDIX I

PROPOSED AMENDMENTS TO LAND USE BYLAW 1P2007

- (a) Amend subsection 5(1)(d) by adding “and Street Bylaw” after “Calgary Traffic Bylaw”.
- (b) Add a new subsection (13.1) to section 7:

(13.1) “Street Bylaw” means the *Street Bylaw, 20M88*.
- (c) Delete subsection 13(86) and insert the following:

“(86) “**General Manager**” means the **City Manager** or the **City Manager’s** designate.”
- (d) Amend subsection 27(5)(d) by deleting the word “and”.
- (e) Add a new subsection (d.1) to subsection 27(5):

“(d.1) **Rowhouse Building** when listed as a **discretionary use** in the **Developed Area**; and”
- (f) Add a new section 156.1

“**156.1 “Brewery, Winery and Distillery”**
 - (a) means a **use**:
 - (i) where beer, wine, spirits and other alcoholic beverages are manufactured;
 - (ii) that may have areas and facilities for the storage, packaging, bottling, canning and shipping of the products made;
 - (iii) that may have a private hospitality area where products made on the premises are provided to private groups for tasting and consumption as a special event;
 - (iv) that may include the retail sale of products made on the premises for consumption off the premises;
 - (v) that may include a **public area** of 75.0 square metres or

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less where beer, wine, spirits and other alcoholic beverages manufactured on the premises are sold to the general public for consumption on the premises;

- (vi) where the private hospitality area and the **public area** may be separate floor areas or may occur in the same floor area, but whether these activities are combined or separate the **public area** may not exceed the maximum in subsection (a)(v) unless combined with another **use** as contemplated in subsection (c);
- (vii) that may include the preparation and sale of food for consumption on the premises to private groups in the private hospitality area and to the general public in the **public area**;
- (b) is a **use** within the General Industrial Group in Schedule A to this Bylaw;
- (c) may be combined with a **Drinking Establishment – Large, Drinking Establishment – Medium, Drinking Establishment – Small, Restaurant: Licensed – Large, Restaurant: Licensed – Medium or Restaurant: Licensed – Small** when one of these **uses** is also a listed **use** in the same district as a **Brewery, Winery and Distillery**, but the maximum total **public area** of the combined **uses** is the largest **public area** allowed in one of the combined **uses**;
- (d) when the **use** includes a **public area**, it must not have any openings, except emergency exits, loading bay doors or non-opening windows, on a facade that faces a **residential district** or abuts a **lane** separating the **parcel** from a **residential district**;
- (e) when the **use** includes a **public area**, it must not have an exterior entrance located on a facade that faces a **residential district**, unless that facade is separated from the **residential district** by an intervening **street**;
- (f) when the **use** is located in an **industrial district**, the maximum floor area of a display and sales area located in a **building** is the greater of:
 - (i) 38.0 square metres; or
 - (ii) 20.0 per cent of the **gross floor area** of the **use** to a maximum of 465.0 square metres;

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- (g) requires a minimum number of **motor vehicle parking stalls** that is the sum of:
 - (i) the greater of:
 - (A) 1.0 stalls per 100.0 square metres of **gross usable floor area** for the first 2000.0 square metres, and then 1.0 stalls for each subsequent 500.0 square metres, not including any **public area**; or
 - (B) 1.0 stalls per three (3) employees based on the maximum number of employees at the **use** at any given time, not including employees working only in the **public area**; and
 - (ii) 1.70 **motor vehicle parking stalls** per 10.0 square metres of **public area** where beer, wine, spirits and other alcoholic beverages manufactured on the premises are sold to the general public for consumption on the premises
 - (h) does not require **bicycle parking stalls – class 1**; and
 - (i) requires a minimum of 1.0 **bicycle parking stalls – class 2** per 250.0 square metres of **gross usable floor area**.
- (g) In subsection 247(a)(ii) after “**Convenience Food Store**,” add “**Brewery, Winery and Distillery**,”.
- (h) Add new subsection (b.2) to subsection 703(3):
- “(b.2) **Brewery, Winery and Distillery**,”
- (i) Add new subsection (c.1) to subsections 723(3), 863(3) and 1278(3):
- “(c.1) **Brewery, Winery and Distillery**,”
- (j) Add new subsection (e.1) to subsections 740(3) and 955(2):
- “(e.1) **Brewery, Winery and Distillery**,”
- (k) Add new subsection (d.1) to subsections 759(3), 778(3), 882(3), 1164(3), 1181(3) and 1307(3):
- “(d.1) **Brewery, Winery and Distillery**,”

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- (l) Add new subsection (f.1) to subsections 798(3) and 815(3):
“(f.1) **Brewery, Winery and Distillery;**”
- (m) Add new subsection (b.1) to subsections 908(2) and 969:
“(b.1) **Brewery, Winery and Distillery;**”
- (n) Delete subsection 924(3)(a) and insert the following:
“(a) **Brewery, Winery and Distillery;**
(a.1) **Drinking Establishment – Medium;**”
- (o) Delete subsection 939(2)(a), (a.1), (a.2) and (a.3) and insert the following:
“(a) **Artist’s Studio;**
(a.1) **Auto Service – Minor;**
(a.2) **Beverage Container Quick Drop Facility;**
(a.3) **Brewery, Winery and Distillery;**
(a.4) **Car Wash – Single Vehicle;**”
- (p) Add new subsection (a.2) to subsections 1249(3) and 1259(3):
“(a.2) **Brewery, Winery and Distillery;**”
- (q) Amend subsections 791(3) and 1107(6.1) by deleting “For a **Computer Games Facility,**” and replace with “For a **Brewery, Winery and Distillery, Computer Games Facility,**”.
- (r) Amend Schedule A, General Industrial Group, by adding “**Brewery, Winery and Distillery**” to the list after “**Asphalt, Aggregate and Concrete Plant**”.
- (s) Amend Schedule A, Sales Group, by adding “**Payday Loan**” to the list after “**Pawn Shop**”.
- (t) Add new subsection (4) to sections 386, 426, 578, 588, 597, 723 and 798:
“(4) The following **uses** are additional **discretionary uses** on a **parcel** that has an existing **building** used as a **Place of Worship – Large** or **Place of Worship – Medium** provided any new **development** proposed does not result in the increase of any **assembly area**:”

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- (a) **Place of Worship – Large; and**
 - (b) **Place of Worship – Medium.”**
- (u) Add new subsection (5) to section 1124.
 - “(5) The following **uses** are additional **discretionary uses** on a **parcel** that has an existing **building** used as a **Place of Worship – Large** or **Place of Worship – Medium** provided any new **development** proposed does not result in the increase of any **assembly area**:
 - (a) **Place of Worship – Large; and**
 - (b) **Place of Worship – Medium.”**

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APPENDIX II

ALCOHOL MANUFACTURING AND ASSOCIATED USES

Districts	General Industrial - Light	General Industrial- Medium	Restaurant: Licensed - Small	Restaurant: Licensed - Medium	Restaurant: Licensed - Large	Drinking Establishment - Small	Drinking Establishment - Medium	Drinking Establishment - Large	Outdoor Cafe	Breweries, Wineries and Distilleries
C-N1			✓			✓			✓	✓
C-N2			✓			✓			✓	✓
C-C1			✓	✓		✓	✓		✓	✓
C-C2			✓	✓	✓	✓	✓		✓	✓
C-COR1			✓	✓		✓	✓		✓	✓
C-COR2			✓	✓		✓	✓		✓	✓
C-COR3			✓	✓	✓	✓	✓	✓	✓	✓
C-O			✓	✓		✓	✓		✓	
C-R1			✓	✓		✓	✓		✓	
C-R2			✓	✓	✓	✓	✓	✓	✓	✓
C-R3			✓	✓	✓	✓	✓	✓	✓	✓
I-G	✓	✓	✓	✓					✓	✓
I-B			✓	✓		✓	✓		✓	✓
I-E	✓		✓			✓			✓	✓
I-C	✓		✓	✓		✓			✓	✓
I-R	✓	✓	✓						✓	✓
CC-MH						✓				
CC-MHX			✓			✓			✓	
CC-X	✓		✓	✓		✓	✓		✓	✓
CC-COR			✓	✓		✓	✓		✓	✓
CR20-C20/R20			✓	✓	✓	✓	✓	✓	✓	✓
CC-ER			✓						✓	
CC-EMU			✓	✓	✓	✓	✓		✓	✓
CC-ET			✓	✓	✓	✓	✓	✓	✓	✓
CC-EPR			✓			✓			✓	
CC-EIR			✓	✓	✓	✓	✓	✓	✓	✓
CC-ERR			✓	✓					✓	