

### **Proposed rules/characteristics for new restaurant use definition**

Administration recommends the creation of a new restaurant use definition with the following components:

- Public area of 150 square metres
- No entertainment area
- Minors must be allowed on the premises at all times
- Mandated closing times
- Reduced parking rate
- Residential interface rules

These criteria are discussed in greater detail below including pros and cons for each recommendation. Administration has indicated whether these options would be able to be relaxed by the Development Authority or not.

#### 150 square metres of public area (characteristic-not relaxable)

Extensive feedback from industry representatives suggested that only a specific restaurant type and business model is financially feasible at a public area of 75 square metres. These were described as small formula restaurants and owner-operator restaurants (Subway being a specific example). Industry stated that a public area of 150 square metres is essential to make restaurants financially viable. There are numerous examples of successful restaurants that have been operating for many years that are at 75 square metres or less of public area. Clarification was provided to industry that restaurants over 75 square metres of public area are listed uses in all but two commercial districts. Industry's response acknowledged this but suggested the collection of rules, processes and resultant timelines for restaurants over 75 square metres (medium and large) discourage restaurant development.

*Pros:* Expanding public area within the context of a new use definition satisfies an industry request.

*Cons:* This size is available in all but two commercial districts. A larger size means more patrons which means possibly greater impact on the site and surrounding areas. These impacts are magnified when discussing the neighbourhood, community, and corridor districts that are either imbedded within or immediately adjacent to residential areas.

#### No entertainment area (characteristic-not relaxable)

Currently restaurants are allowed a maximum of 10 square metres of public area used for the purpose of providing entertainment. This could include dance floors, stages, pool tables, or DJ booths. These characteristics have been identified as not a typical function of a restaurant but rather a drinking establishment or nightclub. Communities relayed experiences of operators exploiting these areas and turning their establishments into nightclubs or lounges. Consultation with industry suggested that their desired restaurant operators would generally not feature entertainment areas. Therefore removing entertainment areas is a valuable safeguard from restaurants changing into nightclubs and bars.

*Pros:* Elimination of entertainment area reduces opportunity for restaurants to function in a manner aligned with nightclubs or bars.

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*Cons:* Removes opportunity for some entertainment that may be considered low impact.

### Allowing minors at all times (characteristic-not relaxable)

Requiring that a restaurant never prohibit the presence of minors provides a strong safeguard from restaurant uses repurposing in to nightclubs or bars. This approach would align with anticipated municipal business license amendments, and not rely on the Alberta Gaming and Liquor Commission licensing to control access for minors.

*Pros:* This provides an enforceable rule for the Development Authority.

*Cons:* Requiring that minors be allowed on site at all times does not mean that minors will actually be in the restaurant. Atmosphere, decor, and operations of a restaurant might actually deter families and minors from being in the restaurant.

### Closing times (characteristic-not relaxable)

Concerns were heard from communities regarding restaurants operating late at night producing patron and staff noise, both inside and outside the restaurant, and music leaving the building. In terms of addressing restaurants integrating within community context pre-determined closing times may be beneficial for communities in terms of providing certainty for how a restaurant will be operating. Operating late at night is a function more aligned with nightclubs and bars than a neighbourhood restaurant. Set closing times must be developed with industry collaboration to ensure that restaurants are not unduly affected by the rule.

*Pros:* Provides assurance for communities that a restaurant will not be operating late at night which is a function aligned with nightclubs and bars.

*Cons:* The Development Authority typically does not get involved at this level with commercial activity. A standard closing time may not be appropriate or required in all areas. There may be a market for late night diners and this use would preclude them.

New parking rate (rule-relaxable) Feedback from industry representatives suggested that required parking rates for restaurants are too high and unattainable in established areas especially existing buildings. Sites that are deficient in parking require a relaxation granted by the Development Authority. As well, some developments receive blanket pushback from communities that object to any kind of relaxation whether the relaxation is warranted. Some communities view relaxations as the breaking of a rule rather than a planning tool. Typical planning rationale for granting a parking relaxation includes the existing mix of uses on site, proximity and availability of transit and available on-street parking. The industry suggested rate of 1.7 stalls per 10 square metres of public area is consistent with the C-N1 and C-COR1 district where the standard parking rate is lowered to respond to the particular district context. In the C-C2, C-R1, C-R2, and C-R3 districts where there is more comprehensive commercial development a blended rate of 4.5 stalls per 100.0 square metres of gross usable floor area is used. This is done as the nature of the district itself requires parking, not the individual uses. The new parking rate would be in effect in the C-N2, C-C1, C-COR2, and C-COR3 districts.

*Pros:* This will satisfy the industry request for less required parking for restaurants. This may incentivize the re-use of existing sites and buildings for restaurant activity.

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*Cons:* Parking was the primary concern of communities in terms of residential overspill. Administration typically relaxes parking requirements for restaurants, which means development permits are circulated to community associations and councillor offices for comment, as well as being open to appeal. A reduced parking rate may result in fewer relaxations, which could eliminate these processes.

#### Adjacency and interface (rule-relaxable)

Restaurants in commercial districts located in residential areas are required to be located 45 metres from residential districts to mitigate interface impacts. This rule can be relaxed by the Development Authority during the development permit process. Research has shown that this rule is consistently relaxed and that development permits are not refused based solely on the relaxation of this rule. However, when requesting a relaxation it is incumbent on the applicant to prove that this issue has been mitigated by design or circumstance. In considering the development of a new use, retaining rules currently used for restaurants that regulate openings and entrances facing a residential district and removing the 45 metre setback rule.

*Pros:* Interface between restaurants and residential areas was identified as an area of concern with communities. As these rules can be relaxed, a proposed development that is non-compliant can be managed by the Development Authority through the development permit process if the development is a discretionary use, or a permitted use requiring a relaxation.

*Cons:* While removing the 45 metre rule has some merit as it has never been enforced in isolation, it did serve as a tool the Development Authority could use to manage restaurants adjacent to residential.

#### Permitted vs. Discretionary

Council direction acknowledged that neighbourhood restaurants are a desired commercial activity. Therefore Administration's approach was to develop rules that would enable a new use as a permitted use by mitigating community concerns up front. It is important to note that in commercial districts, permitted uses become discretionary when located in new buildings. Historically, eating and drinking uses that involve liquor are treated as discretionary uses as Council has expressed concern over the function of these uses and that they require more specific oversight from the Development Authority.

Administration recommends that this new restaurant use definition be a permitted use in commercial districts. However, if all of the above characteristics and rules are not approved as recommended, Administration would not be supportive of this new restaurant use being a permitted use.