

## Land Use Bylaw Amendment – Enabling Pop-Up and Interim Uses, PUD2019-0452

### EXECUTIVE SUMMARY

Over the past three years, The City has focused on a number of initiatives to make Calgary an attractive place for businesses, including initiatives such as the Centre City Enterprise Area, and the new online business portal. The initiative proposed in this report continues to build on the previous initiatives.

The way businesses operate today is not the same as how they operated in the past and The City's processes, while providing valuable services, must be flexible to accommodate different trends and business models. While the Centre City Enterprise Area addresses high vacancy rates in the downtown core, this report focuses on enabling a variety of uses to fill spaces outside of the centre city, without the need for a development permit, on a short term or pop-up basis. While the amendments in this report could help to reduce vacancies throughout the city, they focus on supporting small businesses that may not know if their business model will succeed or that may want to test it in a location prior to committing to a long-term lease. The purpose of this initiative is to make changes to support businesses to start and grow in Calgary. It provides flexibility by enabling quicker occupancy for uses that create minimal impact on communities and surrounding parcels, for a short period of time.

The proposed amendments as outlined in Attachment 1, will apply city-wide and are aligned with the intent and approach for the long-term land use framework which Administration is currently working on including an updated Land Use Bylaw.

Administration is proposing changes to Land Use Bylaw 1P2007 to include two new categories of uses as follows:

- a) Pop-Up Uses: These uses have low to moderate impact on surrounding areas and can pop up in a commercial or industrial space for 4 consecutive days without a development permit; and
- b) Interim Uses: These uses have low impact on surrounding areas and can occupy a vacant commercial space for up to six (6) months without a development permit.

Administration is also proposing to combine the two uses of Market and Market – Minor as a way to simplify and promote a business that supports local retail, food production and manufacturing and allow it in more land use districts.

As identified through the engagement process, this initiative responds to the needs of the short-term businesses through a modified approval process without jeopardizing the integrity of our approval process for permanent businesses.

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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 the Land Use Bylaw 1P2007 as outlined in the proposed text in Attachment 1; and
  - b. forward the proposed bylaw, to accommodate the required advertising, and this report, directly to the 2019 May 27 Combined Meeting to Council.
2. Recommend that Council hold a Public Hearing for the proposed amending bylaw and give three readings to the proposed Land Use Bylaw Amendment in Attachment 1.

**PREVIOUS COUNCIL DIRECTION / POLICY**

On 2016 November 21, Council approved the package of Mid-Cycle Budget Adjustment contained in Report C2016-0863, and directed Administration to investigate three initiatives to assist local building and business owners during the economic downturn. The three initiatives proposed through the Mid-Cycle Budget Adjustment Process were named: Small Business Tactical Support Team, Centre City Enterprise District and Pop-Up Retail Program.

Two of the three initiatives (Small Business Tactical Support Team and Centre City Enterprise District) has been completed, the initiative proposed in this report fulfills the last direction.

The initiative proposed in this report is also one of the initiatives being completed in 2019 identified as item "C5" in City Planning and Policy Service Line Workplan 2019 as outlined in PUD2019-0253 and approved at 2019 March 18 Combined Meeting of Council. This is part of the MDP Implementation and Sustainment City Planning & Policy Service line sub-service with a start date of Q1 2019 and end date of Q2 2019. This initiative aligns with the intent and approach of the Downtown Resilience priority area.

**BACKGROUND**

In 2016, Administration proposed a number of initiatives to Council through the Mid-Cycle Budget Adjustment process to respond to economic downturn. One of these initiatives was to create a Centre City Enterprise Area. In 2017, Administration amended the Land Use Bylaw and created the Centre City Enterprise Area (C2017-0434 – Proposed Centre City Enterprise Area: Amendment to Land Use Bylaw 1P2007). The purpose of this initiative was to suspend the requirement for a development permit for Change of Use for certain uses in the Centre City area only. This was to enable new businesses in vacant space and to preserve and enhance the vibrancy of our Centre City. Administration wanted a nimble approach to Change of Use, with the understanding that most uses would not require consideration of planning aspects because of the mixed-use character provided in the Centre City.

The proposed amendments in this report fulfills one of the last initiatives proposed through the Mid-Cycle Budget Adjustment process. The proposed amendments in this report are based on the experience gained in the Centre City Enterprise Area and affect the rest of the city and are not limited to Centre City area.

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At the Combined Meeting of Council on 2019 March 18, the Motion Arising was adopted which directed Administration to consider ways of streamlining city-wide applications, similar to those seen in the Centre City Enterprise Area. The proposed amendment in this report responds to the direction item 1 of 3 in the motion arising, aiming at creating a city-wide approach to applications.

Through discussion with external stakeholders, Administration has identified the need to support new businesses that do not want to be in a permanent location, or that do not fit the typical business model of operating every day throughout the year. This includes enabling businesses to operate for a short period in commercial and industrial spaces city-wide. These types of businesses are often referred to as either Pop-Up or Interim businesses depending on their duration. Currently, there is no available data on Pop-Up and Interim Uses. Most businesses currently pop up in existing approved locations with another business, or illegally. Once enforced, they move or apply for all necessary approvals. This initiative would enable the businesses to locate in existing buildings legally for a prescribed amount of time as identified in the report.

A Pop-Up Use is where a business occupies a space for a short term to promote a product or service and to reach new customers. They rarely need major modification to the spaces they occupy. Currently, businesses wishing to pop-up inside of an existing commercial space must obtain the same approvals as a permanent business. The permits, licences and inspections required for a permanent location are not designed with the Pop-Up business model in mind. An Interim Use is where a business occupies a space for a temporary period, to either provide seasonal products and services, or as a way to determine if there is enough demand in an area to support permanent operation. Currently, if an artist wishes to occupy a commercial space for up to six months to display art work, the artist studio is subject to the same approvals as permanent business.

Pop-Up and Interim Uses often share spaces with other Pop-Up and Interim Uses to test partnerships and to see if they can work well together. They also open in different locations to generate buzz about their products.

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

Allowing Pop-up and Interim Uses throughout the city would provide more opportunities for businesses to operate temporarily. Updating existing regulatory framework is critical to accommodate the needs of innovative business concepts. Research indicates that other cities such as Toronto, Winnipeg, Edmonton, Vancouver, Victoria, Portland and Denver currently do not have a city-wide approach to enable Pop-up and Interim Uses. Oakville, Winnipeg and Toronto are launching pop-up retail initiatives in Downtown retail spaces in an effort to create more compelling tenant mix.

Administration is proposing to enable Pop-Up and Interim Uses city-wide to operate for a short term without a development permit, building permit and a business licence.

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To achieve this, Administration is proposing to create two categories of uses:

- a) Pop-Up Uses
- b) Interim Uses

### Pop-Up Uses

These uses enable businesses to operate in a commercial or industrial space for four consecutive days for a total of 50 days in a calendar year. The four consecutive days allow the businesses to operate on long weekends, and the 50 days in a calendar year provides the business the opportunity to open once every weekend. The reason the time frame is limited to 4 consecutive days or once every weekend is to minimize the potential impact of these uses on neighbouring areas.

Initially, Administration explored the option of allowing the Pop-up Uses for two days a week (weekend) for a maximum of 30 days a year. However, in discussion with internal and external stakeholders, it was determined that limiting Pop-up Uses only to two days a week may not be feasible for business. Hence, Administration is allowing Pop-up Uses for four days a week without a development permit. This also allows the businesses to open up on the long weekends.

Pop-up Uses rarely modify the space they locate in and typically choose spaces based on their ability to accommodate their needs (such as space, parking, and customer access). Historically, these activities include markets or other retail uses; however, other uses, including artist studio and other types of manufacturers (people who make a product and sell it onsite), may also benefit from these amendments.

These uses can benefit both the communities and businesses. For example, areas of the city that are underserved can benefit from a Pop-Up travel clinic, pet care services and similar businesses. Pop-Up cinemas around the city can bring community members together. These Pop-Up Uses can also activate an area by attracting additional customers to a commercial plaza that is suffering from high vacancy rate, thus benefiting other businesses.

Table 1 in Attachment 2 shows all the uses that can be a Pop-Up. The most common uses, such as retail, consumer services, personal services, offices, counselling services and clinics, and fitness or recreational facilities are generally appropriate. Administration has determined that Pop-Up Uses are most appropriate throughout the city, except within the primarily low density residential districts. Table 2 in Attachment 2 indicates the specific land use districts where Pop-Up Uses are proposed.

Today, Pop-up Uses require a development permit, building permit and a business license and in some cases land use redesignation. Time and resources required for each process vary depending on the type of complexity of the applications. Administration looked at the amount of time this initiative saves for the businesses to open. Attachment 3 compares the current requirements for applications, with the proposed amendments and identifies the benefits of the proposed amendments.

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### Interim Uses

These uses enable businesses to operate for up to six consecutive months, for a total of six months in a calendar year. For example, one business can occupy the space for six months or two businesses can occupy a space for 3 months each. These uses are typically seasonal or start-up businesses that want to see if their product will sell, prior to committing to a specific location. This will also be helpful for businesses waiting for the appropriate long-term location, but in need a short-term location in the interim. During the interim period, these uses can build relationships with the community that could help them establish permanently. It also gives the community assurance that if the use wants to establish permanently, they will potentially have to mitigate some of the impacts that the community identified during the interim period, before Administration grants permanent approval.

The six-month time frame provides a business a reasonable time to establish themselves in an area and decide if they want to commit to a location permanently. The six-month time frame also benefits seasonal businesses during Halloween and Christmas to operate without the approval process.

Table 3 in Attachment 2 shows all the uses that can be an Interim Use. The uses most commonly expected and appropriate are artist's studios, retail, consumer services, personal services, offices, and social, educational and community support uses. Administration has determined that Interim Uses are appropriate in specific locations throughout the city, depending on the use and its compatibility with the adjacent area. Table 4 in Attachment 2 indicates the specific land use districts where *Interim Uses* are proposed.

Administration ruled out the option of adding vacant sites to this initiative as vacant sites can be activated using existing Special Function Class 1 and 2 applications as well as other city approvals such as park permits. The proposed amendments are responding to vacancy rates in existing buildings.

Today, Interim Uses require a development permit, a building permit and business licence and in some cases land use redesignation. Some of the Interim Uses are subject to discretionary development permit process. Time and resources required for each process vary depending on the type of complexity of the applications. Administration looked at the amount of time this initiative saves for the businesses to open. Attachment 3 compares the current approach with the proposed amendments and identifies the benefits of the proposed amendments.

### Potential Planning Impacts of Pop-Up and Interim Uses

These two types of categories will be exempt from a development permit provided a few minor rules are met, such as rules limiting the size and intensity of the use as outlined in Attachment 1. This will ensure that the impacts of these uses are minimized on the surrounding communities.

While there are risks that communities could see an impact from Pop-Up and Interim Uses, particularly with an increase in the demand for parking or other issues related to the operation of the use, Administration has identified the following benefits of Pop-Up and Interim-Uses:

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- Allow opportunities for new businesses to see if their product/use is successful (both as product and within a particular community) prior to submission of a formal permit;
- Animate areas with different or unique uses that wouldn't otherwise be allowed for a short duration of time, thereby minimizing planning impacts;
- Filling vacant or hard to occupy spaces; and
- Allowing markets and similar flex spaces in more areas of the City.

Since Pop-Up and Interim Uses will occupy spaces in existing buildings, parking was provided with the building's construction. Therefore, Pop-Up and Interim Uses can utilize the existing parking for their business.

#### Implementation and Monitoring

Currently, there is no factual data on Pop-up and Interim Uses. Moving forward, it is expected that the proposed amendments in this report would enable Administration to obtain information on the Pop-up and Interim Uses activities.

Building Permits will still be required where matters of health and safety are affected; however, most Pop-Up Use and Interim Uses operate by moving furniture and products into a space without construction and may not require major interior renovation to the space; thus they may not require a building permit. Business Licences are required for some, but not all, types of businesses. These requirements are based on the Licence Bylaw which is designed for permanent businesses. Administration has the ability to waive licencing requirements where it is satisfied that other steps are in place which ensure safety and compliance. To enable short-term businesses to open and operate, Administration is intending to waive licence requirements for Pop-Up and Interim Uses.

This initiative will be implemented through a single business service which will be available to anyone interested in operating a Pop-Up or Interim Use. The proposed amendments are aligned with, and will be monitored (and amended if needed) through on-going work to renew the Land Use Bylaw to respond to the needs of customers and citizens.

#### Market and Market – Minor

Currently, Market and Market-Minor perform the same function in the Land Use Bylaw 1P2007. The difference between these two uses, is whether goods are sold inside or outside the building. Under Market, goods are allowed to be sold both inside and outside the building, whereas under Market-Minor goods are only allowed to be sold inside the building. Market – Minor includes rules to only allow outside activities to the areas immediately surrounding the public entrance.

Market tends to be rather large and is associated with large parking areas and outside storage. Market use has a regional draw and is a listed use in a limited number of districts. In 2012 (CPC2013-024), Market-Minor was added to the Land Use Bylaw to community and corridor districts to accommodate smaller community scale markets.

**Comments from Calgary Planning Commission (See Attachment 5)**

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Between 2008 and 2019, the City received 13 applications for Market and 15 applications for Market-Minor. Based on the experience gained since 2012, and because there are very minor differences between the two uses, Administration is proposing to consolidate the two Market uses (Market and Market-Minor) and allow Market in two more commercial neighbourhood land use districts, thus providing increased flexibility for this activity.

The combined "Market" is listed in all the districts that previously allowed Market and Market-Minor (see Attachment 2, Table 5 for more details). When Market is proposed in a permanent location, this will continue to require a development permit, thus allowing community consultation; however, once the use is established there will be a higher degree of flexibility for a Market to allow a variety of uses.

**Comments from Calgary Planning Commission (See Attachment 5)**

This report was presented to Calgary Planning Commission (CPC) for information at the meeting of 2019 April 4. Overall the comments were very positive and the benefits of these proposed amendments for short-term businesses were well received.

As part of the implementation and monitoring program for the Pop-up and Interim Uses, members of Calgary Planning Commission requested Administration to:

- Monitor the viability of 50 days in a calendar year for Pop-up uses;
- Consider allowing Pop-up and Interim Uses above ground floor; and
- Consider adding restaurant uses if feasible.

As a result of this input from CPC, Administration will consider these aspects as part of the monitoring program, and will bring forward future amendments as needed. Even though there were no changes to this report resulting from Commission's comments, Administration believes that the Commission's input will result in a better process for short-term businesses in the future amendments. Attachment 5 details Calgary Planning Commission Review and Administration's Response.

**Stakeholder Engagement, Research and Communication**

Administration has engaged with internal and external stakeholders, Business Improvement Areas and members of Council.

Engagement with external stakeholders started in 2017 when Administration created a Customer Coordinator position for Small Businesses. This position works closely with entrepreneurs and small businesses to engage and understand their needs and perspectives. Small businesses expressed a need to have a different approval process for short-term businesses to create opportunities for unique businesses and different business models.

A drop-in session was held on 2018 October 24 to solicit feedback from external stakeholders. In total 12 participants attended the session and two individuals were unable to attend but provided written feedback. Participants indicated that they find it difficult to find spaces for temporary uses and prefer to locate in commercial bays, main level storefronts, ground floors of

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residential buildings, and industrial buildings. Participants also indicated that the ideal time period for their short-term businesses would be from 3 days to 6 months. Representatives from Licensing, Calgary Building Services, Urban Strategies, Calgary Approval and Community Planning were present to respond to participant's questions.

In addition, Administration met with Calgary Arts Development on 2018 November 28, and the Federation of Calgary Communities (FCC) on 2019 January 23. Both groups are very supportive of this initiative as they see it benefiting communities, citizens and businesses.

**Strategic Alignment**

The proposed amendments are one of the deliverables identified in the City Planning and Policy Priorities 2019 – Workplan, as item number C5 and align with the intent and approach of the following two of the six priority areas:

- Renewed Land use Bylaw; and
- Downtown Resilience.

The proposed amendments supports the goals of the 2019-2022 Citizen Priorities - A City of Safe & Inspiring Neighbourhoods by streamlining development approval, licence applications and enable customers to realize their development proposals.

The proposed amendments align with Administration's key goals of advancing the vision of the Municipal Development Plan/Calgary Transportation Plan, realizing development and ensuring buildings are safe. The amendments align with policies in the Municipal Development Plan (MDP), especially in supporting policies focused on having a prosperous economy, and activity centres. The proposed amendments support the following policies in the Municipal Development Plan:

- Policy 2.1.2 (e) Remain open to innovation and provide flexibility to accommodate the changing needs of business.
- Policy 2.1.2 (f) Create and maintain clear policy direction, application procedures and development standards to reduce uncertainties and risks to the economy.

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

***Social***

This initiative encourages the creation of community centric businesses and commercial areas and also brings goods and services close to Calgarians, thus supporting vibrant and complete communities.

***Environmental***

This initiative takes advantage of the existing building inventory, thus encouraging adaptive re-use of existing buildings and maintaining active commercial corridors.

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### ***Economic***

This initiative creates new opportunities for small businesses to operate in Calgary and creates a new revenue stream for building owners who are adapting to higher than average vacancy rates. It also creates an enabling environment for the businesses to showcase their creativity, start-up businesses in Calgary and create jobs.

### **Financial Capacity**

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

There are no known impacts to the current and future operating budgets at this time.

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

The proposed amendments do not trigger capital infrastructure investment and therefore there are no growth management concerns at this time.

### **Risk Assessment**

There is risk that the businesses operating through this initiative may impact the neighbouring parcels. It is anticipated that issues are more likely to relate to behaviour than the use itself; however, Administration commits to continue working with communities and stakeholders. If there are concerns regarding business operators' behaviour or other issues, Community Standards Bylaw can be used to limit the most offensive nuisances. If necessary amendments to the Land Use Bylaw 1P2007 can be brought forward to addresses the identified concerns.

Another risk is that existing established businesses may perceive this initiative as unfair competition. The experience thus far with short-term uses is that they attract additional customers to commercial areas thus benefiting other surrounding businesses. However, if a Pop-Up or Interim Use chooses to locate in an area permanently, it will be subject to the same requirements as a permanent use.

The existing approval process does not match the fast-changing retail landscape and unintentionally hampers entrepreneurial activity, particularly first-time business owners. If the proposed amendments are not adopted, the current regulatory framework cannot accommodate the needs of the Pop-up and Interim Uses, and their innovative business models.

### **REASON(S) FOR RECOMMENDATION(S):**

Administration recommends approval of the proposed amendments as they embrace new trends in urban retail and other businesses by enabling new and creative businesses to start up in Calgary. The amendments respond to Calgary's need for business regulations that are flexible, and that enable quicker occupancy for commercial spaces. This initiative puts Calgary in the forefront as a business-friendly city that enables and welcomes innovative and community friendly businesses to open and succeed.

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**ATTACHMENT(S)**

1. Proposed Amendments to the Land Use Bylaw
2. Pop-Up, Interim Uses and Market
3. Comparison between Current Approach and the Proposed Amendments
4. Letters of Support
5. Calgary Planning Commission Review and Administration's Response PUD2019-0452