

CITY OF FORT SASKATCHEWAN

Bylaw C15-17 to Amend Land Use Bylaw C10-13

Motions:

1. That Council amend Bylaw C15-17, which amends Schedule “A” of Land Use Bylaw C10-13, by deleting the following under Part 5 – Residential Land Use Districts:

- 5.5 Building and Structure Projections in Residential Land Use Districts

- 5.5.2 A Room-Enhancing Cantilever may not project into any setback areas, except:

- (a) project up to a maximum of 0.6m (2.0ft) in to a front flanking yard setback area, provided that the width of any single room-enhancing cantilever does not exceed 3.0m (10.0ft) and that the cumulative total of all room-enhancing cantilevers does not cover more than 50% of the front flanking building facade.

2. That Council amend Bylaw C15-17, which amends Schedule “A” of Land Use Bylaw C10-13, by adding the following under Part 5 – Residential Land Use Districts:

- 5.5 Building a Structure Projects in Residential Land Use Districts:

- 5.5.2 A Room-Enhancing Cantilever may not project into any setback areas, except:

- (a) Subject to the approval of the Development Authority, a Room-Enhancing Cantilever may project up to a maximum of 0.6m (2.0ft) in to a front flanking yard setback area, provided that the width of any single room-enhancing cantilever does not exceed 3.0m (10.0ft) and that the cumulative total of all room-enhancing cantilevers does not cover more than 50% of the front flanking building facade.

3. That Council amend Bylaw C15-17, which amends Schedule “A” of Land Use Bylaw C10-13, by deleting the following under Part 6 – Commercial Land Use Districts:

- 6.9 C1 – Neighbourhood Retail and Service District

- 6.9.2 (a) C1 Permitted

- Sign, Channel Letter
 - Vehicle sales, leasing and rental facility (limited)

4. That Council amend Bylaw C15-17, which amends Schedule “A” of Land Use Bylaw C10-13, by adding the following under Part 6 – Commercial Land Use Districts:

6.9 C1 – Neighbourhood Retail and Service District

6.9.2 (a) C1 Permitted

- Eating and Drinking Establishment (limited)
- Sign, Channel Letter

5. That Council amend Bylaw C15-17, which amends Schedule “A” of Land Use Bylaw C10-13, by deleting Surveillance Suite under the IM – Medium Industrial District, 7.9.2 (b) IM Discretionary Uses.
6. That Bylaw C15-17 be given second reading, as amended, which is a bylaw to amend Land Use Bylaw C10-13.
7. That Bylaw C15-17 be given third reading, which is a bylaw to amend Land Use Bylaw C10-13.

Purpose:

To present Council with information on the proposed amendments to the Land Use Bylaw, C10-13, and to request consideration of second and third reading of Bylaw C15-17, as amended.

Background:

In accordance with Section 639 of the *Municipal Government Act* (MGA), every municipality must pass a Land Use Bylaw (LUB). City Council adopted the current LUB C10-13, in May of 2013. The LUB implements the City’s goals, objectives, and requirements relating to land use and built form. Administration relies heavily on this document on a day-to-day basis and it is also used by the development industry, property owners, and residents of the community. The LUB is a dynamic document and therefore needs to be reviewed and amended on a regular basis. Therefore, the purpose of the LUB Refresh is to make adjustments so the Bylaw is current, enforceable, and effective in its application.

Bylaw C15-17 was given first reading at the July 10, 2017 regular Council meeting and following first reading Administration found some minor discrepancies, which have been corrected with amending motions prior to second reading.

Topic Identification/Outcomes:

The amendments proposed in this year’s Refresh correct wording, grammar, interpretation, formatting, and general structure and formatting of the LUB. This is intended to ensure consistency, remove redundancy and conflicts with other regulations and legislation, and improve the overall organization of the document. The amendments offer an opportunity to improve the efficiency of the implementation of the LUB.

Rationale for the proposed amendments include:

- Observations from residents and past applicants;

- Consistency with statutory planning documents;
- Observations from development industry;
- Feedback from Development Authorities; and
- Grammatical, punctuation and formatting items.

Key amendments, in the opinion of Administration, are highlighted below:

Variance Powers

Variances are a tool that can be used for development permit applications that may not meet the requirements of the LUB, but offer specific merits, remedy siting errors, or resolve uncommon development challenges. The LUB applies a 'test' to evaluate if the proposed variance interferes with the amenities of the neighbourhood or affects the use, enjoyment, safety or value of neighbouring lands.

Currently, variances are capped at 15% in the LUB. The 15% cap on variances limits the efficiency with which the Development Authority can process development permit applications. Variances greater than 15% must be refused by the Development Authority, regardless of whether or not it passes the above mentioned 'test'. As a result, the applicant must either not proceed with the development or appeal the refusal to the Subdivision and Development Appeal Board (SDAB).

The process of taking a refused application to the SDAB requires a significant amount of staff time, but also creates a delay in the application process and burdens the applicant. A fee is collected for the SDAB process but does not cover the full cost of the hearing, and therefore creates a cost for the applicant and the municipality.

By enabling the Development Authority to approve variances based on the test outlined in the LUB, Administration will be able to provide improved customer service, base their decision on the merit and impact on the neighbourhood rather than an arbitrary value, and reduce costs for the applicant and the municipality.

Adjacent landowners will still have their right to the appeal process without the variance cap. All variances, regardless of size, are circulated to adjacent landowners when approved. Those who are notified have the ability to appeal the variance within a 14 day appeal period if they disagree with the Development Authority's decision.

This proposed recommendation on variances would bring the City in line with other municipalities in the region. The Cities of Edmonton, Leduc, Spruce Grove, and Parkland County do not apply variance caps.

Development Permit Extensions

This amendment is intended to provide clarity to both applicants and the Development Authority regarding the amount of and duration of extensions which can be granted to Development Permits. The current LUB lacks those specifics, which allows Development Permits to be extended without limit.

The amendments proposed to the LUB (Section 3.13.2) limits extensions to one singular extension of twelve (12) months if the extension is applied for prior to the expiry of the original Development Permit. This amendment ensures that development permits are completed within a reasonable time frame and that ongoing developments align with any changes in the LUB.

Garbage and Recycling Enclosures

To address a new development trend, amendments are proposed to the Garbage and Recycling Enclosure regulations. Section 4.29 currently requires all garbage and recycling enclosures to be screened using a fence or a combination of a fence and landscaping. With the introduction of new, less visually invasive forms of storage systems (i.e. Molok Containers), the current LUB does not allow the Development Authority flexibility to adjust the screening requirements to account for the reduced visual impact produced by those new systems.

The amendments allow for the screening of garbage and recycling areas to be assessed based on their proximity to roadways and adjacent sites as well as the physical characteristics of the site and system itself. Depending on the nature and location of the system proposed, the Development Authority will have the ability to require an appropriate amount of screening and landscaping.

Shipping Containers in the IL – Light Industrial District

The current LUB restricts shipping containers in the IL District (7.1.6) restricts the number of shipping containers to four (4) per site. However, this number does not take into account the varying site sizes within the IL District.

The purpose of the amendments is to allow shipping containers to be treated like an accessory building, and be held to the site coverage limitations in the IL District. Using a percentage to regulate site coverage ensures that the number of shipping containers allowed on each individual site is proportional to their size.

Sign Verbiage

The proposed verbiage corrects the General Regulations for Signs from a legal standpoint by removing Section 12.1.8. The current regulation compels the Development Authority to consider if the message or copy of the sign is undesirable or offensive. This poses questions regarding Freedom of Speech limitations and the municipality's ability to render a decision based on the message or copy. As such, the proposed amendment focuses on the use, as opposed to the message.

Uses and Definitions

The proposed amendments correct consistency errors involving use classes throughout the LUB. Uses have been adjusted to align with the intent of each land use district and the overall pattern of development intended in the LUB.

Multiple definitions are proposed to be added or amended. In some cases, this is to define a common term or possible use that had not been previously defined (i.e., Landscape Buffer, Park, Model Trailer, Temporary Shelter Service, etc.). In others it is to streamline and clarify definitions which have been found to be confusing and overwhelming in practice (i.e., Agriculture, Dwelling, Garage Suite, etc.). The names of some definitions (i.e. Day Care Facility (Limited) to Day Home) have been amended to better align with industry and Provincial terminology.

Redistricting of Pointe Aux Pins Trail

The proposed amendment redistricts the Pointe Aux Pins Trail from UR (Urban Reserve) to PR (Parks and Recreation District) to better reflect its ultimate purpose as a multi-use trail.

Legislative Requirements:

The MGA requires that notice of any bylaw or public hearing be advertised at least once a week for 2 consecutive weeks in at least one newspaper (Section 606(2)). Notice of the Public Hearing for Bylaw C15-17 was advertised in the Fort Record for four consecutive weeks (July 15, August 1, August 8 and August 15 issues).

Policy/Council Priorities:

As the LUB is an important regulatory tool, it requires monitoring and updating on an on-going basis.

Enclosures:

1. Bylaw C15-17
 2. Schedule A to Bylaw C15-17 – Bylaw C10-13 Land Use Bylaw Map
 3. Appendix A – Summary of Proposed Land Use Bylaw Amendments
 4. Appendix B – Pointe Aux Pins Redistricting Area
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Reviewed by:	Troy Fleming City Manager	Date: August 16, 2017
Submitted to:	City Council	Date: August 22, 2017