



FAQs: What is the R5 Land Use District?

NANTON, AB (June 22nd 2021) – Created in 2016 by a major amending bylaw (1279/16), the principal goal of the new R5 Land Use District was to help commercial properties move toward mixed or residential uses which their owners sought that were not generally permitted in the more commercial land use districts they occupied.

BACKGROUND

The purpose of this district is to provide low-intensity development accommodating a mix of residential and commercial uses which are compatible with each other and with adjoining uses and can accommodate both public accessibility and parking requirements.

PERMITTED USES	DISCRETIONARY USES DEVELOPMENT OFFICER	DISCRETIONARY USES
Business support service Club or fraternal organization Dwelling, single-unit Home occupation 1 Medical/health facility Office Personal services Retail	<i>Accessory structure</i> <i>Accessory building</i> <i>Day home</i> <i>Dwelling, live-work unit</i> <i>Home occupation 2</i> <i>Signs</i>	<i>Accessory use</i> <i>Alternative energy, solar</i> <i>Bed and breakfast establishments</i> <i>Child care facility</i> <i>Community association building</i> <i>Contractor, limited</i> <i>Dwelling, two-unit</i> <i>Dwelling, mixed-use</i> <i>Moved-in building</i> <i>Parking facility</i> <i>Public or private recreation</i> <i>Public or private utility</i> <i>Secondary suite</i>

As with a variety of re-districting/ re-zoning tools of this nature, this designation can potentially be applied to provide a property with greater flexibility in dominantly commercial OR residential neighborhoods.

At the time of the proposed amendment, Council directed that a public engagement session be held on November 28, 2016. The response to the overall impact of the new proposed zoning was mostly positive, while some felt that existing commercial uses, such as the Farmers Market, already posed potential traffic and safety issues in the affected area between the highway couplets from 21st Street to 24th Street. There was also potential interest from landowners outside of the commercial core – specifically on 20th Street and 19th Street –who favoured re-districting of property being used for residential purposes from Retail-General Commercial – C1 to R5. The bylaw was adopted and has been in place for 5 years.

HOW MANY R5 PROPERTIES CURRENTLY EXIST?

Over twenty (20), largely within or adjacent to the commercial core between 20th and 23rd Streets. This means that any critiques or future proposed **general** changes to the R5 schedule of the Land Use bylaw must be carefully considered outside of the context of any one re-districting application. Due to its utility for offering flexibility, R5 can also be considered by Council for the purpose of ‘spot’ re-districting anywhere

within municipal boundaries where a case can be made by an applicant. C3 (Neighbourhood Commercial) is also a similar option for consideration depending on the need and context.

WHAT ARE LEGAL AND ILLEGAL NON-CONFORMING USES?

It is likely that addressing both legal and illegal non-conforming residential uses at C1 properties was a partial driver for this amendment in 2016. Tools like R5 and C3 Land Use Districts exist, in part, to gain bylaw compliance where it is merited.

A "**legal non-conforming use**" is a use of land or structure which was legally established according to the applicable zoning and building laws of the time, but which does not meet current zoning and building regulations. A property can sometimes be 'up' or 'down' zoned reflecting long term municipal strategies and plans for the community. Changing the zoning to prohibit the use, however, does not mean that the use must stop or is illegal. The use is instead 'grandfathered' until such time as it ceases on the property for a 6 month period or greater. Legal non-conforming property owners are not in violation of the Land Use Bylaw by continuing a use which is no longer permitted, *but the status can impact plans to modify/modernize/expand a property's improvements or sell a business in a specific location*, for example.

An "**illegal non-conforming use**" means any use that is conducted without the required permits or is not a legal non-conforming use. A business in such a situation, for example, cannot hold a municipal Business Licence and could be subject to a variety of bylaw enforcement measures. Councils will sometimes, despite the status, make a case-specific decision in the public interest to re-district such a property to make it legitimate. There must be a very sound case for this to happen however, but it is a less punitive option for cases where punitive enforcement seems like the wrong measure.

Whether legal or illegal non-conforming, the Town welcomes any property owner seeking to bring their property into Land Use Bylaw compliance and encourages those discussions.

WHAT ARE SITE-SPECIFIC LAND USE DISTRICT AMENDMENTS?

This is a tool, rarely used in Nanton before 2021, where specific properties can be re-districted to a broader or more restricted list of uses than in the general regulation for a specific Land Use District. It is rarely used in smaller communities but can be utilized to help a specific proposed property use comply with regulation or address Council/ public concerns if the proposed use does not fit well within any one Land Use District available under the existing bylaw (or the if the proposed Land Use District opens up too many other land use possibilities). How site-specific amendments are used will depend on the stage in a process that an issue arises and a broad range of other possible factors. It is not typically a 'first choice' tool, but it can successfully resolve certain problems of specific circumstance if Council and the applicant agree.

-Ends-

For more information:

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