

Topic: Proposed Bylaw 2015-13 to amend Land Use Bylaw 20-2009

**Introduction:**

The proposed Land Use Bylaw amendments are related to accessory buildings, home based businesses, recreational vehicle use on vacant residential properties, notification of Development Permit decisions to adjacent land owners, and the definitions section.

**Facts (Background Information):**

The intended purpose of this Bylaw is to clarify sections of the Land Use Bylaw that are ambiguous and are subject to broader interpretation. Modifying these uses, regulations and definitions will improve customer service, expedite the development permit process and should reduce the number of appeals to the SDAB.

Administration reviewed past appeals in order to determine what issues and concerns were most commonly appealed to the County's Subdivision and Development Appeal Board. A number of appeals were related to size variances granted for \*typically) detached accessory buildings, as it is not uncommon for a Parkland County resident to apply for development permit approval to construct a large accessory building in order to accommodate and protect personal items such as motor homes, quads, sleds, vehicles and yard maintenance equipment, etc.

Based on development permit approvals and discussions with Parkland County's Safety Codes Officers it was found that the average attached garage is about 1200 square feet in size. Parkland County's Land Use Bylaw considers an attached garage as an accessory building and therefore is calculated in Table 11.1.1, although an accessory building is commonly defined as a "*detached*" building. By removing the square footage of the attached garage from Table 11.1.1 it would allow residents additional accessory building square footage as a permitted use and therefore reduce the number of potential appeals.

While reviewing previous appeals administration has also recognized that there were a number of appeals related to Home Based Businesses. The issues brought forward were regarding the impact that the businesses could have on the adjacent lands. The issues were more specifically related to the Home Based Businesses Level 2, which are allowed in multi-parcel residential subdivisions. Within Section 12.9 Home Based Business Level 2 currently allows:

*"the parking of one (1) commercial vehicle with one (1) accessory trailer such as dual axle gravel truck with pup, trailer carrying a small backhoe, bobcat, or similar, tractor unit only (no trailer), or a three (3) ton truck or like type vehicle may only be allowed by the Development Authority on a discretionary basis."*

This is the type of equipment that is not acceptable to area residents and often results in an appeal. Therefore, the proposed bylaw includes a complete re-write of Section 12.9 Home Based Businesses which is intended to reduce the impact to area residents.

Furthermore this proposed Bylaw will address the concerns and issues related to recreational vehicle use on vacant residential properties. Currently the Land Use Bylaw only allows recreational vehicle use in the BRR – Bareland Recreational Resort District, the proposed changes in this Bylaw will now give property owners the opportunity to use their recreational vehicle on their vacant property for a period of time.

The proposed Bylaw suggests addressing recreational vehicle use in two ways. First, by allowing the use of a recreational vehicle for temporary living accommodation purposes if a development permit and a building permit have been issued for a dwelling. Administration recommends that the temporary use of a recreational vehicle require a development permit approval and furthermore that as a condition of approval for the temporary use that the applicant shall provide the County with a \$5000 security. The security would be returned or reduced once the construction of the dwelling has begun and the first inspection of the dwelling has been completed by the Safety Codes Officer. The security amount would be incorporated into an update of the 2015 Fees and Charges schedule.

Secondly by prohibiting the permanent use of a recreational vehicle for accommodation purposes on vacant residential property, yet allowing the temporary use by limiting the use to a maximum of 14 days. The recreational vehicle would not be allowed to be skirted or have any decks or structures attached to it. They would not be allowed to install any services on site such as power or sewer, thereby limiting the potential to make the temporary use a more permanent use.

The suggested changes will give adjacent land owners assurance that the recreational vehicle use will be temporary while still allowing the land owner limited use of their land without adversely impacting area residents. This change will also give the County the ability to address the complaints the County receives from residents regarding recreational vehicle use on vacant residential properties.

The Community Standards Bylaw currently allows the storage of up to three (3) recreational Vehicles on a property two (2) acres or less and up to a of five (5) recreational vehicles on parcels more than two (2) acres in size. Administration recommends a future amendment to Parkland County's Community Standards Bylaw under Part 5 (3) – Vehicles, by adding additional wording that states "where a single detached dwelling, a duplex or a manufactured home is located may be stored".

1. Administration suggests adding the following two statements to the Country Residential District, Country Residential Work Live District, Country Residential Restricted District, Country Residential Estate District, Lakeshore Residential District, Rural Centre District and Entwistle Urban Village District:
  - Recreational vehicle use may be allowed for temporary living accommodation purposes on a vacant residential property during the construction of a dwelling. Prior to the recreational vehicle being placed on the property the land owner shall obtain development permit approval for the temporary use and obtain development permit and building permit approval for the dwelling.
  - As a condition of approval for the temporary recreational vehicle use, the Development Authority shall require the posting of security in the form of an irrevocable letter of credit or cash to be provided to the County.
  - Recreational Vehicle use on a vacant residential lot (without a development permit for a dwelling) shall be time limited to a maximum of 14 days. The Recreational Vehicle shall not be skirted or have any decks or structures attached to it. The Recreational Vehicle shall not be hooked up to power or sewer.
2. The proposed changes to Section 11.1 Accessory – Buildings and Uses, deals mainly with square footage and renewals.

The proposed change to Section 11.1.1 suggests allowing an accessory building as a permitted use in all Districts unless there is a variance granted, in which case it would then be a discretionary use.

Secondly administration recommends a change to Section 11.1.2, Table 11.1.1 to reduce the permitted square footage on lots 1.5 acres in size or less, which for the most part is the Country Residential Estate and Lakeshore Residential Districts. If the attached garage is no longer calculated in the site coverage (Sec. 11.1.3) it is reasonable to reduce the accessory building square footage on the smaller parcels.

Existing Table 11.1-1 : Accessory Buildings

PARCEL SIZE	PERMITTED IF THE BUILDING AREA IS LESS THAN:
0 ha (0 ac) up to 0.40 ha (1.0 ac)	Maximum 232.90 m <sup>2</sup> (2,507.0 ft <sup>2</sup> ) or 10% of parcel area whichever is less
0.41 ha (1.01 ac) up to < 1.21 ha (3.0 ac)	278.90 m <sup>2</sup> (3,002.1 ft <sup>2</sup> )
1.22 ha (3.01 ac) up to < 2.02 ha (5.0 ac)	325.90 m <sup>2</sup> (3,508.0 ft <sup>2</sup> )
2.03 ha (5.01 ac) up to < 4.04 ha (10.0 ac)	371.90 m <sup>2</sup> (4,003.1 ft <sup>2</sup> )
4.05 ha (10.01 ac) up to < 16.19 ha (40.0 ac)	418.90 m <sup>2</sup> (4,509.0 ft <sup>2</sup> )
More than 16.19 ha (40.0 ac)	464.90 m <sup>2</sup> (5,004.2 ft <sup>2</sup> )

Proposed Table 11.1-1 : Accessory Buildings (changes in bold)

PARCEL SIZE	PERMITTED IF THE BUILDING AREA IS LESS THAN:
0 ha (0 ac) up to 0.40 ha (1.5 ac)	<b>Maximum 180 m<sup>2</sup> (1,937.5 ft<sup>2</sup>)</b> <b>or 10% of parcel area whichever is less</b>
<b>0.41 ha (1.51 ac) up to &lt; 1.21 ha (3.0 ac)</b>	<b>280 m<sup>2</sup> (3,013.8 ft<sup>2</sup>)</b>
1.22 ha (3.01 ac) up to < 2.02 ha (5.0 ac)	325.90 m <sup>2</sup> (3,508.0 ft <sup>2</sup> )
2.03 ha (5.01 ac) up to < 4.04 ha (10.0 ac)	371.90 m <sup>2</sup> (4,003.1 ft <sup>2</sup> )
4.05 ha (10.01 ac) up to < 16.19 ha (40.0 ac)	418.90 m <sup>2</sup> (4,509.0 ft <sup>2</sup> )
More than 16.19 ha (40.0 ac)	464.90 m <sup>2</sup> (5,004.2 ft <sup>2</sup> )

Section 11.1.3 suggests removing an attached garage as an accessory building and no longer calculating the square footage as such.

Section 11.1 8 (b) allows as a discretionary use an accessory building to be constructed prior to a dwelling for a temporary period of one (1) year, at which time it may be renewed. The premise of the one (1) year was to encourage the landowner to construct a dwelling within a year or two of the accessory building. A \$100 renewal fee every year is not enough of an incentive to encourage the property owner to either reconsider their plan to build an accessory building prior to a dwelling or construct a dwelling within one year of the accessory building. Therefore Administration proposes removing the renewal requirement from Section 11.1.8 (b) and requiring a security to be posted prior to a building permit being issued for the accessory building. A \$10,000 security will likely discourage the individuals who have no intention of constructing a dwelling in the foreseeable future and yet will allow those who are serious about constructing a dwelling the opportunity to have an accessory building prior to for secure storage of building material. The security would be returned or reduced once the construction of the dwelling has commenced.

3. The most notable change proposed in this amendment to the Land Use Bylaw is to Section 12.9 Home Based Business. The regulation and definitions are not clear and open to many different interpretations. This bylaw proposes a complete re-write of Section 12.9 Home Based Business and the Home Based Business definitions.

Level 1 is intended to allow a home office only which would have no impact on adjacent lands as there would be minimal client visits to the property, storage, associated vehicles or employees. This use would be allowed in all residential districts and be considered a permitted use not requiring development permit approval.

Level 2 is intended to allow business such as trade contractors (plumbers, carpenters, electricians, landscaper, etc.) or personal and health care services (hairstylist, sewing alterations, massage

therapy etc.) to operate from the property provided there are no employees working on site, however client visits would be allowed. This use would not allow outdoor storage and limits the associated vehicle(s) to a one-ton GVW. This use would have minimal impact on adjacent lands and would be allowed as a discretionary use in all residential districts.

Level 3 is intended to allow a business to have up to four (4) "non-resident on-site employees". The business may include some outdoor activity, client visits and a maximum of six (6) commercial vehicles. This level of business may have an impact on adjacent lands due to the traffic and on site activities, therefore would not be allowed within a multi-parcel residential subdivision. This use would have potential impact on adjacent lands and would be considered a discretionary use in all residential districts.

4. Parkland County adopted a Dark Sky Policy the proposed bylaw will now incorporate the policy into Section 13.1 - General Landscaping Regulations. Dark sky lighting will be a standard requirement in all commercial and industrial developments.
5. Home Based Business Level 1 will be included into Section 15.5 Sign Requirements for a Level 2 or 3 Home Based Business or Bed and Breakfast.
6. The proposed changes to Section 16.2.4(a) - Development Not Requiring a Development Permit is intended to separate out uses for the purpose of clarification.
7. Section 16.13 -Notice of Development Permit Application, Decision and Reapplication Interval, requires Parkland County to notify registered land owners of a conditionally approved discretionary permit by mail and newspaper advertisement. Parkland County also posts the discretionary permit approvals on the County website.

Currently the Land Use Bylaw states:

1. *When a development permit, except for a Permitted Use unless the provisions of this Bylaw were relaxed, varied or misinterpreted, is approved either unconditionally or subject to conditions, the Development Authority shall:*
  - a) *publish a notice of the decision in the newspaper circulating in the area of the municipality in which the land is located, stating the legal description of the land on which the development is approved; the nature of the approved development; and the procedure for any appeals;*
  - b) *if the approved development is located within a multi-parcel subdivision, notify in writing all registered owners within the said subdivision of the decision. If the approved development also happens to be located on the periphery of the said subdivision, then any adjacent land owners shall also be notified in writing;*
  - c) *notify in writing all registered owners of lands located within the same quarter section of land as the approved development and all adjacent lands;*
  - d) *notify in writing any other person the Development Authority feels may be affected by the issuance of the permit.*

Notification as described above is excessive in many cases. For instance if a development permit is issued for a variance to a side yard setback the applicant is asked to provide in writing a letter of support from the effected neighbor. An approval of this nature would not impact anyone else within the subdivision. Parkland County goes beyond what The Municipal Government Act requires for notification.

*The MGA Section 653 (4.2) states that a notice under subsection (4) may be given by more than one of the following methods:*

- a) *Mailing the notice to each owner of land that is adjacent to the land that is the subject of the application;*
- b) *Posting the notice on the land that is the subject of the application;*
- c) *Publishing the notice in a newspaper that has general circulation in the municipality that contains the land that is the subject of the application.*

As Parkland County continues to develop the “SMART PARKLAND Intelligent Community”, more residents are able to access our website and view the information sooner than they would through a mail out or newspaper advertisement. The website provides up-to-date information regarding all discretionary development permit approvals as it is updated weekly.

Administration recommends the following amendments to Section 16.13:

- 1.b) if the approved development is located within a multi-parcel subdivision, notify in writing all adjacent landowners directly contiguous to the parcel. This includes land or a portion of land that would be directly contiguous if not for a public roadway, a Highway, river or stream, or a reserve parcel.
  - 1.c) the Development Authority may require written notification to all registered owners within an 800 m radius of a proposed development if in their opinion it is a major development.
8. There are a number of proposed changes to Section 20 – Definitions, some are related to the suggested changes above while others are for clarification purposes. The more significant changes are related to Home Based Businesses and new definitions.

#### **Alternatives:**

- 1. To amend proposed Bylaw 2015-13
- 2. Table proposed Bylaw 2015-13 for further information

#### **Conclusion/Summary:**

Administration supports the proposed amendments to Land Use Bylaw 20-2009

**AUTHOR:** Karen Kormos      **Department:** Planning and Development

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