

Topic: Proposed Bylaw 2015-29 Resource Extraction, to amend Land Use Bylaw 20-2009

**Introduction:**

The proposed amendment to the Land Use Bylaw specifically relates to Resource Extraction and the redistricting of proposed sites prior to the development permit process, and the potential redistricting of the all currently approved extraction sites to “RE” Resource Extraction.

**Facts (Background Information):**

Bylaw 2015-29 proposes to remove Resource Extraction/Processing as a discretionary use in all Land Use Districts except “RE” (Resource Extraction District), which currently allows resource extraction as a permitted use. The proposed amendment would require that all natural resource extractions sites be re-districted to RE– Resource Extraction District prior to submitting any development permit application.

The current purpose of Section 7.5 RE – Resource Extraction District is to manage land use related to the coal extraction around Wabamun Lake. The proposed Bylaw suggests a change to the Purpose Statement of the Resource Extraction District to include all resource extraction, and not limit the District to only coal extraction and processing. Further, the proposed Bylaw amendment suggests making changes to the Use Table in Section 7.5 which would restrict potential future residential uses.

Currently, resource extraction development permit applications are time limited to an initial two (2) year approval for all new applications as per Section 12.12 of the Land Use Bylaw, after which they are typically placed on a five (5) year renewal cycle.

The Land Use Bylaw states that *“with subsequent renewals of up to a maximum of Alberta Environment reclamation approval period, provided there have been no significant issues with the operation.”* However in some cases these renewals are appealed even though there were no issues or concerns reported to Parkland County. When a permit is appealed there is no longer any certainty that the conditions of approval will remain intact and compliant with the Land Use Bylaw. The Subdivision and Development Appeal Board can alter, omit or add new conditions to the permit, which are not always supported by the Land Use Bylaw.

For example if the hours of operation or haul hours are altered they likely would no longer be compliant with Section 12.12 of the Land Use Bylaw, this can be problematic for a number of reasons:

- When changes are made to haul hours it can extend the hours of hauling activities on one route. For example if one operator hauls from 6:00 a.m. to 6:00 p.m. as per the LUB and another operator has had their hours altered at Subdivision and Development Appeal Board to haul from 7:00 a.m. to 7:00 p.m. hauling will now occur for 13 hours rather than 12 hours. This seemingly small change creates a larger impact on the area residents.
- It is confusing for the area residents to determine which operator/truck is hauling under which hours of approval. Often they don't see the pit location the trucks exit from, they only notice when the truck goes past their home.
- The changes imposed by the Subdivision and Development Appeal Board are only in place for the length of time the permit is valid. When a permit is renewed it goes through the review process and if approved it is compliant with Land Use Bylaw.
- Making changes to the haul hours can also be a challenge for County Patrol to monitor due to the potential inconsistency in hours that may be established for each haul route.

When an applicant applies to renew their development permit there is often a level of uncertainty for both the area residents, and the applicant, if the Development Authority will issue an approval. There is essentially no benefit to either of these parties to issue an approval for only a two or five year period. Once an approval is issued for the resource extraction, and extraction activities have occurred, the operator is mandated under their Provincial approval to reclaim the land. If for some reason a development permit were to be refused by the County at the renewal stage it is possible that the Province could allow those activities to continue, without County approval, in order to ensure that reclamation is completed by the operator.

In June 2015, Parkland County Administration conducted three (3) Open Houses to communicate these proposed changes to the public. The Open Houses were advertised in the Spruce Grove Examiner / Stony Plain Reporter, Parkland County website and letters were sent to natural resource extraction permit holders and the associated land owners.

The first Open House was held in Entwistle. Three (3) area residents attended this Open House. The residents expressed no concerns related to the proposed bylaw. They were provided with comments sheets and encouraged to provide comments by July 15, 2015. No comments were received from those residents who attended the Entwistle Open House.

The second Open House was held in Fallis. Twenty-four (24) people attended this Open House. The majority of those in attendance brought forward concerns that were not related to the proposed Bylaw. However, the questions and comments that were related to the proposed amendments were favourable. The County received written comments from two (2) people who attended this session.

The third Open House was held in Keephills and six (6) people attended. The County received just one (1) written response related to the proposed bylaw amendments.

Below is a summary of the responses.

Public Comments	Administration Response
1. Is farming allowed on RE District lands where mining has not yet begun?	Yes, farming can still occur.
2. Can the RE District lands be subdivided at a later date	One parcel between 2 and 10 acres can be subdivided out.
3. Is a dwelling allowed on RE District lands	A dwelling is a discretionary use in the RE District
4. There was a suggestion to allow resource extraction within the BI, MI, HI, RIC AND IRD the thought was that those zonings are away from the greater Edmonton area.	These zonings are not all outside of the greater Edmonton area; some are in the Acheson area, neighbouring the City.
5. A number of residents were happy to see the public input be at the beginning of the process rather than after a decision is made. The only opportunity residents have to formally voice their concerns is through the appeal process.	The public would have an opportunity to express their concerns at the required Public Hearing which would occur at the re-districting stage.
6. Some industry representatives had concern regarding the re-districting process after extraction is complete. The bylaw suggests that a copy of the reclamation certificate be submitted with the re-districting application; however, it could take approximately five (5) years to obtain a reclamation certificate.	The requirement to provide a reclamation certificate will ensure that the lands are fully reclaimed prior to re-districting.

Parkland County received a request from the owner of the west half of NE18-53-04-W5, municipal address 4509 Hwy 16 to exclude the yard site from the proposed redistricting. (See attached Schedule "A").

Therefore Administration recommends the following amendments to Land Use Bylaw 20-2009:

1. Table 3.3-1 Permitted and Discretionary Uses by Land Use District  
*Natural Resource Extraction/Processing* is a Discretionary Use within the Districts listed below. It is recommended that this use be removed from the Table within these Districts:
  - AGG – Agricultural General District
  - ANC – Agriculture/Nature Conservation District
  - AGR – Agricultural Restricted District
  - CR – Country Residential District
  - BI – Business Industrial District
  - MI – Medium Industrial District
  - HI – Heavy Industrial District
  - RIC – Rural Industrial / Commercial District
  - IRD – Industrial Reserve District
2. Within the Land Use Bylaw *Natural Resource Extraction/Processing* is listed as a Discretionary Use within the Uses Table in each of the Sections listed below. Administration recommends removing this use in each of the Use Tables from the following Districts:
  - 4.1 – AGG – Agricultural General District
  - 4.2 – ANC – Agriculture/Nature Conservation District
  - 4.3 – AGR – Agricultural Restricted District
  - 5.1 – CR – Country Residential District
  - 7.1 – BI – Business Industrial District
  - 7.2 – MI – Medium Industrial District
  - 7.3 – HI – Heavy Industrial District
  - 7.4 – RIC – Rural Industrial / Commercial District
  - 7.6 – IRD – Industrial Reserve District
3. Section 7.5 - Resource Extraction District  
Currently this section of the Land Use Bylaw relates to the lands identified as the coal mining/extraction area around Wabamun. Administration recommends changing the Purpose Statement of Section 7.5 to be more generic in nature and include natural resource extraction and not limit this District to coal related activities.
  1. Purpose  
By deleting the following:  
To permit agricultural production and related farming activities while permitting uses associated with the large scale exploration, extraction, processing and reclamation of coal resources located in the vicinity of Wabamun Lake and falling within a mine permit area designated by the Alberta Energy and Utility Board.  
  
By adding the following:  
The general purpose of this district is to accommodate existing and planned natural resource extraction operations, large scale exploration and processing and reclamation of coal resources. As well as to provide for the orderly development of future operations and to identify the future extent of natural resource extraction operations to the public.

The proposed bylaw amendment also suggests making changes to the Use Table by reducing the Permitted uses. The proposed bylaw suggests changing some of the Permitted Uses to

Discretionary Uses which would assist in reducing conflict with area residents as there is a likelihood that there could be Residential and Agricultural Districts being re-districted to the RE – Resource Extraction District. These proposed changes would ensure that other high impact development would not be a permitted use if the lands are successfully re-districted.

Often lands are leased from the land owner to extract the resource, if Permitted residential uses are minimized within the Resource Extraction District it may encourage the land owner and permit holder to remove the resource and reclaim the lands in a timely fashion. After which the lands would be re-districted to a District that would align with the Community Sustainability and Development Plan (CSDP).

Below is the Use table for Section 7.5 with the proposed changes. Administration suggests removing the uses with the strikethrough and adding the uses in bold:

PERMITTED	DISCRETIONARY	NOTES
Apiary		Compliant with Section 12.2 Apiary and Aquaculture
Aquaculture		Compliant with Section 12.2 Apiary and Aquaculture
<del>Auctioneering Services</del>	<b>Auctioneering Services</b>	
	<del>Bed and Breakfast Home</del>	<del>Compliant with Section 12.3</del> <del>Bed and Breakfast Home</del>
	Bulk Fuel Depot	
Demolition		Compliant with Section 12.5 Demolition
	Dwelling, Single Detached	Dwelling, Single Detached is a Discretionary Use only in those locations outside of a mine license area designated by the EUB
Extensive Agriculture Development		
Extensive Livestock Development		
	<del>Farm Vacation Home</del>	
	General Industrial Manufacturing/Processing	
	<b>Home Based Business Level 1</b>	<b>Compliant with Section 12.9. Home Based Business</b>
	Home Based Business Level 2	Compliant with Section 12.9. Home Based Business
	Home Based Business Level 3	Compliant with Section 12.9. Home Based Business
	Horticultural Use	

PERMITTED	DISCRETIONARY	NOTES
	<del>Indoor Participant Recreation Services</del>	
	Industrial Storage and Warehousing	
<del>Kennel</del>	<b>Kennel</b>	Compliant with Section 12.17 Kennel
	Manufactured Home, Single Wide	Manufactured Home, Single Wide is a Discretionary Use only in those locations outside of a mine license area designated by the EUB
Natural Resource Extraction/ Processing		Compliant with Section 12.12 Natural Resource Extraction / Processing
	<del>Outdoor Participant Recreation Services</del>	
Security Suite		
<del>Small Animal Breeding and or Boarding Services</del>	<b>Small Animal Breeding and or Boarding Services</b>	Compliant with Section 12.13 Small Animal Breeding/Boarding
Telecommunication Tower		Compliant with Section 12.1 Antennas Satellite Dishes and Telecommunication Towers
	Utility Services - Major Infrastructure	
Utility Services - Minor Infrastructure		
Wind Energy Converter System (WECS) – Minor (1 System)		Compliant with Section 12.19.2 Wind Energy Converter Systems (WECS) -Minor
	Wind Energy Converter System (WECS) – Minor (2 Systems)	Compliant with Section 12.19.2 Wind Energy Converter Systems (WECS) -Minor
	Work Camp	Compliant with Section 12.20 Work Camp

4. The proposed changes to Section 12.12 Natural Resource Extraction / Processing is to ensure all natural resource extraction lands are re-districted to the RE – Resource Extraction District which then allows Natural Resource Extraction as a permitted use. The proposed changes to this section also includes clarification to the hours of operation as well as removing the requirement to renew the permit.

By deleting the following:

- 1 Notwithstanding the Permitted and Discretionary Uses prescribed within the various land use districts within this Bylaw, sand and/or gravel developments contained within the Natural Resource Extraction/Processing use provision shall be neither permitted nor discretionary if proposed in the following:

By adding the following:

- 1 Notwithstanding Natural Resource Extraction/Processing is a Permitted Use within the RE – Resource Extraction all proposed site locations for Natural Resource Extraction/Processing shall be re-districted to RE – Resource Extraction prior to submitting a development permit application. There shall be no consideration for re-districting if the proposed site is:

By deleting the following in bold:

- 4.a)(i)(2) 7<sup>th</sup> day is defined as 6:00 p.m. Saturday until 6:00 **pm Sunday**

By adding the following in bold:

- 4.a)(i)(2) 7<sup>th</sup> day is defined as 6:00 p.m. Saturday until 6:00 **a.m. Monday**

By deleting the following:

- 12.12.12.a) Development permits for the purpose of sand and/or gravel extraction in Parkland County will be time-limited for a maximum of two (2) years for a brand new operation, with subsequent renewals of up to a maximum of Alberta Environment reclamation approval period, provided there have been no significant issues with the operation.

By adding the following:

- 12.12.12.a) Development permits for the purpose of sand and/or gravel extraction may run concurrent with the approved Provincial Registration. The applicant shall provide the County with a copy of the report which is submitted to the Province as a requirement of the Registration under the Code of Practice for Pits. The report is required to be submitted five years after the Provincial Registration and every five years after that until the Final Reclamation Report.

By adding the following:

- 12.12.13 The Development Authority may require as a condition of development permit approval, the applicant to re-district the subject lands after reclamation. The applicant shall provide Parkland County with a copy of the reclamation certificate issued by the Province with a re-districting application.

5. The proposed change to Section 16.5 – Application for Aggregate Extraction would require the applicant to include the proposed post reclamation end land use District with the development permit application.

By adding the following:

1.i) Proposed post reclamation end land use District.

6. Should Council proceed with the above suggested amendments consideration must be given to the existing pits and the district in which they are located. Although the proposed bylaw suggest re-districting all lands with an approved natural resource extraction development permit to Resource Extraction District at this time, below are some alternative options.
- a) At the time of a permit renewal the applicant would be required to re-district the subject lands to the Resource Extraction District. This option potentially would have Council dealing with approximately 45 re-districting applications over the next five years.
  - b) Re-district all lands with an approved development permit at the time of a complete Land Use Bylaw review. However by waiting until a comprehensive review of the LUB all approvals prior to this proposed bylaw would be non-conforming and therefore could not apply for a renewal.

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

Although the proposed amendments to the Land Use Bylaw are seemingly significant they present an opportunity to significantly improve the County's Resource Extraction approval process, and ensure that all potentially affected stakeholders are provided opportunity to speak to these applications.

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