

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

Introduction:

The proposed amendments to the County's Land Use Bylaw are related to accessory buildings, home based businesses, recreational vehicle use on vacant residential properties, notification to adjacent land owners, and changes to 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. Amending these uses, regulations and definitions will improve the development permit process by providing clarification to specific sections of the Land Use Bylaw, and potentially reduce the number of appeals to the Subdivision and Development Appeal Board.

When preparing these amendments Administration reviewed past SDAB appeals in order to determine what issues and concerns were commonly brought forward at the Subdivision and Development Appeal Board. A number of appeals were related to variances regarding larger accessory buildings to accommodate personal items such as motor homes, quads, sleds, vehicles and yard maintenance equipment, etc.

A second issue related to accessory buildings and the total permitted size requirements is that 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. It is standard practice in most municipalities that structures such as garages or storage areas attached to the principle dwelling are considered part of the total area of the principle dwelling and therefore not an accessory building. By removing the square footage of the attached garage from Table 11.1.1 it would allow residents additional accessory building square footage and therefore reduce the number of appeals to the SDAB.

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 would 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 rewrite of Section 12.9 Home Based Businesses to reduce the potential negative impacts of this type of development to area residents.

The proposed Bylaw also addresses the concerns and issues related to recreational vehicles use on vacant residential properties as the Land Use Bylaw currently is silent on this use.

The proposed Bylaw addresses 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 construction of a dwelling on the subject property. Administration recommends that the temporary use of a recreational vehicle require a development permit, and further, that as a condition of approval for the temporary use the applicant must provide the County with a refundable \$5,000 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 proposed security amount will be incorporated into the 2015 Fees and Charges schedule prior to third reading of Bylaw 2015-13. The proposed wording would still allow the temporary use of a recreational vehicle on a vacant property - limiting the placement/use to a maximum of 14 days. The recreational vehicle would not be permitted to be skirted or have any decks or structures constructed on the subject property or attached to it. The property owner would not be allowed to install any services on site such as power or sewer, thereby limiting the potential to make this 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 use of their land without impacting the adjacent 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 store”.

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 permitted square footage of Accessory Buildings and renewals.

The proposed change to Section 11.1.1 suggests an accessory building as a “permitted use” where accessory to a Permitted Use in all Districts Where an accessory building is accessory to a Discretionary Use it would then be a discretionary use.

Administration also 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 ² (2,507.0 ft ²) 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 ² (3,002.1 ft ²)
1.22 ha (3.01 ac) up to < 2.02 ha (5.0 ac)	325.90 m ² (3,508.0 ft ²)
2.03 ha (5.01 ac) up to < 4.04 ha (10.0 ac)	371.90 m ² (4,003.1 ft ²)
4.05 ha (10.01 ac) up to < 16.19 ha (40.0 ac)	418.90 m ² (4,509.0 ft ²)
More than 16.19 ha (40.0 ac)	464.90 m ² (5,004.2 ft ²)

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)	Maximum 180 m² (1,937.5 ft²) or 10% of parcel area whichever is less
0.41 ha (1.51 ac) up to < 1.21 ha (3.0 ac)	280 m² (3,013.8 ft²)
1.22 ha (3.01 ac) up to < 2.02 ha (5.0 ac)	325.90 m ² (3,508.0 ft ²)
2.03 ha (5.01 ac) up to < 4.04 ha (10.0 ac)	371.90 m ² (4,003.1 ft ²)
4.05 ha (10.01 ac) up to < 16.19 ha (40.0 ac)	418.90 m ² (4,509.0 ft ²)
More than 16.19 ha (40.0 ac)	464.90 m ² (5,004.2 ft ²)

Section 11.1.3 suggests removing any attached garage as an accessory building and no longer calculating the square footage (of the attached garage) as a portion of the total square footage of Accessory Buildings permitted on a property.

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 the necessary principal dwelling within a year or two of the accessory building. A \$100 renewal fee every year has not enough to encourage property owners 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. Administration therefore, propose removing the renewal requirement from Section 11.1.8 (b) and instead require a refundable security to be posted prior to a building permit being issued for the accessory building. The recommended amount of the security is a \$10,000 security that will be returned or reduced once the construction of the dwelling has commenced. The proposed security amount will be incorporated into the 2015 Fees and Charges schedule prior to third reading of Bylaw 2015-13.

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 rewrite 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 absolutely no impact on adjacent lands as there would be no visitors, 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.*

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

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