

General Amendments

General Language and Format

Many of the proposed changes remove redundancies, conflicts, and ambiguities. Amendments achieve this primarily through formatting that provides placeholders for certain provisions. The new Land Use Bylaw strives to be readable, understandable, interpretable, and easily applied.

Defined Terms

The new Land Use Bylaw capitalizes any words or terms defined in document. This helps with interpreting provisions and therefore provides better clarity for the user.

Numeric Values

The current Bylaw typically provides a metric numeral followed by the imperial conversion in brackets for regulatory provisions. The provision typically rounds the imperial value whereas the metric value provides a decimal. For example, 304.8 m (1,000 ft). Amendments round the metric value and remove the imperial value (For example, 300 metres). The metric value takes precedent over the imperial value. Therefore, the metric value should be representative and intended so that the reader quickly and easily understands the requirement.

Provisions Related to Classification of Uses

Use tables within each land use district classifies if uses are permitted or discretionary. However, provisions throughout the current Land Use Bylaw modifies whether certain uses are permitted, discretionary, or neither. This is problematic for the following reasons:

- It creates ambiguity and conflict within the document. It is not clear if the Bylaw allows a particular use. If the Bylaw intends to allow a use in a particular area, it should be clear on the face of the land use district. This provides certainty for the landowners.
- The Development Authority and the Subdivision and Development Appeal Board can vary, relax, or waive a regulation; however, neither cannot vary, relax, nor waive a use. If a regulation determines how a use is classified or if a use is neither permitted nor discretionary, it may be varied, relaxed, or waived.

The proposed amendments delete provisions classifying uses within regulatory provisions. To uphold the objective of the provision, the amendments propose applicable fundamental use provisions or specific regulations.

These amendments provide greater clarity for users of the Bylaw, ensures correctness of the document, and provides more certainty regarding property owner rights.

Part 1 Introduction

Interpretation of this Bylaw

Amendments include provisions clarifying how land use districts and uses are classified, how to apply the Bylaw, and how to interpret purpose sections and fundamental use provisions. This provides direction for users of the document when interpreting provisions.

Provisions within this section link with other provisions to ensure accuracy. This strengthens the Bylaw's use and applicability.

Approving Authorities

Removing subsections related to the Municipal Planning Commission and Subdivision Authority. The Subdivision Approving Authority Bylaw establishes the Subdivision Authority and the Municipal Government Act governs its process/decisions. Therefore, it is not necessary within the Land Use Bylaw. Changes also eliminate the Municipal Planning Commission as a Development Authority.

Amendments also remove references to specific titles and add a reference to the MGA.

Part 2 Land Use Districts

Land Use Districts

Changes include reformatting land use tables in each of the Land Use Districts. The Bylaw will assign a number to permitted and discretionary use columns. This differentiates permitted and discretionary uses and allows the Development Authority to cite the land use classification within their permit decisions.

Tables within land use districts will no longer have a "notes" column. Scripts within the notes column are ambiguous because they are either notes or requisite qualifiers for a particular use. In many cases, it is difficult to know the note's purpose and intent. Fundamental use provisions replace the notes column and provide greater certainty regarding allowed uses.

Fundamental Use Provisions

Fundamental Use Provisions are requisite qualifiers for specific uses. The purpose is to limit or restrict the nature or scope of the use and ensure that uses achieve a particular planning objective that is inherent of the land use district. Fundamental use provisions are not regulations. This ensures:

- Uses and any qualifiers of uses are clearly identified on the face of the land use district;
- the planning objectives of the district are achieved; and
- certainty for landowners.

Purpose Sections

The amendments update a number of the purpose sections within the districts. The changes reflect policies within the proposed Municipal Development Plan.

Direct Control

Direct Control (DC) provisions in the current Land Use Bylaw are very difficult to interpret. DCs provide Council with particular control of land and buildings within the district. It is not clear in the current Bylaw when or where Council can exercise control within the existing DC districts. In addition, most DC districts have dual districting – the DC designation and an accompanying conventional district. The Land Use Bylaw does not provide the user with any rules or interpretation on how to apply this type of districting.

Amendments clarify how to interpret the provisions for DC districting and ensure consistency with the MGA. Changes also articulate situations when Council is the approving authority and when Council has delegated its authority to administration.

Part 3 Development Regulations

Accessory Developments

Changes related to accessory developments are comprehensive and address a number of matters throughout the Bylaw. Amendments explain what accessory developments are, how they are applied, and circumstances when they cannot be approved. Amendments also support Council's direction to allow certain accessory developments on vacant residential lands.

Accessory Developments Interpretation

The current Land Use Bylaw specifies that accessory buildings are a permitted use in all districts. As a rule, accessory buildings are accessory to a principal use and as such, a development that is accessory to a discretionary use should not be considered a permitted use. This is a flaw in the current Land Use Bylaw. This provision will be deleted and replaced with provisions that describes what constitutes accessory development and how they are classified in terms of being permitted or discretionary. An accessory development is classified according to its principal use.

Prohibited Accessory Uses

Accessory developments includes buildings, structures, or uses that are subordinate to, incidental to and located on the same site as the principal building or use. In the case of a building, a detached garage is accessory to a single detached dwelling. In the case of a use, any use may be considered accessory provided it is subordinate and incidental to the principle use (for example, a coffee shop inside of a bookstore). While the principal use must be a listed use within the district, an accessory use does not because it falls under the principal use. This is problematic in the current bylaw allows inappropriate or incompatible uses if it qualifies as being accessory to its principal use. For example, an outdoor shooting range can be accessory to an Indoor Participant Recreation Services use.

To manage accessory uses that have a greater likelihood of incompatibility, the proposed amendments include a new section called "Prohibited Uses". The purpose is to prohibit certain uses as accessory if they are not specifically identified within the district.

Therefore, the following uses are prohibited as accessory uses to any other use unless specifically listed as a Permitted or Discretionary Use in the Land Use District where the Parcel is located:

- Automotive, Equipment, and Vehicle Services
- Boarding House;
- Detention and Correction Services;
- General Industrial Manufacturing/Processing;
- Group Home, Major;
- Group Care Facility;
- Horticultural Use;
- Industrial Storage and Warehousing;
- Kennel;
- Liquor Sales/Distribution Services;

- Outdoor Participant Recreation Services;
- Security Suite;
- Small Animal Breeding/Boarding Services;
- Specialized Botanical Production Facility;
- Tourist Campground, Destination;
- Tourist Campground, Enroute;
- Waste Management Facility;
- Waste Management Facility, Major;
- Waste Management Facility, Minor;
- Wind Energy Converter System, Major;
- Wind Energy Converter System, Minor; and
- Work Camp.

Out-Buildings

Council directed administration to amend the Land Use Bylaw to remove the requirement for securities associated with accessory buildings and allow minor buildings on vacant residential parcels subject to specific regulations. The proposed amendments follow this direction by doing the following:

- Deleting the definitions “Accessory Building” and “Accessory Use”.
The current Land Use Bylaw uses these two definitions interchangeably and as such, applies provisions where it should not. Amendments delete the two definitions and provide new definitions (Accessory, Use, Building).
- Creating a new use class “Out-Building”.
OUT-BUILDING means a secondary Building that precedes the Development of a Dwelling, Single Detached. An Out-Building is a detached garage, shop, or similar. An Out-Building is not a Shipping Container.
- The new use class is included applicable districts.
- Regulations specific to out-buildings are added within each district the use is allowed. These regulations vary depending on the purpose of each district.

Securities

Amendments delete provisions requiring securities for specific types of developments and add new provisions allowing the Development Authority to require, as a condition of development permit, securities to ensure the proponent fulfills certain obligations under their development permit. These provisions also specify under what circumstances the County can draw upon such securities.

The current Bylaw has a number of sections dealing with conditions and securities. Amendments centralize these provisions, providing more clarity and consistency. Amendments also provide more flexibility and direction for the Development Authority.

Telecommunication Towers

The new Bylaw removes Telecommunication Towers as a use and from all applicable land use tables. Industry Canada, a federal agency, is the approving and regulating authority for all telecommunication towers within Canada and not the municipality. Therefore, a development permit serves no purpose. Proponents must adhere to Industry Canada’s public consultation and technical requirements regarding

siting and design of towers. A requirement under Industry Canada's policy is to obtain a letter of support from the affected municipality prior to their decision.

Amendments enable the Development Authority to review new telecommunication tower proposals and provide a letter of support (or non-support). The Development Authority will consider factors such as its aesthetic quality; proposed setbacks; the outcome of public consultation; whether the proposed service can be co-located on an existing tower; and potential impact to natural and recreational amenities, among others. Development permit approval will no longer be required under the new Land Use Bylaw.

Demolition

Currently, the Bylaw considers a "demolition" to be a specific use class. While the act of demolishing a structure may require a development permit, it is not correct to process an application as a separate use. The reason a demolition requires a development permit is that the intensity of the building's use is changing. For example, demolishing 5,000 square feet of a 10,000 square foot warehouse changes the intensity of the warehouse use.

Proposed amendments include removing "demolition" as a use class and changing provisions specific to demolition.

Natural Resource Extraction/Processing

Amendments clarify existing provisions and strengthen how the provisions are applied. Specific provisions that are problematic include authority of the approving authority, separation from multi-parcel residential subdivisions, size of the mine area(s), and hours of operation.

According to the existing Bylaw natural resource extraction/processing is neither a permitted nor a discretionary use if located within a multi-parcel residential subdivision or within 304.8 metres of a multi-parcel residential subdivision. Despite this, the same provision also states it may be permitted provided certain activities do not occur within the separation distance. This is very ambiguous because the district allows the use; however, the provision disallows the use, but then allows it again. The objective is two-fold; resource extraction of any kind cannot occur in a multi-parcel subdivision and extraction may occur within the buffer area provided that certain activities do not occur.

The objective is achieved through the following amendments:

- Fundamental Use Provision: A fundamental use provision prohibits the use to occur within a multi-parcel residential subdivision;
- Regulation: A new regulation providing a 300 metre setback from any multi-parcel residential subdivision;
- Variance powers: New provisions providing the Development Authority with ability to vary the 300-metre setback subject to specific criteria.

The current provisions also states that the use is neither permitted nor discretionary if the area of disturbance is smaller than 5.1 ha in size. The provision is unclear because the 5.1 ha may refer to a pit that is open at any given time or the total development area.

To address this issue, the changes amend the definition of Natural Resource Extraction/Processing to state that the Total Mine Area for sand and/or gravel developments must be 5.1 ha or greater. Changes also include a new definition “Total Mine Area”. Therefore, if the area is less than 5.1 ha, the definition disqualifies the development and therefore the Development Authority cannot approve. This strengthens the provisions to ensure the objective regarding the use is achieved.

The current provision related to hours of operation can be interpreted two different ways. The proposed change simply states the period in which no operation shall occur.

The Land Use Bylaw currently limits the validity of a development permit for two years. This is problematic because the life cycle of a gravel operation extends well beyond the two years. Once the permit expires, the land is in contravention of the Land Use Bylaw. Therefore, the provision is unreasonable. The Land Use Bylaw provides tools for the Development Authority regarding enforcement. If the objective is to reevaluate the operation and not issue a subsequent permit for the reasons of non-compliance, revoking a development permit is just as effective.

Administration intends to examine this section (Natural Resource Extraction/Processing) in 2018.

Part 4 Process

Development Not Requiring a Development Permit

The proposed amendments add the following to this section:

- Extensive Agriculture Development: Specific land use districts identify this as an allowed use. Therefore, farming activities require a development permit. Given the purpose and intent of agriculture lands, it is unreasonable to require development permit for farming.
- Extensive Livestock Development: Similar to above, it is unreasonable to require authorization for agricultural activities. This particular use, however, would not be appropriate on smaller residential parcels. Therefore, the proposed amendments will not require development permit approval on parcels districted agricultural or on parcels 20 acres or larger and districted residential.
- Public works and utilities: Currently, the Land Use Bylaw lists minor utility infrastructure as a separate use. Installations such as piping, cables, roadways and similar require development permit. The Municipal Government Act specifically exempts these from Part 17 (Planning and Development) of the Act.
- Home Based Business Level 1. This use has no external impact because it involves no client visits and employs no individuals who do not reside within the dwelling. Therefore, it has no more impact than the existing dwelling.

The proposed amendments delete the following within this section:

- Fencing. This section has two provisions related to fencing. The first states circumstances in which fences do not require development permit. The second reads more as a set of development standards as opposed to criteria as to whether a development permit is required or not. The proposed amendments delete the second provision and add development standards elsewhere in the Bylaw.

Decisions on Development Permit Applications

Proposed changes provide better direction for the Development Authority and ensure consistency and correctness.

Variance Authority

Amendments replace the existing criteria for considering variances with revised criteria. The current criteria require cases of unnecessary hardship or practical difficulties peculiar to the use, character, or situation of land or a building. This is common wording within urban municipalities within the region but does not reflect the diversity and range of issues common in a rural municipality.

The new criterion is objective-based. The provisions direct the Development Authority to consider the general purpose and intent of the district as well the underlying planning objective of the regulation to be varied, waived, or relaxed. This allows greater flexibility and facilitates the development process. It also reflects the current practice, provides flexibility to respond to the diversity in development trends, and nature of applications in Parkland County.

Notification

Amendments eliminate the mandatory requirement to notify in the newspaper and enhance requirements to notify through regular mail. Changes expand the notification area from adjacent property owners to all property owners within 100 metres. For major development permits, the notification area will be 800 metres.

Notifying in the newspaper prolongs the approval processes by as much as an additional two weeks. These changes will facilitate the development process.

Issuance and Validity of Development Permits

Amendments in this section strengthen and clarify rules regarding validity of development permits, when an applicant can re-apply, or if a use ceases.

Part 5 Administration

Amendment Review

Deletes section related to Council establishing date, time, and place for public hearing.