

AGENDA
COMMITTEE OF THE WHOLE MEETING
July 27, 2021 at 7:00 p.m.

CALL TO ORDER:

INTRODUCTION OF LATE ITEMS: - Resolution required to add late items, if any

ADOPTION OF AGENDA: - Resolution to adopt the Agenda for the July 27, 2021, Committee of the Whole Meeting.

ADOPTION OF MINUTES - Resolution to adopt the Minutes of the Committee of the Whole Meeting held June 22, 2021

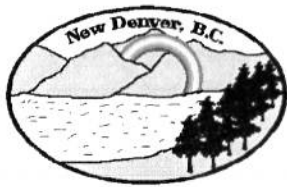
NEW BUSINESS:

Margot Baker - Request to amend Zoning By-Law to allow for home-based business in accessory buildings.

Jessica Raynor - Request for consideration to allowing RV's as Temporary Accommodation During Construction

ADJOURNMENT:

- Resolution to adjourn the meeting at ____ p.m.



MINUTES
COMMITTEE OF THE WHOLE MEETING

DATE: June 22, 2021
TIME: 7:00 p.m.
PLACE: Council Chambers

PRESENT:

- Mayor Leonard Casley
- Councillor John Fyke
- Councillor Vern Gustafson
- Councillor Colin Moss
- Councillor Gerald Wagner
- Darrell Garceau, Acting Corporate Officer
- Jessica Rayner (Webex)
- Theresa Tremaine (Webex)
- Lisa Scott (Webex)

- Kathy Hartman, Valley Voice (Webex)
- Sabrina Curtis (Webex)
- Barb Yeomans (Webex)
- Junko Ida (Webex)
- Phil Whitfield (Webex)
- Margaret Hartley (Webex)
- Todd Johnston (Webex)
- Colin McClure (Webex)

CALL TO ORDER:

- Mayor Casley called the meeting to order at 7:00 p.m.

INTRODUCTION OF LATE ITEMS:

- Nil

ADOPTION OF AGENDA:

RESOLUTION #239

- Moved by Councillor Fyke and seconded that the agenda for the June 22, 2021 Committee of the Whole Meeting be adopted as presented.

CARRIED

ADOPTION OF MINUTES

- Moved by Councillor Wagner and seconded that the Minutes of the May 25, 2021 Committee of the Whole Meeting be adopted as presented.

CARRIED

NEW BUSINESS:

Committee of the Whole Discussion

House of Joyful Tidings

- Council reviewed and discussed information provided regarding a proposal to relocate the building in the Orchard referred to as the House of Joyful Tidings, located at 307 Kildare. For Council's consideration a detailed proposal was presented that provided a summary of the proposal with 3 location options for their consideration. The presentation touched on the cultural and historical significance of the structure and its value within the community.

It was stated that the "Friends of the Orchard" group would continue to review and work with Council, staff and the Slocan Lake Gardening Society regarding the proposal to relocate the building to the Kohan Gardens site. Council expressed concern regarding the long term operational and maintenance costs to the community if the facility were to fall under the authority of the municipality. The matter is to be carefully reviewed and consideration given in a timely manner.

RDCK Draft Resource Recovery Plan

- Council reviewed and discussed the RDCK Draft Resource Recovery Plan. Todd Johnston of the RDCK provided a summary review of the draft document. Council stated that they were not in favor of an amalgamation of the 2 sub-regions, expressed concern regarding the handling of commercial waste material handling and reserved the right to further review and discuss the draft plan.

Poverty Reduction Strategy

- Council reviewed and discussed the executive summary and recommendations from the Poverty Reduction Strategy. Councillor Fyke spoke to the executive summary and recommendations, stating that it is important that Council give consideration to the recommendations, encourage the steering committee to continue their work, consider other options available to the community in terms of addressing the issue of poverty in the community.

Councillor Fyke recommended that staff apply for funding under the UBCM Stream 2 funding program to further support the efforts of addressing poverty reduction in the community, in addition to funding under the CBT Social Grant Funding Program.

2020 Annual Report

- Council reviewed and discussed the 2020 Annual Report as presented. Chief Financial Officer, Colin McClure, provided a summary review of the 2020 Audited Financial Statements and the 2020 Statement of Financial Information.

ADJOURNMENT

RESOLUTION #241

- Moved by Councillor Wagner and seconded that the meeting be adjourned at 8:50 p.m.

CARRIED

MAYOR CASLEY

CORPORATE OFFICER

June 14, 2021

Dear Village of New Denver,

My Name is Margot Baker, and I rent at 409 9th Avenue in New Denver. I moved here in August of 2019 to become a teacher at Lucerne Elementary Secondary School, where I have been teaching for the past 2 years.

I have a history in the arts, having been a professional potter for the last 25+ years after receiving my BEd. in ceramic arts from Alberta University of Art and Design in Calgary in 2004. It is a skillset that I bring lovingly to the community, and I am finding that there is much desire for this skillset and it is instruction, especially in light of the recent retirement of the local potter in the area, Miss Ellie Sheepens. It is under her recommendation (and many others) partially why I am writing this letter.

As you are aware, cottage industries and small artists thrive from the opportunity to teach and employ others in the area, as well as potentially supporting themselves from the sale of their products. New Denver is a small location, and any entrepreneurial spirit deserves to be fostered and nurtured to support one another.

I would like to be able to teach in the small studio and run a small business that is NOT attached to the principal residence on my rental property. I have been told that the Bylaws prevent me from obtaining a business license and selling the products that I create there as well, because they are not made in my living residence, and that is currently the only way to have a side business.

I have multiple supporters in the community that would like to see this bylaw changed, for multiple reasons, including:

- Interest in Pottery has skyrocketed since Covid, as it's a very acceptable task to perform within social distancing suggestions.
- This is a wonderful way to support the arts in our community and to give more people the opportunity to become aware of the process and history of the art.
- Encourages small business growth in our small community.
- Children and adults are requesting lessons.

Please be aware, I am not interested in putting a kiln on this rental property. I only want to teach 1-5 students at a time and be able to sell the items I make there locally while respecting the community bylaws.

I would like you to please change the zoning bylaw so that home-based business is permitted in accessory buildings in the residential zone. This would allow people to run their small business out of their small outbuildings and garages in the residential areas.

The concerns that members of the public may bring up include noise, smells, parking congestion, traffic, etc. Those concerns can be addressed through other bylaws that are already present, including noise, parking, and nuisance bylaws. The need for economic growth in New Denver and economic opportunities for residences outweigh the potential risks of conflict.

Please be reassured that this is not just about my needs. I feel that this will benefit many small businesses in the community, and because of that I would prefer to not incur the costs of formal zoning amendments at my cost or any other single residents' cost.

Attached, you will find a list of community members, who have stated their support for this endeavor. They all invite you to speak with them on the importance of this matter, at your convenience.

Thank you for your time and attention to this matter. I look forward to hearing from you.

Sincerely,

Margot Baker
409 9th Avenue
New Denver, BC
778-206-6501
Margot.Baker1978@gmail.com

SUBMITTED BY: Jessica Rayner

DATE: July 22, 2021

SUBJECT: RVs as Temporary Accommodation During Construction or Renovation

PURPOSE: To consider permitting use of Recreational Vehicles (RVs) and Travel Trailers as temporary accommodation on private property during construction or renovation of a primary residence within the Village of New Denver.

RECOMMENDATION:

THAT the Committee of the Whole recommend to Council that staff be directed to prepare a policy around RVs and Travel Trailers as temporary accommodation on private property during construction or renovation of primary residences within the Village of New Denver.

AND FURTHER, THAT the Committee of the Whole recommend to Council that staff be directed to include RVs and Travel Trailers as temporary accommodation on private property during construction or renovation of primary residences within the Village of New Denver in the next Zoning Bylaw review.

BACKGROUND & DISCUSSION:

New Denver's Bylaws do not specifically address temporary use of Recreational Vehicles (RVs) and Travel Trailers on private property during construction or renovation of private residences. Village of New Denver Zoning Bylaw No. 612, 2007, which prescribes uses permitted in each zone in the Village, only includes campground as a primary use in the P – Parks and P1 – Parks and Open Space zones. As a result, camping in residential zones would be considered an accessory use and not permitted without a primary use in place on a property.

In the past, the Village has not permitted individuals to temporarily occupy RVs or Travel Trailers during construction or renovation of a primary residence. Recently, however, the Village has received three specific requests for this use.

In June 2021, Village staff requested casual legal advice on the matter through Lidstone & Company Barristers and Solicitors. The casual legal response received noted the fact that RVs as temporary residences during construction is a delicate issue, reviewed some relevant concerns, and generally indicated it would be reasonable to proceed with this use of RVs in a temporary and subordinate nature such that it that does not lead to RV use being characterized as residential use.

It will be important to ensure that situations are NOT created where:

1. It is likely that the occupation of the RV or Travel Trailer will result in too many dwelling units on a parcel.
2. Owners are slow to start on or complete construction or renovation of the principal residential dwelling yet residing in their RV or Travel Trailer.
3. Owners continue to occupy the RV or Travel Trailer after construction or renovation of the residential dwelling.
4. Those temporarily residing in RVs or Travel Trailers during construction or renovation do not have appropriate access to amenities such as washroom facilities.

It is important to emphasize that RVs and Travels Trailers do not meet minimum requirements of construction under Part 9 of the Building Code, which is a necessary requirement for residential dwelling construction, and are not permitted as a permanent use on a residential property.

The 2021 Regional District of Central Kootenay Housing Needs Report: Slocan Valley Sub-Regional Report indicates that while CMHC data is specific to Nelson, the Nelson vacancy rate of 2% does impact those of the secondary market, both in Nelson and around the RDCK. It is known locally, informally, that availability of rental housing availability is currently extremely low, impacting opportunities for property owners to stay elsewhere during construction or renovation.

Jessica Rayner

From: Jessica Rayner
Sent: July 14, 2021 3:01 PM
To: cao
Subject: FW: Inquiry - Temporary Occupation of RVs During Construction

FYI

From: Alison Espetveidt <Espetveidt@lidstone.ca>
Sent: June 15, 2021 2:56 PM
To: Jessica Rayner <jessica@newdenver.ca>
Cc: casual.legalservices@lidstone.ca
Subject: RE: Inquiry - Temporary Occupation of RVs During Construction

Hi Jessica,

RVs as temporary residences during construction is a delicate issue. As you have identified, it is popular for many local governments to adopt rules on their use during construction of the primary residence. In my experience, these rules are often put into place to deal with two concerns: (1) the temporary nature of the use and (2) the possibility that there will be more than the allowed dwelling units on the parcel. Each of these concerns is aimed at solving slightly different legal problems. I have highlighted each of them, but cannot provide a comprehensive opinion in the time allotted for a casual legal request.

In terms of whether you are prevented from allowing owners to occupy an RV during construction, I think that there is sufficient flexibility in the Zoning Bylaw under either the accessory use or the accessory residence provisions to permit RVs to be used as a dwelling unit during the construction of the primary building. In my opinion, the Village's Zoning Bylaw does not set up a situation where it is likely that the occupation of the RV will result in too many dwelling units on a parcel. The rules for accessory dwelling clearly establish that a parcel may have more than one dwelling unit per parcel. For example, s. 4.18.8 states that an accessory residence shall be permitted in R1 Zones and s. 4.18.9 permits them in R2 Zones on parcels containing one principal dwelling unit. The definition of "accessory residence" is not a perfect fit for this use. Therefore, I would recommend that the use be treated as an accessory use and that the accessory use be treated as incidental to the construction of the principal permitted use (Single Family Dwelling).

Accessory use is defined more broadly and is equally permitted across a number of zones. Relying on this broadly defined use can create its own challenges. For example, there may be issues with some owners who are slow to start on construction of the principal Single Family Dwelling. There may be others who continue to occupy the RV after the construction of the Single Family Dwelling. However, in my experience, many of these issues can be resolved by creating clear guidelines or communicating the scope of the Village's interpretation of the accessory use provisions in the Zoning Bylaw. As mentioned above, if the Village is clear that this accessory use is incidental to the construction of the principal permitted use, it follows logically that the owner must be somewhat diligently pursuing the principal permitted use. I do not think that the Village is likely to end up in a situation where the permission to occupy an RV during construction will be interpreted as permission for the occupation to be a principal or permanent use.

Things can be a little more complicated if there is an attempt to characterize the occupation of the RV as the principal permitted use (Single Family Dwelling). It has been awhile since I have looked at the specific application of the other related health and safety laws (e.g. the Building Code) to RVs for long term residential use. However, based on the inclusion of the definition of Mobile Home in the Village's Zoning Bylaw, I suspect that this issue was considered at some point. I note that a Mobile Home is not considered a permitted use in any zone and I haven't tried to trace where the definition might apply to residential uses. However, my recollection is that that only certain types of RVs can be

occupied for long term residential use. The use of the Canadian Safety Standard rating is typically used to prevent unsafe mobile homes from qualifying for residential uses.

This resource from Alberta provides a good summary of the issues that crop up with these situations:

<https://www.county.wetaskiwin.ab.ca/DocumentCenter/View/456/-2012-Educational-Letter--to-Realtors-PDF?bidId=>. Some of the information is not directly relevant to a local government in BC and the terminology is slightly different, but I agree that the use of RVs is closer to a recreational use than a residential use. Under the Village's Zoning Bylaw, campground is defined to include recreational vehicles and so there is some tension that arises from characterizing this use as residential. As above, I think that the temporary and subordinate nature of the use is sufficient to resolve this tension, but the two example bylaws that you have sent me are examples of clear rules that help characterize the different uses. I agree that the longer term solution includes Zoning Bylaw amendments.

Sincerely,

Alison

Alison Espetveidt

Lawyer

LIDSTONE & COMPANY

BARRISTERS & SOLICITORS

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From: Jessica Rayner <planning@newdenver.ca>

Sent: June 10, 2021 1:49 PM

To: casual.legalservices@lidstone.ca

Subject: Inquiry - Temporary Occupation of RVs During Construction

Hello,

I am wanting to inquire about temporary occupation of recreational vehicles during construction of a permanent residence. The Village of New Denver [Zoning Bylaw](#) does not currently address this, and I am wanting to know if that prevents us from permitting it. I do see that the Cariboo Regional District and City of Nanaimo, for example, specifically provide for temporary placement of RVs during construction of a permanent dwelling (see below), which is of course much more clear. While the Village of New Denver does intend to update its Zoning Bylaw in the near future, we are interested in the ability to accommodate temporary use of RVs during construction in the meantime.

- Permitted in Section 4.11 (Occupancy During Construction) of the Cariboo Regional District No.3501, South Cariboo Area, Zoning Bylaw: http://crddirector.com/reports/3501_as%20of%20February%2013,%202012.pdf
- Permitted in Section 6.7.7 (Temporary Uses – Buildings and Structures) of the City of Nanaimo Zoning Bylaw No.4500: <https://www.nanaimo.ca/docs/property-development/development-applications/4500.pdf>

Educational letter sent to Real Estate agents – Feb 2012

February 29, 2012

****Important***

Name
Address
Municipality, Alberta
Postal Code

Attention: Name

Dear Name,

**Re: Status of "Recreational Vehicles" & "Park Models" usage
within the County of Wetaskiwin Jurisdiction**

The issue and questions about RVs and Park Models is becoming more prevalent and the County is beginning an information campaign regarding this matter to advise landowners and the real estate industry of this information so that informed decisions can be made.

We have had many inquiries regarding Recreational Vehicles (RVs) and Park Models and we believe the following information may be of help in your discussions with prospective purchasers of land who may have questions regarding these uses. In this letter, we will help to outline what a RV and a Park Model is, and discuss the appropriate use of RVs and Park Models in relation to the County's land use districting (also known as zoning), also known as the Land Use Bylaw.

This letter is not intended to go in depth into the details of the following standards as a full interpretation of the Safety and Building Codes and Canadian Standards Association details since these should be provided by the related governing bodies that administer these areas of expertise; however, we believe the following information provides some basis of understanding the industry standards and codes related to the matter.

- CSA A277, "Procedure for Factory Certification of Buildings" – Manufactured homes
- CAN/CSA-Z240 MH Series, "Mobile Home" – Mobile Homes
- CAN/CSA-Z240 RV Series, "Recreation Vehicles" – RVs
- CAN/CSA-Z241 Series, "Park Model Trailers" – Park Model Trailers

The two categories we are focusing on are the last two series.

A RV is defined within the Canadian Standards Association as CAN/CSA-Z240 RV Series, "Recreational Vehicles" and Park Model Trailers are defined within CAN/CSA-241 Series,

"Park Model Trailers", which under the Alberta Safety Codes Act do not meet the basic criteria to be used as a residential dwelling. In this regard, a RV and a Park Model will not be recognized as or issued an approval as a dwelling, whether seasonal, weekend, or year round usage, as they do not meet the minimum requirements of construction under Part Nine of the Building Code which is a necessary code requirement for residential dwelling construction.

In this regard, the County's Land Use Bylaw 95/54 only defines, lists, and allows approval, as a land use, RVs and Park Model Trailers in two of the thirty four land use districts in our Bylaw. These districts are the "Recreational District (R)" and the "Recreational Resort Holdings District (RRH)". Land must undergo Area Structure Plan (ASP), zoning, and other approvals prior to being granted either of these two zonings. The County must be contacted to verify what lands have been districted under either of these two "Recreational" districts. It should be noted that very few lands have been granted these two zonings and that the vast majority of lands abutting the County's lakes are under either "Agricultural" or a residential type of district (i.e. "Lakeshore Residential", "Country Residential", "Urban Residential", etc.), "Watershed Protection", or a commercial type zoning and are not recreational and do not allow for RVs or Park Models as a land use.

Since RVs including Park Model Homes do not meet minimum code requirements for use as a residential dwelling, and are neither listed as either a permitted nor discretionary land use, they should not be recognized or issued a development permit to be used as a residential dwelling. Discussions have been held with the manufacturing industry and Alberta Safety Codes and the question of whether these units can be converted to become a residence resulted in the answer that they are not constructed to be and cannot be converted to become a structure approved for residential purpose. Manufacturers have also advised that warranties for RVs and Park Models may be voided should they be used for residential purposes.

The question has been asked as to what point does a Recreational Vehicle including Park Model Trailer go beyond the intended use as a RV and at what point are they being used similarly as a residence? We can best define such a use when one or more of the following occurs with a RV or Park Model Trailer when:

- It is used as a primary residence by the owner or occupant;
- It is used as a temporary, seasonal, weekend residence by the owner or occupant;
- The vehicle or trailer has become fixed to the land either by permanent or semi-permanent pilings, foundations, or pads;
- Structures such as decks, secondary roof tops, shelters or additions are attached or built around or on top of the vehicle or trailer; or
- The connection of utilities which may include water, sewer, and/or power, to the vehicle or trailer have occurred.

Note: that neither a Development Permit from the County nor a Building Permit from an Accredited Safety Codes Agency should be issued for a Recreation Vehicle or a Park Model Trailer to be used as a residence unless significant work is done to the unit to meet Part Nine of the Building Code. We are not aware of any Recreation Vehicle or a Park Model Trailer being brought up to this standard. This confirms both industry manufacturers and Code administrators

statements that such units are not intended nor can they be brought up to meet the minimum requirements to be used as a residential dwelling.

Related to the above discussion, a resolution of County of Wetaskiwin No. 10 Council confirms the County's position regarding Recreation Vehicles including Park Model Trailers being used in residential districts as a dwelling as defined in paragraph six (6) of this letter. This resolution is as follows:

Resolution No. PD20110310.1015 - MOVED that Council maintain the County's position that recreational vehicles are neither permitted or discretionary in the residential land use districts of Land Use Bylaw 95/54 that do not list recreational vehicles as permitted or discretionary uses and that Administration deny any requests made by individuals proposing recreational vehicle use in those districts.

Reasons for this decision are as follows:

The introduction of Recreation Vehicles can not be properly controlled in relation to the defined type or quality of unit;

1. That subdivisions which have been approved for traditional residential construction have been done so with the expectation of a level of service for traditional built dwellings with respective assessment to support the services necessary for the subdivision while the occupation of lots by Recreation Vehicles does not allow for the assessment necessary to support the services required for such subdivisions; and
1. Persons who have built traditional dwellings in subdivision approved for that purpose have done so with the expectation that other lots will be occupied by similar development.

The above Resolution was more directly related to urban circumstances that have come before the County, however, the rationale for not allowing RVs and Park Models on lands other than Recreational or Resort Recreational Holdings districted lands remain the same. In these cases, the same Building Code and CSA standards would apply as mentioned above regardless of the size of the parcel. Potential purchasers of properties that have questions regarding Recreation Vehicles including Park Models should be made aware of the above information.

Please be aware that grandfathering of the use of RVs and Park Models on lands is not applicable unless there have been written approvals granted by the County for a specific unit in the past. If there are RVs or Park Models being used or a past use within the County, these are more likely unauthorized uses which may create problems for the landowner.

A copy of Land Use Bylaw 95/54 can also be viewed on-line through our website: www.county.wetaskiwin.ab.ca or in person at the County office during regular office hours.

If your client is a purchaser of land or a current landowner and is planning to add development (for example: a house; garage; shed; a shop; a business; adding a sign, some signs are exempt), we will be happy to assist in completing the necessary applications and to provide information about development in the County. Please be aware that there may be restrictive covenants on title that were added by the developer of a subdivision, to be enforced by the developer and/or the landowners within the subdivision, which may further restrict development.

In addition, when buying or selling land, we highly recommend for the landowner to obtain a zoning compliance certificate from the County to provide to the purchasers so that he or she can be aware of outstanding issues regarding structures before completing the sale.

In the event that cases arise where the above information has not been followed, the County may contact the Alberta Real Estate Board to assist with an appropriate solution.

We look forward to working with you and your clients to enhancing the County of Wetaskiwin with approved development.

If any of the above requires further clarification, please contact the undersigned.

Kind regards,

County of Wetaskiwin No. 10

Shelley Der (Extension 290)
Development Officer

cc Director of Planning and Ec. Development
 Municipal Affairs - Chief Building Inspector