

Briefing Note

Title	1:30 p.m. Public Hearing for Bylaw 1432/19 - General Amendments to Land Use Bylaw 1385/17
Issue	To provide an opportunity for members of the public to present their comments to Council regarding proposed Bylaw 1432/19. Any amendment to the Land Use Bylaw requires a Public Hearing, which normally follows first reading and must occur before second and third reading.
Previous Council Direction	<p><u>February 26, 2019 - Motion 052/19:</u> That Council give first reading to Bylaw 1432/19 - General Amendments to Land Use Bylaw 1385/17.</p> <p><u>July 10, 2017 – Motion 351/17:</u> That Council give third reading to Bylaw 1385/17, Land Use Bylaw.</p>
Report	<p><u>Background Information</u></p> <ul style="list-style-type: none"> In the 16 months that have lapsed since Land Use Bylaw 1385/17 (LUB) came into force on September 8, 2017, Administration has observed several improvements that need to be made to the LUB as well as several technical and clerical errors that need to be addressed. Bylaw 1423/19 contains 47 proposed changes to the Land Use Bylaw. The four main changes entail the following: <ul style="list-style-type: none"> Amendment 24 Administration recommends that the entire regulation be rewritten to align with those of neighbouring municipalities and industry as well as inputs received from Municipal Affairs. These regulations address the interpretation of maximum floor area of suites, clear definitions, septic systems to meet the provincial standards and relaxation of maximum floor area for suites developed within a dwelling. Administration will not change the intent of allowing all AG and Residential parcels to have a suite but rather limiting them to their specific intended use as smaller dwelling units. The following main changes are proposed:

- Maximum floor area of suites based on district – as per consultation with industry and the Modular Housing Association.
- Defining what is considered floor area.
- Variances to floor area will not be considered by the Development Authority.
- Align approvals consistent with Private Sewage Systems Standard of Practice and recommendations by Municipal Affairs.
- Setbacks between developments to align with Safety Codes and to limit future subdivision.
- Shared approaches.
- Defining each type: Secondary (within or attached to an existing dwelling); Garage (within or attached to an existing garage); Garden (separate stand-alone development).
- Defining “basement” as garden or garage suites shall not have basements.
- Adding a regulation to deal with existing temporary dwellings which will allow landowners to bring their property into conformance with the Land Use Bylaw.
- Changing secondary suites from discretionary to permitted in the AG and R1 districts where lot size allows for parking.

Amendments 12, 20 & 44

The existing definition of “Farm Help Accommodation” refers to ‘temporary development’ and it was unclear what this meant. The new definition removes this ambiguity from the definition so landowners know that farm help can remain on the property for as long as it is required.

“Farm Help Accommodation” is listed as permitted in all AG districts; however, there are no regulations to ensure they are being utilized for farm help. The changes proposed are derived from discussion with a farm advocate with Alberta Agriculture who agreed that regulations should be in place to protect the use from non-farming purposes. With no regulations, every AG parcel in the County can have a farm accommodation and not be a farmer. These amendments provide for two regulations and a new definition for the use as a result.

Amendments 36 & 48

In terms of the new LUB, existing mobile home parks in the County were allocated a DC-1 land use district. In this district, Council is

the deciding authority, which requires any development permit application to be approved by Council. As such, Administration is proposing a new residential land use district, R6 – Modular Home Park, to cater to the four properties in the County that presently accommodate a series of modular homes, and to remove an unnecessary burden on the application process for residents. The R6 land use district will be a traditional land use district with permitted and discretionary uses and a set of regulations that pertain to this district. The draft R6 land use district was referred to industry for comment prior to being included in this proposed bylaw amendment.

Amendment 39

The existing Resource Extraction Overlay is too prescriptive and restrictive. For example, subsection 17.3.5 requires an applicant to demonstrate that residential activity will not encumber natural resource extraction on the property itself. Administration sees this as being unobtainable.

The new overlay proposes to allow Administration to apply restrictive covenants to the subject parcels to make owners aware of resource extraction in the area much the same way as the Heavy Industrial Overlay does.

- The technical/clerical amendments proposed entail the following:

Amendments 1, 2, 3, 19, 21, 23, 25, 28, 31, 32, 34, 40, 41, 42 & 46

These amendments stem from amendment #24 and distinguishing between secondary, garden and garage suites as different uses.

Amendments 4, 13, 14, 16, 17, 27, 35 & 37

Residential fences are typically 6 feet in height; “5.9ft” could be interpreted as 5’9” which is less than 6 feet. For clarity, it is proposed to round off the specific fence heights in feet rather than in metric.

Amendments 5 & 33

This is in reference to AG accessory buildings within the R1 district. AG accessory buildings should be limited to the AG district (and no permit is required) whilst within the R1 district they should just be considered accessory.

Amendment 6

It is recommended to have the distances noted in subsections 2.7.2 be the same as CFB Edmonton’s Edmonton Garrison Heliport Zoning Regulations. These regulations were passed under the authority of the *Aeronautics Act* and are binding in both aeronautics and defence spheres. Hence, the distance of 1.6 km (1

mi) stipulated in subsection 2.7.3 should also apply in subsection 2.7.2.

Amendment 7

In processing two applications for a hangar under the new LUB, it was determined that the variance powers were too strict. Current regulations as per subsection 2.8.6 only allows the Development Authority up to a 25% variance which can equate to a change of only 4ft before it needs to be refused. Most developments in the AP land use district maximize their lots due to the large scale of their structures. Increasing the variance percentage will allow the Development Authority up to 50% (same as Medium Industrial) which equates to a change of up to 8ft. Regardless, the Edmonton International Airport has the authority to either refuse or support the variance as applicants are required to obtain a Facility Alteration Permit prior to decision by Sturgeon County.

Amendments 8, 9, 10 & 11

Section 685(2) of the *Municipal Government Act* provides that in addition to the usual appeals (failing or refusing to issue a development permit, issuing a development permit subject to conditions, or issuing an order under s. 645), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the Subdivision and Development Appeal Board.

Administration obtained a legal opinion in this regard and recommendations were made as follows:

- Subsection 2.15.1 of the LUB at present limits what decisions by the Development Authority can be appealed. It is proposed to add a Subsection 2.15.2 with the following wording: “In addition to Subsection 2.15.1, any person affected by an order, decision or development permit made or issued by a Development Authority may appeal to the *Subdivision and Development Appeal Board*.”
- Subsection 2.12.1 refers to either the Development Authority or Council cancelling or suspending a development permit. Legal counsel advised to remove the wording “or Council” from Subsection 2.12.1
- In order to allow for the proposed Section 2.15.2, subsection 2.12.3 should be reworded as follows:

“Notice of the *Development Authority’s* decision to cancel “or suspend” the *development permit* shall be provided in writing by ordinary mail to the *landowner*, ~~and~~ to the applicant of the *development permit* and “adjacent landowners and” such

notice shall state the reasons for the cancellation of the *development permit*.

Amendment 15

Reference to “without an approved development permit” in Paragraph 5.8.2(b) is confusing. The proposed amendment will address this.

Amendment 18

Proposed subsection 5.8.4: In exercising discretion for a variance, it is beneficial to have considerations by the Development Authority for extensions to the height of a fence clearly stated.

Amendment 22

When adding a new section to the LUB, it is more practical to number the addition with an additional “A” (or “B”, whatever the situation) in order to keep any cross-referencing in the Bylaw consistent.

Amendment 26

In subsection 6.27.4, reference to “unless otherwise indicated by the Development Authority” is confusing and should be deleted.

Amendment 29

Agriculture Support Services and Veterinary Clinic are examples of principal buildings in the AG district. In subsection 11.1.4, the setbacks only note Dwelling and Accessory Building. A veterinary clinic and agriculture support building are not usually accessory buildings but are the principal uses and the proposed amendment addresses this discrepancy.

Amendment 30

Subsection 11.1.4: The LUB should not be regulating the maximum square footage of an Accessory, Agricultural Building for AG – Residential parcels and as such, should be removed from the table.

Amendment 38

In Subsections 15.4.4, 15.5.4 & 15.7.4 (INS Institutional District, POS Public Open Space and REC Recreational District) the tables indicate a minimum side yard setback abutting a local road (4.5m) and abutting a collector or arterial road (20m). The tables also indicate the minimum front yard and flanking front yard setbacks. This is redundant as a side yard in these cases equals the flanking front yard.

Amendment 43

With the passing of Bylaw 1405/18 (bylaw providing for a definition for Cannabis, etc.), the definition for Accessory Use was incorrectly changed. This amendment addresses this shortcoming.

Amendment 45

Modular (ATCO) trailers should be added as part of the definition for Outdoor Storage to provide more clarity.

Amendment 47

The existing definition for “Service Station” in Part 18 only allows for a gas station with any mechanical servicing as accessory to it. The new definition allows for these uses to be operated independently from one another.

Amendment 49

This (late) amendment stems from a request of a developer that addresses the impacts of higher density development on fire protection requirements.

- When considering first reading on February 26, 2019, Council provided the following inputs to the proposed bylaw:
 - **Farm help accommodation:**
 - Add text to include “common living areas”.
 - If farm help accommodation is located on a property, can that property still have a suite?
 - **R6 - Modular Dwelling District**
 - At what subdivision density is a planning document required?
 - **“Must” vs “shall”**
 - There was a discussion about the MGA using one term and the LUB uses another. The LUB should mirror the MGA terminology.
 - **REO overlay and setbacks**
 - How will the LUB address conflict between resource extraction and CFOs?
 - **Outdoor storage – modular trailers**
 - There was discussion as to whether modular trailers should be regulated similarly to sea cans.
- Council adopted no motions regarding the above inputs. As such, Administration will review these inputs as part of any inputs received at the public hearing and report back to Council accordingly when second reading occurs.

External Communication

- Collaboration between industry, government and other authorities relevant to the subject changes were made during the review.
- Promotion of this public hearing was made as follows:

- Notice in Weekly FYI on April 9 and 16, 2019
- Legislated advertisement and infographic built into a half-page advertisement in the *Free Press/Redwater Review* on April 23 and 30, 2019.
- A storyboard at the Current Planning and Development entrance of the infographic.
- Linkage of the infographic to the LUB [webpage](#) and a pop-up on the homepage.
- Promotion of the amendments and public hearing on social media.

Relevant Policy/Legislation/Practices:




- The *Municipal Government Act*, RSA 2000 c.M-26, (MGA) authorizes Council to establish and amend bylaws.
- Section 692 of the MGA requires that a municipality hold a public hearing prior to giving second reading to a proposed bylaw.
- Section 639 of the MGA states every municipality must pass a land use bylaw.
- Section 640 of the *Municipal Government Act* states:
 - (1) *A land use bylaw may prohibit or regulate and control the use and development of land and buildings in a municipality.*
 - (2) *A land use bylaw*
 - (a) *must divide the municipality into districts of the number and area the council considers appropriate;*
 - (b) *must, unless the district is designated as a direct control district pursuant to section 641, prescribe with respect to each district,*
 - (i) *the one or more uses of land or buildings that are permitted in the district, with or without conditions,*
 - or
 - (ii) *the one or more uses of land or buildings that may be permitted in the district at the discretion of the development authority, with or without conditions, or both;*
 - [...]
 - (e) *must establish the number of dwelling units permitted on a parcel of land.*

Implication

Strategic Alignment:

The proposed changes align with the following two areas:

Planned Growth and Prosperity - The proposed amendments promote effective and streamlined land use control.

	<p>Strong Local and Regional Governance - Ensuring that necessary amendments are incorporated and the LUB gets updated accordingly ensures that Sturgeon County can continue to provide consistent and accountable leadership through collaborative and transparent processes.</p> <p><u>Organizational:</u> The process to rewrite the LUB did not end when Council adopted the bylaw. A land use bylaw is a very complex document and despite the best efforts of all parties involved, inherently things are missed and/or overlooked during the development stage and these anomalies are identified through administering the LUB on a daily basis.</p> <p><u>Financial:</u> Not applicable.</p>
Follow Up Action	<ol style="list-style-type: none"> 1. Administration will review any relevant concerns raised at the Public Hearing. 2. Administration will bring this item back to Council for consideration of second reading.
Attachment (s)	<ol style="list-style-type: none"> 1. Bylaw 1432/19 2. Public Hearing Information Insert
Report Reviewed by:	<p> Colin Krywiak, Manager Current Planning and Development</p> <p> Collin Steffes, General Manager Integrated Growth</p> <p> Reegan McCullough, County Commissioner – CAO</p>