



## Governance Committee

Subject:	Land Use Bylaw Priority Amendments: Request for Direction
Date:	January 16, 2024
Presenter:	Justin Rebello, Supervisor, Planning & Development
Department:	Planning

### REPORT SUMMARY

The purpose of this report is to seek the Governance Committee's direction on several *Land Use Bylaw* (LUB) priority amendments identified by Administration. In alignment with Council's Strategic Plan, these amendments would contribute to more effective service delivery and promote thoughtful growth by securing near-term improvements to sections of the LUB that are currently problematic. The amendments would also support the future comprehensive re-write of the LUB, which will ensure clearer and focused implementation of the County's Municipal Development Plan (MDP) and area structure plans (ASPs).

On October 17, 2023, Council provided direction to Administration relating to the Care Facility (Group) use contained within the LUB, specifically:

- To present a report to the Governance Committee before the end of January 2024 that would require the use to be at the discretion of Council, acting as the Development Authority; and
- To present a resolution to Council that would apply a temporary suspension to the approval of applications for the use until such time that Council approves updates to the *Land Use Bylaw*.

An assessment of the Care Facility (Group) use is provided within this report, and Administration is seeking direction from the Committee on options to manage this use.

Administration is also seeking the Committee's direction on the following areas relating to the LUB:

- Kennel use;
- Setback variances on existing buildings;
- Vacation Rental use;
- Bed and Breakfast use;
- Automotive-related uses;
- Shipping containers; and
- Community entrance signs.

### ADMINISTRATION'S RECOMMENDATION

THAT the Governance Committee directs Administration to prepare amendments to *Land Use Bylaw C-8000-2020* for the consideration of Council at a public hearing no later than the end of Q1, 2024, based on the following principles:

- Remove the ability to apply for new Care Facility (Group) uses on agricultural or residential parcels until additional requirements are approved by Council to regulate the location and impacts of such uses.
- Require that the following applications be determined by Council, as Development Authority, for Care Facility (Group) uses:
  - Development Permit applications for new uses submitted to the County prior to the effective date of any amendments removing the ability to apply for the use.
  - Development Permits for renewal of existing temporary uses.

## Land Use Bylaw Priority Amendments: Request for Direction

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THAT the Governance Committee directs Administration to prepare amendments to *Land Use Bylaw C-8000-2020* for the consideration of Council at a public hearing no later than the end of Q2, 2024, based on the following principles:

- a. Create additional requirements for the Kennel use to regulate the location and impacts of the use;
- b. Create a new 'Shipping Container' use with associated regulations in relation to the subject district and intended use of the Shipping Container;
- c. Allow the Development Authority the ability to provide a minor variance to setback requirements for Real Property Report compliance reviews, subject to criteria;
- d. Allow automotive-related businesses to be considered as part of Home-Based Business (Type I) and (Type II) uses, subject to criteria;
- e. Create increased rules and regulations for the Bed and Breakfast use to ensure that the site and principal dwelling hosting the use is used as a permanent residence; and
- f. Create a new sign type – 'Community Entrance Sign' – and exempt Community Entrance Signs from requiring a development permit subject to criteria.

THAT Administration be directed to:

- Present to Governance Committee a comprehensive review of the Vacation Rental and Bed and Breakfast uses in the County no later than the end of Q2, 2024.

## BACKGROUND

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Administration's current work plan includes continuous assessment and evaluation of current uses, rules and regulations contained within the LUB. Potential amendments have been prioritized that provide greater clarity and efficiency in implementation of the LUB. Administration is proposing improvements to sections of the LUB that are currently problematic, prior to the forthcoming comprehensive review of the LUB in 2025.

On October 17, 2023, Council also separately passed a motion to review the Care Facility (Group) use for presentation to the Governance Committee before the end of January 2024 that would require the Care Facility (Group) use to be at the discretion of Council, acting as the Development Authority. Council also directed Administration to bring forward a resolution for Council's consideration to apply a temporary suspension to the approval of Care Facility (Group) development/planning applications, until such time as Council updates the *Land Use Bylaw*.

## DISCUSSION

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### Care-Facility (Group) Use

The LUB defines Care Facility (Group) as a use where "individuals who are either disabled or in need of supervision reside, on a temporary or long-term basis, in accordance with their individual needs. Typical uses include foster or boarding homes for children, group homes, family homes, and long-term care facilities."

Although included in the LUB, the Care Facility (Group) uses currently have no associated regulations to manage their impacts, nor do they have any criteria on where they can be located within the County. Therefore, determining development permit applications proposing this discretionary use have been challenging for Administration. Recent Development Authority decisions on this use have been appealed to the Subdivision Development and Appeal Board (SDAB).

Administration recommends that the ability to apply for a new Care Facility (Group) on residential or agricultural parcels be removed until Council approves additional regulations to address regulatory gaps relating to the use. The current MDP Review project could be an appropriate avenue to set policy guiding the location of future business opportunities on residential or agricultural parcels for these and other forms of institutional uses. This would then allow LUB amendments to be made to implement new

locational policies and set regulations to guide the form of these uses (including scale, setbacks, and mitigation measures). At that time, Council could also determine the appropriate Development Authority (Council or Administration) for the Care Facility (Group) use, based upon the updated County policy and LUB regulations guiding the use.

#### In-Process Applications and Existing Approvals

Care-Facility (Group) development permits are temporary in nature and are typically given a maximum three-year approval. Administration is recommending that all existing temporary approvals be considered for renewal, but that such renewal applications should be determined by Council, as Development Authority. This would allow for greater control and oversight by Council on existing uses which may be currently causing community concerns.

Similarly, it is recommended that any Development Permit applications for new Care Facility (Group) uses that are received and in-process by the County at the time of Council implementing any pause on such applications, could be referred to Council for determination.

If Council is inclined to approve any applications of this nature, consideration could be given to limiting the term of the permit to align with the expected date of new policies and regulations being implemented by the County. It is expected that a comprehensive rewrite of the current *Land Use Bylaw* could be commenced in 2025, following adoption of the County's updated MDP, but Council could direct targeted improvements to the LUB prior to this, as appropriate.

#### **Kennel Use**

The LUB defines Kennel as “a use for the keeping, breeding, boarding, caring, or training of dogs and/or other domestic pets over three months of age, excluding livestock.”

Although included in the LUB, the Kennel use currently has no associated regulations to manage the intensity of the proposed business or potential impacts. This has resulted in increased uncertainty in determining applications and several appeals being submitted in relation to the use.

Administration recommends the creation of increased regulations for the Kennel use to ensure the intensity of the use is complementary with surrounding land uses and mitigation measures are implemented. This would allow LUB amendments to be made to implement new location policies and set regulations to guide the form of these uses (including scale, setbacks, and mitigation measures).

#### **Real Property Report (RPR) Variances**

As part of a real estate transaction, the County is frequently requested to provide a certificate of compliance to confirm that the parcel aligns with rules set out within the LUB. In some cases, during RPR compliance reviews, it was discovered that structures have been built or placed in error to what is allowed in the LUB, and therefore require a development permit to allow for a setback relaxation.

Administration proposes to grant such a setback variance to allow the landowner to gain compliance without the need to submit a development permit application, provided the setback variance does not impact safety, fire separation, servicing, utility rights, corner visibility triangles, or access to parcels.

Administration recommends the introduction of regulations to the LUB that would exempt minor property line setback variances identified for existing development through RPR compliance reviews from requiring a development permit. It is suggested that the degree of variance allowed could be scaled according to the type of development, for example, whether it is a minor structure or principal dwelling, and the context of the property.

#### **Shipping Containers**

Shipping Containers currently fall under the ‘Accessory Building’ use in the LUB and would only trigger a development permit if the size of the shipping container exceeds the maximum size for an Accessory Building permitted use in the applicable land use district.

## Land Use Bylaw Priority Amendments: Request for Direction

The LUB requires an Accessory Building on a parcel in a Residential District be similar to, and complement, the Principal Building in exterior material, colour and appearance.

Further regulations guiding Shipping Containers in the LUB include that they:

- Shall not be attached, in any way, to a principal building;
- Shall not be stacked in any Non-Industrial District; and
- Shall be visually screened from public roads and adjacent properties in a manner that satisfies the Development Authority.

As most shipping container sizes do not trigger a development permit, there is currently no opportunity to regulate shipping containers with the above regulations through a development permit and associated conditions. This has led to increased challenges in regulating shipping containers according to impact, location and intended use. The associated ambiguity regarding how shipping containers should be regulated in relation to accessory buildings is also a challenge, as they are considered similar uses. However, most shipping containers would never trigger a development permit due to size parameters. Ambiguity around LUB requirements has further resulted in challenges for Enforcement Services, particularly in determining acceptable appearance or screening of containers.

Administration recommends creating a new use in the LUB – ‘Shipping Container’ – which would provide specific development permit requirements and regulations based upon the intended use.

### **Automotive-Related Businesses**

Currently under the rules and regulations associated with Home-Based Business (Type I) and (Type II), automotive-related businesses are not allowed. There is also currently no definition in the LUB for automotive-related uses, and this creates uncertainty for applicants regarding what type of businesses may be allowed.

Considering the diverse contexts, parcel sizes, and existing home-based businesses in relation to home-based automotive-related businesses in the County, there are circumstances where an automotive-related business may be appropriate on a residential or agricultural parcel, depending on the intensity of the proposed use. An example of this could be a tire repair business or car restoration business that is located solely in an accessory building, and where no outside storage or impacts to the agricultural or residential integrity of the area is seen.

Administration recommends removing the restriction on automotive-related uses within Home-Based Business (Type I) or (Type II) uses, and that this be replaced by new criteria in the LUB to ensure that such uses do not change the residential or agricultural character of an area.

### **Vacation Rentals**

The LUB defines a Vacation Rental as “a Dwelling Unit that is rented online via a hospitality service brokerage company that arranges lodging such as Airbnb, Vrbo, TurnKey, HomeAway etc.”

Although Vacation Rental is set out as a use in the LUB, there are no rules to guide or mitigate the use. Therefore, development permit applications proposing this use have been challenging to assess and manage. Again, this has led to Development Authority decisions being appealed to the SDAB.

The Vacation Rental use generally entails full use of the principal dwelling, accessory buildings, and outside spaces on a property, and any planning conditions that may be placed on a Vacation Rental permit to minimize impacts on adjacent landowners are difficult to monitor and enforce upon. As many impacts such as excessive noise and other anti-social behavior are largely dependent on whether the rental property owner and guests act in an unneighbourly manner, the Development Authority has been hesitant to approve many Vacation Rental applications, especially those located in country residential areas and hamlets.

Administration recommends that a separate report be provided to the Governance Committee with options on how to regulate the Vacation Rental use in the County. Administration will conduct

## Land Use Bylaw Priority Amendments: Request for Direction

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comprehensive research on best practices from similar municipalities and an item reviewing the Vacation Rental use will be presented to the Governance Committee prior to May 31, 2024.

### **Bed and Breakfasts**

More recently, applicants have tried to propose a Vacation Rental use under a Bed and Breakfast use. Consequently, there is a need to examine the regulations applied to the Bed and Breakfast use alongside the Vacation Rental use to ensure that the two uses are discretely defined and managed.

The LUB defines Bed and Breakfast as “an accessory use of a principal dwelling and where temporary sleeping accommodation is provided for up to three guest rooms.”

The intent of a Bed and Breakfast use is to be limited to accessory use of the residential property, with the property owner residing in the principal dwelling and attending to their guests. This differs from a Vacation Rental use, where the entire residential property is generally used without the property owner being on-site to accommodate and monitor their guests. As the intent of these uses are different, stronger rules and regulations in the LUB are required to differentiate more clearly between both uses in the interim, during the County’s review of the Vacation Rental use.

Prior to a fulsome review of the Vacation Rental use, Administration recommends providing additional regulations to the Bed and Breakfast use to ensure that the dwelling continues to operate as a permanent residence during the time any Bed and Breakfast use is operational.

### **Community Entrance Signs**

A Community Entrance Sign, typically proposed as part of a new subdivision and an ‘entrance feature’ by the developer, is currently regulated under the ‘Freestanding Signs’ definition in the LUB and a development permit is required. However, a Community Entrance Sign location can also be proposed and approved under the terms and conditions associated with a Development Agreement.

Therefore, to allow a developer to move forward with constructing Community Entrance Signs, this type of sign is recommended to be specifically defined and exempted from a development permit requirement within the LUB. For an exemption to be allowed, it is proposed that such signs would need to comply with the adopted conceptual scheme and architectural guidelines in relation to the new community and would need to be located on private land with no conflict with any utility rights of way.

Administration recommends creating a new type of sign in the LUB – ‘Community Entrance Sign’ – and including this type of sign in Table 2 – Development Not Requiring a Development Permit in the LUB.

### **Communications and Engagement**

Through the processing of planning and development permit applications, Administration has used ongoing informal feedback from applicants and communities to compile the priority items presented to the Committee in this report. Subject to the Committee’s direction on these LUB uses and items, Administration will undertake more formal engagement on any drafted amendments and will notify all applicants that may be affected by the amendments. Additionally, a public hearing will be held for all drafted LUB amendments that are brought to Council for approval, allowing further stakeholder input.

### **Additional Information**

For Governance Committee information, a table outlining the current number of development permits associated with the Care Facility (Group), Kennel, Vacation Rental and Bed and Breakfast is provided in Attachment A. A summary of the total number of compliant RPR’s issued by the County, and number of development permits approved in association with granting RPR compliance in 2023 is also provided.

## **ALTERNATE DIRECTION**

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Administration does not have an alternate direction for Governance Committee's consideration.

Land Use Bylaw Priority Amendments: Request for Direction

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## **ATTACHMENTS**

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Attachment A: Development Permit Summary of Identified Uses



Attachment 'A': Development Permit Summary of Identified Uses

Applications Received Under Current Land Use Bylaw C-8000-2020 (effective September 2020)

Use	Total Applications	Permanent Permits	Temporary Permits	SDAB Decision (Temporary)	In-Process
Care Facility (Group)	3	1	0	2 (66%)	1
Kennel	25	9	7	6 (24%)	3
Vacation Rental	24	0	13	5 (21%)	6
Bed and Breakfast	11	0	8	2 (18%)	1

2023 Real Property Report Compliance Reviews

RPR Compliance Reviews	Compliant RPRs	ISSUED RPR's Which Required a Setback Relax DP	RPR's ON HOLD Which Require a Setback Relax DP	ISSUED RPR's Which Required a Site-Specific Amendment	RPR's ON HOLD Which Require a Site-Specific Amendment
621	532	21	50	1	17
	86%	11%		3%	

**Administration Resources**

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