

**SUMMER VILLAGE OF BIRCHCLIFF
LAND USE BYAW
AMENDMENT BYLAW #235/22
PUBLIC HEARING DATE TO BE DETERMINED**

PROPOSED REGULATION:

1. Part One: General 1.3 Definitions

Current Definition:

“temporary building means a building without any foundation below grade that is intended to be on the parcel for a short-term basis and includes a soft-sided or other structure designed to serve as a temporary garage, storage shelter or greenhouse, but does not include an accessory building, or a guest house;”

Proposed Regulation:

“temporary use or building means a use or development for which a development permit has been issued and which is to exist for a timeframe of up to (but not exceeding) two years, as determined by the Development Authority.”

Reasoning:

The revised definition includes more detail stating a maximum timeline and when there can be a temporary building on the lands. The original definition used an undefined “short term basis” which is not ideal.

2. Part One: General 1.3 Definitions

Current Definition:

“breezeway(s) means a roofed open passage connecting two (2) or more buildings”.

Proposed Definition:

“breezeway(s) means a roofed open passage connecting two or more buildings. An accessory building connected to a principal building by way of a breezeway shall not be considered part of the principal building.

Reasoning:

This ensures accessory buildings cannot be attached to the dwelling and considered one principal building.

3. Part One: General 1.3 Definitions

Add Definition:

“Development Design Plan means a non-statutory plan prepared by a development proponent in support of a proposal for development. The purpose of a development design plan is to mitigate negative impacts on watershed health as required in the Sylvan Lake Intermunicipal Development Plan. A development design plan includes the following details to the satisfaction of the development authority:

- A planting plan including native vegetation;
- A sediment control plan;
- A drainage plan; and
- Information about site coverage.

A development design plan shall be required at the discretion of the Development Authority and will be enforced as a condition of development approval.”

Reasoning:

This term is used in the policy language of the Sylvan Lake Intermunicipal Development Plan and is a requirement for any development in the riparian area.

4. Part One: General 1.3 Definitions

Current Definition:

“development means:

- (a) An excavation or stockpile and the creation of either of them; or
- (b) A building or an addition to, or replacement or repair of a building and the construction or placing in, on, over or under land of any of them; or
- (c) A change of use of land or a building or an act done in relation to land or a Building that results in or is likely to result in a change in the use of the land or building; or
- (d) A change in the intensity of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the intensity of use of the land or building.”

Proposed Definition:

“development means:

- (a) An excavation or stockpile and the creation of either of them; or
- (b) A building or an addition to, or replacement or repair of a building and the construction or placing in, on, over and under land of any of them; or
- (c) A change of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the use of the land or building; or

(d) A change in the intensity of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the intensity of use of the land or building;

and without restricting the generality of the foregoing, includes:

(e) in the case of a lot used for residential purposes, alterations made to a building or an additional building on the lot whether or not the building is a dwelling or part of a dwelling unit;

(f) in the case of a lot used for other than residential purposes, alterations or additions made to a building on the lot or a use of the lot which would increase either the capacity of the building or the intensity of use of the lot;

(g) the display of advertisements or signs on the exterior of a building or on any land;

(h) the deposit of earth, debris, waste materials, refuse, or any other material on any land, including land already being used for that purpose, or if the natural topography or drainage is altered;

(i) any increase in the number of households occupying and living in any building or on any site, and any construction or alterations or additions which would provide for an increase in the number of households which could occupy and live in any building or on any site, including any increase in the number of dwelling units in a building or on a site;

(j) the placing of refuse or waste material on any land;

(k) the recommencement of the use to which land or a building has been previously put if that use has been discontinued for a period of more than six months;

(l) the continued use of land or of a building for any purpose for which it is being used unlawfully when this Bylaw comes into effect;

(m) the demolition or removal of a building;

(n) the placement of an already constructed or a partially constructed building on a parcel of land;

(o) the use of land for the parking of trailers, bunk houses, portable dwellings, skid shacks, or any other type of portable building whatsoever, whether or not the same has been placed or affixed to the land in any way;

(p) the removal of topsoil from land;

(q) the use of land for storage purposes or for the repair of equipment, vehicles or other kinds of machinery;

(r) the installation of any type of sewage disposal system including but not limited to holding tanks; or

(s) the digging of a well or installation of a water cistern.”

Reasoning:

A more fulsome definition of what a development gives the development authority a greater ability to define what is or is not happening on any given parcel of land.

5. Part One: General 1.3 Definitions

Current Definition:

“grade means the ground elevation established for the purpose of determining building height. In determining grade, the Development Authority shall select from the following methodologies, whichever one best ensures compatibility with neighbouring developments:

(a) If the applicant can show by reference to legal surveys that the predevelopment elevation of the subject parcel varies by no more than 1 m in 30 lineal metres, the Development Authority may determine grade by calculating the average of the highest and lowest elevation on the parcel or above top of bank. Amended by Bylaw #199/17; or

(b) The Development Authority may determine grade by calculating the average of the pre-development elevations at the corners of the parcel as shown on a reliable survey; or

(c) The Development Authority may determine grade by calculating the average elevation of the corners of the main buildings on all properties abutting the subject parcel”.

Proposed Definition:

“grade means the ground elevation established for the purpose of determining building height. In determining grade, the Development Authority shall select from the following methodologies, whichever one best ensures compatibility with neighbouring developments:

(a) Grade shall be determined by calculating the average of the pre-development elevations at the corners of the building as shown on a reliable survey.

(b) If the applicant can show by reference to legal surveys that the predevelopment elevation of the subject parcel varies by no more than 1 m in 30 lineal metres, the Development Authority may determine grade by calculating the average of the highest and lowest elevation on the parcel or above top of bank. Amended by Bylaw #199/17; or

(c) The Development Authority may determine grade by calculating the average of the pre-development elevations at the corners of the parcel as shown on a reliable survey; or

(d) The Development Authority may determine grade by calculating the average elevation of the corners of the main buildings on all properties abutting the subject parcel”.

Reasoning:

This added way to determine grade is less complex and will be compatible with the development in the village.

6. Part One: General 1.3 Definitions

Current Definition:

“church camp cottage(s) means a building used by one (1) or more individuals as a single housekeeping unit during vacations and religious retreats only and not to be occupied by a permanent resident, and which is separate from any other building but does not include a manufactured dwelling unit, guest house or temporary building”.

Proposed Definition:

“church camp cottage(s) means a dwelling unit which is separate from any other building but does not include a manufactured dwelling unit, guest house or temporary building”.

Reasoning:

This revision removes the permanent resident and housekeeping clause.

7. Part One: General 1.3 Definitions

Current Definition:

“parcel coverage means the total percentage of the parcel area covered by buildings or Structures, including but not limited to the main building and any additions to it (e.g. covered decks), hard-surfaced parking facilities, driveways, outdoor storage and display areas, hard landscaped areas and all other impervious surfaces but does not include steps, eaves, or similar projections permitted in this Land Use Bylaw”.

Proposed Definition:

“parcel coverage means the total percentage of the parcel area covered by buildings or Structures, including but not limited to the main building and any additions to it (e.g. covered decks), hard-surfaced parking facilities, driveways, outdoor storage and display areas, hard landscaped areas including gravel, reclaimed pavement, crushed rock, artificial turf and all impervious surfaces but does not include steps, eaves, or similar projections permitted in this Land Use Bylaw”.

Reasoning:

This revision includes gravel, reclaimed pavement, crushed rock and turf all to be included in the parcel coverage percentage.

8. Part One: General 1.3 Definitions

Current Definition:

“guest house means an accessory building containing sleeping facilities for temporary usage only and may have a bathroom, but shall not have a kitchen or other cooking facilities. A guest house provides overflow accommodation for a detached dwelling located on the same parcel, is not available for rent by a third party, and does not include recreational vehicles and sea cans”.

Proposed Definition:

“guest house means an accessory building containing sleeping facilities for temporary usage only and can include bedrooms, bathrooms, and a kitchen. A guest house provides overflow accommodation for a detached dwelling located on the same parcel, is not available for rent by a third party, and does not include recreational vehicles and sea cans”.

Reasoning:

This revision will include clear intent on if a kitchen is allowed. The current definition does not allow a kitchen, but it is unclear exactly what defines a kitchen or separates it from a wet bar or kitchenette. Council should decide what the intent is and the direction moving forward.

9. Part One: General 1.3 Definitions

Add Definition:

“Nuisance means any act or deed, or omission, or thing, which is or could reasonably be expected to be annoying, or troublesome, or destructive or harmful, or inconvenient, or injurious to another person and/or their property, or anything troublesome or bothersome to other people for which complaints are received either by the Municipality’s office or the Royal Canadian Mounted Police, whether or not such act or deed or omission or thing constitutes nuisance at common law”.

Reasoning:

Adding this definition defines what is considered a nuisance to go along with Part Three 2(3)(d) proposed regulation.

10. Part One: General 1.3 Definitions

Remove Current Definition:

"Permanent resident means a person, excluding a person(s) who occupies a cottage in the Church Camp Cottage District:

- (a) with a valid Alberta driver’s license and/or any government issued identification which shows an address situate in the Summer Village of Birchcliff; or
- (b) whose usual mailing address is in the Summer Village of Birchcliff; or
- (d) whose place of residence pursuant to the Local Authorities Elections Act is the Summer Village of Birchcliff;

Reasoning:

Removing this definition keeps consistency with removing “permanent resident” in other regulations in the Land Use Bylaw.

11. Part One: General 1.7 Establishment of Fees

Current Regulation:

“Development Permit application fees and fees for other matters arising through this Land Use Bylaw will be established by resolution of Council. Council may at any time by resolution increase, decrease or establish new fees for matters covered in this bylaw.”

Proposed Regulation:

“Development Permit application fees and fees for other matters arising through this Land Use Bylaw will be established by Council in the Summer Village of Birchcliff Fees Bylaw. Council may amend the bylaw to increase, decrease or establish new fees by an amendment bylaw.”

Reasoning:

The way this section is currently worded is incorrect as a bylaw cannot be changed by resolution of Council, it must go through the normal amendment process as any bylaw would. A Land Use Bylaw amendment needs a first reading, a public hearing and then must receive second and third readings to pass. This is in contravention of section 8(c) of the Municipal Government Act, which requires fees to be a set by bylaw.

12. Part Two: Development Permits, Contravention & Appeal 2.2 Development Not Requiring a Development Permit

Add Regulation:

(12) “Provided the zoning setbacks are met a development permit is not required for a non-enclosed and/or 3-sided building such as but not limited to, pergolas, woodsheds and arbours with a floor area of 9.94 m² (107ft.²) or less and height of 2.50m (8.20ft.) or less.”

Reasoning:

Adding this regulation allows for these types of structures to still be considered a building with regulations but not to require a development permit for them. Size has been added to the definition.

13. Part Two: Development Permits, Contravention & Appeal 2.3 Permission for Development

Add Regulation:

(k) “Where a proposed development or redevelopment is within 30.0 m (98.4 ft.) of

the top of bank or high water mark of Sylvan Lake, a Development Design Plan shall be submitted as part of a development permit application and enforced as a condition of approval. Determining which feature (top of bank or the high water mark of Sylvan Lake) is appropriate will be at the discretion of the Development Authority. Submission of the Development Design Plan shall be in accordance with the applicable policies of the Sylvan Lake Intermunicipal Development Plan.”

Reasoning:

This is to be consistent with Sylvan Lake Intermunicipal Development Plan and Development Plan definition.

14. Part Three: Supplementary Regulations 2.3 Objects Prohibited or Restricted in Yards

Add Regulation:

(f) “No person shall allow a sea can to be placed on a parcel other than during construction with an approved development permit.”

Reasoning:

This is to include sea cans in the Land Use Bylaw and states when sea cans can be on the lands.

15. Part Three: Supplementary Regulations 2.3 Objects Prohibited or Restricted in Yards

Current Regulation:

(d) “No person shall allow a vehicle of more than 1,000 kg (2,204.62 lbs) Gross Vehicle Weight to be parked or stored in residential districts, except boats, boat trailers, school buses and recreational vehicles.”

Proposed Regulation:

“No person shall allow the unsightly storage of goods, materials, salvage, junk, waste or other materials, a condition which, in the opinion of the Development Authority, may be or may become a nuisance, or which adversely affects the amenities of the neighbourhood, or which may interfere with the normal enjoyment of any land or building”

Reasoning:

This proposed revision is to include a regulation that includes storage of junk, salvage etc. on a property.

16. Part Three: Supplementary Regulations 4.1 Miscellaneous

Current Regulation:

4(7)(a) “The subdivision authority shall, as a condition of subdivision approval,

require an environmental reserve (or a combination of environmental reserve and environmental reserve easement) of not less than 30 m (98.43 ft.) in width from the high water mark of Sylvan Lake and/or the top of bank of watercourses to the lot line. A greater setback may be required by the subdivision authority based on the recommendations of a geotechnical study undertaken by a qualified professional.”

Proposed Regulation:

4(7)(a) “As a condition of subdivision approval, Environmental Reserves can be taken according to Section 664 of the Act; either in the form of a lot (ownership transferred to the Summer Village) or as an Environmental Reserve Easement (private ownership is retained). The Summer Village may require that the proponent provide hazard land as Environmental Reserve as a condition of subdivision approval.”

Reasoning:

As the shoreline has already been subdivided and reserves taken, the municipality is no longer able to take a reserve on the shoreline. However, Section 664 states that the municipality can require the registration of an Environmental Reserve Easement Agreement as a condition of subdivision approval. We can require them when the lots are adjacent to the shoreline of a lake, river, creek or to encompass and provide a buffer around a wetland. If we do apply one, the minimum area you can apply it to is 6 m. If there is a steep bank, the 6m could start from the top of the bank rather than from the legal bank. So it could be larger than 6m to also encompass the lands from the legal bank to the top of the bank. However, an ERE designation mandates that the lands must remain in a natural state in order to protect the shoreline.

17. Part Four: Land Use District Regulations, Back-Lot Residential (R2)

Current Regulation:

Site Development: 1(b)(i) “7.60 m (25 ft.) to the habitable dwelling unit from the side parcel boundary”

Proposed Regulation:

Site Development: 1(b)(i) “7.62 m (25 ft.) to the habitable dwelling unit from the side parcel boundary”

Reasoning:

This revision is proposed due to error. 25ft is 7.62m.

18. Part Four: Land Use District Regulations, Church Camp Cottage District (CC2)

Current Regulation:

General Purpose “To provide an area for residential accommodation for the members of the Alberta and the Northwest Territories District of the Pentecostal

Assemblies of Canada and their affiliates for vacation and retreat purposes only and not to be occupied by a permanent resident”.

Proposed Regulation:

“To provide an area for residential accommodation for the members of the Alberta and the Northwest Territories District of the Pentecostal Assemblies of Canada and their affiliates.”

Reasoning:

This revision removes the permanent resident clause.

We look forward to your comments on the proposed Land Use Bylaw Amendments. Written submissions must be addressed to the Summer Village of Birchcliff and must be received either at the Summer Village Administration Office, #2 Erickson Drive, Sylvan Lake, AB T4S 1P5, by mail or by emailing our Development Officer, Kara Kashuba at kkashuba@sylvansummervillages.ca