

CASTLEGAR

REPORT TO COUNCIL

MEETING DATE: June 28, 2021 **REPORT NO.:** 21-78
SUBMITTED BY: Planner **FILE NO.:** 3360-20-R-6/21
SUBJECT: Official Community Plan Amendment Application R-6/21 –
Temporary Use Permits

RECOMMENDATION:

THAT Official Community Plan Amendment Bylaw 1352 be considered for First and Second Reading at the June 28, 2021 Regular Council Meeting and referred to Public Hearing.

PURPOSE:

For Council to consider First and Second Reading of Official Community Plan (OCP) Amendment Bylaw 1352, a Bylaw to update the language of the OCP to align with the *Local Government Act* (LGA) and permit Temporary Use Permits in all land use designations.

This report is for consideration at the June 28, 2021 Committee of the Whole Meeting and for consideration of First and Second Reading at the June 28, 2021 Regular Council Meeting to facilitate notification of Public Hearing on July 19, 2021.

SUMMARY/BACKGROUND:

Temporary Use Permits are a way to temporarily vary the uses that are permitted in the Zoning Bylaw for a particular property. Issuing a Temporary Use Permit is authorized by the local government under the authority of the LGA, Part 14, Division 8.

Originally, the LGA only permitted Temporary Use Permits to be issued in commercial and/or industrial zones. The LGA was recently revised to enable Temporary Use Permits in any land use zone and no longer specifies use.

Part 14, Division 8 of the LGA specifies that the areas where temporary uses may be allowed must be designated within an OCP or Zoning Bylaw. Local Governments may specify general conditions regarding the issuance of Temporary Use Permits.

Temporary Use Permits are limited to a maximum of three years, and the applicant to whom the permit has been issued to may apply a single time to extend the permit for a further 3 years. If there is a desire to continue the use after that time, a rezoning application is required.

The proposed amendment would:

- 1) Expand where Temporary Use Permits may be considered by Council to include every designated land use in the OCP; and
- 2) Add the sentence, 'the temporary use should be in alignment with the objectives of the land use designation in which it is proposed under general conditions to be considered'.

ALTERNATIVES:

Council could choose to not proceed with First and Second readings of Official Community Plan Amendment Bylaw 1352. Staff does not recommend this, as the proposed bylaw may be considered a general amendment to align the OCP with changes to the LGA.

IMPLICATIONS:

- (1) **Social** N/A
- (2) **Environmental** N/A
- (3) **Personnel** This amendment will take approximately six hours of staff time to complete.
- (4) **Financial** N/A

POLICY IMPLICATIONS:

The proposed OCP amendment would align the OCP with recent revisions to the LGA to permit Temporary Use Permit applications to be considered by Council in all land use designations.

IMPLEMENTATION:

If First and Second Readings are provided, staff will coordinate a Public Hearing prior to Council's consideration of Third Reading and Adoption.

COMMUNICATION:

Notification and publication of a Public Hearing as per the requirements of the LGA.

Respectfully submitted,

Shannon Marshall

Shannon Marshall
Planner

Approved by,

Chris Barlow

Chris Barlow, A.Sc.T.
Chief Administrative Officer

Official Community Plan Amendment Bylaw

Bylaw 1352

A bylaw pursuant to Part 14 of the Local Government Act to amend Official Community Plan Bylaw No. 1150

WHEREAS the Local Government Act provides that Council may, by resolution, amend an Official Community Plan Bylaw;

NOW THEREFORE the Council of the City of Castlegar, in open meeting assembled, enacts as follows:

1. THAT Section 24.0 Temporary Use Permits be amended by adding the provision that “the temporary use should be in alignment with the objectives of the land use designation in which it is proposed’ under general conditions to be considered; and
2. FURTHER that the list of land use designations that are designated as Temporary Use areas is expanded to include the following:

- Low Density Residential
- Medium Density Residential
- Urban Reserve
- Parks and Open Space
- Institutional

READ A FIRST TIME this XX day of XXXXX, 2021.

READ A SECOND TIME this XX day of XXXXX, 2021.

PUBLIC HEARING HELD this XX day of XXXXX, 2021.

READ A THIRD TIME this XX day of XXXXX, 2021.

ADOPTED this XX day of XXXXX, 2021.

Mayor

Director of Corporate Services

24.0 TEMPORARY USE PERMITS

The Local Government Act provides that a Community Plan may designate areas where temporary uses may be allowed. Where temporary use areas are designated on the Community Land Use Map or are permitted within the text of this section, Council may, upon application of the owner of the designated land, issue a temporary use permit. Temporary use permits issued by Council, may:

- Provide for use that would otherwise not be permitted;
- Provide for the construction of buildings or structures to accommodate persons who work at the temporary use enterprise;
- Include conditions to ensure that said buildings will be demolished or removed from the land when the permit expires;
- Provide for the restoration of the land by a date specified in the permit; and,
- Require security to guarantee performance of the permit conditions.

Temporary use permits will be considered subject to the following general conditions:

- the use must be clearly temporary or seasonal in nature;
- the temporary use should not create an unacceptable level of negative impact on surrounding permanent uses.

Temporary use permits may be issued for a maximum period of three years; however, the permit may be renewed on a one-time only basis, for a further three-year period.

The list of land use designations that follow are designated as Temporary Use areas:

- Airport;
- Downtown;
- Columbia Avenue Commercial;
- Regional Commercial;
- Regional Commercial Airport;
- Light Industrial;
- Heavy Industrial; and,
- Transition.

Division 8 — Temporary Use Permits

Designation of temporary use permit areas

- 492 For the purposes of section 493, an official community plan or a zoning bylaw may
- (a) designate areas where temporary uses may be allowed, and
 - (b) specify general conditions regarding the issue of temporary use permits in those areas.

Temporary use permits for designated areas and other areas

- 493 (1) On application by an owner of land, a local government may issue a temporary use permit as follows:
- (a) by resolution, in relation to land within an area designated under section 492;
 - (b) by bylaw, in relation to land within an area outside a municipality, if there is no official community plan in effect for the area.
- (2) A temporary use permit may do one or more of the following:
- (a) allow a use not permitted by a zoning bylaw;
 - (b) specify conditions under which the temporary use may be carried on;
 - (c) allow and regulate the construction of buildings or structures in respect of the use for which the permit is issued.
- (3) If a local government delegates the power to issue a temporary use permit under this section, the owner of land that is subject to the decision of the delegate is entitled to have the local government reconsider the matter.

Public notice and hearing requirements

- 494 (1) If a local government proposes to pass a resolution under section 493 (1) (a), it must give notice in accordance with subsections (2) to (4) of this section.
- (2) The notice must state
- (a) in general terms, the purpose of the proposed permit,
 - (b) the land or lands that are the subject of the proposed permit,
 - (c) the place where and the times and dates when copies of the proposed permit may be inspected, and

- (d) the place where and the time and date when the resolution will be considered.
- (3) The notice must be published in a newspaper at least 3 days and not more than 14 days before the adoption of the resolution to issue the permit.
- (4) Section 466 (4) to (8) [*specific requirements in relation to notice of public hearing*] applies to the notice as if the resolution were a bylaw.
- (5) If a local government proposes to adopt a bylaw under section 493 (1) (b), the following sections apply:
 - (a) section 464 [*requirement for public hearing*];
 - (b) section 465 [*public hearing procedures*];
 - (c) section 466 [*notice of public hearing*];
 - (d) section 469 [*delegating the holding of public hearings*];
 - (e) section 470 [*procedure after public hearing*].

Permit conditions: undertakings respecting land

- 495** (1) As a condition of issuing a temporary use permit, a local government may require the owner of the land to give an undertaking to
- (a) demolish or remove a building or other structure, and
 - (b) restore land described in the permit to a condition specified in the permit by a date specified in the permit.
- (2) An undertaking under subsection (1) must be attached to and forms part of the permit.
- (3) If the owner of the land fails to comply with all of the undertakings given under subsection (1), the local government may enter on the land and carry out the demolition, removal or restoration at the expense of the owner.

Permit conditions: additional security requirements

- 496** (1) In addition to any security required under section 502, a local government may require, as a condition of issuing a temporary use permit, that the owner of the land give to the local government security to guarantee the performance of the terms of the permit.
- (2) If there is a requirement for security under subsection (1), the permit may provide for
- (a) the form of the security, and

(b) the means for determining

(i) when there is default under the permit, and

(ii) the amount of the security that forfeits to the local government in the event of default.

Term of permit and renewal of permit

497 (1) The owner of land in respect of which a temporary use permit has been issued has the right to put the land to the use described in the permit until the earlier of the following:

(a) the date that the permit expires;

(b) 3 years after the permit was issued.

(2) A person to whom a temporary use permit has been issued may apply to have the permit renewed, subject to the restriction that a temporary use permit may be renewed only once.

(3) Subsection (1) and sections 495 [*permit conditions: undertaking respecting land*] and 496 [*permit conditions: additional security requirements*] apply in relation to a renewal under subsection (2).