

# Land Use Bylaw Rewrite 2021

## Proposed Changes

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# Introduction

## Yellowhead County Planning Context

In preparation for the 5-year review of the 2013 Land Use Bylaw, the Yellowhead County Planning & Development department identified a series of structural and technical issues within the document. New best-practices in land use regulation, shifts in local economic and social conditions, and the identified issues resulted in an Administrative decision to undergo a more comprehensive rewrite. This rewrite committed to maintaining the strengths of the 2013 Land Use Bylaw while improving its weaknesses. The 2013 Land Use Bylaw had created permissive and mixed-use districts for large portions of the County, resulted in relatively few appeals and amendments since 2013, and was generally successful in mitigating land use conflicts. However, due to the practice of creating new districts and uses as a result of the statutory plan process, by 2020, the Land Use Bylaw also included many unused and overly-specific use class definitions which were listed in a large number of overlapping land use districts. In addition, inconsistencies between the stated policies of the Municipal Development Plan and the actual regulations in the Land Use Bylaw resulted in a disconnect between Council-approved policies relating to housing, hamlet development and aging in place, and the Land Use Bylaw. These, and other technical issues contributed to the document being unapproachable for residents from a user-friendliness perspective.

## Alberta Planning Context

Challenged by rising housing costs, changing demographics, growing municipal infrastructure costs and declining communities, municipalities in Canada have started to re-examine their land use bylaws. Regulations which create barriers to new forms of housing and business are being rewritten to create more flexible standards and approval systems, and are more focused on regulating objective land use impacts compared to enforcing normative standards. The direction provided by policy, demographics and best-practices in land use regulation are also generally consistent with the feedback received from the 1200 residents of Yellowhead County who participated in the public engagement for this Land Use Bylaw. As a result, the new Yellowhead County Land Use Bylaw aims to allow a larger degree of flexibility in how residents and businesses can develop their property. The central theme for guiding development decisions is intended to be whether the development would adversely and significantly impact nearby residents.

## Major Changes

To avoid the problems of increasing regulatory complexity, the 2021 Yellowhead County Land Use Bylaw consolidates the number of land use districts from 43 to 9, not including Direct Controls. These new districts are based on the existing patterns of development in the County. Each defines an acceptable range of land use impacts from the land uses allowed within the district. A similar, impact-based approach guided the consolidation of uses. Uses classes were consolidated based on their scale, intensity, context, form and general purpose to arrive at 49 new uses classes from the original 129. This consolidation of districts and uses marginally increases development rights in the County by providing additional flexibility for development that meets the acceptable range of impact in each district, while also making the new Land Use Bylaw more user-friendly and accessible for residents.

# Structural Changes

## Land Use Districts

Yellowhead County's 2013 Land Use Bylaw currently has 43 different land use districts. This is in some cases more than double comparable municipalities. Large amounts of land use districts can create problems both for residents and the Planning department by making the bylaw longer, more complex, and less flexible for development. On the ground, too many land use districts can lead to an over-separation of uses, resulting in hyper-segregated communities. This can lead to more applications for land use redesignations and appeals, which increases development costs to residents and business owners, and results in longer administrative timelines. Hyper-specific zoning can also constrain the local economy because Planners can't predict how residents will want to respond to new economic and social conditions. Functionally, Yellowhead County Development Officers currently issue 90% of development permits in only 5 of 43 possible districts. In response to these issues, as well as changing social and economic conditions, recent Land Use Bylaws in Alberta have significantly consolidated the number of land use districts which they use to regulate development.

## Land Uses

Similar to the number of districts, Yellowhead County's current land use bylaw defines 129 unique uses of land for which residents may apply for a development permit. This is in some cases double or triple the use amounts present in comparable land-use bylaws. Functionally, Development Officers in Yellowhead County issue 84% of permits for 5 of 129 possible uses. The most common developments are Accessory Buildings, Single Detached Dwellings, Manufactured Homes and their additions, Work Camps and Gravel Pits.

The listing of land uses within land use districts is the *most important factor* to consider when balancing between providing flexibility for new development and certainty for current residents. A Development Officer may provide a variance for a use which doesn't meet all the regulations of the land use bylaw but *cannot* issue a permit for a use that is not listed as either permitted or discretionary in the land use district. For this reason, hyper-specific use definitions can prevent Development Officers from working with resident development proposals. If a development doesn't conform to any listed use definition, then the only way that development can go ahead is either through a land-use redesignation or through a land-use bylaw amendment which creates a new use definition. The more specific the use definition, the more precise Planners must be when determining appropriate locations for uses. This again presents a challenge from a flexibility and adaptability point of view.

Understanding these issues, municipalities in Alberta have reduced the number of unique land uses defined in their land-use bylaws. Yellowhead County has taken the approach of consolidating uses based on their scale, context, intensity, and general type (residential, commercial, etc.). Where previously Veterinary Clinic, Personal Service Shop, Retail Establishment, Convenience Store, and Office were all separate uses, now they can be combined into one Neighbourhood Shop & Service Use, which defines them as small to medium-scale commercial operations which are of a similar size, land use impact and generally located in hamlets.

The largest consolidation of uses has been done for industrial uses to reorganize them via their impacts, into light, medium and heavy industry.

The combination of fewer uses, new uses, less restricted uses, and fewer districts marginally increases development rights for residents in the County. It also minimizes situations where proposed development "falls through the gaps" between definitions, resulting in higher time and application costs for the applicant, Council, and Administration.

## Usability

A lower number of uses and districts also addresses the goal of achieving a simpler, more readable bylaw for the Planning department, residents, and potential developers. To achieve these goals, the Land Use Bylaw avoids the use of technical language where possible, is organized to mirror the development process and contains diagrams and illustrations which can assist with the explanation of specific regulations.

Being approved by Council does not mean the project is complete. As part of the Request for Proposals, the consultant will develop an online web-based structure for the land use bylaw. This will allow Development Officers to send residents particular sections as links instead of a large PDF document. Additionally, the land use district maps will be hosted online, and publicly available so that residents can have a clearer view of the standards for their property. This replaces the current nearly 300 page PDF that determines the land use district for every parcel in the County.

A modernized land use bylaw also has the advantage of attracting future employees to the Planning department who want to work with a common-sense, easy-to-use document and contribute towards its continued improvement.

## Monitoring & Performance Management

Finally, the project team will create a system for monitoring the performance of the Bylaw in relation to rejected applications, variances to development standards, complaints, appeals, and redesignations. This process will identify issues, and point staff towards regulatory amendments. For example, if Development Officers are continually being asked for variances for garage suite sizes on large acreage parcels, and granting them with no appeals or neighboring complaints, then after a certain number of variances are granted, the program may recommend increasing the maximum size of suites in that District. This will allow the Bylaw to be refined over time based on feedback from staff, residents, and developers through an annual review and amendment process. When certain metrics are achieved, an amendment will be signaled as appropriate. This should minimize costs to the County for future Land Use Bylaw rewrites and continue to increase resident development rights incrementally.

# Public Engagement

## Strategy & Summary

Land Use Bylaws are generally complex, technical documents, and acquiring well-informed public feedback is the most challenging form of public engagement in the field of planning today. Generally speaking, residents who are positively affected, or not affected at all, won't drive for an hour or more to participate in an Open House public engagement event. The open house process therefore selects residents and business owners that have experienced poor development outcomes and can result in Administration hearing from only a portion of the population. Additionally, the beginning of this project also coincided with the beginning of the pandemic, and this forced the project team to explore new methods of engagement. These consisted of 3 County-wide surveys, 2 area-specific surveys, 2 topic-specific focus group meetings, 2 general meetings, 2 Steering Committee review sessions, and a continuous Social Media and Online presence for the project.

## Detailed Description of Engagement Events

To begin the engagement process, the County issued a first survey (May 2020) which was focused on identifying issues residents may have had with the development process. This information, when combined with the project team's notes on the current bylaw and the consultant's analysis of its strengths and weaknesses, led to the identification of major issues. It also allowed residents to rank various types of land uses according to their perception of their impacts, based on their location. This information assisted the project team and consultant in identifying appropriate groupings of impacts in both the new Land Use Districts and the new use definitions. This survey

received 200 responses and the results were posted and advertised in the paper, on the County's social media and website.

The second survey (October 2020) asked residents to specify their level of agreement with various statements regarding a variety of land use topics identified in Survey #1.. Residents and business owners were asked about home-business opportunities in the County, visitor accommodation uses like B&B's and AirBnB's, storage containers, additional homes on properties, and parking & landscaping. To collect more opinions, residents were again asked to rate the impacts of various land uses. Generally, the response was positive and residents agreed that more opportunities for development should be provided through the Land Use Bylaw. Survey 3 received nearly 600 responses and the results were posted and advertised in the paper, on the County's social media and website. This survey also resulted in an email list of nearly 200 residents who asked to be notified of project progress.

The final survey (March 2021) received nearly 550 responses and asked for feedback on draft regulations relating to additional homes, storage containers, gravel pits, and other issues identified by previous public engagement, Administration, and the consultant. Generally, residents agreed that the proposed regulations provided adequate opportunities for residents to develop their property, while also preventing major impacts to nearby residents. The most controversial topic was the potential extension of gravel pit hours of operation to include Saturdays.

In addition to these County-wide surveys, two area-specific surveys were conducted for residents of East River Road. Over the past 20 years, East River Road has transformed into a country residential neighborhood where a majority of homes also operate larger industry-oriented home-based businesses. Many of these businesses have grown above the confines of their existing permit approvals and enforcement has been a challenge. These surveys received responses from more than half of the residents in the area and were generally split between allowing residents to operate either medium-scale home-based businesses or large-scale home-based businesses. Currently, they may only operate small home businesses, with no outdoor storage, 2 employees, and 2 commercial vehicles.

In-person engagement was limited to 2 meetings with the Steering Committee, and 4 meetings with focus groups on specific land use topics. The first Steering Committee meeting focused on collecting local knowledge of development issues, outlining the land use district and use consolidation approach, and engaging in a consolidation exercise so that the participating residents and Council could understand the advantages and disadvantages of various consolidation approaches. The second meeting focused on collecting feedback for the same proposed regulations as Survey #3. Public engagement results were also shared during both Steering Committee meetings. Focus groups were hosted to gather feedback on regulatory barriers to tourism-oriented uses around Hinton and from gravel pit operators, as well as 2 open-topic sessions. These 4 sessions received approximately 25 participants.

Social media played a large role in gathering public feedback for this project. Each survey was advertised for between 4 and 5 weeks, and the results were shared on the County's website, the project website, advertisements in the local newspaper and Facebook and Instagram posts. Facebook Analytics shows that 6874 residents were reached. Each round of engagement generated a summary report, which is available on the project website.

# Residential Changes

In light of the dispositional policy changes to land use regulation, several alterations are being recommended in regards to residential development in Yellowhead County.

## Manufactured Homes

Manufactured and Modular Homes currently make up approximately 20% of Yellowhead County's housing stock. Currently Manufactured Homes have complicated, location-specific regulations regarding their allowed age, location, size and design.

Acknowledging the large improvements made to the construction of Manufactured Homes in the last 30 years, and their use as a valued and legitimate form of housing, as well as public engagement support, the project team is proposing to streamline the regulations for Manufactured Homes. The proposed regulations set standards for maximum age, design of additions such as porches and stairs, and compliance with Building Code and CSA standards. As Manufactured Homes are widespread in the County, and were before the restrictions put in place by the 2013 Land Use Bylaw, it is recommended that Manufactured Homes be listed as a Permitted Use in all land use districts. Manufactured Homes would only be prohibited in areas where a restrictive covenant exists which prohibits them or where site considerations do not accommodate their development.

	2013 Land Use Bylaw	2021 Land Use Bylaw
Locations Allowed	Hamlet-specific, Discretionary	Where No Covenant Prohibits
Minimum Width	Hamlet-specific, either 16ft or 20ft	No Minimum
Maximum Age	Hamlet-specific, either 5, 10 or 20	10 Years Hamlet, 1992 Elsewhere

## Basement, Garage & Garden Suites

In regards to Accessory Dwelling Units such as garden suites, garage suites and basement suites, this rewrite has identified a disconnect between the County's stated housing policies in the Municipal Development Plan, current demographic trends and public feedback, and the actual development outcomes created by the Land Use Bylaw.

4.1.9 of the MDP describes the main housing policy of the County as to *“ensure that adequate housing opportunities are available for all income levels and household types.”* Additionally, aging-in-place and Hamlet-infill policies specifically name secondary suites as a target for development promotion.

Demographically, suites address challenges relating to population aging, decreasing household size, population decline in hamlets, declining new housing construction, costs rising quicker than incomes, a lack of childcare spaces, a volatile labour market and a large population of low income residents.

Finally, Garage and Basement Suites were rated by residents as among the least impactful forms of neighbouring development. Residents ranked Home Accountant Business, Home Addition, Basement Suite, Home Care and Garage Suite as the 5 least impactful developments respectively. **85% of residents agreed or strongly agreed with the statement that opportunities for suite development for land owners should be increased.**

Similar to building a home, building a suite represents a significant financial commitment towards improving a property. In light of these factors, the project team is recommending the proposed changes:

	2013 Land Use Bylaw	2021 Land Use Bylaw
Zoning	Discretionary Use	Permitted Use
Maximum Size	600 sq.ft*	900 sq.ft
Variance to Maximum Size	Not Possible	Yes, if no additional impact
Maximum Units	2 Total Units per Lot	3 Total Units per Lot

\* This is the smallest maximum that was seen in rural municipalities in Alberta.

### Additional Dwellings on Larger Parcels

Due to policy direction, public engagement results and demographic changes also affecting support for Additional Dwelling Units (ADU) on larger parcels outside of hamlets, a similar direction is proposed. Where the development of ADU's will not significantly impact neighbouring properties, it should be encouraged as a means to provide housing options in the County, and improve both the value and assessment of residential property. **79% of residents either agreed or strongly agreed with the statement that opportunities for owners of larger parcels to build additional residences should be increased from the current standards identified in the table below.**

#### 2013 Land Use Bylaw

Size of Parcel	Zoning	Maximum Dwelling Units	Housing Forms Allowed
0.01 to 4.93 Acres	Hamlet	2	Basement (BS) or Garage Suite (GS)
4.94 to 9.88 Acres	FD, RD, CR, RU	2	BS, GS, Manufactured Home (MH)
9.88 to 79.9 Acres	FD, RD, CR, RU	2	BS, GS, MH, Single Detached (SD)
> 80.0 Acres	FD, RD, RU	3	BS, GS, MH, SD

#### 2021 Proposed Land Use Bylaw

Size of Parcel	Zoning	Maximum Total Dwelling Units per Parcel	Maximum Individual Buildings per Parcel	Housing Forms Allowed
0.01 to 9.88 Acres	All Districts	3	2	BS, GS, MH, Duplex
9.88 to 79.9 Acres	All Districts	3	3	BS, GS, MH, SD, Duplex
> 80.0 Acres	All Districts	4	3	BS, GS, MH, SD, Duplex

This approach provides a modest increase of 1 additional dwelling unit per parcel, and controls for possible impacts by limiting the amount of separate buildings which may be constructed. It also significantly simplifies the regulations. Given the support for additional dwellings, Duplexes have also been proposed as a Permitted use in all residential land use districts. Variances to these standards may also be possible in the rare circumstance where a landowner desires and has the resources to build more homes on very large parcels. An indepth policy, public engagement and demographic analysis relating to the topic of Suites and Additional Dwellings was conducted, and may be provided to any interested party on request to the Planning department.

## Supportive Housing

Currently supportive housing is divided into the following three uses:

- Home Care Facility
- Family Care Facility: means a facility which provides a service for the aged, disabled, or those undergoing rehabilitation in a private dwelling for six (6) or fewer individuals, unrelated to the caregivers, including boarding, family, or foster homes;
- Group Care Facility: means a facility which provides a service for the aged, disabled, or those undergoing rehabilitation for seven (7) or more individuals including group homes, halfway houses, psychiatric care facilities, and resident schools;

Home Care and Family Care are a Discretionary Use in most residential land use districts, Group Care is a Discretionary Use in the Rural District and Country Residential District. These uses are not listed as Permitted in any district in the County.

Regulating the use of land by distinguishing between the types of people using that land is a legally dubious practice. Land use regulations which define and segregate uses based on the characteristics of individuals have generally been ruled by provincial and federal courts as beyond the authority of the municipal government to enact. This culminated in the Supreme Court of Canada case *Bell v. R* which establishes that a municipality "exceeds its powers [...] when it deviates from use as a criterion and imposes a restriction on the kind of people who may use a property."

In light of these developments and possible claims alleging potential housing discrimination, many municipalities are moving away from this area by rewriting their land use bylaws relating to secondary suites, dwelling units and care facilities. Therefore, Administration is recommending one Supportive Housing use, which is to be a Discretionary Use in all residential land use districts, and a Permitted Use in the Urban Neighbourhood District, which is to be applied to all residential areas in hamlets.

## Accessory Buildings

The 2013 Land Use Bylaw currently prohibits the construction of a garage or shop before the construction of a residence, unless the building is to be used to assist with the construction of the residence. **This was the most supported change proposed to the bylaw with 91% (n=458) of responses agreeing or strongly agreeing with the statement that "a garage or a shop should be allowed to be built before a residence is constructed."** As such, the project team is recommending that Accessory Buildings be allowed as a principal use on parcels of land over 9.88 acres, independent of the land use district.

## Storage Containers (Sea-cans)

The 2013 Land Use Bylaw currently prohibits storage containers (SC) in hamlets, unless used temporarily during construction. Currently each SC requires a development permit, and the maximum number of containers is determined by parcel size. Under 20 acre parcels are allowed 1, between 20 to 37 acres are allowed 2 and above 37 acres allows 4 containers. In the first two public surveys residents identified SC's as economic, secure and readily available storage options everywhere in the County. Rural areas overwhelmingly supported more opportunities for SC's, while Hamlet residents were somewhat split, with concerns around their aesthetic impacts. As hamlets transition to recreation-oriented destinations, residents felt that SC's provide more secure storage than sheds. Therefore, the project team created regulations where SC's in hamlets are allowed, but will be required to be painted, sided or aesthetically improved in some way. SC's in hamlets may not be longer than 20 feet. There is a limit of 1 SC per parcel. Outside of hamlets, the project team recommends that the current maximums be listed as exempt from requiring development permits. 71% (n=428) of responses to survey 3 agreed or strongly agreed with this approach.

# Home-based Businesses

## Economic Context

The trend towards self-employment is growing and home-based businesses (HBBs) constitute an increasingly important part of the North American entrepreneurial ecosystem. With the rise of information technology and the decentralization of work, more and more Canadians are choosing to run small businesses out of their homes. The COVID-19 pandemic has also increased the prevalence of HBBs. However, this growing role for HBBs is not reflected in the average Land Use Bylaw which intentionally attempts to segregate all residential and nonresidential uses of land. Due to its rural nature and the uncommon entrepreneurial spirit of its residents, Yellowhead County has the opportunity to be a leader in HBB regulation in Alberta.

Rural and small town Canada is relatively intensive in self-employment activities. Among non-farm jobs, self-employment represents 17% of non-farm employment in rural and small town areas (Stats Canada). Comparing Yellowhead County to Edson and Hinton, 1540 residents of the County self-report being self-employed. That amounts to nearly 30% of the active labour force in Yellowhead County - compared to 11% and 10% for Edson and Hinton respectively. The pervasiveness of HBB's however, does not match County Development Permit data. Currently, all 4 categories of HBB require a development permit, and Yellowhead County has issued just 62 permits for HBB uses since 2013, constituting approximately 4% of all permits issued in that time period. HBBs are likely present to a much higher extent in the County than permit applications demonstrate, and are rarely a source of complaints to the Planning Department. This illustrates either their low impact on nearby property, the discretion of their operators, residents' lack of awareness of permit requirements - or a general acceptance of their operation. The same characteristics which make home-based businesses acceptable also make them difficult to identify, and therefore enforce permit requirements. HBBs received considerable support from public feedback, with 87% agreeing that opportunities for HBBs should be increased by the County, 83% agreeing that HBBs which create no impacts shouldn't require a permit, and 70% agreeing that even HBBs which had minor impacts shouldn't need a permit on larger parcels of land, where neighbours weren't located nearby.

## Current Uses and Regulations

The 2013 Land Use Bylaw currently defines 5 categories of HBB uses which can only be operated by the owner of the parcel. The scale of the operations can range from a home graphic designer or accountant, to garage auto-repair, pottery studios, to an industry-oriented business with 5 commercial vehicles, and 10 employees.

- **Home Occupation (Minor)**

Standards	Examples:
Only inside the residence	Book-keeping
No employees	Baked Good Sales
No outside storage	Graphic Design

- **Home Occupation (Major)**

Standards	Examples:
Only inside the residence, garage or shop	Yoga & Pottery Studios
2 non-resident employees	Small Engine Repair
No outside storage	Nail Salon

- **Home Business (Minor)**

Standards	Examples:
Indoors or outdoors, with storage	RV Storage
4 non-resident employees	Skidsteer
3 Commercial Vehicles maximum	Auto Repair & Storage

- **Home Business (Major)**

Standards	Examples:
Indoors or outdoors, with storage	Portable Sawmill
6 non-resident employees	Brewery
5 Commercial Vehicles maximum	Oilfield Service

- **General Industrial in the Rural District**

Standards	Examples
Indoors or outdoors, with storage	Sawmill
10 non-resident employees	Heavy Equipment Repair
5 Commercial Vehicles maximum	Logging Truck Business
Only 1 General Industrial per Quarter	

## Proposed Changes

- Permit-Exempt Home Business

Any home business which is operated only within the residential building, does not generate any noise or other impacts, does not have any outdoor storage, and has 2 or fewer employees would not require a development permit. This is similar to the current Home Occupation (Minor) use.

- Home Business - Small

This category of home business is operated in either the residential building or an accessory building, does not permit the use of outdoor storage of equipment or commercial vehicles, and has 4 or fewer employees. This would require a permit in all land use districts except for the Rural District, where it would be exempt. The decision to exempt this use class from permit requirements in the Rural District is based on the minimal impacts, the large average parcel size, the difficulty of enforcement, the widespread existence of these uses, and the large degree of support from public engagement.

Additionally, for all of these categories, the owner-operator requirement was removed. Currently, only the owner of the property may operate a home business on that property. This resulted in the County refusing development permit applications from business owners who were renting a garage or shop from the property owner, and had the owner's consent to operate. This is once again in a legally questionable area, as the County is providing different development rights for the use of land based upon the characteristics of the individual applying for the permit.

- Rural Business

Unless operating a natural resource processing business such as a saw mill or gravel extraction operation, there was no provision in the 2013 bylaw to allow for small scale non-residential uses in the Rural District. If a landowner owned multiple parcels of land, and wished to use one for a small-scale home business such as a woodworking or furniture repair shop, artists studio, or even a regular garage, they were required to build a residence on-site first. This new Rural Business use would allow residents to apply for a permit to run a small business, without having a residence on-site. The regulations for this use limit the size of the building to a maximum of 1500 sq.ft.. No outdoor storage or commercial vehicles are allowed as part of the Rural business.

Generally, public engagement feedback supported adding this use as an additional option for parcels zoned Rural District. This new use was seen by residents as an opportunity to enable hobbies and personal projects to generate an income without requiring the owner to take a large financial risk for commercial space in Edson or Hinton. As the County already allows land uses in the Rural District with considerably higher land use impacts such as gravel extraction, work camps, various recreational uses, kennels, and the entire spectrum of agricultural uses, small businesses on larger lots were perceived as opening up more land for entrepreneurial activity, while limiting potential for land use conflicts between neighbours on large parcels of land.

Enforcement of all home business standards is currently complaint-based. If the planning department receives a complaint that a business operator is operating outside of the standards of the permit (for example, has begun using a commercial vehicle, or storing items outdoors), the planning department would conduct an inspection, confirm the complaint and issue letters informing the owner that they are outside of the permitted standards. For the proposed Rural Business use, they would then be required to either construct a residence and apply for the next level of home business use, or remove the aspects of the business which don't comply with the standards of the use.

- Home Business - Medium
- Home Business - Large

These two uses are largely similar to Home Business (Major) and General Industrial, with increases in the allowed amounts of employees and commercial vehicles.

<b>Home Business (Major) - (2013 Land Use Bylaw)</b>	<b>Home Business - Medium (2021 Land Use Bylaw)</b>
6 non-resident employees	8 non-resident employees
5 Commercial Vehicles maximum	6 Commercial Vehicles maximum

<b>General Industrial - (2013 Land Use Bylaw)</b>	<b>Home Business - Large (2021 Land use Bylaw)</b>
10 non-resident employees	15 non-resident employees
5 Commercial Vehicles maximum, not including trailers	10 Commercial Vehicles maximum, including trailers
Only 1 General Industrial use per Quarter	Only 1 General Industrial use per Quarter

These uses have additional regulations to mitigate impacts to neighbouring properties. These include minimum parcel size requirements of 9.88 acres, larger setback requirements for outdoor storage (30m) and proximity to residential uses (60m), as well as landscaping for screening and aesthetic purposes. Any operation larger in scale than a General Industrial use, or unable to meet the standards would be required to apply for a land use redesignation to the Industrial District.

### Hinton - East River Road

The East River Road is a unique subdivision located within Yellowhead County's municipal boundaries just outside of the north east limits of the Town of Hinton. The community includes residential and home-based business land uses, spread across approximately 40 privately-owned parcels which are between 4 and 12 acres in size. The current land use district for the East River Road subdivision is Hinton East Rural Residential. This district presents a unique challenge for the Land Use Bylaw Rewrite due to the mix of residential and associated home-business uses already existing in the area. More than 50% of parcels currently operate a HBB, with a large majority of these HBBs being operated outside of the standards of their current permits. Enforcement is a challenge due to the large number of businesses, the lack of complaints, and the decade-long time frame which many of these businesses have been operating for.

Currently the largest HBB that was allowed on properties in ERR was Home Occupation (Major). They were limited to one 3200 sq.ft shop and were required to only use 2 commercial vehicles for business operations - which were to be parked indoors when not in use. Over time, these businesses have grown and there are now HBBs with up to 8 commercial vehicles. Previous SDAB rulings have also allowed for the creation of larger shops up to 5000 sq.ft.

In February 2021 the Planning department sent out a letter with a link to an online survey asking residents how impacted they were by HBB operations in the area, and whether larger HBBs should be allowed. The response was overwhelmingly positive towards the continued operation of HBBs, and divided between allow Home Business - Medium and Home Business - Large. After a meeting with the former CAO, the Mayor and local Councillor, a second round of engagement was sent out to offer residents another chance to provide their feedback on this major decision. Turnout for both surveys was 26 of 40 parcels, and the second survey was also evenly split between allowing Medium and Large HBBs in the area. The definitions provided for these uses in the survey were from the current bylaw.

Throughout the course of the project, regulations have generally been relaxed if no impacts were identified regarding the associated use of land. As the project team is recommending increasing the standards of the Medium and Large HBB uses, the Home Business - Medium use now falls exactly between the Medium and Large options that were presented to East River Road residents. After meeting with the CAO,, Administration is recommending this as a middle-ground compromise, to be added as a discretionary use to the new East River Road Land Use District. Residents wishing to operate larger businesses than their current permit allows would be required to apply for a development permit. It is expected that this new use would accommodate all but 1 or 2 businesses operating in East River Road, which would likely be refused a development permit, and would then have the opportunity to appeal that refusal to the SDAB.

The proposed Land Use Bylaw will be shared with the email list collected throughout the survey process, and another letter will be sent out describing the HBB regulations for the area, so that residents may exercise their right to speak at the public hearing for the new document.

<b>2013 Land Use Bylaw</b>	<b>2021 Land Use Bylaw</b>
Maximum 2 Commercial Vehicles	Maximum 6 Commercial Vehicles
Maximum 2 Employees	Maximum 8 Employees
Maximum 3200 sq.ft Shop*	Maximum 5000 sq.ft Shop
No Outdoor Storage	Outdoor Storage if Landscaped/Screened

## Recreational Resorts

As part of the public engagement for this project, the project team and the consultant met with local recreational business owners in the County. These representatives operated developments such as Bed & Breakfasts, Campgrounds, highway attractions and recreational resorts. Generally, operators are dissatisfied with the provincial processes which control the private leasing of Crown land and see this as a major barrier to further tourist-oriented development. Feedback from operators also indicated frustration with the addition of potentially redundant County processes on top of provincial processes.

Currently all recreational uses of land, except for recreational resorts are allowed in the Rural and Forestry District. Recreational resorts are only a permitted use in the recreational use district, and two other area-specific land use districts.

Understanding that the land use redesignation process is a much stronger deterrent to development than the development permit process, the project team recommends the addition of Recreational Resorts as a discretionary use in the new Rural and Natural districts. This ensures that once the province's approval is granted via a recreational lease, the applicant is not required to undergo a Yellowhead County land use redesignation. Instead, Administration will evaluate the development proposal against the requirements of the land use bylaw and issue an appealable decision. This has the benefit of opening up the full spectrum of recreational uses in the least densely populated areas of the County, while giving more certainty to business owners compared to an unpredictable and unappealable land use redesignation process.

## Gravel Pit Regulations

The setback distance for extraction is proposed to be reduced from 400m to 300m. The current 400m setback is a much larger setback than is seen in most comparable Alberta and BC municipalities. Comparable municipalities have a median setback of 165m, and can be as short as 50m. As the primary noise source outside of hauling, the setback distance for secondary processing (crushing, asphalt plants and washing) is recommended to stay at the current 750m. The new regulations clarify that setback distances are to be measured from the actual locations of the pit, or the crusher, to the actual location of residences. Where considered safe, Administration also recommends allowing operators to reduce setbacks to municipal roadways from 30m to 10m, in order to extract the non-renewable resource efficiently within these setbacks.

The new regulations also clarify in which circumstances operators are viable for extended hours of operation. Major conversations with local gravel operators revolved around co-ordinating County and provincial processes. Operators invest significant funds into creating complete applications for provincial authorization. However, after provincial approval is granted, the County development permit process can identify new issues that make the pit unfeasible due to local regulations. Operators were encouraged to contact the County early in the process, so as to identify any applicable standards and issues early on.

The proposed change to allowing operators to extract gravel on Saturdays was met with mixed reactions from residents. Some residents felt that rural areas are expected to have industrial operations, while others communicated their original intent to move to the County for “peace and quiet,” and felt gravel extraction on Saturdays would be too disruptive. The project team has rescinded the proposed change to allow gravel pits within 1500m of a residence to operate on Saturdays from 7AM-7PM, and will now be limiting business hours for new pits in these areas to 7AM-7PM Monday to Friday with no work permitted on holidays.

The project team also met with the Alberta Sand and Gravel Association, who recommended that the County institute a CAP Levy. In their view, the CAP levy improves the acceptability of gravel extraction uses and is seen as a user-fee for road damage and negative land use impacts.

## Landfill Regulations

A recent and contentious issue relating to the Land Use Bylaw in Yellowhead County was the creation of the Landfill and Composting District (LC) in June 2019. Particularly contentious were the setback distances, which Council approved at 1.5km. This is 1050 meters over the prescribed setback specified in the *Subdivision and Development Regulation* through provincial legislation. There is however, the opportunity to reduce these setbacks to 450m with the express consent of the nearby residents. Whether this constitutes an improper sub-delegation of the Development Authority is currently under review by legal counsel. The purpose of this district was to accommodate potential landfill and waste management uses on Crown Land with minimal impacts to residents.

After reviewing how these uses are controlled in comparable municipalities, two approaches are evident. First, all landfills and compost facilities are classified as one use - the Waste Management Facility Use. This is the approach recommended by Administration, as the actual classification is done by the province, and the regulations for each class of landfill or compost facility are identical at the municipal level. Regarding zoning approaches, these uses are either listed as a use in the Industrial District, or only allowed in Direct Control districts. Due to the prevalence of Industrial district land throughout the County, and the planning context of landfills in Yellowhead County, Administration is recommending that Council approve Waste Management Facilities only in conjunction with a Land Use Bylaw amendment to create a Direct Control district, where Council will act as the Development Authority. Administration has created a new DC district for the two facilities currently operating in the County, and these will be the only parcels considerably rezoned through this rewrite.

# Telecommunications Tower Regulations

Telecommunications towers are federally regulated by Innovation, Science and Economic Development (ISED) Canada under the *Radiocommunication Act*. The role of the local municipality is as stakeholders in the engagement process (ISED Canada). A municipality can't use its development and land use planning authority to prevent, block or dictate telecommunications towers development. (SCC, 2016 Rogers Communications Inc. v. City of Châteauguay).

Towers are regulated both through policy and the land use bylaw in Yellowhead County. The policy lists the standards which are required to be met in order to acquire a Letter of Concurrence and a development permit. Within the land use bylaw Telecommunications Towers are listed as discretionary uses in some districts, and are not allowed in other land use districts.

ISED may still approve a Tower for which a development permit was refused or where no Letter of Concurrence was issued. For this reason, some municipalities are removing Telecommunications Towers from their Land Use Bylaws and creating specific tower policies. The problem with including towers within Land Use Bylaws, is that it applies a framework defined by the MGA (provincial authority) towards a use of land which falls under federal jurisdiction. This creates unclear roles and responsibilities relating to development approvals, appeals, public consultation and in administrative processes. For this reason, ISED Canada recommends that the land use authority have a separate policy specific to communications towers, not contained in other bylaws.

The project team, the consultant, and the County's legal counsel recommend removing the requirement for tower developers to acquire a development permit, and to amend the Telecommunications Tower policy to remove references to a development permit. A separate application will be created for a Letter of Concurrence, the Planning department will evaluate all applications in accordance with the amended tower policy and provide their recommendation to the CAO to either issue a Letter of Concurrence or Non-concurrence.

## Conclusion

Over the last year and a half, the project team and consultant have thoroughly analyzed the strengths and weaknesses of the current Land Use Bylaw. In response to changing economic and social conditions, Council-approved plans and policies, and extensive feedback from residents and business operators in Yellowhead County, we believe that these new regulations provide a greater opportunity for development which will strengthen our local economy and respond to the needs of our changing population.

Questions?

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