

ADMINISTRATIVE REPORT



TO: Planning and Development Committee

FROM: B. Newell, Chief Administrative Officer

DATE: October 1, 2020

RE: Zoning Bylaw Amendment – Electoral Areas “A”, “C”, “D”, “E”, “F” & “I”
Regulation of Metal Storage Containers

Administrative Recommendation:

THAT Amendment Bylaw No. 2895 be amended to incorporate the following prior to consideration of first reading:

- a minimum parcel size requirement of 0.5 ha
 - the replacement of the cladding and roofing requirement with a requirement to paint the container the same colour as the principal dwelling in Low Density Residential and Small Holdings zones;
 - a definition of “metal shipping container”;
 - a regulation that metal shipping containers not be located between the front parcel line of a property and the principal dwelling unit in Low Density Residential and Small Holdings zones; and
 - a regulation permitting one (1) metal storage container to be used for temporary storage of household goods for a period not exceeding one (1) month.
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Purpose:

The purpose of this report is to seek direction from the Board regarding public feedback received in relation to the introduction of regulations governing the use and placement of metal storage containers within the Okanagan Electoral Area zoning bylaws.

Background:

At its meeting of February 20, 2020, the P&D Committee considered a Draft of the 2020 Corporate Action Plan. This Plan included, as an action, a “review the Area I Zoning Bylaw to establish controls for tiny homes, shipping containers and B&B at Apex Mountain Resort” to be completed by Q4 2020.

At its meeting March 5, 2020, the P&D Committee of the Board considered a series of draft zoning regulations governing the placement of metal storage containers, which included:

- limiting containers to the Resource Area, Agriculture, Large Holdings and Industrial zones;
 - limiting the stacking of containers to no more than two (2);
 - requiring that containers meet the siting regulations for accessory structures (i.e. setbacks); and
 - an exemption allowing for the placement of a container during construction authorized by a building permit.
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The Committee subsequently resolved that the Regional District of Okanagan-Similkameen Storage Container Regulations Zoning Amendment Bylaw No. 2895, be initiated and verbally directed Administration to amend the bylaw to include the following:

- an allowance for one (1) container in the Low Density Residential (LR) and Small Holdings (SH) zones; and
- to require containers in the LR & SH zones be clad in a material consistent with the principal building and covered by a roof with a pitch consistent with the principal building.

Public Consultation:

As part of the initiation of Amendment Bylaw No. 2895, the following consultation was undertaken:

- referral to individual members of the Electoral Area Advisory Planning Commissions (NOTE: due to the provincial health emergency, in-person and electronic APC meetings were not being held at this time);
- notification of external agencies (April 15, 2020);
- documentation added to Regional District web-page (March 10, 2020);
- notification posted to the Regional District’s Facebook page (April 16, 2020); and
- notification on CivicReady to approximately 450 persons (June 9, 2020).

In response to this notification, the following comments were received:

- 20 individual responses from APC members were received (see summary at Attachment No. 1);

Electoral Area	“A”	“C”	“D”	“E”	“F”	“I”	Total
Support	1	4	2	4	2	2	15
Oppose	3	1	0	0	0	1	5
Total	4	5	2	4	2	3	20

- 51 responses were received from the public (see summary at Attachment No. 2):

Electoral Area	“A”	“C”	“D”	“E”	“F”	“I”	Total
Support	32	0	0	0	2	3	37
Oppose	8	0	0	0	3	2	13
Total	40	0	0	0	5	5	50

- 3 responses were received from external agencies, including the Kaleden Irrigation District (KID), Ministry of Agriculture and the Interior Health Authority (IHA).

Analysis:

The following discussion items are based upon a review of the representations received and the comments that were raised most frequently:

Parcel Size

It is noted that none of the Okanagan member municipalities currently permit metal storage containers in their Residential zones (e.g. Summerland specifically prohibits containers), and that

concerns have been raised by some residents of West Bench (Area “F”) and Anarchist Mountain (Area “A”) regarding allowing such containers on rural-residential parcels (e.g. the Small Holdings (SH) zones).

While Administration maintains its support for only permitting containers in the Rural Zones (as these have a minimum parcel for subdivision of 4.0 ha), the Board may wish to consider an alternate requirement to its previous direction of allowing containers in the Residential and SH zones. This could be in the form of a minimum land area of 0.5 ha or 1.0 ha.

Conversely, Administration recognises that comments were received that did not take issue with allowing containers in the Residential and SH zones, or felt that any regulation was unnecessary.

Exemptions – Building Permits

A number of concerns were raised with the potentially open-ended nature of building permit applications and that a specific time-frame should be imposed on the exemption allowing the placement of a container while construction is occurring on a property.

While a building permit is valid for a two (2) year period, with construction to commence within 6 months of issuance, the option to apply for a 12-month extension followed by additional extensions through “completion permits” is available to property owners and *could* extend a construction period over many years.

Administration is concerned that a specific time limit on exemptions for construction could become problematic as it may require the removal of a storage container prior to the completion of construction. In addition, extending such an exemption would require the approval of a Development Variance Permit (DVP) by the Board.

Conversely, the imposition of a time limit, such as 24-months, could create an incentive to complete a construction project within the initial timeframe of a building permit.

Exemptions – Moving

A comment was made in relation to making an allowance for the temporary placement of a container related to the storage of household goods ahead of a move/relocation.

In response, the Board may wish to consider the following:

one (1) metal storage container may be used for temporary storage of household goods for a period not exceeding one (1) month.

Cladding & Roofing

A number of representations raised concerns that the requirement for roofing and cladding to match the principal dwelling in the Residential and SH zones was too onerous.

This included the cost, unnecessary use of materials, potential hazard created by improperly constructed roof structures, impediment to resale of the container, challenges if principal dwelling is a log cabin or metal clad itself, and that location on the property is more important than the aesthetics of the container.

An alternate solution put forward in a number of representations was requiring that the container only be painted in the same colour as the principle dwelling and that cladding and roofing not be required.

Conversely, a number of representations supported the requirement that the container be clad and roofed in a similar manner to the principal dwelling.

“Grandfathering”

A number of representations requested that “grandfathering” of existing containers not be allowed, and that they be required to comply with any new regulations adopted by the Board.

Under the *Local Government Act*, a use lawfully established prior to a bylaw change that renders that use in contravention of the bylaw, “may be continued as a non-conforming use.”

Accordingly, the Regional District does not have the authority to over-ride or extinguish non-conforming use rights.

Setbacks

A suggestion was made to require that containers not be placed between the principal dwelling and the front parcel line.

Generally, the prescribed setback for an accessory structure is equal to or greater than that for a principle building – meaning an accessory structure cannot be placed in front of a dwelling when the principal dwelling unit is constructed to the setback line.

This would not, however, preclude the placement of an accessory structure in front of a principal dwelling unit when the principal dwelling unit has been constructed well beyond the setback line.

For instance, a dwelling could be constructed 15.0 metres from the front parcel line and if the zoning allows for an accessory structure no closer than 7.5 metres from the front parcel line it is possible the accessory structure could be placed between the dwelling and the road.

The Board may wish to consider requiring a revised setback requirement for containers in the Residential and SH zones:

metal storage containers not to be located between the front parcel line and a principal building.

Definition

One representation noted the absence of a definition of “metal shipping container” in the Amendment Bylaw and suggested, for clarity, that one be added.

Based upon a review of the Okanagan member municipality zoning bylaws, most of which include a definition for storage containers, it is suggested the following be added:

“metal storage container” means a purpose-designed metal cargo container for holding of goods, which is intended to be placed on a ship, truck or railcar.

Summary

Administration supports a number of amendments to Bylaw 2895 based upon the representations received, including:

- a minimum parcel size requirement of 0.5 ha (i.e. not permitting containers in Low Density Residential zones and certain Small Holdings zones);
 - if supported, Administration supports replacing the cladding and roof requirement with a requirement for painting containers the same colour as the principal dwelling.

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- a definition of “metal shipping container”;
 - a regulation that metal shipping containers not be located between the front parcel line of a property and the principal dwelling unit; and
 - allowing one (1) metal storage container to be used for temporary storage of household goods for a period not exceeding one (1) month.

Alternatives:

- .1 THAT Amendment Bylaw No. 2895 be brought forward for first reading; or
- .2 THAT prior to first reading of Amendment Bylaw No. 2895, it be amended to incorporate the following:
 - i) *TBD*.
- .3 THAT Amendment Bylaw No. 2895 be abandoned.

Respectfully submitted:



C. Garrish, Planning Manager

Attachments: No. 1 – Summary of Advisory Planning Commission (APC) Responses
No. 2 – Summary of Community Responses
No. 3 – Public and Agency Representations
No. 4 – Draft Amendment Bylaw No. 2895 (referral version of 2020-04-15)

Attachment No. 1 – Summary of Advisory Planning Commission (APC) Responses

In Support:

Permitted Zones / Parcel Sizes

- storage containers should only be permitted in Industrial (I) zones and if for Small Holdings (SH) zones should be the same as Large Holdings (LH) zones;
- storage containers should be prohibited in Low Density Residential (LR) zones;
- I am okay with them in Low Density Residential (LR) zones;
- Small Holdings (SH) zoned parcels that are larger than 1.0 ha in area should be treated the same as Large Holdings (LH) parcels;
- not suitable for Town/Village Centre zones;
- be allowed in Low Density Residential (LR) zones with a limitation of one (1) per parcel;
- if the proposed regulations are not adopted, I would totally oppose allowing metal storage containers in Low Density Residential (LR) and Small Holdings (SH) zones, other than for construction and other short-term purposes;
- should be prohibited on parcels less than 0.4 ha in area;
- smaller parcels in the AG zones should be treated the same as the RS1, RS2 zones, etc.;
- regulations should address the visual impact of unsightly containers on Agriculture (AG) and Large Holdings (LH) zoned parcels (require painting);
- any regulation should have a relationship to the size of the parcel and the placement of the container;

Exemptions

- exemption for storage containers required during construction (with valid building permit) should not be open-ended and should have a set timeline;
- contractors use storage containers when building and this needs to be allowed;
- a time limit should be imposed for containers allowed in relation to a building permit (i.e. 12 months);
- short-term use of containers for waste removal should be allowed (i.e. 1-6 months);
- storage containers should be allowed for a short-term period in relation to moving (i.e. 1 month);
- built-up areas like Okanagan Falls, Naramata and the Westbench should have a time limit placed on the use similar to what is found in the municipalities;

Cladding / Roofing

- will result in buildings that architecturally match the principle residence and this may be an improvement in the appearance of accessory structures in residential zones and should be applied to all such structures – storage containers or not;
- no cladding or roofing should be required, but a coat of paint to allow a container to blend in should be required;

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- the requirement that a storage container be clad and roofed is not required (doing so makes resale of the container difficult);
 - I would rather look at a storage container than junk;
 - I do not agree with the cladding and roofing requirement;

Restrictions on Use

- ventilation should be added to containers if flammable materials or explosives are stored;
- if large quantities of materials are stored, container should be marked to indicate this;
- example of 2011 house fire in Enderby causing adjacent storage container to explode and blowing doors off resulting in death of a fire fighter;
- refer to “Office of Fire Commissioner – Shipping Container Fire Safety”;
- storage containers should not be used as a spray shed;

Setbacks

- must comply with required setbacks;
- should comply with setbacks for principal structure if allowed to be stacked, setbacks for accessory structure if no stacking allowed;
- storage containers should not be allowed to be placed between the road and the principal building;

Stacking

- no stacking should occur on parcels less than 20.0 ha;
- a Building Permit should be required if stacking of storage containers is proposed;

Miscellaneous

- make regulation of storage containers user friendly please;
- quantity should be limited by length and not numbers (2 small containers could take up the same footprint as a single standard container);
- allowance should be made for storage containers converted into above ground pools;

In Opposition:

- metal storage containers are more secure than most outbuildings;
- on Small Holdings (SH) parcels, the location of the storage container is more important than whether or not it is made to look good;
- small parcels may not be able to accommodate a storage container;
- other parcels may be able to shield a storage container with an existing structure or vegetation;
- the requirement to finish a storage container to look like the house in all cases is un-necessary;
- I don't support the requirement to clad container and put a matching roof over it for Low Density Residential (LR) and Small Holdings (SH) parcels;

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- I don't think there is any need for zoning regulations for metal storage containers;
 - storage containers are much safer and better than small sheds and temporary storage;
 - the requirement to clad and roof a storage container is particularly onerous on the property owner, resulting in considerable cost;
 - complaints about storage containers should be dealt with through enforcement and not the enactment of new regulations affecting all Electoral Areas;
 - existing building bylaws should be sufficient;
 - unsightly premises bylaw should be used to address the placement of excessive of obnoxious containers;
 - too many unnecessary and costly hoops; and
 - a storage container will last longer than a wooden structure and is more secure.

Attachment No. 2 – Summary of Community Responses

In Support:

Cladding / Roofing

- we moved to this area because of the visual appeal and do not want it to become unsightly;
- existing containers should be required to be clad and roofed similar to proposal for new containers;
- we would like to see regulations on the amount of junk that can be placed on residential parcels;
- containers are so ugly to look at and devalue neighbouring properties, they are also so ugly in their natural metal state;
- the exterior cladding must be consistent with the material used on the principal building and must match the colour of the principal building;
- what if the principal dwelling is a log cabin, is the expectation that a log cabin will be built around a storage container;
- this is not feasible in some cases, it would be challenging to build a roof to match the home and homemade efforts could look more unsightly than simply painting the container;
- I do not agree with the requirement that the container must have a pitched roof and be clad in same material as house;
- The bylaw should require that the container is painted or finished to complement the primary residence;

“Grandfathering”

- grandfathering of existing containers should not be permitted;
- no grandfathering;
- no grandfathering of existing containers please;
- existing containers in the Low Density Residential (LR) and Small Holdings (SH) zones should be made to come into compliance with the new bylaw in a reasonable timeframe;
- grandfathering in existing containers;
- no grandfathering;
- what will be done about any existing metal storage containers to meet appearance specifications – please do not “grandfather” them in as is;
- no grandfathering please;

Exemptions

- I am strongly opposed to any metal storage containers unless they are being temporarily used during construction or renovations;
- there are a lot of properties that have building permits active for multiple years, is allowing a storage container for this duration appropriate;

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- placement during construction should not trigger the need for an environmental assessment;
 - extra storage is often required for property maintenance equipment;
 - removal once home is occupied is ideal but not practical for everyone;

Size and Number

- the number of containers should be limited to one (1);
- multiple storage containers on a single parcel diminishes the aesthetics of the area and property values;
- storage container should be a maximum length of 20 feet;
- any storage container should not exceed 20 feet in length;

Safety / Theft

- containers can attract theft and increases in container number risks an increase in break-ins and theft;
- storage containers with good padlocks are much more theft resistant than a wood structure, important in a high risk zone for wild fires;
- all storage containers meet the same high standard and pose no risk to humans, unlike stick-built structures;

Permitted Zones / Parcel Sizes

- storage containers on parcels zoned Small Holdings (SH) greater than 1.0 ha should be regulated in the same way as parcels zones Large Holdings (LH);
- on large land parcels (Low Density Residential and Small Holdings) the aesthetic aspect is a much smaller concern and the amendment feels overly regulatory;

Setbacks

- containers should not be located between the principal residence and the front of the property;
- placement of a container near a side parcel line should not adversely affect their neighbouring property;

Restrictions on Use

- concerned about materials stored in a container and if these are hazardous;
- currently no regulations governing the storage of hazardous materials in storage containers;

Stacking

- not to be stacked;

Environmental Impacts

- concerned about transportation of containers and disturbance of soil during placement on a property;

Miscellaneous

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- why does the RDOS issue building permits for mobile homes, small square box houses and cabins at Anarchist Mountain, these homes are awful looking;
 - what is being done about people living in RVs [at Anarchist Mountain] with no intention of building or completing a home (some don't have a septic);
 - metal storage container should be defined in the zoning bylaw, referring to it as a type of accessory structure is confusing;
 - great idea much overdue;

In Opposition:

Opposed to proposed regulations

- proposed regulations are incorrectly and unfairly focusing on container ownership;
- containers should be regulated through an untidy and unsightly bylaw and not zoning;
- proposed regulations are punishing storage container owners who have done nothing wrong;
- our container is not visible from the road, is on a pad, conforms to FireSmart, is in a secure place to keep our garbage away from bears and other critters, adding a roof would make it an eye sore, this amendment makes no sense for the Anarchist Mountain community;
- we purchased our land to have to space to adapt our property to our needs yet maintain the rural aspect, if regulations change this it will be unfair and unreasonable – these changes are a travesty;
- I am a Small Holdings (SH) owner of 3.5 acres and I use the storage containers for storage of car parts and equipment on my property. The loss of the existing storage would adversely effect my use of the property;
- requiring cladding is overkill and impossible for most storage containers due to door hinges. Placing a roof on the container and painting it to match the principal building will make it look better than most accessory structures;
- a building permit should not be required for the placement of a single container on a property;
- storage containers are structurally sound, need only be founded on a gravel pad, are constructed of metal which conforms to the provincial FireSmart program and are very secure;
- there is no logical rationale to cladding them with other materials or adding an unnecessary roof and doing so is a “lipstick” application that would diminish value;
- if I have a storage container on my property and then have to clad it I may as well put up a building because that is what I am effectively being required to do;
- requiring cladding is wasteful as it will have to be removed and likely sent to the landfill if the container is sold;

Opposed to allowing containers

- we are not in favour of metal storage containers as they will create an environment of clutter, unkept properties and more of a commercial feel;

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- storage containers would do nothing to enhance a property's look;
 - we are against storage containers in our neighbourhood, lot sizes are too small and containers will be an eyesore to neighbours and will reduce property values;
 - we do not believe that those that get containers will abide by the law to clad them and change the roof design to match the home as the RDOS does not enforce most of its bylaws.