



THE CORPORATION OF THE CITY OF VERNON REPORT TO COUNCIL

SUBMITTED BY: Matt Faucher, Planner
Planning & Community Services

COUNCIL MEETING: REG COW I/C
COUNCIL MEETING DATE: November 27, 2023
REPORT DATE: November 15, 2023
FILE: 6635-01

SUBJECT: **REQUEST FOR DIRECTION: RECREATIONAL VEHICLES (RVS) AS DWELLING UNITS ON LANDS WITHIN THE AGRICULTURAL LAND RESERVE (ALR)**

PURPOSE:

To facilitate a discussion with Council in response to its direction to provide a focused report on the feasibility of allowing a third dwelling and also Recreation Vehicles (RVs) on Agricultural Land Reserve (ALR) property and to establish policy direction for subsequent amendments to Zoning Bylaw 5000 or other bylaws as necessary.

RECOMMENDATION:

THAT Council select Option 1 and direct Administration to draft bylaw amendments allowing the ALR Use Regulations to govern all residential uses on ALR lands (including primary dwellings, secondary suites, accessory dwellings, and accessory buildings) as outlined in the report titled "Request For Direction: Recreational Vehicles (RVs) As Dwelling Units On Lands Within The Agricultural Land Reserve (ALR)", dated November 15, 2023, and respectfully submitted by the Planner;

AND FURTHER, that Council direct Administration to establish regulations to align the implementation of Accessory Dwelling Units with the Okanagan Basin Water Board's 1.0 Hectare Policy.

ALTERNATIVES & IMPLICATIONS:

1. THAT Council direct Administration *'to be cited by Council'*

Note: Council may provide specific direction for a different option, as provided within the report at Council's discretion.

ANALYSIS:

A. Committee Recommendations:

N/A

B. Rationale:

BACKGROUND

At its Regular Meeting of November 6, 2023, Council passed the following resolution:

THAT Council receive the Administration Updates dated November 6, 2023 for information;

AND FURTHER, that Council direct Administration to bring forward, to the November 27, 2023 Regular Meeting, a focused report on the feasibility of allowing third dwellings and recreation vehicles on Agricultural Land Reserve properties.

Agricultural Land Commission (ALC)

The Agricultural Land Commission (ALC) oversees the use of farmland within the ALR through its legislative authority under the [Agricultural Land Commission Act \(ALC Act\)](#) and regulations under the [Agricultural Land Reserve General Regulation \(General Regulation\)](#) and the [Agricultural Land Reserve Use Regulation \(Use Regulation\)](#). Since its establishment in 2019, the legislative and regulatory framework has undergone several amendments, posing challenges for local governments in aligning their local regulations.

On July 12, 2021, the Province introduced new legislation to enhance housing flexibility within the ALR. This initiative aims to support both farmers and non-farmers in sustaining their families and businesses. Effective December 31, 2021, the Use Regulation allows property owners to have an additional residence on their property, subject to the size of the principal dwelling and the property, without needing to apply to the ALC. Proposals exceeding these restrictions can seek approval from the ALC through a Non-Adhering Residential Use Permit Application.

While the ALC provides a comprehensive regulatory framework for farm uses and other non-prohibited uses by local governments, it also offers flexibility for local governments to further regulate residential uses within the ALR. However, such local regulations must not be more permissive than the ALC's legislation and regulations.

The City of Vernon's Zoning Bylaw was not updated following the Provincial legislative changes, and so the agricultural zones currently prohibit additional residences.

Residential Uses of ALR Lands

The Use Regulations specify limits for residential uses within the ALR in [Part 4 – Residential Uses](#). This report, following Council's directive, focuses on two sections of [Division 1 – Residential Uses Generally](#), and [Division 2 – Additional Residences](#), with a particular emphasis on the use of RVs as dwelling units.

Division 1 outlines the definition of a "Prescribed Residential Structure" as follows:

1. A structure used, whether permanently or temporarily, to provide or in connection with providing accommodation as described in this Part is prescribed as a residential structure for the purposes of the Act.
2. A vehicle used, whether permanently or temporarily, to provide or in connection with providing accommodation as described in this Part is prescribed as a residential structure for the purposes of this Part.

This section implies that a "vehicle" is considered a residential structure under the Use Regulations, although it does not explicitly define "vehicle". The [Motor Vehicle Act](#) defines "vehicle" as follows:

"vehicle" means a device in, on or by which a person or thing is or may be transported or drawn on a highway, but does not include a device designed to be moved by human power, a device used exclusively on stationary rails or tracks, mobile equipment, a motor assisted cycle or a regulated motorized personal mobility device.

The Use Regulation adopts a broad approach to defining what constitutes a residential structure, which includes RVs. This definition applies to all residential dwellings on ALR lands, including principal residences.

Division 2 outlines the conditions for an additional residence on ALR lands:

1. A property may have one principal residence, which can include a secondary suite, and one additional residence not attached to the principal residence.

2. For properties of 40 ha or less, one principal residence up to 500m² (with or without a secondary suite) and one additional residence up to 90m² are permitted.
3. For properties of 40 ha or more, one principal residence of any size permitted under the Act (with or without a secondary suite) and one additional residence up to 186m² are allowed.

For additional clarity, beyond the size, type, or quantity of prescribed residential structures explicitly permitted under Part 4 of the Use Regulation, section [25](#) or [45](#) of the ALC Act may grant permission for additional residences or alterations to the maximum sizes allowed. However, local governments retain the authority to further restrict or prohibit residential uses on ALR properties through Zoning Regulations, Bylaws, and Permits.

ANALYSIS

Regulatory Direction Options

This section outlines four (4) regulatory approaches for Council's consideration regarding the addition of accessory dwelling units and the use of RVs as dwelling units on ALR lands:

1. Alignment with ALR Regulations:
 - In this approach, the City's Zoning Bylaw would be updated to be reflective of current ALR regulations. This would provide property owners with increased flexibility regarding housing and reduced regulatory barriers.
2. Permit with Additional Regulations:
 - This approach involves developing and implementing municipal regulations that would allow the additional housing options, but set minimum standards in regards to siting, landscaping, and character. This option would require significant staffing resources for the development of the new regulations as well as on-going permitting and enforcement.
3. Prohibit RVs:
 - This approach would allow for the addition of accessory dwelling units but prohibit the use of RVs as dwelling units. Due to the mobile nature of RVs, a building permit cannot be required and so life, safety and health regulations cannot be ensured by the municipality. Without the ability to set effective minimum standards, the City would prohibit the use of RVs as dwelling units.
4. Temporary Use Permits (TUP):
 - This approach offers a flexible and controlled way to explore the use of RVs as dwelling units on ALR lands, allowing for a nuanced approach to a complex issue and would provide an additional possibility to Option 3. While regulatory direction would prohibit the use of RVs as dwelling units, special exemptions could be made by the City on a case-by-case basis through TUPs. These permits are allowed under the [Local Government Act](#) for up to a three-year period with the potential for an additional three-year extension. Terms and conditions can be attached to the permit to address life, safety, and health regulations. This would provide a 'pilot project' approach to test the effectiveness of RVs as dwelling units without the long-term consequences or broad scale changes. However, similar to Option 2, this would require significant staffing resources to set up the TUP framework as well as on-going permitting and enforcement.

Each option presents distinct considerations and potential impacts, requiring careful deliberation by Council to determine the most appropriate regulatory direction for the City.

Option 1: Permit Without Regulations

If the City opts not to impose further regulations on residential uses beyond those stipulated in the Use Regulation and provincial legislation, the following would apply:

- **Zoning Bylaw Amendment:** Zoning Bylaw 5000 would be amended to state that residential uses on ALR land are governed by the provisions of the Use Regulation and any applicable provincial legislation.
- **No Additional Restrictions:** The City would refrain from imposing extra restrictions or conditions of use.
- **Broad Interpretation of Residential Uses:** Under this approach, siting, screening, or other restrictions and conditions for all residential uses on ALR land would not apply, including to the principal dwelling. Furthermore, any entity meeting the definition of 'vehicle' under the *Motor Vehicle Act* would be considered a permanent dwelling unit under the Use Regulation. This policy would effectively defer to the provincial framework, allowing landowners to use RVs or other vehicles as prescribed in the Use Regulation without local constraints.

Pros:

- **Simplicity:** Landowners and residents would primarily consult provincial regulations, streamlining compliance.
- **Flexibility:** Enhanced freedom for landowners in determining residential use forms and locations on their property.
- **Affordability:** Utilizing alternative dwelling structures like RVs could offer more affordable housing options, potentially easing housing shortages on ALR lands.
- **Reduced Bureaucracy:** Fewer local regulations could lead to less administrative complexity and quicker housing solution implementations.
- **Reduced Compliance Enforcement:** Compliance enforcement would largely fall under the ALC's purview, though the City's Bylaws, such as the Good Neighbour Bylaw 4980, would still apply and require enforcement by City Bylaw Officers.
- **Evergreen Approach:** Amendments to provincial legislation would automatically apply within the City, ensuring expediency for landowners without burdening City resources.

Cons:

- **Lack of Local Control:** Potential inadequacy in addressing local concerns like environmental impact, aesthetics, and community character.
- **Land Use Conflicts:** Possible conflicts between residential use and agricultural operations due to the absence of local regulations.
- **Temporary Nature:** The use of RVs, being non-permanent structures, might not offer stable long-term housing solutions.

Additional Considerations:

- **Quantity of RVs:** Unregulated use could lead to an increase in RVs, affecting the landscape and possibly reducing agricultural land availability.
- **Health and Safety Concerns:** The absence of local oversight might raise issues regarding living standards in RVs, particularly in extreme weather conditions.
- **Property Value Impact:** An influx of RVs could influence property values, with varying perceptions of RV living.

Non-Compliance with Okanagan Basin Water Board (OBWB) – 1.0 Hectare Policy: Since 2014, the OBWB has mandated that grant recipients have bylaws restricting additional dwelling units on properties smaller than 1.0 hectare using on-site sewage disposal (septic). Non-compliance with this policy would affect eligibility for OBWB sewage infrastructure funding.

Option 2: Permit With Additional Regulations

If the City opts to impose additional regulations on residential uses beyond those stipulated in the Use Regulation and provincial legislation, the following would apply:

- **Zoning Bylaw Amendment:** Zoning Bylaw 5000 would be revised to allow an accessory dwelling unit and to authorize the use of RVs as accommodation on ALR lands under specific conditions.
- **Development of a Regulatory Framework:** This framework would be designed to ensure compliance with conditions and guidelines aimed at mitigating impacts on neighbouring properties and ensuring the health and safety of occupants. The regulations would seek to balance accommodation flexibility with the primary agricultural use of the land, reduction of land use conflicts, emergency services access and safety.
- **Compliance with ALC Regulations:** The new regulations would be reviewed by the ALC to ensure they align with the Use Regulations and provincial legislation.

Regulatory Considerations:

- **Duration of Stay:** Clarifying the seasonal basis of RV accommodation on ALR land and, if applicable, defining the duration of stay for year-round accommodation.
- **Location and Setback Requirements:** Positioning RVs to minimize visual impact, preserve agricultural land, ensure emergency service access, and maintain separation from other residential structures.
- **Utility and Waste Management:** Implementing requirements for sewage disposal, water supply, electrical servicing, and waste management.
- **Safety Standards:** Setting minimum safety standards for long-term habitation in RVs.

Tools Available:

- **Zoning Bylaw Requirements or Subzones:** Implementing specific zoning regulations.
- **Development Permits:** Creating a farm protection development permit area.

Pros:

- **Controlled Flexibility:** Balances affordable housing needs with agricultural land protection.
- **Reduced Conflicts:** Mitigates potential land use conflicts and negative impacts on neighbours.
- **Environmental Protection:** Addresses environmental concerns, including waste management.
- **Safety Considerations:** Ensures RVs used for housing meet established safety standards.

Cons:

- **Increased Bureaucracy:** More regulations would lead to greater administrative complexity and burden, significantly impacting staff resources.
- **Potential for Non-Compliance:** Increased rules may lead to more non-compliance cases, with implications for enforcement resources.
- **Limited Impact:** Regulations may not fully address all issues, such as long-term housing stability. Ongoing compliance management may also be challenging as time passes.
- **Enforcement Challenges:** Ensuring adherence to local regulations may require additional resources and enforcement strategies.

Additional Considerations:

- **Displacement of Residents:** Stricter regulations could displace individuals relying on RVs for affordable housing.
- **Inequity Issues:** Regulations might disproportionately affect lower-income individuals or small-scale farmers.
- **Administrative Strain:** Monitoring and enforcing new regulations would strain staff resources.
- **Affordable Housing Strategies:** The need to align proposed regulations with broader community affordable housing strategies.

Option 3: Prohibit

If the City opts to expressly prohibit RVs as a residential use on ALR land, a more restrictive approach would be adopted, entailing:

- **Zoning Bylaw Amendment:** Zoning Bylaw 5000 would be amended to explicitly prohibit the use of RVs as long-term dwellings on ALR lands.

Regulatory Considerations:

- **Clear Definitions:** Precisely defining seasonal use and establishing regulations to address existing or perceived loopholes in Zoning Bylaw 5000.
- **Enforcement Mechanisms:** Setting up clear procedures for addressing violations of the prohibition.
- **Exceptions and Exemptions:** Evaluating whether there should be any exceptions or exemptions to the prohibition, such as for temporary use during agricultural operations.

Tools Available:

- **Zoning Bylaw Regulations:** Implementing specific prohibitive regulations.
- **Fines and Penalties:** Reviewing and potentially strengthening Enforcement Bylaws.
- **Compliance Orders:** Issuing orders for the removal of RVs used in contravention of the bylaw.
- **Public Awareness Campaigns:** Educating the public about the prohibition and its rationale.

Pros:

- **Preservation of Agricultural Land:** Ensures primary use of agricultural land is farming.
- **Consistency in Land Use:** Maintains a consistent approach to residential uses on agricultural land and residential properties within the City.
- **Aesthetic and Environmental Considerations:** Addresses concerns about the visual impact and potential environmental issues associated with RVs.

Cons:

- **Reduced Housing Flexibility:** Limits options for affordable and flexible housing on ALR lands.
- **Potential Displacement of Residents:** Could lead to displacement of individuals currently residing in RVs on ALR land.
- **Enforcement Challenges:** May require significant resources for monitoring and enforcement.

Additional Considerations:

- **Housing Shortages:** Could exacerbate housing shortages, especially for farm workers or those seeking affordable options.
- **Increased Non-Compliance:** Might lead to more illegal or concealed use of RVs as dwellings.

- **Social Impact:** Could negatively affect vulnerable populations who depend on RVs as an affordable housing option.

Option 4: TUPs for RVs as Dwelling Units

If the City opts to allow RVs as a residential use on ALR land on a case-by-case basis, a pilot project framework would be required, as well as assessment of the feasibility and monitoring of the impacts, entailing:

- **TUP Criteria:** Establishing clear criteria in Zoning Bylaw 5000 for when and how TUPs for RVs can be issued.
- **Duration and Renewal:** Defining the length of time for which a TUP is valid and the conditions under which it can be renewed.
- **Location and Siting:** Guidelines on where RVs can be located on a property to minimize impact on agricultural activities and neighboring properties, as well as provisions for emergency services and safety.

Pros:

- **Flexibility:** Allows for a tailored approach to each application base on site specific considerations.
- **Controlled Implementation:** Enables the City to test the concept without a long-term commitment.
- **Ongoing Compliance:** Requirements established in the TUP would be enforceable throughout the duration of the permit. If contraventions to any of the conditions occur and persist, the TUP could be withdrawn.
- **Responsive to Community Needs:** TUPs can quickly address specific housing needs or situations.
- **Data Collection and Analysis:** Provides valuable data on feasibility and impacts for analysis to inform future policy decisions.

Cons:

- **Resource Intensive:** Requires administrative resources for the development of the framework, processing applications and monitoring requirements established in the TUPs.
- **Potential for Inconsistency:** Risk of perceived unfairness or inconsistency in decision-making which would need to be a consideration in the development of the framework.
- **Temporary Nature:** Does not provide long-term housing solutions.
- **Enforcement Challenges:** Ensuring compliance after the permit expires could be challenging and may require bonding to secure the removal of the use if conditions are contravened.

Additional Considerations:

- **Quantity of Applications:** High demand for TUPs could impact administrative capacity.
- **Community Resistance:** Possible opposition from residents concerned about the impact on agricultural land and community character.
- **Uncertainty for Residents:** Temporary nature may lead to uncertainty and instability for those living in RVs.
- **Exit Strategy:** Planning for the transition once the TUP expires or is not renewed.

Summary:

The Province has embarked upon a strategic shift in the planning framework in efforts to accelerate more housing options for people in need. They have introduced significant legislation targeting a more inclusionary path for the provision of housing as well as instructing municipalities to streamline permitting processes. The ability for property owners in the ALR to achieve additional dwelling units is consistent with this strategy including the use of RVs as dwelling units. As such, Staff recommend to Council to proceed

with Option 1 to align the City of Vernon’s Zoning Bylaw with the ALC Act. It does not seem to be appropriate for the municipality to restrict the Province’s vision for housing. With power, also comes responsibility and so Staff also acknowledge that this policy shift may result in potentially lower quality housing and issues from time-to-time that will need attention by the ALC.

Staff are also supportive of introducing a minimum parcel size for detached accessory buildings consistent with the OBWB recommendations.

C. Attachments:

N/A

D. Council’s Strategic Plan Alignment:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Governance & Organizational Excellence | <input checked="" type="checkbox"/> Livability |
| <input type="checkbox"/> Recreation, Parks & Natural Areas | <input type="checkbox"/> Vibrancy |
| <input type="checkbox"/> Environmental Leadership | <input type="checkbox"/> Not Applicable |

E. Relevant Policy/Bylaws/Resolutions:

1. At its regular meeting of November 6, 2023, Council passed the following resolution:

THAT Council receive the Administration Updates dated November 6, 2023 for information;

AND FURTHER, that Council direct Administration to bring forward, to the November 27, 2023 Regular Meeting, a focused report on the feasibility of allowing third dwellings and recreation vehicles on Agricultural Land Reserve properties.

2. Zoning Bylaw 5000
3. Official Community Plan Bylaw 5470

BUDGET/RESOURCE IMPLICATIONS:

Depending on the option(s) selected by Council, a varying degree of staffing resources will be required to develop the framework and implement Council’s direction.

FINANCIAL IMPLICATIONS:

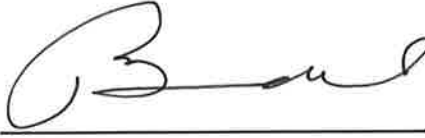
- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Budget Previously Approved | <input type="checkbox"/> New Budget Request
(Finance Review Required) |
|--|---|--|

Prepared by:

Approved for submission to Council:

X 

Signer 1
Matt Faucher
Planner



Patricia Bridal, CAO

Date: 11 / 21 / 2023

X 

Signer 2
Terry Barton, Director
Planning and Community Services

REVIEWED WITH

- | | | |
|---|---|---|
| <input type="checkbox"/> Corporate Services | <input type="checkbox"/> Operations | <input checked="" type="checkbox"/> Current Planning |
| <input type="checkbox"/> Bylaw Compliance | <input type="checkbox"/> Public Works/Airport | <input type="checkbox"/> Long Range Planning & Sustainability |
| <input type="checkbox"/> Real Estate | <input type="checkbox"/> Facilities | <input type="checkbox"/> Building & Licensing |
| <input type="checkbox"/> RCMP | <input type="checkbox"/> Utilities | <input type="checkbox"/> Engineering Development Services |
| <input type="checkbox"/> Fire & Rescue Services | <input type="checkbox"/> Recreation Services | <input type="checkbox"/> Infrastructure Management |
| <input type="checkbox"/> Human Resources | <input type="checkbox"/> Parks | <input type="checkbox"/> Transportation |
| <input type="checkbox"/> Financial Services | | <input type="checkbox"/> Economic Development & Tourism |
| <input type="checkbox"/> COMMITTEE: | | |
| <input type="checkbox"/> OTHER: | | |