

**REPORT TO ELECTORAL AREAS COMMITTEE  
MEETING OF WEDNESDAY, FEBRUARY 8, 2023**

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**SUBJECT     Enforcement Practices for Alternative Forms of Housing**

**ISSUE SUMMARY**

A review of the existing practice of enforcement for recreational vehicles, travel trailers, and alternative forms of housing.

**BACKGROUND**

At the May 11, 2022, Electoral Areas Committee meeting the following Motion was carried:

*That staff investigate the possibility of a non-enforcement policy for trailers, yurts, and other forms of housing for the electoral areas.*

Further to this, on January 17, 2023, the Southern Gulf Islands (SGI) Community Economic Sustainability Commission (CESC) passed a resolution as follows:

*Requesting that the Capital Regional District (CRD) hold off any existing and future expulsion action against owners or tenants of tiny homes, trailers and other nonconforming dwellings unless life safety is compromised, and to take steps towards allowing them.*

The primary form of regulation of these dwelling types is through land use regulation. Although land use requirements are of high importance this report does not canvas all regulatory requirements and focuses on the areas of Building Division responsibility.

Generally, where a dwelling is used for human habitation in a non-temporary way, the CRD Building Regulation Bylaw and the BC Building Code would consider it a structure and the code would apply. The code applies to any “building” as defined by the CRD Building Bylaw or the BC Building Code (“any structure used or intended for supporting or sheltering any use or occupancy”).

All buildings occupied for residential use must first receive occupancy approval from the CRD Building Inspection Division in accordance with the Building Regulation Bylaw No. 3741. Buildings that can be considered for residential occupancy approval include site built buildings constructed in compliance with Part 9 or Part 4 of the Building Code, factory built buildings certified as being in conformance with CSA A277, and factory built mobile homes constructed in conformance with CSA Z240 (not Z240RV).

Tiny homes, yurts and similar forms of housing are subject to the Building Code, but due to their small size and unconventional construction details, it can be difficult to comply, or alternatively, they are built without inspection or to approved standards. A regional district does not have the regulatory tools to create its own set of standards for such construction. BC Housing and other organizations are in the process of advocating for a change to National Building Codes, the first step in modifying provincial codes, for exclusive requirements and relaxations relating to tiny home construction.

Relating to recreational vehicles (RVs), trailers, and “park model” trailers, different standards apply. Most RVs and travel trailers are factory built and certified to standards CSA Z240RV or RVIAS NFPA 1192 as temporary living quarters for recreation, camping or seasonal use and are not certified for permanent residential use. Although RVs and travel trailers are constructed with limited safety features, they do not have the same level of health, fire and life safety features as Building Code compliant dwelling units.

Consideration for life safety matters of non-confirming dwelling units, as mentioned in the SGI CESC resolution, may not be apparent without investigation and access within a building. Life safety can be compromised in many ways, such as inadequate door or window fire egress, lack of smoke or carbon monoxide alarms, improper electrical wiring (not under direct review by the Building Inspection Division but electrical permit verification is confirmed through the building permit process), improper and unsafe heating systems, etc. Building Code requirements for spatial separation (separation of buildings to prevent fire spread) should also be considered. Although not necessarily a life safety issue servicing of a building including potable water and sewerage disposal can have health consequences as well as environmental consequences.

Land use regulations throughout the electoral areas control the allowance of secondary dwellings on a lot as well as control the location within the lot and often the building’s size. The type of buildings permitted to be considered dwelling units may also be defined in a Land Use Bylaw. Compliance with land use regulations is required prior to building permit considerations. Any consideration for enforcement of alternative forms of housing must include land use regulators.

Current enforcement action for site built buildings and structures not having the necessary approvals is generally in response to written complaints, or observations of health, safety, or environmental risks by Building Inspectors in their normal course of duty. Stop Work Notices and Do Not Occupy Notices are often issued and further action, such as registration of a bylaw contravention notice on the land title under s.57 of the *Community Charter*, may follow for continued non-compliance.

Enforcement action for occupied RVs and trailers has been mostly limited to investigating after receiving written complaints or after observing structural alterations or additions. Applicable Land Use Bylaws in the Electoral Areas permit the occupancy of RVs and trailers under varying circumstances and for varying lengths of time. For this reason, enforcement action against RVs and trailers has been less frequent than for other types of buildings or structures and enforcement beyond that of a recommended Notice on Title has been very limited.

Electoral Areas Committee members have also asked for consideration of temporary or short-term use of alternative forms of housing. In accordance with the BC Building Code and the CRD Building Regulation Bylaw temporary buildings may be allowed without a building permit, if authorized by the authority having jurisdiction, but this is restricted to buildings to be used for short durations and having minimal risk to users.

## **ALTERNATIVES**

### ***Alternative 1***

The Electoral Areas Committee recommends to the Capital Regional District (CRD) Board:

- 1) That the existing practice of CRD Building Regulation Bylaw and BC Building Code enforcement be continued, primarily responding to complaints and observations by Inspectors during their normal course of duty of safety, health, and environmental concerns and issuing Stop Work Notices and Do No Occupy Notices when warranted; and

- 2) That the CRD advocate to the Province for a review of inclusion of alternative forms of housing within the BC Building Code.

#### *Alternative 2*

That the Enforcement Practices for Alternative Forms of Housing report be referred back to staff for further review based on Electoral Areas Committee direction.

### **IMPLICATIONS**

#### *Service Delivery*

It is not recommended to withhold bylaw enforcement, in all cases, of occupied RVs, travel trailers and alternative forms of housing, as this may result in an assumption of acceptance of such structures and uses as a result of non-enforcement. An increased amount of illegal and potentially unsafe dwellings will likely be constructed and occupied. Even a temporary relaxation of enforcement will make control of such buildings and structures in the future extremely difficult and add to enforcement and compliance costs of the Electoral Areas.

#### *Regulatory Impacts*

CRD is without the regulatory tools to permit construction and residential occupation of those structures that do not comply with the Building Code or other occupancy-capable mobile home standards. Currently the Province of Nova Scotia has provisions for “Tiny House” construction within the 2020 Nova Scotia Building Code Regulations. The BC Building Code, however, does not include such provisions.

#### *Legal*

Legal liability may be increased for the CRD should a decision be made to not enforce our Building Bylaw Regulations. Once a building regulation bylaw exists, subject to core policy decisions, CRD owes a duty to inspect and enforce as appropriate where it learns of structures that are non-compliant but subject to the Building Bylaw and the Code. The extent of that duty and the standard of care of a building official varies based on the circumstances, taking into consideration risk, magnitude of harm, and public utility of conduct.

CRD’s typical response to non-compliance is to register a s.57 *Community Charter* notice on title, which identifies that the use, occupation, or construction is deficient with a bylaw, the Building Code, or other law. Once registered, the CRD may exempt itself from a current or future duty of care in negligence that could arise relating to the deficiency under s.57(8) of the *Community Charter*.

It is rare for CRD to take remedial action – that is, an order to remove, demolish, bring up to a standard or take such other step as ordered by the Board – for occupation of an RV or trailer, per section 72 of the *Community Charter*. A decision to take remedial action is a decision of the Board.

### **CONCLUSION**

Non-compliant structures used for residential accommodation subject to the Building Code and CRD Building Bylaw are enforced against on a complaints and inspections basis, typically by way of a s.57 Notice on Title, and in some cases, a s.72 remedial action order. The primary form of regulation of such uses is under a Land Use Bylaw. CRD’s Building Bylaw presently does not contain provisions relating to permitting use of non-compliant structures for residential purposes. While BC Housing and other organizations are advocating for changes to the National Building

Code to permit tiny home construction, CRD is without the ability to set out its own non-Building Code-defined construction standards for such use. CRD may want to consider advocating to the Province for a review of future Code provisions for smaller alternative forms of housing types.

**RECOMMENDATION**

The Electoral Areas Committee recommends to the Capital Regional District (CRD) Board:

- 1) That the existing practice of CRD Building Regulation Bylaw and BC Building Code enforcement be continued, primarily responding to complaints and observations by Inspectors during their normal course of duty of safety, health, and environmental concerns and issuing Stop Work Notices and Do No Occupy Notices when warranted; and
- 2) That the CRD advocate to the Province for a review of inclusion of alternative forms of housing within the BC Building Code.

Submitted by:	Mike Taylor, RBO, Manager and Chief Building Inspector, Building Inspection
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