



REPORT

To: Chair and Directors

Report Number: DS-BRD-035

From: Shawn Dahlen, Chief Administrative Officer

Date: June 24, 2020

Subject: Temporary Use Permits

RECOMMENDATION #1: *[Corporate Unweighted]*

That the Regional Board require financial security prior to the issuance of a Temporary Use Permit (TUP) for applications that include uses, buildings, or structures that would result in non-compliance with the applicable Zoning Bylaw upon expiry of the TUP.

RECOMMENDATION #2: *[Corporate Unweighted]*

That the Regional Board accept a signed Temporary Use Permit (TUP) waiver in lieu of financial security prior to the issuance of a TUP for applications that do not include land uses, buildings, and/or structures that would be in non-compliance with the applicable Zoning Bylaw, and the owner wishes to retain such structures upon expiry of the TUP.

RECOMMENDATION #3: *[Corporate Unweighted]*

That the Regional Board include research on the creation of a zone for worker camps, as part of the zoning bylaw consolidation project, to provide a solution for long-term worker camps.

BACKGROUND/RATIONALE:

At the May 28, 2020 Committee of the Whole meeting, the Regional Board received a presentation on Temporary Use Permits. This presentation discussed Temporary Use Permits, including:

1. Purposes;
2. Typical uses;
3. Considerations for Temporary Use Permits versus a rezoning application;
4. Legal aspects;
5. Considerations such as impacts to development, PRRD liability, absentee property owners, ensuring compliance with Temporary Use Permit conditions; and
6. Other considerations, such as requirements for financial securities, Temporary Use Permit Waivers, and renewals.

A question and answer period followed the presentation, with topics including enforcement, inspections, considerations on Crown land versus private land, compliance with zoning, property owner agreements, infrastructure, worker camps, other regulatory bodies, and the number of Temporary Use Permits issued and/or renewed.

Some key points that were raised during the discussion included:

1. Challenges ensuring compliance with the conditions of Temporary Use Permits, both for the duration of the permit and remediation after it expires, as applicable.
2. Encouraging applicants to pursue zoning/OCP amendments instead of a Temporary Use Permit, where appropriate, which will provide for greater public and Regional Board input on these changes to land use.
3. There may be times when a Temporary Use Permit application does not meet the criteria for the provision of financial securities and/or waivers as outlined herein; those should be evaluated when they arise. In addition, the extent of remediation may be to either pre Temporary Use Permit conditions, or to a level satisfactory to the property owner and in compliance with applicable PRRD bylaws, in the event that the property owner wishes the land to not be remediated to previous conditions.
4. The PRRD has less control over land uses in the ALR, especially oil and gas uses due to the delegation agreement between the Agricultural Land Commission and the Oil & Gas Commission. One consideration may be for the PRRD to create an oil and gas industrial zone or a worker camp zone as part of the zoning bylaw consolidation process.

This report provides information with respect to the number of temporary use permits issued and/or renewed, as requested by the Committee of the Whole. It also provides further information considering parameters around when financial securities or Temporary Use Permit Waivers should be sought for Temporary Use Permit applications.

History of Temporary Use Permits in the PRRD:

Since 1995, the PRRD issued 133 Temporary Use Permits, as shown in Figure 1 below. Of these 133 permits, 101 were original permits and 32 were renewals.

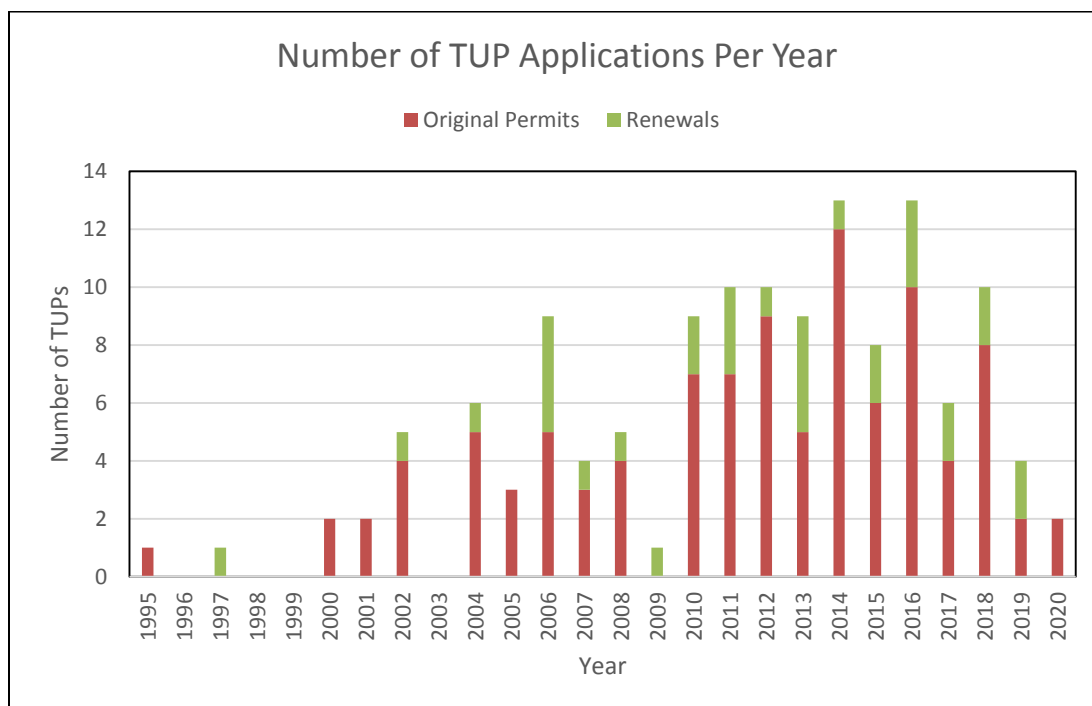


Figure 1: Number of Temporary Use Permit Applications Per Year (1995 to 2020 YTD)

As shown in Figure 2 below, the majority of Temporary Use Permits were issued for worker camps (55 permits), storage/laydown yards (21 permits), and towing/vehicle storage/RV parks (14 permits). Temporary Use Permits were also issued for spas, petting zoos, automotive dealerships, and fitness facilities.

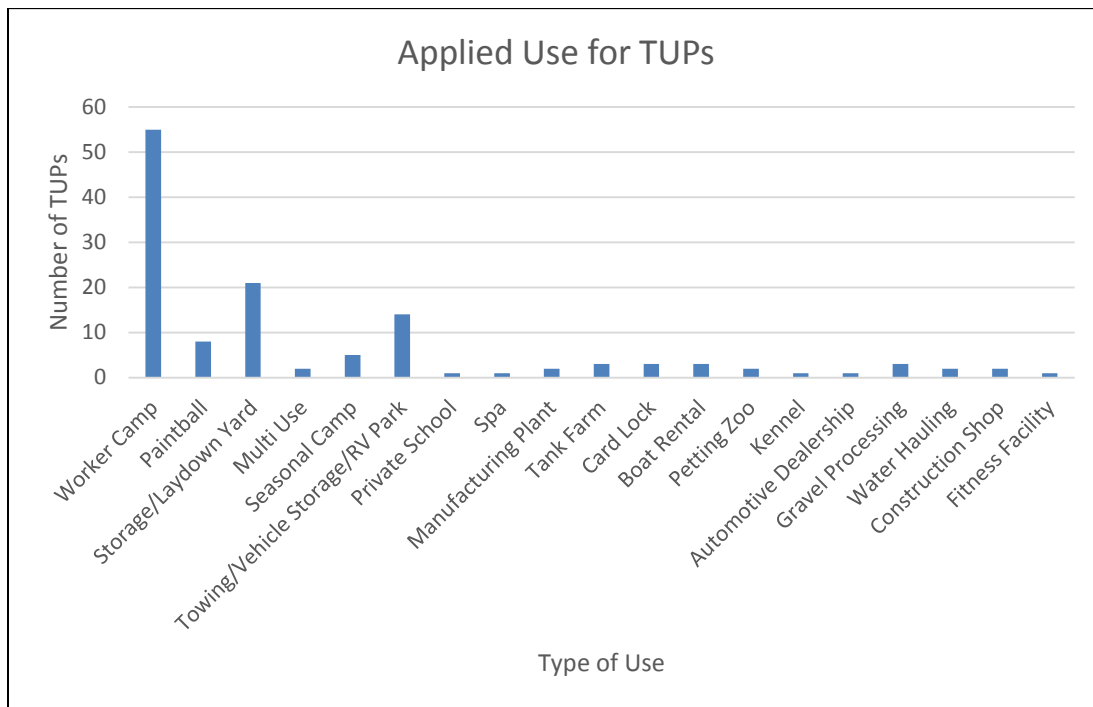


Figure 2: Number of Temporary Use Permits, by Type (1995 to 2020 YTD)

Further Temporary Use Permit Considerations:

The Regional Board may also consider the following points with respect to Temporary Use Permits in the PRRD:

- The *Local Government Act* outlines the requirements for Temporary Use Permits in British Columbia, including allowance for the requirement of securities to guarantee the performance of the terms of the permit.
- All current Official Community Plans (OCPs) state that Temporary Use Permits may be renewed only once and should be discouraged from re-application in favour of being considered through a rezoning amendment process.
- The PRRD should consider OCP and Zoning Bylaw amendments for uses that are more permanent in nature, or if an applicant wishes to renew a Temporary Use Permit or to apply for a new Temporary Use Permit that is very similar to the previous Temporary Use Permit. Reapplication for, or renewal of, a Temporary Use Permit suggests the use is not temporary.
- Areas outside of the PRRD designated planning areas are not governed by PRRD land use bylaws, and therefore PRRD Temporary Use Permits cannot be issued in these areas.
- In recent years, many Temporary Use Permit applications have been for worker camps. The PRRD should consider whether a camp is truly temporary or more permanent in order to determine the most appropriate application type. Worker camps could be regulated and

monitored with other planning tools, including a new zone dedicated to worker camps or spot zoning.

- Temporary Use Permits will continue to be a valuable tool in the planning toolkit, and are well suited for piloting new ideas, testing new business opportunities, and permitting a land use and/or accompanying buildings and/or structures that are temporary in nature.

Parameters around Temporary Use Permit Securities and/or Temporary Use Permit Waivers:

At the April 9, 2020 Regional Board meeting, the Board approved the use of a Temporary Use Permit Waiver by property owners under certain conditions:

MOVED, SECONDED, and CARRIED

That the Regional Board approve the temporary use permit waiver template, for use by property owners, that enables infrastructure to remain in place on properties upon the expiration of a Temporary Use Permit, if desired by the property owner.

This arose from the March 12, 2020 Regional Board meeting, where the Board directed that the mandatory collection of financial security deposits for all Temporary Use Permits be suspended until new guidelines for Temporary Use Permits were considered, and that in the interim, property owners be required to sign a Temporary Use Permit Waiver to relinquish any right to remediation of their property by any third party, including the proponent or the Peace River Regional District.

MOVED, SECONDED, and CARRIED

That application of Resolution No. RD/18/12/20 from the December 14, 2018 Regional Board meeting which states:

“That a security deposit to guarantee site remediation and/or the completion of any terms and conditions imposed by the terms of a Temporary Use Permit (TUP), be required for all TUP applications”

be suspended until new guidelines for Temporary Use Permits can be brought forward to the Board; further, that in the interim, property owners be required to sign a waiver to relinquish any right to remediation of their property by any third party, including the proponent or the Peace River Regional District.

The Temporary Use Permit Waiver was developed in consultation with the PRRD’s legal counsel in order to provide applicants with the opportunity to construct elements (which could include buildings or structures) that, following the expiration of the Temporary Use Permit, could remain if compliant with the applicable PRRD Zoning Bylaw.

Further clarification is provided below regarding when a Temporary Use Permit requires either the signing of a TUP Waiver or the collection of a security. Both options are available (depending on the circumstances) and will be included in Temporary Use Permit requirement information provided to applicants. For all TUP applications, the applicant will be required to provide either financial security or a signed Temporary Use Permit waiver, depending on the instances identified below.

The following scenarios outline instances where a security and/or waiver may or may not be required by the PRRD. It is worth noting that these are hypothetical examples and not a comprehensive list of all the scenarios for which Temporary Use Permit securities or waivers may or may not be required.

Scenario 1

In instances where, upon the expiration of a Temporary Use Permit, the property owner wishes a land use and/or any associated buildings and/or structures to be left on the land, which are not compliant with the applicable Zoning Bylaw, the provision of financial security will be required prior to the issuance of the Temporary Use Permit. The financial security will be returned to the applicant once the property has been remediated and is in compliance with the applicable Zoning Bylaw.

Scenario 2

In instances where, upon the expiration of a Temporary Use Permit, the property owner wishes a land use and/or any associated buildings and/or structures to be left on the land, which are made to be compliant with the applicable Zoning Bylaw following the end of the temporary use, a Temporary Use Permit Waiver will be required prior to the issuance of the Temporary Use Permit.

Scenario 3

In instances where, upon the expiration of a Temporary Use Permit, the property owner wishes to retain a building and/or structure that is made to be compliant with the applicable Zoning Bylaw but will require the removal of a use that is not compliant with the applicable Zoning Bylaw, both a Temporary Use Permit Waiver and financial security will be required prior to the issuance of the Temporary Use Permit.

Scenario 4

In instances where a renewal for a Temporary Use Permit would add land uses, buildings and/or structures in addition to that which is permitted in the original permit, the provision of additional financial securities or an additional Temporary Use Permit Waiver will be required, as outlined above.

Scenario 5

In instances where a renewal for a Temporary Use Permit is identical to the original permit, no additional financial securities or Temporary Use Permit Waiver will be required, as the appropriate provision will have already been provided with the original Temporary Use Permit. However, securities with expiration dates set by the original permit may need to be renewed or updated for the renewal term period, depending on the form of security provided.

It is important to consider the temporary nature of Temporary Use Permits when requiring security, as the intent of the financial security is to ensure that the applicant remediates land uses, buildings and/or structures upon the expiration of the permit, so that they are again in compliance with the applicable Zoning Bylaw. The value of these financial securities should be determined on a case-by-case basis through the preparation of a third party estimate by a qualified professional; obtaining this estimate is the responsibility of the applicant. Financial securities may be provided via a cash payment, certified cheque, or irrevocable letter of credit.

Next Steps:

PRRD staff will continue developing guidelines for Temporary Use Permits including:

1. The creation of brochures for the public that help communicate when financial securities or Temporary Use Permit Waivers are required; and
2. The determination of acceptable formats for provision of financial security, such as cash, certified cheque, or irrevocable letter of credit, and how the security will be managed and returned. There was a concern raised previously regarding the capacity of staff to do site inspections to confirm post-TUP site status prior to the return of the security; it is anticipated that the need for a site inspection will be assessed on a case-by-case basis. COVID-19 has prompted widespread acceptance of virtual meetings; staff may be able to connect with the property owner via a virtual platform to “view” the property condition in some instances, rather than conducting a physical site visit/inspection.
3. The Regional Board also previously discussed the possible formation of a committee to explore Temporary Use Permit considerations, including guidelines for securities and/or waivers, remediation cost estimates, and acceptable forms of security. If there are Temporary Use Permit issues that remain outstanding, the Regional Board may wish to consider striking a committee to further explore those issues, or may identify any specific challenges for further review by staff to report back to the Board about.

ALTERNATIVE OPTIONS:

1. That the Regional Board provide further direction.

STRATEGIC PLAN RELEVANCE:

- ☒ Not Applicable to Strategic Plan.

FINANCIAL CONSIDERATION(S):

None at this time.

COMMUNICATIONS CONSIDERATION(S):

None at this time.

OTHER CONSIDERATION(S):

None at this time.

External Links:

1. [Temporary Use Permits - May, 28, 2020 Committee of the Whole](#)
2. [Temporary Use Permit Presentation - May 28, 2020 Committee of the Whole](#)
3. [Temporary Use Permit Waiver Report - April 9, 2020 Regional Board Meeting](#)
4. [Temporary Use Permit Waiver - April 9, 2020 Regional Board Meeting](#)