



Date: 09/11/2016

AGENDA ITEM SUMMARY

To: Chair and Directors, Cariboo Regional District Board

And To: Janis Bell, Chief Administrative Officer

From: Karen Moores, Manager of Development Services

Date of Meeting: Cariboo Regional District Board_Nov25_2016

File: 3360-20/20160058

Short Summary:

Shipping Containers Text Amendments

Voting:

Stakeholder Vote – Unweighted – All Electoral Areas

Memorandum:

Attached is a discussion paper regarding the regulation of Shipping Containers in the Cariboo Regional District.

Attachments:

Discussion Paper regarding Shipping Containers

Table 1 – Local Government regulations for Shipping Containers

Table 2 – Local Government restrictions for Shipping Containers

Financial Implications:

If approved, public hearing costs.

Policy Implications:

N/A

Alignment with Strategic Plan:

- Ensuring Sufficient and Sustainable Funding
- Building on our Relationships
- Providing Cost Effective High Quality Services
- Focusing on Being Well Governed

CAO Comments:

Concur

Options:

1. Receipt
2. Receipt and other action;
3. Defer.

Recommendation:

That the agenda item summary from Karen Moores, Manager of Development Services, dated November 9, 2016, regarding shipping container text amendments, be received. *Further action at the discretion of the Board.*

Discussion Paper - Shipping Container Regulations

At the October 29, 2015 Committee of the Whole meeting, Planning staff proposed to define shipping containers and to amend the ancillary section of the zoning and rural land use bylaws to add shipping containers as an allowed use with restrictions for number, siting and screening.

The portion of the recommendation by the COW relating to shipping containers and subsequently endorsed by the Board at its November 13, 2015 meeting is shown below:

Further, that staff bring back another report regarding shipping containers with respect to proposed and existing regulations within the municipalities and explore requirements for venting and the authorization process.

Following the above resolution, shipping container regulations from 20 British Columbia municipalities and local governments and two out of province municipalities have been reviewed. The City of Quesnel had proposed a bylaw for shipping containers which was defeated in February of 2016. Therefore, the City of Quesnel is omitted from the analysis. The comparisons are shown on the table attached.

Further, Planning staff looked into the possibility of requiring ventilation of shipping containers and the implications of regulating and enforcing ventilation requirements.

Finally, staff explored options for an authorization process either through amendments to the zoning bylaws and Rural Land Use Bylaw (RLUB), through a permit process or a stand-alone bylaw.

1. Review of municipal shipping container regulations:

Shipping container regulations for twenty local governments were reviewed. Of those, nine central-northern municipalities and four regional districts were included, notably the City of Williams Lake, City of Prince George, the District of 100 Mile House, and the Thompson-Nicola Regional District. One Ontario municipality (Brantford) was added as this local government is investigating the possibility of amending its zoning bylaw to allow shipping containers as storage - ancillary use, and Brantford also undertook a review of nearby Ontario municipalities' shipping containers regulations. Seven out of ten Ontario municipalities prohibit their use, one allows them as ancillary structures and two municipalities have no regulations. In contrast, CRD Planning staff's list shows that out of twenty BC municipalities, one prohibits shipping containers, fifteen local governments allow them as permanent ancillary storage

building/structure, three local governments have no regulations, and one local government is actively pursuing allowing them under the zoning bylaw.

The majority of municipalities allow shipping containers within the general provisions of their zoning bylaw, as a complete section, or as a subsection with the ancillary buildings and structures section.

Most prohibit the use of shipping containers in residential zones, including the District of 100 Mile House, City of Williams Lake and the Thompson-Nicola Regional District. Reasons often cited for restricting their use in residential zones are due to unsightliness (logo, rust), visual impact due to their size and uncharacterized industrial look which conflicts with residential country atmosphere, numbers of containers permissible, and siting of shipping containers in proximity to roads or adjoining properties. To be consistent, the CRD should consider not permitting shipping containers on small residential zoned properties such as Residential 1 (R 1), Residential 2 (R 2), Lakeshore Residential (RL) and Settlement Area 1 and 2 (RS 1 and RS 2).

Most municipalities allow shipping containers as a permanent storage structure in either their commercial or industrial zones. Similarly, shipping containers are often permitted in the industrial type zones within municipalities. Although, some municipalities also restrict their use in the commercial core as their visual impact would conflict with the intended form and character of these commercial centers.

Ten municipalities restrict their siting with increased setbacks within the specifications of the zoning bylaw and/or with additional requirements in the general provisions of the zoning bylaw. Screening is often incorporated as a requirement, and includes cladding, fencing, painting, and vegetative screening. Further, screening is often enhanced by siting requirements which restrict their placement in the rear, or screened (e.g. behind a fence).

2. Ventilation Requirements:

Shipping containers are constructed and designed for the safe transport of goods and materials. They include ambient venting to accommodate change in pressure and temperature while in transport. Safety concerns arise when these containers are used to store flammable or hazardous materials.

In September 2014, The British Columbia Fire Chiefs' Association presented a position paper on intermodal shipping containers which recommended regulating shipping containers on their use, the materials being stored in them, and modifications to render them safer such as ventilation. Venting scenarios were given to guide regulations based on type of fuel being stored. Venting requirements are based on the type of container used, the size of the container, and the potential fire load in the container. Therefore, there is no simple ventilation requirement that is universal for all containers. The BC Fire Chiefs' Association also recommends no connected services, such as power, water and lighting due to safety concerns. To be certain that modification for

venting would not affect the structural integrity of the container, an engineer's certification would be required.

The review of municipalities shows that only one local government chooses to require venting in their shipping container regulations.

Prohibitions for certain types of hazardous or flammable products or materials to be stored in a shipping container (such as chemicals, fertilizers and flammable materials) can be expressed in regulations but is difficult to enforce. It is noted that shipping containers are often used to store recreational vehicles, ATV's and motorized lawn equipment which have fuel in the machines. Educating the public by publishing a shipping container guide or providing information on the CRD website may be an effective means of changing behaviour.

CRD Planning staff recommends no modification to the steel containers unless they are certified to be safe by an engineer.

3. Authorization Process:

Building Permit Process:

Shipping containers could be considered a building under the BC Building Code in which case they would need a building permit and would require certification from a structural engineer registered in the Province of British Columbia. Essentially, selecting this process would result in prohibiting the use of shipping containers as a permanent storage building due to the high costs and limitations associated with hiring structural engineers in the Cariboo. Furthermore, since the Cariboo Regional District (CRD) is not uniformly covered by the Building Inspection Service, proposed shipping container requirements such as ventilation, screening and siting may be problematic to enforce, and there would be no mechanism to regulate the properties outside the building inspection area.

Zoning Bylaw Amendment – General Provisions:

As the review of BC local government demonstrated, most municipalities have elected to define shipping containers as a storage structure as opposed to a storage building, either for temporary or permanent use. In the CRD Building Bylaw, temporary ancillary structures do not require a building permit, whereas exemption for certain accessory buildings exist based on size and function. Most shipping containers exceed the exempted size indicated below.

Bylaw No. 4997 S. 6.2 (a)

“Single-storey storage, garden sheds and other accessory buildings not exceeding 20 sq. m in floor area”

The majority of the municipalities include shipping containers as its own section within the general provisions portion of their zoning bylaws. By doing so, they can forego the building

permit requirement by not considering them a building nor a structure, but a stand-alone use. Further, being its own section in the zoning bylaw provides the benefit of imposing very specific requirements such as placement, size, the number of containers allowed, screening, and limit their use to specific zones. Planning staff also notes that the majority of the BC municipalities reviewed mostly prohibit shipping containers used for permanent storage on residential lots or in their downtown core/commercial node due to their unsightliness. Only two municipalities have added shipping containers as an Ancillary Building and Structures subsection, usually with fewer requirements.

Should the CRD Board entertain the zoning bylaw amendment process, Planning staff would recommend that shipping containers be added in the general provisions of the zoning and rural land use bylaws, with various requirements such as prohibiting storage of specific goods and materials, screening, siting and setbacks, limitations on number of containers allowed, stacking, connection to services etc., and specify which zones where they would be permitted.

By defining shipping containers they will not be considered a building or structure and therefore not subject to the building permit requirement. A definition for shipping containers would need to be introduced into CRD zoning and rural land use bylaws, and subsequently in the Building Bylaw for clarification.

Temporary Use Permit Process:

The purpose of a Temporary Use Permit (TUP) is to allow a response from local government to special temporary land uses which extend beyond a seasonal term or short term use. The *Local Government Act* (LGA) allows for property owners to apply for a Temporary Use Permit under Division 8, Section 492 and 493. The permit takes precedence over uses allowed in zoning or rural land use bylaws and can even apply to temporary uses not explicitly permitted in the zoning/rural land use bylaw. Temporary Use Permits can be an effective tool to allow a non-permitted use in a bylaw or in a zone to be established for a specified period of time, and impose conditions of use, specify placement, require screening and cladding, etc. Under the legislation, a TUP is valid for up to three years. The TUP also enables staff to evaluate the impact of the use on the neighbourhood as the TUP can be renewed once.

A TUP can be issued by a local government either by resolution, in relation to land designated in an official community plan (OCP), in a rural land use bylaw (RLUB), or by a separate bylaw for land not in an OCP or RLUB. CRD rural land use bylaws all allow Temporary Use Permits in all land categories, while some of the CRD official community plans (OCPs) limit TUPs to specific designations. Local government can delegate the decision to issue a Temporary Use Permit to staff; however, public notification is still required by way of a sign and newspaper advertisement. It should also be noted that Temporary Use Permits are restricted in Interlakes Area OCP and the Williams Lake Fringe Area OCP.

If the property subject to the temporary use permit application is not within an RLUB or an OCP, and the permit must be issued under a bylaw, then a public hearing is required in addition to the public notification and the decision cannot be delegated.

The CRD recently created a Temporary Use Permit process specific to recreational vehicles (RV's). Similarly a TUP process could be created specific to shipping containers. The strength of a TUP versus amending the zoning bylaw would be allowing staff to create very specific criteria related to the number, size, placement, screening, and prohibitions/conditions of use, as well as providing for a mechanism for enforcement in either cancelling the permit if the term of the permit is not adhered to, or simply by recommending not to renew the permit. Further, as the landowners would have to apply for an application requiring their signature and understanding that the board or its delegates have the power to impose conditions, it is more enforceable (a list of conditions would be pre-established for all shipping container applications as in the TUP for RVs). Perhaps the fee bylaw for TUP for shipping containers could be somewhat reduced as to not void the affordability factor in selecting a shipping container in the first place.

Development Permit Process:

One local government in the list reviewed, elected to regulate shipping containers using the development permit process, as defined in their official community plan. This innovative way provides requirements associated with form and character of the containers, placement and screening, and specifies which designations where they would be allowed. This regional district considers shipping containers as structures and requires building permits for them which triggers the Development Permit (DP).

DP's are regulated under the *Local Government Act* Division 7, Section 489. DP's are usually incorporated into official community plan policies, and can also be incorporated into the land use portion of the RLUB, such as in the CRD North Cariboo Rural Land Use Bylaw No. 3505, 1999, Section 3.12 Kersley Aquifer Development Permit Area. Since the CRD is not entirely covered by official community plans or rural land use bylaws, issuance of development permits would not be applicable to all lands, leaving a segment of properties with no avenue to legalize the placement and use of shipping containers.

Stand-alone Bylaw:

Planning staff investigated the possibility of a stand-alone bylaw specific to shipping containers but did not find any other jurisdiction that has a similar process. With regards to powers given to regional districts in the *Local Government Act* to establish regulatory services, two types of services allow for regulating land use and establishing criteria for buildings and structures under a bylaw. They are the zoning bylaw and building bylaw mechanisms, which have been previously discussed. LGA Section 335 allows regional districts to establish a bylaw for a service other than a regulatory service, but the service must be defined and should be justifiable, voter assent would be required, and the service would need to be funded via taxation and/or

application. This process would be cumbersome for shipping containers as they are not for the benefit of the entire electorate but rather for a few select landowners who choose containers as opposed to constructing an ancillary building. An example of a non-regulatory service created by the CRD was for funding Search and Rescue for the safety and benefit of all residents and travelling public visiting the Cariboo.

4. Summary:

The review of municipalities shows that most local governments in BC are selecting to regulate shipping containers as a land use, mostly within the general provisions of their zoning bylaw. There are a number of options available to the CRD for universal coverage:

Option #1

Amend the zoning bylaws and RLUB to define shipping containers so as not to be considered a building or structure. Specifically prohibit shipping containers in the zoning bylaws and RLUB. Create a guidance document for a Temporary Use Permit for a Shipping Container. This will result in a permit process within OCP areas and the RLUBs for which the decision could be delegated to staff and will still require public notification. The fees and charges bylaw would be amended to reduce the fee from \$700 to a lesser amount. It should be noted that there will be areas where a TUP is obtained; a bylaw must be created for that application which is a lengthy and expensive process (outside an OCP or RLUB).

Option #2

Amend the zoning bylaws and RLUB's to define shipping containers so as not to be considered a building or structure. The shipping containers could not be altered. Include regulation for shipping containers in the general provisions of the zoning bylaw or RLUB. Create educational material to inform people of the requirements and potential hazards. Determine an enforcement policy either by complaint or proactive.

Option #3

Create a Development Permit (DP) Area for Shipping Containers wherein a permit would need to be obtained, this would also allow for additional requirements in specific areas e.g. cladding. This DP process would be in addition to the regulation for shipping containers in the zoning bylaw and more specific form and character criteria may be included if desired. This would require amending all seven official community plans and three RLUB's to create the Development Permit Areas. There will be some areas where a Development Permit will not be required but the general regulation in the zoning bylaw will still be in place. To reduce the time in issuing the permit, criteria could be set by the Board and the decision may be delegated to staff.

Recommendation:

The Board has indicated that they would like a permit process and therefore staff recommends Option #1 for a TUP process and alternatively if the Board does not want a permit process, Option #2 for amending the zoning bylaws and RLUBs.

Local Government	Shipping Containers permitted/not permitted	Bylaw/Application	Permanent use	Zones permitted	Allow in Residential zones
Brantford (Ont)	Proposing zoning bylaw amendment to allow in residential zones	Not specifically defined or regulated - if used as storage structure then considered building then building permit required.			
Central Okanagan RD	n/a				
Columbia-Shuswap RD	n/a				
District of Vanderhoof	n/a				
District of Chetwynd	permitted	Zoning Bylaw (General provisions - ancillary section)	allowed	Agricultural, rural, commercial, industrial zones and Airport zone	Prohibited in residential zones, institutional and nature conservation area
District of 100 Mile House	permitted	Zoning Bylaw (General provisions - own section)	allowed	all zones except residential	No
District of Summerland	permitted	Zoning Bylaw (General provisions - Accessory Buildings and Structures)	allowed	all zones except residential	No
District of Squamish	permitted	via Development Permit. Not in zoning bylaw	allowed	n/a	n/a
Ladysmith	permitted	Zoning Bylaw (General provisions - own section)	allowed	Industrial, institutional, and marine zones	No
Melfort (Sask)	permitted	Zoning Bylaw	allowed	Industrial zones, Highway Commercial and Shopping Center Commercial Districts	No
District of Mission	prohibited	(considering zoning amendment bylaw to allow)			
New Westminster	permitted	Zoning Bylaw	allowed	M1 and M2 Industrial zones, and in other zones as detached accessory structure (to be used as shed or storage building)	yes
North Cowichan	permitted	Zoning Bylaw	allowed	Industrial zones	No
Port Coquitlam	Proposing a Temporary Building and Structures Policy prior to zoning amendment to allow shipping containers		Proposed for storage only	Proposed in industrial, highway commercial, institutional and agriculture zone	Proposed to prohibit in residential

Prince George	permitted	Zoning Bylaw (General provisions - outdoor storage)	allowed, but must be fully enclosed within a building or structure	Some residential zones, commercial zones, institutional zones, and site specific zones	yes
Smithers	permitted	Zoning Bylaw (within zone)	allowed	C-3, M-1, M1-A, and M-3	No
Squamish-Lillooet RD	permitted	Zoning Bylaw (General provisions - own section)	allowed	Agriculture, Rural Resource and Backcountry Commercial	No
Terrace	permitted	Zoning Bylaw (General provisions - own section)	allowed	C 3, M1, M3, ASC, GSC and AO zones	No
Thompson-Nicola RD	permitted	Zoning Bylaw (General provisions - own section)	allowed	Most zones but not residential zones	No
Whistler	permitted	Zoning Bylaw (General provisions - own section)	allowed	industrial and commercial	No
Williams Lake	permitted	Zoning Bylaw (General provisions - own section and as per zoning allows)	allowed in some zones	Commercial, industrial and institutional zones, Acreage Reserve zone, and 60% of CD zones	No

City of Brandford reviewed 10 other municipalities in Ontario vis-à-vis shipping container and results are as follow:

Number of municipalities prohibiting:	7	
Number of municipalities allowing:	1	permitted as accessory building
Number of municipalities no regulations:	2	
Total:	10	

Local Government	Restrictions on # of container	Restrictions on size of container	Screening Required	Ventilation Required	Siting Restrictions
Brantford (Ont)	n/a	n/a	n/a	n/a	n/a
Central Okanagan RD	n/a	n/a	n/a	n/a	n/a
Columbia-Shuswap RD	n/a	n/a	n/a	n/a	n/a
District of Vanderhoof	n/a	n/a	n/a	n/a	n/a
District of Chetwynd	No	No	No	No	setback
District of 100 Mile House	1 per parcel, parcel greater than 0.4 ha an additional one permitted	No	yes	No	yes
District of Summerland	one only	No	No	No	setback
District of Squamish	No	No	yes, in DP areas 2 to 10, and 12	no but motion sensor safety lighting is required	yes, setback
Ladysmith	max 3 per parcel	Yes, no longer than 13 m, no wider than 2.5 m	No	No	yes
Melfort (Sask)	max 3	Yes, 12.5 m long, 2.5 m width	no		yes
District of Mission	n/a	n/a	n/a	n/a	n/a
New Westminster	not specified for non-industrial zone	No	cladding for non industrial	No	No
North Cowichan	max 2 in I1 zone, max 10 in I2 zone	No	No	No	No
Port Coquitlam	n/a	n/a	n/a	n/a	n/a
Prince George	No	No	to be enclosed within a building	No	No
Smithers	No	No	in some zones	No	in some zones
Squamish-Lillooet RD	Max 2 per parcel	Yes, 12.19 m (40 ft).	yes	No	yes, setback in accordance with zone
Terrace	one per 0.4 ha per parcel, to a max of 2 in C 3, 4 in all other zones except for M2 where no limit	height	yes	No	yes
Thompson-Nicola RD	1 per parcel in agricultural, rural zones, 2 in commercial and institutional zones, industrial zones not specified amount	Yes, 12.5 m	for lakshore lots		yes
Whistler	No	No	No	yes	No
Williams Lake	No	No	No	No	yes