

COWICHAN VALLEY REGIONAL DISTRICT

SCHEDULE B – BYLAW XXXX TEMPORARY USE PERMIT AREAS

Conditions and Guidelines



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INTRODUCTION

Basis for Designation

Sections 492 to 497 of the *Local Government Act* describe the general requirements and options for the designation of temporary use permit areas.

A Temporary Use Permit (TUP) is an approval from the CVRD Board for a temporary land use that does not conform to a Zoning Bylaw. A Temporary Use Permit may be issued for a period up to three years and can only be renewed once for an additional 3 years. If a TUP is approved, it is registered at the Land Title Office.

Section 503 of *The Local Government Act* requires that the CVRD provide notice to the Land Titles Office upon the issuance, amendment, and/or cancellation of a temporary use permit. The terms of the permit can then become binding on anyone that acquires an interest in the land (i.e., not just an owner), unless otherwise specified in the permit.

A Temporary Use Permit may do one or more of the following:

- Allow a temporary use not permitted by the Zoning Bylaw.
- Specify conditions under which the use may be conducted
- Allow and regulate the construction of buildings or structures in respect of the use for which the permit is issued.

Prohibitions:

Once a temporary use permit has been issued, the temporary use may only be carried out in accordance with the terms and conditions of the permit. In the event that a temporary use permit expires or is revoked prior to expiry, all uses must be consistent with the applicable zoning bylaw.

Activities Affected

A temporary use cannot be established until a TUP has been approved by Board resolution. Further, as every property and development proposal is unique, there is no guarantee of approval. If a TUP is approved, the use must cease upon expiration of the permit. When a TUP expires, the temporary use ceases, and the lands must be restored to a condition specified in the permit. The CVRD may require securities for restoration. Some of these guidelines include the requirement for securities under section 504 of the *Local Government Act*.

Lands designated for temporary use within the Electoral Areas of the CVRD are intended to ensure that temporary uses have a beneficial aspect for the community and have little or no negative effect upon residential uses or the natural environment. It is anticipated that adverse impacts shall be mitigated by the terms and conditions of a TUP.

TUPs are a unique tool as they can be used to temporarily alter land use without a public hearing. TUPs are also not always subject to OCP land-use designation consistency (i.e. in some circumstances they can be used to test a land use that would otherwise require an OCP amendment).

Information Requirements

Temporary Use Permit conditions and guidelines set out in this Schedule to Bylaw No. XXXX, is formatted for ease of use. This bylaw contemplates types of temporary uses that the CVRD Board may consider, as well as the general conditions and guidelines surrounding TUP issuance.

CVRD's Bylaw No. 4545 (A Bylaw to Establish Development Approval Information Requirements and Procedures) sets out the type of information an applicant for a Temporary use Permit may be required to provide as well as what type of appropriate professional may be required by the approving officer to prepare the report. Where applicable, a TUP guideline or condition in this bylaw may provide further guidance on specific application requirements.

The CVRD's *Development Approval Information Bylaw* authorizes a *Planner* to require additional information to support an application. This will include a site plan prepared by a BC Land Surveyor, current state of title, and copies of any covenants/easements registered on title.

For clarity, the site plan must include:

- (a) The present natural boundaries of all watercourses and associated setbacks in relation to the Riparian Areas Protection Regulation (RAPR) and Water Sustainability Act (WSA); and
- (b) Pre-development and post-development topography at maximum 1 m intervals with cadastral mapping. This topography should extend a minimum 30 m outside the subject property(s).

Definitions

These definitions apply to the Temporary Use Permit Areas only.

Accommodation Sites – means a site intended or used for the temporary/seasonal accommodation of persons for more than 30 days in recreational vehicles, park model units or tents, which do not serve as dwelling units.

Home Sales Centre – means a permanent or temporary building or structure used for a limited period of time for the purpose of marketing residential land or buildings.

Permit – means a permit issued pursuant to Division 8 [Temporary Use Permits] of the Local Government Act.

Permittee – means the person or company to whom the permit authorizing the temporary activities is issued.

Short Term Rental Use – Means accommodations provided to members of the public in a host's property, in exchange for money, for a period of less than 90 consecutive days.

- A Short Term Rental Use may be advertised via online platforms such as Airbnb, VRBO, Expedia and FlipKey, and may also be advertised on other web forums including Facebook Marketplace, or found in classified ads in newspapers.
- A Short-Term Rental Use may include an entire dwelling unit (for example, when there is more than one (1) dwelling unit on the property and the owner/occupant resides on the property, or when the owner/occupant is on vacation- for a maximum of 122 days per calendar year).

Temporary Worker Housing – *means the temporary accommodation of persons on- or near- a parcel of land where the persons are employed.*

Work-Site – *means a parcel where a commercial, industrial or agricultural is located.*

1.0 - APPLICATION CRITERIA

1.1 - General Criteria for all types of TUPs

Cowichan Valley Regional District Staff may recommend conditions to include as part of the issuance of a temporary use permit to address community interests and application requirements. Examples of potential conditions that the CVRD Board will consider are included in this document.

Application Requirements

- AR1** The application shall include a letter of rationale detailing the requested temporary use.
 - a. The rationale shall include an acknowledgement from the applicant regarding any applicable covenants and building schemes, while identifying how they have met the terms of the covenants.
- AR2** The application shall include a servicing plan, providing details on proposed water, sewer and drainage servicing (see General Conditions **G-PC11** through **G-PC13**).
- AR3** Where a development permit is required, the applicant must also apply for the necessary development permit concurrently with the TUP application. Both applications must be substantially complete.
- AR4** Any application that involves the alteration of land and/or construction of buildings shall include a landscape restoration plan prepared by a registered B.C. Landscape Architect, with associated cost estimate (provided by a qualified third party).
 - a. For natural areas, a registered professional biologist must also sign-off on the restoration plan.
- AR5** For parcels within a bare-land or building Strata, strata approval must accompany the application and shall detail the number of assigned parking spots allocated to the applicant on common property, limited common property, and (where applicable) within the applicant's strata lot.

PERMIT CONDITIONS

1.2 - General TUP Conditions

The following are example general Permit Conditions that the CVRD Board may consider:

Securities

- G-PC1.** As a condition of issuance of the TUP, the CVRD may hold a 'performance security' to ensure that the temporary use is carried out in accordance with the terms and conditions of the permit. The amount of security is subject to the CVRD's *Development Application Procedures Bylaw*.

- G-PC2.** As a condition of issuance of the TUP, the CVRD may require a professional landscape restoration plan prepared by a registered BC Landscape Architect, subject to the CVRD's *Development Information Bylaw*.

Term of Permit

- G-PC3.** The term of the Permit shall be clearly outlined and may be up to a maximum of three years.
- G-PC4.** If the conditions of the Permit are not adhered to, the Permit may be revoked, by CVRD Board Resolution, prior to the expiry date of the Permit.
- G-PC5.** TUPs can not be transferred when ownership changes. In the event of a change in ownership the new owner will need to apply for a new temporary use permit before re-establishing a temporary use. This shall include an updated 'performance bond', 'updated landscape bond' and revised 'letter of undertaking'.

Renewal

- G-PC6.** The Permit may be extended for one additional period of up to 3 years, upon application and subsequent approval by the CVRD Board.
- G-PC7.** If the holder of a TUP wishes to conduct the temporary use beyond a 6-year period, they are generally required apply for rezoning.

Impacts to Land

- G-PC8.** Upon expiry or early termination of the Permit, the Permittee shall demolish or remove any or all buildings/structures established in conjunction with the Temporary Use.
- a. The terms of the Permit shall specify the date by which the Permittee must demolish or decommission buildings/structures established in conjunction with the Temporary Use.
- G-PC9.** Upon expiry or early termination of the permit, the Permittee shall restore the lands to the condition specified in the Permit.
- a. The terms of the permit shall specify the date by which the permittee must restore the land as well as the conditions that the land shall be restored to.

Servicing

- G-PC10.** For uses that generate sewerage, a sewerage suitability assessment may be required to confirm that existing onsite sewage disposal can accommodate the temporary use (or be expanded to accommodate the temporary use).
- a. Proof of filing with Island Health will be required following approval of the permit.
 - b. If connected to a CVRD community system, sewer service connections at the property line will be decommissioned/ disconnected when the TUP ceases unless otherwise specified by the CVRD.
- G-PC11.** For uses that require water, proof of potable water shall be a condition of the permit.
- a. Depending on the type of use, a [Water System Operating Permit](#) may be required through Island Health (and proof of securing the permit shall be required)

- b. Depending on the type of use, a provincial water licence may be required and proof of securing the license shall be required).
- c. If connected to a CVRD community system, Water service connections at the property line will be decommissioned/ disconnected when the TUP ceases unless otherwise specified by the CVRD.

G-PC12. No alteration to the natural drainage, construction or excavation shall be undertaken on any portion of the subject property unless:

- a. A grading, drainage, and stormwater management plan has been prepared by a qualified professional;
- b. A [letter of professional assurance and commitment for field review](#) may be required depending on the scale of development; and,
- c. An erosion and sediment control plan may be required.

Additional Approvals

G-PC13. Additional Provincial or CVRD permits/approvals (e.g. a development permit) may be required as conditions of the TUP approval, or may be required following approval of the TUP.

2.0 - SPECIFIC TUP CONDITIONS AND APPLICATION REQUIREMENTS BY USE CATEGORY

2.1 - Temporary Accommodation in RVs Use

Application Requirements

RV-AR1 Applications for accommodation in temporary/seasonal CSA-Z241 Park Model Trailer, CSA Z240 RV Recreational Vehicle will only be considered on land that is classified as a farm under the [Assessment Act](#), or in conjunction with temporary worker housing for multi-unit, commercial, or industrial development.

RV-AR2 Applications for accommodation in temporary/seasonal structures must provide a plan of the following:

- a. Water connection/services;
- b. Waste water (sewage) disposal;
- c. Solid Waste; and,
- d. Provision of electricity to the temporary structure.

RV-AR3 Applications for accommodation in temporary/seasonal structures must provide a 'temporary accommodation site' plan showing the proposed location of the accommodation unit as well as any amenities (e.g. picnic tables, gazebos, parking areas, etc.).

RV-AR4 Where applications propose to provide both an 'accommodation site' as well as a CSA Z240 RV Recreational Vehicle, [proof of insurance](#) for the Recreational Vehicle must be provided.

The following are example permit conditions that the CVRD Board may consider for applications that include temporary accommodation in RVs:

RV-PC1. Notwithstanding the general permit condition '**G-PC5.**' the term of a TUP for temporary accommodation may be limited to a term of less than 3 years.

- RV-PC2.** The term of a TUP for temporary accommodation within a CSA-Z241 Park Model Trailer, CSA Z240 RV Recreational Vehicle, or other structure suitable for seasonal workers may be limited to **April 1st – September 30th** of each calendar year, or for a reduced term as specified in the TUP.
- RV-PC3.** The temporary seasonal accommodation site shall be situated in accordance with the minimum prescribed setbacks for an accessory building for the applicable zone.
- RV-PC4.** The temporary seasonal accommodation site shall be screened from adjacent lands or public roads with a min 2.0m tall vegetation buffer or fence.
- RV-PC5.** The temporary seasonal accommodation site shall be located on the parcel for which the temporary workers are associated with.
- a. Where it is not possible to host ‘accommodation sites’ on a worksite, consideration may be given to adjacent parcels, or on other lands owned by the business that the seasonal workers are associated with. Traffic, neighbourhood impacts, and a reduced term of permit may be considered in these circumstances.
 - b. Where it is not possible to host ‘accommodation sites’ on a worksite, the Temporary Worker Housing Use conditions and application requirements shall also be applicable.
- RV-PC6.** Temporary structures are not permitted on any vacant parcel unless a valid building permit for a permanent single detached dwelling has been issued.

2.3 - Short Term Rental Use

Application Requirements

- STV-AR1** Applications for short-term rentals shall include a primary, secondary, and tertiary contact for the Operator.
- STV- AR2.** A short-term rental may only be considered within a suite (attached or detached) provided that the rental vacancy rate within the respective electoral area is 3% or higher has been maintained for at minimum two consecutive years.

The following are example permit conditions that the CVRD Board may consider for applications that include Short Term Rentals:

- STV-PC1.** A short-term rental may only be located on a parcel where the owner’s principal dwelling is located, and the owner must be present for the duration of rental occupancy.
- STV-PC2.** On-site Parking shall be provided (2 for the use) in addition to the parking required for the owner’s principal dwelling.
- STV-PC3.** The maximum number of adult occupants that can occupy a short-term rental is eight (8).

2.5 - Specific Commercial Uses

Application Requirements

- CA-AR1** Commercial uses shall generally only be considered for properties that are already zoned Commercial or Industrial.

The following are example permit conditions that the CVRD Board may consider for applications for Commercial Uses:

CM-PC1. Where a temporary commercial use is proposed must be sited in an existing building.

2.6 - Specific Industrial Uses

Application Requirements

IND-AR1. Industrial uses shall generally only be considered for properties that are already zoned Industrial.

The following are example permit conditions that the CVRD Board may consider for applications for Industrial Uses:

IND-PC1. No concrete, asphalt, construction or demolition debris, petroleum products, food waste, land clearing waste, yard waste, or any non-soil material shall be brought onto the parcel.

IND-PC2. No hazardous materials are brought to, or stored on, the subject property. It is the responsibility of the applicant/owner(s) to ensure that any required permits from other government agencies have been secured prior to commencing the temporary use.

IND-PC3. A site investigation report, prepared by a qualified professional, shall be required within 60 days of expiry, or early termination, of the TUP to confirm that TUP activities have not caused contamination of the parcel.

- a. A copy of the site investigation report shall be prepared by a qualified professional with a professional cover letter to verify that the temporary use area is free of fuel or hazardous materials contamination and refuse, and has been restored to the conditions specified in the permit.
- b. In the event that hazardous materials are discovered, the owner is responsible for containment, removal, and remediation. In such an event, the CVRD must be immediately notified in writing.

2.8 - Temporary Worker Housing Use

Application Requirements

WC-AR1. Temporary Worker Housing uses shall generally only be considered in commercial and/or industrial areas.

- a. Temporary Worker Housing uses for farm workers may be considered on agricultural land that is classified as a farm under the [Assessment Act](#), and designated as agriculture under the OCP.

WC-AR2. Temporary Worker Housing associated with an Agricultural Uses shall require a restoration plan. The restoration plan described in 'G-PC2' shall be completed in consultation with a qualified agrologist.

- a. Consideration shall be given to applications that include a plan to improve the base soil characteristics of the property to provide a clear benefit for agriculture in the long-term.
- b. Temporary Worker Housing associated with an Agricultural Uses shall not be situated within the Agricultural Land Reserve without an ALC approval. An

application to- and approval by- the Agricultural Land Commission shall be required concurrently with the TUP application.

WC-AR3. Proof of all necessary permits required through the Ministry of Transportation and Infrastructure as well as Island Health are to be provided to the CVRD prior to approving the temporary use.

2.9 - Market/Festival Use

Application Requirements

MA-AR1. A Temporary Market/Festival Use may be established for a seasonal use (e.g. weekend markets for a portion of the calendar year), or for an event (e.g. an annual music festival). A Temporary Market/Festival Use is not intended to operate year-round.

The following are example permit conditions that the CVRD Board may consider for applications for a temporary market or festival use:

MA-PC1. Issuance of a Temporary Use Permit does not relieve the owner/operator from obtaining a special event permit.