

TO: Mr. Bill Newell, Chief Administrative Officer and RDOS Board of Directors

The Anarchist Mountain Community Society (AMCS) has been contacted by a number of residents on Anarchist Mountain (AM) concerning recreational vehicle (RV) use on private property. In particular, residents have referenced letters received from the RDOS with respect to RV use and follow-up telephone conversations with RDOS Bylaw Enforcement in regards to the said letters.

While the AMCS does not have an opinion on RV use, we do recognize that RVs are common-place on private property. The AMCS does, however, have the following concerns with the approach by the RDOS to address the matter of RV use on private property.

1. Zoning Bylaw 2451 08, updated January 07, 2021, reference 7.14 is not sufficiently clear.

7.14 Accessory Temporary Buildings, Mobile Buildings, Recreational Vehicles

.1 A temporary residential building or structure is permitted on a parcel provided that:

a) it is incidental to the construction of a principal residential dwelling;

b) it meets the siting regulations of the zone in which it is located; and

c) it is removed within thirty (30) days of the completion of the construction of the principal residence.

Specific Concerns:

- This Bylaw does not define 'Accessory Temporary Buildings' or 'Mobile Buildings'. While it does define RVs, it does not define 'temporary residential building or structure'. Based on this language, RVs have been and are being used to accommodate property owners while working on their building project. Recreational vehicles are interpreted as acceptable use for the purpose identified under this article.

- There is no reference to a 'Building Permit' in the bylaw language, yet the RDOS is referencing Building Permits in conjunction with RV use.

- Connecting to power, installing a septic system, connecting the well and checking soil and subsurface geology for siting and bearing capacity, are all necessary work and frequently undertaken prior to submitting for a Building Permit. This work is 'incidental to the construction of a principal residential dwelling' – as referenced in 7.14.1a). Owners frequently reside on site in an RV to direct this work and while their homes are being built.

These types of service installation and site preparation work do not require a Building Permit. This work is permitted by other authorities.

Therefore, for the RDOS to insist that property owners require a *Building Permit* prior to using an RV is contrary to the current Bylaw language.

- The RDOS is clear that any building or structure greater than 100 square feet in area and ten feet in height requires a Building Permit, and that Building Permits are not issued for other structures prior to issuing a Building Permit for a Principle Dwelling. This then becomes a circular instruction that is not clear within Bylaw 7.14 and, as such, is open for interpretation by property owners.

1. Zoning Bylaw 2451 08, updated January 07, 2021, reference 7.4.2, includes the statement that, 'The use of a tent or recreational vehicle as a permanent residence is prohibited.' This is clearly stated within the Bylaw and is not open to interpretation.

RDOS Process Issues Related to Zoning Bylaw 2451.08

1. Observed Inconsistencies with the *Local Government Act*?

On the September 2, 2021 Board Agenda, the RDOS tabled changes to Zoning Bylaw 7.14 - specifically, referencing changes related to the use of RVs on private property. At the same time, the RDOS was sending letters of non-compliance to land owners who had an RV on their property. Making changes to Bylaws while engaging in Bylaw enforcement action without prior community engagement in relation to the Bylaw change is inappropriate and in contravention of the requirements within the Local Government Act. This is not only confusing but not defensible behaviour for a local government.

-The AMCS is concerned that this referenced Bylaw article has never contained any reference to a 'Building Permit', yet RDOS staff are applying this interpretation and writing land owners inappropriate letters based on this interpretation.

- While changes to article 7.14 have been recommended to the RDOS Board, the Bylaw approval process as outlined in the *Local Government Act* has not been completed, nor has there been a request for public input to these proposed changes.

2. Staff interactions with land owners

The approach by staff of sending threatening letters referencing a Bylaw that is in the process of being revised and using misguided and/or inaccurate information as the basis for their action is inappropriate and in contradiction of the principles of good governance and positive community relations.

When property owners have contacted RDOS Bylaw Enforcement to understand the intent behind the letters they received, staff have:

- Provided their own interpretation of Bylaws and advised that the RDOS would not provide any clarity on the Bylaw and that, should a land owner need clarity, they need to approach the BC Supreme Court to get this clarity [NOTE: This is not aligned with what the Ministry of Municipal Affairs states – see below],
- Suggested that any work the land owner was undertaking on their property was simply to enhance their 'camping' experience [NOTE: On the basis of this comment, it is clear enforcement staff is not familiar with the extent of work and time required to prepare site services related to the siting and construction of a home. It would be helpful if the RDOS could confirm whether this personal opinion is reflective of RDOS policy?]
- Suggested the RDOS Board of Directors directed Bylaw Enforcement to "address the developing trend on Anarchist Mountain where property owners are living on their properties with no intent to build a home in the near future"; [NOTE: Many property owners on Anarchist Mountain have chosen – for numerous reasons – to stay in an RV as they begin the process of preparing their site for services connections and during the construction of their home and any accessory buildings. There is NO developing trend – this approach has been and continues to be the most logistically practical and economical way to approach a new home build.] The pre-construction and construction process takes considerable time for many reasons, including the RDOS timeline for issuing Building Permits which is now estimated at 8 to 12 weeks.
- Stated that any appeals to this Bylaw infraction action would only be 'resolved' by an RDOS employee and the land owner would incur all associated costs [NOTE: Again, this is not the process stated by the Ministry of Municipal Affairs],
- Advised that all residents who have built homes on Anarchist Mountain are unhappy with respect to persons using RVs on properties and want all RVs removed [NOTE: This generalized statement is not factual, nor is it reflective of the sentiment of community residents that have approached the AMCS].
- Anarchist Mountain residents have also asked the RDOS for clarification about the number of complaints it has received about RVs, as well as the nature of the complaints (e.g. * They were told RDOS staff did not track telephone complaints)
- It is not clear if the RDOS has a Bylaw enforcement officer(s). However, residents have approached a suspicious person driving the neighbourhoods and entering various properties. When approached, the vehicle occupant was evasive. There were no identifiable markings on the vehicle. The male occupant had a crest on his shirt, but did not identify as working for the RDOS. To our knowledge the Local Government Act outlines protocol around

notice to private land owners about property access and the purpose of the access. It is not apparent the RDOS is following recommended protocol. Residents are concerned with any suspicious people in neighbourhoods given the history of B&E crime in the community.

On behalf of Anarchist Mountain residents, the AMCS is requesting:

- A. the RDOS – retract the Bylaw Enforcement demands sent to land owners in letters dated August 25/21 with respect to RV use on their property;
- B. the RDOS request and document input from land owners in Area A with respect to RV use *PRIOR TO* changing the current Zoning Bylaw language;
- C. the RDOS adopt best practice Guidelines (attached) as provided by the BC Ombudsperson’s Office for the practice of Bylaw Enforcement.
- D. The AMCS would appreciate confirmation about how and when the RDOS track and record complaints received by phone or in writing, especially as it relates to any follow-up action that may be required to address a valid complaint.

Advice from the Ministry of Municipal Affairs website:

The following information is provided on the Ministry of Municipal Affairs website. Sections specific to the above concerns being raised by the AMCS in regards to Bylaw 2451 08 are highlighted in yellow.

Resolving Local Government-Related Concerns

Members of the public have several options if they have concerns about local government conduct, including

- *Contacting staff and elected officials of the relevant local government to bring concerns directly to their attention.*
- *Contacting staff in the Ministry of Municipal Affairs who can often answer questions about local government legislation and authority.*
- *Contacting the [Office of the Ombudsperson](#) if a person feels they have been treated unfairly by a local government body on a particular decision or other matter directly affecting that person.*
- *Contacting the [Office of the Information & Privacy Commissioner](#) if a person feels that their privacy rights have been compromised or that they are not being given access to records to which they are legally entitled and for which their request for access has been denied.*
- *Contacting the auditor for the relevant local government if a person considers that a specific financial matter is not authorized under legislation, or there has been a misuse or other irregularity in the financial holdings of the local government.*
- *Initiating a judicial review in the British Columbia Supreme Court if an elector has evidence that its local government acted beyond its legislative authority in passing a bylaw or making another decision, or acted contrary to the legal rules of administrative fairness. Please be advised that independent legal advice is essential before considering a legal challenge.*

General Process for Bylaw Amendments & Repeals

Unless otherwise specified in legislation, amendment and repeal bylaws are subject to the same approval and other requirements as the power to adopt a new bylaw under that authority. For example, if a municipal council or regional district board wanted to amend a zoning bylaw it would need to hold a public hearing after second reading of the amendment or repeal bylaw before it could adopt the amendment bylaw.