

## ADMINISTRATIVE REPORT

**TO:** Advisory Planning Commission  
**FROM:** B. Newell, Chief Administrative Officer  
**DATE:** March 8, 2016  
**RE:** Update of Agriculture Zones and Regulations  
Electoral Area “D”



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### Proposal:

The Regional District is proposing a number of updates to the agricultural regulations and zones comprised within the Electoral Area Zoning Bylaws, as well as a number of minor housekeeping measures.

### Background:

At its meeting of October 3, 2013, the Planning and Development (P&D) Committee directed staff to introduce a uniform definition of “winery” into the Electoral Area Zoning Bylaws in order to allow for the sale of other “made in BC” alcoholic beverages (i.e. beer).

At its meeting of July 17, 2014, the P&D Committee further directed staff to undertake the following amendments to the Electoral Area Zoning Bylaws:

- *updating the “Keeping of Livestock” regulations;*
- *updating the “Setbacks for Buildings, Structures & Farm Areas for Farm uses” regulations and applying these to the Resource Area (RA), Agriculture (AG1, AG2 & AG3); Large Holdings (LH) and Small Holdings One (SH1 & SH2) Zones;*
- *introducing General Regulations related to kennel facilities;*
- *introducing a new definition of “agriculture, limited” to be applied to Small Holdings (SH3, SH4 & SH5) Zones.*

The issue before the P&D Committee was pending enforcement action against a property owner on the West Bench (Electoral Area “F”) who had exceeded the number of horses permitted on a parcel less than 1.0 hectare (ha) in area.

In 2012, a legal review of the new zoning bylaw for Electoral Area “H” highlighted a number of updates that are applicable to the other Electoral Area Zoning Bylaws (i.e. deletion of references to the ALC Act & Riparian Assessment Area) that are now proposed to be carried forward.

In addition, between 2011 and 2014 the Regional District adopted two Agriculture Area Plans (AAPs) for Electoral Areas “C” (Oliver) and “A” (Osoyoos) which introduced new zoning provisions for “temporary farm labour accommodation”. Administration considers there to be merit in extending these provisions to the other Electoral Areas.

In 2014, the Okanagan Basin Water Board (OBWB) advised the Regional District that any zoning regulations permitting carriage houses or accessory dwellings on parcels less than 1.0 ha in area was in contravention of the “1.0 ha Policy” and could jeopardize future funding grants. This is primarily an

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issue in the AG1 Zone that applies to Electoral Area “E” (Naramata), but is also present in the “D-1” Zoning Bylaw, which allows for secondary suites in accessory building (i.e. carriage houses).

Finally, through the day-to-day use of the zoning bylaws, staff have identified a number of minor textual errors, inconsistencies or outdated references that require amendment (i.e. expansion of the “winery and cidery” use in the AG Zones to include a reference to breweries, distilleries and meaderies following changes to the ALR regulations in 2015).

### **Analysis:**

Due to the scope of the proposed changes to the various Electoral Area Zoning Bylaws, an annotated version of the proposed amendment bylaw is available for review by the APC via the Regional District’s web-site ([www.rdos.bc.ca](http://www.rdos.bc.ca) → Departments → Development Services → Planning → Projects → Update of AG & Livestock Regulations).

For discussion purposes, however, this report will provide an overview of the more substantive policy issues contained within the draft amendment bylaw:

### Keeping of Livestock Regulations:

With regard to the Keeping of Livestock regulations that are currently comprised at Section 7.24 of the Electoral Area “D” Zoning Bylaws, Administration is recommending that:

1. the ability to keep livestock (i.e. chicken, horses, ducks, rabbits, etc.) be based upon “single detached dwellings” being a permitted use in a zone, as opposed to the current requirement that “agriculture” be a permitted use; and
2. the ratio of animals to land area is modified in accordance with the table shown at Attachment No. 1.

The APC is asked to be aware that these regulations are not intended to regulate commercial agricultural operations, but the keeping of horses, goats, chickens and similar animals in rural-residential zones.

Of note, by tying these regulations to the occurrence of “single detached dwellings” as a permitted use in a zone as opposed to “agriculture”, the zoning bylaws would now allow for small livestock (i.e. chickens, rabbits, etc.) in low density residential zones. These zones, such as the RS1 and RS2, are generally found in the Okanagan Falls and Kaleden townsites, and the APC is asked to consider if this is a supportable amendment.

With regard to the number of livestock that may be kept on a parcel, the proposed amendments would not affect the current regulations for large livestock (i.e. one animal for every 0.4 ha of land area) but would introduce a more graduated ratio for smaller livestock (see Attachment No. 1).

### Setbacks for Buildings, Structures & Farm Areas for Farm uses:

Since 1998, the Regional District has relied upon a table provided by the Ministry of Agriculture to establish setbacks for specific commercial agricultural operations (i.e. silos, incinerators, livestock structures, greenhouses, etc.) in order to avoid conflict between agricultural and residential uses.

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The APC is asked to be aware that these setbacks were designed for larger agricultural parcels (i.e. greater than 4.0 ha in area) and contain a potentially unworkable requirement that the setbacks be applied to uses (i.e. the areas used by horses).

Compounding this situation is the Regional District previous linking of “agriculture” as a permitted use with the keeping of livestock (as mentioned above) in the rural-residential zones (i.e. parcels less than 2.0 ha in area). This has created situations where it becomes impossible to keep horses, despite being a permitted use in the zone, due to the 30.0 meter setback requirements for all structures and areas used by livestock — unless a variance is approved by the Board.

The Ministry addressed this by releasing an updated setback table in 2013 which generally includes setbacks only for buildings and structures and a variable setback of 15-30 meters for livestock structures.

In response, Administration is proposing to delete the current setback table for commercial agricultural uses currently found at Section 7.22 of the Electoral Area “D” Zoning Bylaws, and to replace this with a limited number of setback provisions within each of the Rural Zones, including a reduction to the setback for livestock structures from 30.0 meters to 15.0 meters.

#### Kennels:

While the revised Ministry setback standards no longer reference kennel uses, Administration considers there merit in retaining regulations for this use within the zoning bylaws. Accordingly, it is being proposed to introduce the following as a new set of general regulations:

##### ***Kennel Facilities***

*A kennel is permitted where listed as a permitted use, provided that:*

- 1. No kennel shall be permitted on a parcel less than 2.0 hectares in size; and*
- 2. All buildings, structures and areas utilized in association with a kennel shall be sited a minimum of 30.0 metres from all parcel lines.*

In addition, the APC is asked to give consideration to whether “kennels” should continue to be listed as a principal permitted use in a zone (meaning they need not be related to a residential use), or if they should be amended to an accessory use.

#### Floor Area Limitations for Agricultural Uses:

While each of the AG Zones comprise a maximum parcel coverage regulation (i.e. 15% in the AG1 Zone), in the 1990s the Regional District introduced an additional regulation that significantly restricted the floor area that could be developed for retail sales, processing, packing and storage of farm products (i.e. wineries). In the AG1 and AG2 Zones this is set at 600 m<sup>2</sup>, which, in the context of a 4.0 ha parcel, represents a maximum coverage of 1.5%.

Administration is concerned that these limits on the processing, packing, storage or retail of farm products are overly restrictive given the adverse impact other permitted uses — such as residential, agri-tourism accommodation, kennels, farm implement buildings or stables — could have on the agricultural land base of a parcel.

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Alternately, *if* the intent of these floor area restrictions is to protect the agricultural land base from being over-developed, a general reduction to the maximum parcel coverage would have been far more effective, and is precisely what was proposed by the Electoral Area “C” AAP in 2011.

In that Electoral Area, the floor area restrictions found at Section 7.23 of the Zoning Bylaw were deleted while the maximum parcel coverage in the AG1 and AG2 Zones was simultaneously reduced from 15% to 3% or 3,600 m<sup>2</sup> (whichever was the lesser) with a separate 600 m<sup>2</sup> allowance provided for residential footprints.

In recognition that the Board has supported all previous applications by wineries and packing houses to exceed these floor area restrictions, Administration favours their deletion from the Zoning Bylaw and also is in favour of reducing maximum parcel coverage in the AG Zones. Specifically, and as occurred in Electoral Area “C”, it is proposed to:

- reduce the maximum parcel coverage from 15% to 5% in the AG1, AG2 and AG3 Zones; and
- introduce a 70% coverage allowance for greenhouses (in accordance with ALC Regulations).

The APC is asked to be aware that the proposed 5% coverage represents an amalgamation of the 3% parcel coverage and the 600 m<sup>2</sup> residential footprint allowance introduced to Electoral Area “C”.

#### Temporary Farm Worker Housing:

Due to the requirements of the federal migrant farm worker program, and the need for shared accommodation facilities, the concept of a “temporary farm worker housing” was introduced into the Electoral Area “A” and “C” Zoning Bylaws between 2011 and 2014.

This provision allows for the “clustering” of the floor area that could otherwise be constructed in the form of “accessory dwellings”. By way of example, the Electoral Area “D-2” Zoning Bylaw allows a 10.0 ha parcel in the AG1 or AG3 Zones to construct 2 “accessory dwelling” units with a combined floor area not to exceed 210 m<sup>2</sup>.

Rather than construct this in the form of 2 separate dwelling units, the “temporary farm worker housing” concept allows for this floor area to be built in the form of a single dwelling unit. A comparison of the existing and proposed density provisions for the AG Zones is included at Attachment No. 3.

Administration considers that there is merit in extending this provision to the other Electoral Area Zoning Bylaws, including Electoral Area “D”, and is seeking input from the APC on this proposal.

#### Number of Dwellings Permitted Per Parcel:

The APC is asked to be aware of a minor discrepancy between the Electoral Area “D-1” and “D-2” Zoning Bylaws and the land area required to qualify for an “accessory dwelling” unit in the AG1 and AG3 Zone (i.e. 3.49 ha versus 4.0 ha).

Administration is proposing to make these consistent by increasing the requirement in Electoral Area “D-2” to 4.0 ha as this is consistent with the minimum parcel size requirement of the AG1 Zone and is further consistent with the 4.0 ha increments required to qualify for additional “accessory dwelling” units. The table provided at Attachment No. 3 is structured to reflect this proposed change.

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**Administrative Recommendation:**

**THAT the APC recommends to the RDOS Board that the proposed amendments to update the Agriculture Zones and Regulations be approved.**

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**Options:**

1. THAT the APC recommends to the RDOS Board that the proposed amendments to update the Agriculture Zones and Regulations be approved.
2. THAT the APC recommends to the RDOS Board that the proposed amendments to update the Agriculture Zones and Regulations be approved with conditions:
  - i) *TBD*
3. That the APC recommends to the RDOS Board that the proposed amendments to update the Agriculture Zones and Regulations be denied.

**Respectfully submitted:**



C. Garrish, Planning Supervisor

**Endorsed by:**



D. Butler, Development Services Manager

**Attachments:** No. 1 – Draft Keeping of Livestock Provisions

No. 2 – Comparison of Existing and Proposed Parcel Coverage & Floor Area Regulations

No. 3 – Comparison of Existing and Proposed Density Provisions (AG Zones)

Attachment No. 1 – Draft Keeping of Livestock Provisions

Current Zoning Bylaw Regulations	Proposed Zoning Bylaw Regulations
<ol style="list-style-type: none"> <li>1. On any parcel 2.0 ha or less in area, the total number of livestock, shall not exceed one (1) animal for each 0.4 ha of parcel area;</li> <li>2. Despite Section .1, on any parcel 0.4 ha or less in area, up to twenty-five (25) poultry and/or fur bearing animals is permitted.</li> </ol>	<ol style="list-style-type: none"> <li>1. One parcels less than 500 m<sup>2</sup> in area, keeping of livestock, small livestock or farmed fur bearing animals shall not be permitted.</li> <li>2. On parcels greater than 500 m<sup>2</sup> and less than 2,500 m<sup>2</sup> in area, keeping of animals shall be limited to 5 small livestock.</li> <li>3. On parcels greater than 2,500 m<sup>2</sup> and less than 4,000 m<sup>2</sup> in area, keeping of animals shall be limited to 25 small livestock.</li> <li>4. On parcels greater than 0.4 ha and less than 0.8 hectare in area, keeping of animals shall be limited to 1 livestock and 25 small livestock.</li> <li>5. On parcels 0.8 ha or greater and less than 1.2 hectare in area, keeping of animals shall be limited to 2 livestock and 50 small livestock.</li> <li>6. On parcels 1.2 ha or greater and less than 1.6 hectare in area, keeping of animals shall be limited to 3 livestock and 100 small livestock.</li> <li>7. On parcels 1.6 ha or greater and less than 2.0 hectare in area, keeping of animals shall be limited to 4 livestock and 150 small livestock.</li> <li>8. On parcels 2.0 ha or greater in area, keeping of livestock and small livestock shall be unlimited.</li> </ol>
	<p>DEFINITIONS:</p> <p><b>“small livestock”</b> means poultry, rabbit or other small animals similar in size and weight but does not include farmed fur bearing animals.</p>

Attachment No. 2 – Comparison of Existing and Proposed Parcel Coverage & Floor Area Regulations

EXISTING COVERAGE REGULATIONS – AG ZONES	PROPOSED COVERAGE REGULATIONS – AG ZONES
<p><b>Maximum Parcel Coverage (AG1 Zone):</b></p> <ul style="list-style-type: none"> <li>a) 15% for parcels 2,020 m<sup>2</sup> or greater in area.</li> <li>b) 35% for parcels less than 2,020 m<sup>2</sup> in area.</li> </ul> <p><b>Maximum Parcel Coverage (AG3 Zone):</b></p> <ul style="list-style-type: none"> <li>a) 10% for parcels 4,040 m<sup>2</sup> or greater in area.</li> <li>b) 35% for parcels less than 4,040 m<sup>2</sup> in area.</li> </ul>	<p><b>Maximum Parcel Coverage:</b></p> <ul style="list-style-type: none"> <li>a) 35% for parcels less than 2,500 m<sup>2</sup> in area;</li> <li>b) 20% for parcels greater than 2,500 m<sup>2</sup> and less than 2.0 ha in area; and</li> <li>c) for parcels greater than 2.0 ha in area:                             <ul style="list-style-type: none"> <li>i) 5%; and</li> <li>ii) 70% for greenhouse uses.</li> </ul> </li> </ul>

EXISTING FLOOR AREA REGULATIONS – AG USES	PROPOSED FLOOR AREA REGULATIONS – AG USES
<p><b>Provisions for Accessory Retail Sales and Processing, Packing and Storage of Farm products and/or Off-farm products</b></p> <p>.1 Where ‘agriculture, including sales’ is permitted in a zone, farm products, processed farm products, and off-farm products may be sold to the public by retail sale subject to the following:</p> <ul style="list-style-type: none"> <li>a) the portion of the agricultural land used for retail sales of off-farm products shall not exceed one-third of the total area used for all retail sales. For the purpose of calculating the portion of agricultural land to be used for retail sales, the area of any building or structure used for that purpose, including aisles and other areas of circulation, shelf and display space, counter space for packaging and taking payment and any area used for the service and consumption of hot and cold food items, shall be included, but any office area, wholesale storage area, processing facility or parking area or driveway, whether used for retail sale or not, shall not be included;</li> <li>b) where off-farm products are offered for sale, farm products and/or processed farm products shall also be offered for sale;</li> <li>c) the retail sales area for farm products and off-farm products shall not exceed 100 m<sup>2</sup>;</li> <li>d) in the Agriculture One (AG1) Zone the maximum floor area for</li> </ul>	<p><b>Provisions for Retail Sales of Farm and/or Off-Farm Products</b></p> <p>.1 Where “retail sales of farm and off-farm products” is permitted in a zone, farm products, processed farm products, and off-farm products may be sold to the public subject to the following regulations:</p> <ul style="list-style-type: none"> <li>a) the area used for retail sales of off-farm products shall not exceed 1/3 of the total area used for all retail sales on the parcel;</li> <li>b) where off-farm products are offered for sale, farm products and/or processed farm products shall also be offered for sale; and</li> <li>c) the retail sales area for farm products and off-farm products shall not exceed 300 m<sup>2</sup>.</li> </ul> <p>.2 For the purpose of calculating the area used for retail sales in a building or structure, the following shall be included: aisles and other areas of circulation, shelf and display space, counter space for packaging and taking payment and any area used for the service and consumption of hot and cold food items. Any office area, wholesale storage area, processing facility or parking area or driveway, whether used for retail sale or not, shall be excluded.</p>

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<p>the retail sales of farm products shall not exceed 200 m<sup>2</sup>;</p> <p>e) in the Agriculture Three (AG3) Zone the maximum floor area for the retail sales of farm products shall not exceed 400 m<sup>2</sup>;</p> <p>f) the maximum floor area of all buildings associated with the processing, packing and storage of farm products (including wineries) in a Resource Area (RA), Large Holdings (LH) or Agricultural Three (AG3) Zone shall not exceed 1,500 m<sup>2</sup>;</p> <p>g) the maximum floor area of all buildings associated with the processing, packing and storage of farm products (including wineries) in an Agricultural One (AG1) or Small Holdings One (SH1) Zone shall not exceed 600 m<sup>2</sup>.</p>	
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Attachment No. 3 – Comparison of Existing and Proposed Density Provisions (AG Zones)

EXISTING DENSITY PROVISIONS		PROPOSED DENSITY PROVISIONS																																														
<p><b>Maximum Number of Dwellings Permitted Per Parcel:</b></p> <p>a) one (1) principal dwelling unit is permitted per parcel, and the number of accessory dwellings permitted per parcel shall be as follows:</p> <table border="1"> <thead> <tr> <th align="center">PARCEL AREA</th> <th align="center">MAXIMUM NUMBER OF ACCESSORY DWELLINGS</th> </tr> </thead> <tbody> <tr> <td>Less than 4.00 ha*</td> <td align="center">0</td> </tr> <tr> <td>4.00 ha to 7.99 ha</td> <td align="center">1</td> </tr> <tr> <td>8.00 ha to 11.99 ha</td> <td align="center">2</td> </tr> <tr> <td>12.00 ha 15.99 ha</td> <td align="center">3</td> </tr> <tr> <td>16 ha or greater</td> <td align="center">4</td> </tr> </tbody> </table> <p>* The Electoral Area “D-2” Zoning Bylaw sets this figure at parcels “less than 3.49 ha”.</p>		PARCEL AREA	MAXIMUM NUMBER OF ACCESSORY DWELLINGS	Less than 4.00 ha*	0	4.00 ha to 7.99 ha	1	8.00 ha to 11.99 ha	2	12.00 ha 15.99 ha	3	16 ha or greater	4	<p><b>Maximum Number of Dwellings Permitted Per Parcel:</b></p> <p>a) the number of principal dwellings and the number of accessory dwellings and temporary farm worker housing permitted per parcel shall be as follows:</p> <table border="1"> <thead> <tr> <th align="center">PARCEL AREA</th> <th align="center">MAXIMUM NUMBER OF PRINCIPAL DWELLINGS</th> <th align="center">MAXIMUM NUMBER OF ACCESSORY DWELLINGS</th> <th align="center">MAXIMUM NUMBER OF TEMPORARY FARM WORKER HOUSING</th> <th align="center">MAXIMUM FLOOR AREA OF ACCESSORY DWELLINGS &amp; TEMPORARY FARM WORKER HOUSING PER PARCEL</th> </tr> </thead> <tbody> <tr> <td>Less than 4.0 ha</td> <td align="center">1</td> <td align="center">0</td> <td align="center">0</td> <td align="center">0</td> </tr> <tr> <td>4.0 ha to 7.9 ha</td> <td align="center">1</td> <td align="center">1</td> <td align="center">1</td> <td align="center">70 m<sup>2</sup></td> </tr> <tr> <td>8.0 ha to 11.9 ha</td> <td align="center">1</td> <td align="center">2</td> <td align="center">1</td> <td align="center">140 m<sup>2</sup></td> </tr> <tr> <td>12.0 ha to 15.9 ha</td> <td align="center">1</td> <td align="center">3</td> <td align="center">1</td> <td align="center">210 m<sup>2</sup></td> </tr> <tr> <td>Greater than 16.0 ha</td> <td align="center">1</td> <td align="center">4</td> <td align="center">1</td> <td align="center">280 m<sup>2</sup></td> </tr> </tbody> </table> <p>b) one (1) secondary suite.</p> <p>c) despite Section 10.2.5(a), for parcels situated within the Agricultural Land Reserve, all dwellings in excess of one (1) must be used only for the accommodation of persons engaged in farming on parcels classified as "farm" under the <i>Assessment Act</i>.</p> <p>d) despite Section 10.2.5(a), for parcels between 3.5 ha to 7.9 ha in area, only one (1) accessory dwelling or one (1) temporary farm worker housing shall be permitted.</p>					PARCEL AREA	MAXIMUM NUMBER OF PRINCIPAL DWELLINGS	MAXIMUM NUMBER OF ACCESSORY DWELLINGS	MAXIMUM NUMBER OF TEMPORARY FARM WORKER HOUSING	MAXIMUM FLOOR AREA OF ACCESSORY DWELLINGS & TEMPORARY FARM WORKER HOUSING PER PARCEL	Less than 4.0 ha	1	0	0	0	4.0 ha to 7.9 ha	1	1	1	70 m <sup>2</sup>	8.0 ha to 11.9 ha	1	2	1	140 m <sup>2</sup>	12.0 ha to 15.9 ha	1	3	1	210 m <sup>2</sup>	Greater than 16.0 ha	1	4	1	280 m <sup>2</sup>
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