

## ADMINISTRATIVE REPORT

**TO:** Advisory Planning Commission  
**FROM:** B. Newell, Chief Administrative Officer  
**DATE:** March 14, 2016  
**RE:** Update of Agriculture Zones and Regulations  
Electoral Area "E"



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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, updated definitions, etc.) 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.

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the day-to-day use of the zoning bylaws, staff have identified a number of minor textual errors, inconsistencies or outdated references that require amendment (i.e. expansion of the

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“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 7.23 of the Electoral Area “F” 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, peacocks, etc.) in low density residential zones (i.e. Naramata townsite). The APC is asked to consider if this is a supportable amendment in Electoral Area “E”.

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 approach 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.

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. This has created situations where it becomes impossible to keep horses, despite being a permitted use in the zone due

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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 “E” 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).

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 equestrian centres — could have on the agricultural land base of a parcel.

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 on the processing, packing, storage or retail of farm products were deleted while the maximum parcel coverage in the AG 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.

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In recognition that the Board has supported all previous applications by wineries and packing houses to exceed these floor area restrictions (including a number of such facilities in Electoral Area “E”), Administration favours their deletion from the Zoning Bylaw and is also 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 Zone; 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” (see Attachment No. 2).

#### 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 “E” Zoning Bylaw allows a 10.0 ha parcel in the AG1 Zone to construct 3 “accessory dwelling” units with a combined floor area not to exceed 280 m<sup>2</sup>.

Rather than construct this in the form of 3 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. An example of the proposed changes is included at Attachment No. 3.

To a degree, this is similar to the “dormitory” type of housing that was previously permitted under the 1995 Electoral Area “E” Zoning Bylaw (for parcels greater than 8.0 ha in area).

#### Accessory Dwellings and the 1.0 ha Policy:

The APC is asked to be aware that the Okanagan Basin Water Board (OBWB) has directed the Regional District to amend its Zoning Bylaws in order to remove any allowances for accessory dwelling units on parcels less than 1.0 ha (unless connected to a community sewer system) if it wishes to continue to qualify for infrastructure grant funding.

This is an issue for Electoral Area “D-1” (which permits for *de facto* carriage houses on parcels less than 1.0 ha) and Electoral Area “E” (which allows for 1 accessory dwelling in the AG1 Zone on parcels less than 1.0 ha).

Administration is also concerned that the Electoral Area “E” Zoning Bylaw is overly generous in its apportionment of accessory dwellings in the AG1 Zone, as the other Electoral Area zoning bylaws *generally* require a minimum of 4.0 ha before a parcel is eligible for a second dwelling unit.

It is not clear what the rationale for enabling such small farming operations to qualify additional dwelling units in Naramata is, and Administration is concerned that it is unduly benefiting non-agricultural parcels, such as those created as “homesite severance” parcels for retiring farmers. Moreover, the AG1 Zone was liberalized in 2006 with the introduction of “secondary suites” as a

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permitted use, thereby providing an alternative dwelling unit option for agricultural operation which *may* truly require accessory dwelling units.

For these reasons, and in order to bring introduce consistent provisions across the Electoral Areas, Administration is proposing to increase the land area required for an accessory dwelling in the AG1 Zone to 4.0 ha (see Attachment No. 3).

Review of Site Specific Amendments:

Should the proposed amendments to parcel coverage and floor area restrictions for wineries and packinghouses be implemented, this will render a number of site specific amendments redundant. In addition, a number of other site specific amendments previously adopted to facilitate subdivision are already redundant (due to the new parcels having been created), while other AG1 site specifics, such as that related to Plexus Doors (which burned down in 2015 and permanently closed shortly thereafter) have also become redundant. Administration has reviewed all of the AG1s Zones and is proposing a majority of these be deleted from the bylaw.

Definitions:

Administration is also proposing a significant amendment to the definitions of agriculture related uses in the Zoning Bylaw. This is largely premised upon a legal review of the Electoral Area “H” that was completed in 2012, the findings of which are now proposed to be carried forward into the other zoning bylaws. A complete list of changes can be found within the draft Amendment Bylaw No. 2728 posted on the Regional District’s web-site.

The APC is asked to be aware that the proposed changes to the definitions precipitated a number of other changes to the general regulations and permitted uses in the zones to reflect the new text.

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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

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- 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:</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 200 m<sup>2</sup>;</li> <li>d) the gross floor area of all buildings associated with the retail, processing, packing and storage of farm products in an Agricultural zone shall not exceed 600 m<sup>2</sup>.</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>



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

EXISTING DENSITY PROVISIONS			PROPOSED DENSITY PROVISIONS				
<b>Maximum Number of Dwellings Permitted Per Parcel:</b>			<b>Maximum Number of Dwellings Permitted Per Parcel:</b>				
a) 1 or 2 principal dwelling units permitted per parcel shall be as follows, and the number of accessory dwellings permitted per parcel shall be as follows:			a) the number of principal dwellings and the number of accessory dwellings and temporary farm worker housing permitted per parcel shall be as follows:				
PARCEL AREA	MAXIMUM NUMBER OF PRINCIPAL DWELLINGS	MAXIMUM NUMBER OF ACCESSORY DWELLINGS	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
3.99 or less	1	1	Less than 4.0 ha	1	0	0	0
4.0 ha to 7.99 ha	1	2	4.0 ha to 7.9 ha	1	1	1	140 m <sup>2</sup>
8.0 ha to 11.99 ha	1	3	8.0 ha to 11.9 ha	1	2	1	210 m <sup>2</sup>
8.0 ha to 11.99 ha	0	2	12.0 ha to 15.9 ha	1	3	1	280 m <sup>2</sup>
12.0 ha or greater	1	4	Greater than 16.0 ha	1	4	1	350 m <sup>2</sup>
12.0 ha or greater	0	2	Greater than 8.0 ha	2	0	0	0
			b) one (1) secondary suite.				
			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> .				
			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.				