

ADMINISTRATIVE REPORT

TO: Advisory Planning Commission
FROM: B. Newell, Chief Administrative Officer
DATE: March 15, 2016
RE: Update of Agriculture Zones and Regulations
Electoral Area “C”



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the day-to-day use of the zoning bylaws, staff have identified a number of minor textual errors, inconsistencies or outdated references that require amendment (i.e. expansion of the

“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 → 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 “C” 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. The APC is asked to consider if this is a supportable amendment in Electoral Area “C”.

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

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 “C” 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, 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).

While these provisions were previously removed from Section 7.24 of the Zoning Bylaw following the implementation of the Electoral Area “C” AAP in 2011, Administration is proposing a streamlining of these regulations across Electoral Areas. This will result in a minor modification to the regulations in 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 “additional dwelling for farm labour” and “seasonal accommodation facility” was introduced into the “C” Zoning Bylaw in 2011. These provisions allow for the “clustering” of the floor area that could otherwise be constructed in the form of “accessory dwellings”.

While Administration is fully supportive of these concepts, a number of issues have arisen as a result of the implementation of these regulations and which it is now proposed to correct.

By replacing the provision for “accessory dwellings” with that of an “additional dwelling for farm labour”, the link with the regulations governing maximum floor area and height contained at Section 7.11 of the bylaw was broken. This move also rendered all “accessory dwellings” within the AG1 and AG2 Zones legally non-conforming.

Administration considers the need for a separate “additional dwelling for farm labour” use class and definition to be un-necessary, and that the link tying the use of “accessory dwellings” to farm labour can be better accommodated through a separate provision in the AG1 & AG2 Zones (see Attachment No. 3).

Also problematic is that neither the AG1 & AG2 Zones specifically list “seasonal accommodation facilities” as a permitted use.

Further, and as a result of the implementation of similar provisions in Electoral Area “A” (Osoyoos Rural) in 2014, Administration considers that the table specifying maximum density in the AG1 & AG2 Zones can be simplified and made more user-friendly (see Attachment No. 3). It is also proposed to replace the “seasonal accommodation facilities” with “temporary farm worker housing”.

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). Administration has reviewed all of the AG1s & AG2s 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 amendments to the general regulations and permitted uses in the zones to reflect the proposed new text.

Administrative Recommendation:

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

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

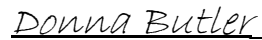
3. That the APC recommends to the RDOS Board that the proposed amendments to update the Agriculture Zones and Regulations be denied.

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"> 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; 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. 	<ol style="list-style-type: none"> 1. One parcels less than 500 m² in area, keeping of livestock, small livestock or farmed fur bearing animals shall not be permitted. 2. On parcels greater than 500 m² and less than 2,500 m² in area, keeping of animals shall be limited to 5 small livestock. 3. On parcels greater than 2,500 m² and less than 4,000 m² in area, keeping of animals shall be limited to 25 small livestock. 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. 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. 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. 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. 8. On parcels 2.0 ha or greater in area, keeping of livestock and small livestock shall be unlimited.
	<p>DEFINITIONS:</p> <p>“small livestock” 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											
Maximum Parcel Coverage:				Maximum Parcel Coverage:											
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<p><i>*Residential use buildings and structures include the principal dwelling, carport, garages, workshop, residential storage, swimming pool, tennis court and other similar residential related buildings or structures.</i></p>															

EXISTING FLOOR AREA REGULATIONS – AG USES		PROPOSED FLOOR AREA REGULATIONS – AG USES	
Provisions for Accessory Retail Sales and Processing, Packing and Storage of Farm products and/or Off-farm products		Provisions for Retail Sales of Farm and/or Off-Farm Products	
<p>.1 Where permitted in any agricultural 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"> 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 or industrial agriculture land to be used for retail 		<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"> 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; b) where off-farm products are offered for sale, farm products and/or processed farm products shall also be offered for sale; 	

<p>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;</p> <p>b) where off-farm products are offered for sale, farm products and/or processed farm products shall also be offered for sale;</p> <p>c) the retail sales area shall not exceed 300 m²;</p> <p>d) 'retail sales area' in an Agricultural zone means the floor area or dedicated outside area on which farm retail sales are taking place and includes areas used for retail purposes inside buildings and areas outside buildings. It does not include parking, driveways, office space, washrooms, winery food & beverage lounges, or areas for processing or product storage;</p> <p>e) where off-farm products are offered for sale, a minimum of 50% of the retail sales area must be devoted to the sales of farm products produced on the farm; and</p> <p>f) at least 50% of the farm product being stored, packed, prepared, or processed is produced on the farm or is feed required for farm production purposes on the farm.</p>	<p>and</p> <p>c) the retail sales area for farm products and off-farm products shall not exceed 300 m².</p> <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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Attachment No. 3 – Comparison of Existing and Proposed Density Provisions (AG Zones)

EXISTING DENSITY PROVISIONS			PROPOSED DENSITY PROVISIONS																																																																																	
<p>Maximum Number of Dwellings Permitted Per Parcel:</p> <p>a) the number of additional dwellings for farm labour and seasonal accommodation facilities permitted per parcel shall be as follows:</p> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 25%;">Parcel Area</th> <th style="width: 25%;">Maximum number of additional dwellings</th> <th style="width: 50%;">Maximum seasonal accommodation facility (saf)</th> </tr> </thead> <tbody> <tr> <td>Less than 3.5 ha</td> <td align="center">0</td> <td align="center">0</td> </tr> <tr> <td>3.5 to 7.9 ha</td> <td align="center">1</td> <td align="center">0</td> </tr> <tr> <td>8 to 11.9 ha</td> <td align="center">2</td> <td><i>OR</i> 1 70 m² additional dwelling plus saf up to 70 m² <i>OR</i> 0 additional dwellings and saf up to 140 m²</td> </tr> <tr> <td>12 to 15.9 ha</td> <td align="center">3</td> <td><i>OR</i> 2 70 m² additional dwellings <i>plus</i> saf up to 70 m² <i>OR</i> 1 additional dwelling <i>plus</i> saf up to 140 m² <i>OR</i> 0 additional dwellings and saf up to 210 m²</td> </tr> <tr> <td>Greater than 16 ha</td> <td align="center">4</td> <td><i>OR</i> 3 70 m² additional dwellings plus saf up to 70 m² <i>OR</i> 2 70 m² additional dwellings plus saf up to 140 m² <i>OR</i> 1 70 m² additional dwelling plus saf up to 210 m² <i>OR</i> 0 additional dwellings and saf up 280 m²</td> </tr> </tbody> </table> <p>OR for Parcels greater than 8 hectares:</p> <table border="1" style="width:100%; 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<p>b) Seasonal Accommodation Facilities (SAF) are only permitted under the following conditions to</p>																																																																																				

satisfy demand for seasonal farm help on parcels classified as “farm” for assessment purposes.

Seasonal Accommodation Facilities:

- i) must include no more than 15m² of private space per sleeping unity;
- ii) must include shared cooking and washroom facilities;
- iii) must meet standards contained within the *“Guidelines for the Provision of Seasonal Housing for Migrant Farm Workers in BC”*.