

ADMINISTRATIVE REPORT

TO: Advisory Planning Commission
FROM: B. Newell, Chief Administrative Officer
DATE: April 19, 2016
RE: Update of Agriculture Zones and Regulations
Electoral Area “H”



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.

Earlier, 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the day-to-day use of the zoning bylaws, staff have identified a number of minor textual errors, inconsistencies or outdated references that require amendment (i.e. expansion of the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 7.22 of the Electoral Area “A” 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 “H”.

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 “areas” (i.e. the land 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 7.21 of the Electoral Area “H” 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.*

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).

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 undertaken in Electoral Area “C” with the implementation of its 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 m² (whichever was the lesser) with a separate 600 m² 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 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:

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- reduce the maximum parcel coverage from 15% to 5% in the AG3 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 m² residential footprint allowance introduced to Electoral Area “C” (see Attachment No. 2).

Temporary Farm Worker Housing:

It is being proposed to expand the concept of the “temporary farm worker housing” (TFWH) that originated in the Electoral Area “A” and “C” AAPs to the other Electoral Area Zoning Bylaws.

In doing so, Administration is proposing to make the section dealing with the “maximum number of dwellings permitted per parcel” in the AG Zones consistent across Electoral Areas.

In the context of Electoral Area “H”, this would result in two specific changes. First, the minimum parcel area required to qualify for an accessory dwelling or TFWH be increased from 3.5 ha to 4.0 ha. This reflective of the minimum parcel size in the AG1 Zone (i.e. 4.0 ha) and is further consistent with the other land area increments required to qualify for a 2nd, 3rd or 4th accessory dwelling.

The second change would see the maximum floor area for an accessory dwelling be changed from the current provision of 140 m² for the first unit and 70 m² for each additional unit to a uniform floor area allowance of 90 m² for all such dwelling units (see Attachment No. 3). The basis for this change is to align the floor area allowance of these dwelling units with other secondary dwelling unit types (i.e. secondary suites and carriage houses) which have been set at 90 m².

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. In the context of Electoral Area “H”, this will result in only a few changes to definitions in comparison to the other Electoral Areas. 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:

Donna Butler

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 or roosters.</p>

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

EXISTING COVERAGE REGULATIONS – AG3 ZONE	PROPOSED COVERAGE REGULATIONS – AG3 ZONE
<p>Maximum Parcel Coverage:</p> <ul style="list-style-type: none"> a) 15% for parcels 0.2 ha or greater in area; b) 35% for parcels less than 0.2 ha in area. 	<p>Maximum Parcel Coverage:</p> <ul style="list-style-type: none"> a) 35% for parcels less than 2,500 m² in area; b) 20% for parcels greater than 2,500 m² and less than 2.0 ha in area; and c) for parcels greater than 2.0 ha in area: <ul style="list-style-type: none"> i) 5%; and ii) 70% for greenhouse uses.

EXISTING FLOOR AREA REGULATIONS – AG USES	PROPOSED FLOOR AREA REGULATIONS – AG USES
<p>Provisions for Accessory Retail Sales and Processing, Packing and Storage of Farm products and/or Off-farm products</p> <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 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; b) where off-farm products are offered for sale, farm products and/or processed farm products shall also be offered for sale; c) the retail sales area for farm products and off-farm products shall not exceed 300 m²; 	<p>Provisions for Retail Sales of Farm and/or Off-Farm Products</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"> 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; and c) the retail sales area for farm products and off-farm products shall not exceed 300 m². <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>

<p>.2 The gross floor area of all buildings associated with the processing, retail sales, packing and storage of farm products in an Agricultural Three (AG3) Zone shall not exceed 1,500 m².</p>	
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Attachment No. 3 – Comparison of Existing and Proposed Density Provisions (AG3 Zone)

EXISTING DENSITY PROVISIONS			PROPOSED DENSITY PROVISIONS				
Maximum Number of Dwellings Permitted Per Parcel:			Maximum Number of Dwellings Permitted Per Parcel:				
a) the number of principal dwellings and the number of accessory dwellings and temporary farm worker housing 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 ACCESSORY DWELLINGS	MAXIMUM NUMBER OF PRINCIPAL 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
Less than 3.5 ha	0	1	Less than 4.0 ha	1	0	0	0
3.5 ha to 7.9 ha	1	1	4.0 ha to 7.9 ha	1	1	1	90 m ²
8.0 ha to 11.9 ha	2	1	8.0 ha to 11.9 ha	1	2	1	180 m ²
12.0 ha to 15.9 ha	3	1	12.0 ha to 15.9 ha	1	3	1	270 m ²
16.0 ha or greater	4	1	16.0 ha or greater	1	4	1	360 m ²
8.0 ha or greater	0	2	8.0 ha or greater	2	0	0	0
b) despite Section 11.3.4(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> .			b) one (1) secondary suite.				
c) one (1) secondary suite.			c) despite Section (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 (a), for parcels between 4.0 ha to 7.9 ha in area, only one (1) accessory dwelling or one (1) temporary farm worker housing shall be permitted.				