

ADMINISTRATIVE REPORT



TO: Planning and Development Committee

FROM: B. Newell, Chief Administrative Officer

DATE: May 4, 2017

RE: Update of Agriculture Zones and Regulations
Accessory Dwelling Units; Livestock Regulations; and Protection of Farming DP Area

Administrative Recommendation:

THAT the Regional District amend Bylaw No. 2728 (Update of Agricultural Regulations) to:

- **allow accessory dwellings to be constructed within an accessory building or structure in the Agriculture zones; and**
- **allow the keeping of honey bees in the Low Density Residential zones.**

AND THAT the Protection of Farming Development Permit Area in the Electoral Area “C” Official Community Plan Bylaw No. 2452, 2008 be updated.

Purpose:

The purpose of this report is to seek direction from the Board regarding possible additions to Amendment Bylaw No. 2728. This includes the keeping of honeybees in residential zones and proposed amendments to the density provisions governing the number of accessory dwelling units (i.e. suites, mobile homes and carriage houses) in the AG Zones.

In addition, a number of changes be initiated to the Protection of Farming Development Permit (PFDP) Area in Electoral Area “C” in order to clarify the intent of this development permit area.

Background:

The proposed updating of the Agriculture Zones and Regulations is the culmination of a number of different actions, including:

- previous Board resolutions (i.e. introduction of a uniform definition of “winery”, updating of livestock regulations, etc);
- a legal review of the (then) new zoning bylaw for Electoral Area “H” which highlighted issues that are also present in the other Electoral Area zoning bylaws (i.e. deletion of references to the ALC Act & Riparian Assessment Area, updated definitions, etc.);
- implementation of Agricultural Area Plans (AAP) in Electoral Areas “C” (Oliver) and “A” (Osoyoos), which included regulations that would have merit in the other Electoral Areas; and
- day-to-day use of the zoning bylaws by staff and the resulting identification of a number of minor textual errors, inconsistencies or outdated references that require attention.

Between March and April of 2016, the proposed amendments contained within Bylaw 2728 were considered by the Electoral Area “A”, “C”, “D”, “E”, “F”, and “H” Advisory Planning Commissions (APCs), while Public Information Meetings were held in Okanagan Falls (March 8, 2016) and Penticton (March 10, 2016).

At its meeting of July 21, 2016, the P&D Committee considered comments received from the APCs and resolved to proceed with Amendment Bylaw No. 2728 subject to the minimum number of small livestock and livestock being adjusted from 1 to 2.

Analysis:

Accessory Dwelling Units:

When the Regional District introduced “carriage houses” as a permitted use in the Electoral Area “H” Zoning Bylaw in 2014, the Agricultural Land Commission (ALC) provided comment that such a use was not permitted in the Agricultural Land Reserve (ALR). Consequently, “carriage houses” were omitted from the Agriculture Three (AG3) in the Electoral “H” Zoning Bylaw.

More recently, amendments to the *Agricultural Land Reserve Use, Subdivision and Procedures Regulation*, now allow for local governments to permit “accommodation that is constructed above an existing building on the farm and that has only a single level” (i.e. a “carriage house”) as a non-farm use.

Importantly, the Regulation requires that such a dwelling unit not be in addition to a secondary suite (i.e. a parcel can have a secondary suite *or* a dwelling above a farm building, but not both), while the Commission has advised that use of the term “carriage house” should be avoided when defining these farm buildings.

To address this, Administration is proposing the following amendments:

- instead of introducing a new definition/use class for “carriage house” to the Electoral Area Zoning Bylaws, the “accessory dwelling” use and regulations be expanded to allow for these dwelling types;
- on parcels less than 8.0 ha in area allow for only one secondary suite, accessory dwelling *or* mobile home (NOTE: current regulations generally allow for a secondary suite *and* an accessory dwelling *or* mobile home on parcels between 3.5 ha to 8.0 ha);
- the removal of the provision for a second principal dwelling on parcels greater than 8.0 ha (NOTE: by proposing for the flexible use of floor area between accessory dwelling types, the provision for a second principal dwelling is seen to be redundant);
- amend the maximum height of an accessory dwelling by removing the limit of 5.0 metres and one storey in height and rely, instead, on the maximum building heights specified in the AG Zones (which is generally 10.0 metres).

Administration recognises there will be a slight decrease in density for all parcels, but that this will be offset by greater flexibility for property owners, particularly with regarding to being able to construct dwelling units within an accessory building.

In addition, to address comments received from the Okanagan Water Basin Board, Administration is proposing a new general regulation prohibiting the development of accessory dwellings on parcel less than 1.0 ha in area serviced by a septic system.

Honey Bees:

Reflecting comments by the Committee at its meeting of June 21, 2016, the livestock provisions should be amended to allow for the keeping of two animals on parcels between 0.4 ha and 1.0 ha in area.

Since this time, however, Administration has dealt with an enforcement issue pertaining to the keeping of honey bees in a residential neighbourhood and has also fielded a number of queries from residents wanting to establish a hive(s). In response, a series of proposed regulations are included for the Committee's consideration at Attachment No. 2.

The main challenge to the keeping of honey bees in residential areas is the conflict that can occur when people (with, or without their dogs) walk in front of the flight path of bees accessing and egressing the hive – particularly on smaller parcel sizes.

To address this, the Regional District's interests in regulating honey bees should only extend to parcels 2,500 m² or less (which would be Low Density Residential zoned parcels or some Small Holdings zoned parcels), and that on parcels 625 m² or less in area the keeping of bees be prohibited.

On parcels between 625 m² and 2,500 m², hives should be limited to no more than two, that the hives only be permitted in the rear of a parcel and, if they are less than 2.5 metres off the surrounding ground that they be setback either 7.5 metres from all parcel lines, or be situated behind a screen thus forcing the bees to fly up and away from hive (and over any passersby head).

On parcels greater than 2,500 m², property owners would be able to maintain an unlimited number of hives.

Chickens:

Administration is aware that a recent proposal in the Village of Keremeos regarding the introduction of backyard chickens as a permitted use in residential zones was abandoned by Council following significant public opposition to the proposal.

In light of this, Administration wishes to reiterate that the proposed changes to the Keeping of Livestock provisions in the Electoral Area Zoning Bylaws will allow for the keeping of up to five chickens (no roosters) in those zones which list "single detached dwelling" as a principal permitted use – which includes the RS Zones.

Protection of Farming Development Permit Area:

The Protection of Farming Development Permit (PFDP) Area was introduced into the Electoral Area "C" Official Community Plan (OCP) Bylaw in 2012 following the completion of that community's AAP.

The purpose of the PFDP Area is to protect farmland by mitigating conflict between agriculture and rural and urban neighbours through the creation of a 150 metre buffer within which new development should employ siting and screening measures to limit adverse impacts on adjacent farming operations.

While the Regional District has yet to issue a PFDP in the five years that the permit area has been in place, a number of improvements to mapping, guidelines and permit triggers have been identified.

This includes removing the DP Area designation from highways and the Okanagan River Channel, clarifying that the need for a permit is only triggered by subdivision and updating the guidelines that development proposals should adhere to.


Should the Board be supportive of these proposed changes, Administration is proposing to address these through a separate amendment bylaw, including consideration by the Electoral Area "C" APC.

Respectfully submitted:



C. Garrish, Planning Supervisor

Endorsed by:



D. Butler, Development Services Manager

Attachments: No. 1 — Draft Accessory Dwelling Regulations in the AG Zones

No. 2 — Draft Honeybee Regulations

No. 3 — Draft Protection of Farming Development Permit Area Guidelines & Map

Maximum Number of Dwellings Permitted Per Parcel:

- a) one (1) principal dwelling unit.
- b) the number of secondary suites, accessory dwellings or mobile homes permitted per parcel, and the total gross floor area of all secondary suites, accessory dwellings and mobile homes permitted per parcel shall not exceed the following:

PARCEL AREA	MAXIMUM NUMBER OF SECONDARY SUITES, ACCESSORY DWELLINGS OR MOBILE HOMES	MAXIMUM GROSS FLOOR AREA OF ALL SECONDARY SUITES, ACCESSORY DWELLINGS AND MOBILE HOMES PER PARCEL
Less than 8.0 ha	1	90 m ²
8.0 ha to 11.9 ha	2	180 m ²
12.0 ha to 15.9 ha	3	270 m ²
Greater than 16.0 ha	4	360 m ²

- c) despite sub-section (b), 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 *Assessment Act*.

7.23 Keeping of Livestock and Honeybees

In this Bylaw, where “single detached dwelling” is a permitted use the following regulations apply:

1. the number of livestock, small livestock and honeybee hives permitted per parcel shall be as follows:

PARCEL AREA	MAXIMUM NUMBER OF LIVESTOCK	MAXIMUM NUMBER OF SMALL LIVESTOCK	MAXIMUM NUMBER OF HONEYBEE HIVES
Less than 625 m ²	0	0	0
625 m ² to 2,500 m ²	0	5	2
2,500 m ² to 0.4 ha	0	25	Not applicable
0.4 ha to 1.0 ha	2	50	Not applicable
1.0 ha to 1.5 ha	3	75	Not applicable
1.5 ha to 2.0 ha	4	100	Not applicable

2. On parcels 2,500 m² or greater in area, keeping of honeybees shall be unlimited, and on parcels 2.0 ha or greater in area, keeping of livestock and small livestock shall be unlimited.
3. Products derived from the keeping of livestock and honeybees may be sold in accordance with Section 7.XX (Home Industry) or Section 7.XX (Home Occupation) of this bylaw, in addition to any applicable provincial regulations.
4. Honeybee hives must be located in accordance with the following:
 - a) to the rear of the principal dwelling unit; and
 - b) 7.5 metres from any parcel line, unless the underside of the hive is situated:
 - i) greater than 2.5 metres above the adjacent ground level, in which case the setback from any parcel line shall be 2.0 metres; or
 - ii) less than 2.5 meters above the adjacent ground level, in which case the setback from any parcel line shall be 2.0 metres provided the beehive is situated behind a solid fence or hedge more than 2.0 metres in height running parallel to any property line and extending at least 6.0 metres beyond the hive in both directions.

1. Category

The Protection of Farming Development Permit Area (PFDP Area) as shown on Schedule 'D' (Protection of Farming Development Permit Area) is designated as a Development Permit Area under section 488(1)(c) of the *Local Government Act*, for the protection of farming.

2. Area

The lands shown as Protection of Farming Development Permit Area on Schedule 'D' are designated as "Protection of Farming Development Permit Area". The Development Permit area includes those lands located within 150 metres of parcels designated Agriculture (AG) on Schedule 'B' (Official Community Plan Map) of this bylaw.

3. Justification

To regulate future development within lands adjacent to agricultural areas in order to minimize conflicts between farming and other non-farm uses.

.4 Background

Farming and agricultural activities provide a strong component to the economy and history of the Okanagan valley. At the same time residential development has increased throughout the valley often within close proximity to active farming areas. Conflicts between active farm practises and nearby non-farm uses continue to occur.

Addressing subdivision layout, proposed building locations and incorporating landscaping and siting buffers between new subdivisions and Agriculture zoned lands will protect the agricultural use of the lands and minimize complaints due to farming activities for the benefit of both farm and non-farm residents.

.5 Development Requiring a Permit

A Development Permit is required, except where specified under Exemptions, for a subdivision of land within the PFDP Area.

.6 Guidelines

- .1 A Development Permit is required for subdivision within a PFDP Area, and shall be in accordance with the following guidelines:
 - a) the creation of road endings or road frontages adjacent to agricultural land should be avoided.
 - b) a buffer area not less than 15.0 metres in width should be provided on each parcel adjacent to any lands designated Agriculture (AG) at Schedule 'B' of this bylaw.
 - c) a building envelope of sufficient area to permit the construction of a residential dwelling unit of reasonable floor area complying with all building and siting regulations applicable to the parcel as well as the buffer area referenced at sub-section (b) should be indicated on the survey plan.

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- d) a fence should be installed along the perimeter of a parcel where it adjoins lands designated Agriculture (AG) at Schedule 'B' of this bylaw, and prior to final approval by the subdivision approving officer.
 - e) native vegetation is encouraged to be retained, enhanced or installed within the buffer area referenced at sub-section (b).

.7 Exemptions

A PFDP is not required for any of the following:

.1 subdivisions that propose to:

- a) consolidate existing parcels, including the consolidation of parts of a closed road to an existing parcel; or
- b) alter parcel lines between two or more parcels where no additional parcels are created upon completion of the alteration.

Protection of Farming Development Permint Area

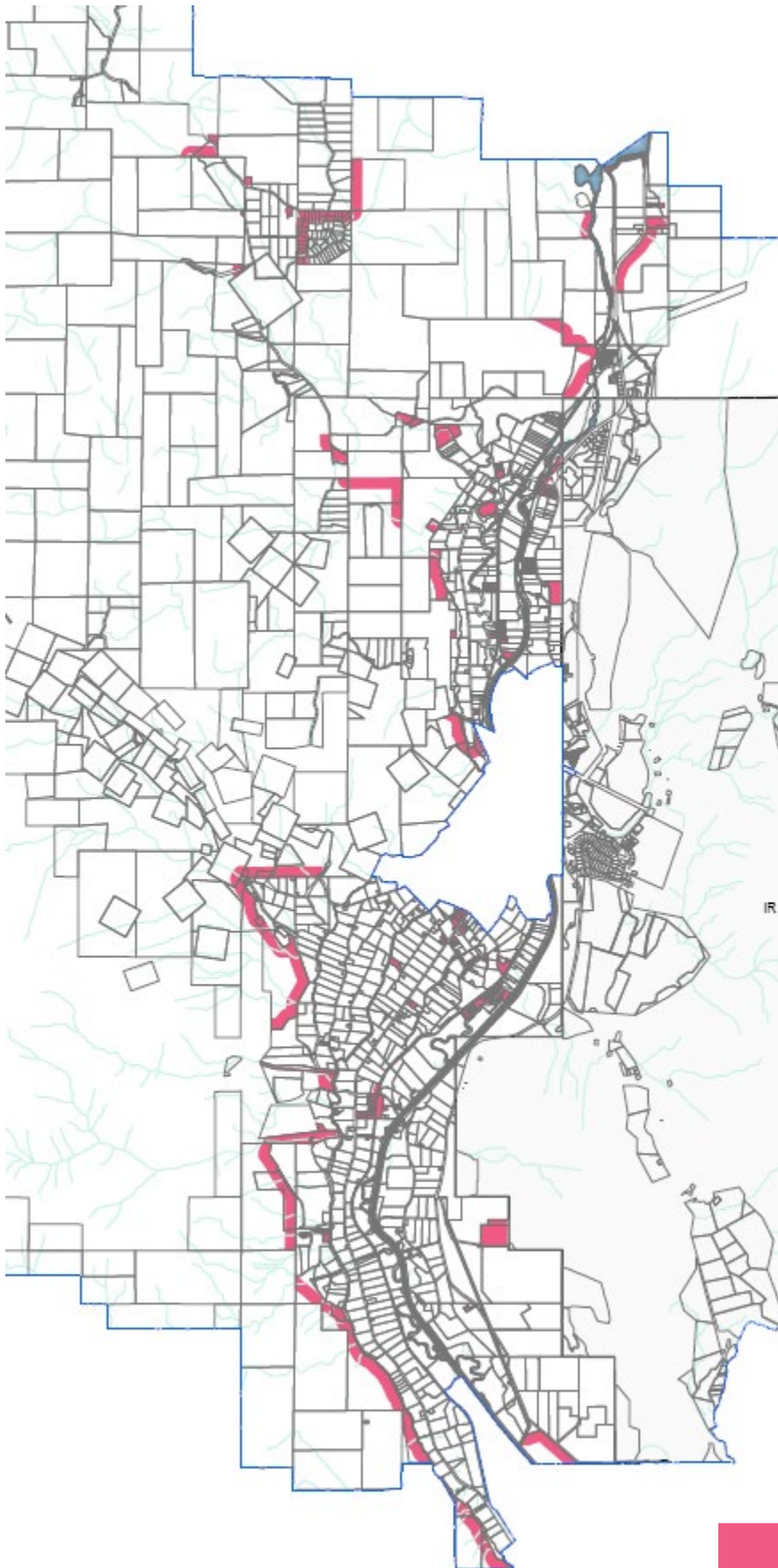
Schedule 'E' – Oliver Rural
Official Community Plan Bylaw No. 2452, 2008.




This is Schedule E (Protection of Farming Development Permint Area)
as referenced in the Regional District of Okanagan-Similkameen's
Oliver Rural Official Community Plan Bylaw No. 2452, 2008.

Chair

Chief Administrative Officer



 Protection of Farming DPA