

AG UPDATES

### RESPONSE SUMMARY

AMENDMENT BYLAW NO. 2728

- Approval Recommended for Reasons Outlined Below
- Interests Unaffected by Bylaw
- Approval Recommended Subject to Conditions Below
- Approval Not Recommended Due to Reasons Outlined Below

Signature: Cheryl E. Della

Signed By: Cheryl Hanna

Agency: HANDED PARAGONED DISTRICT

Title: Financial/Corporate Administrator

Date: June 15/17

Livestock  
BL# 278



## OSOYOOS INDIAN BAND

1155, SEN\*POK\*CHIN BOULEVARD, OLIVER BC, V0H 1T8  
PHONE: (250) 498-3444 ~ FAX: (250) 498-6577

June-22-17

Referral ID: BYLAW X2014.086-ZONE  
RTS #: 1040  
Date: May-15-17  
**Reference#: R-77-000837**

Regional District of Okanagan-Similkameen  
101 Martin ST.  
Penticton, BC V2A 5J9

**RE: 60 (sixty) day extension**

Thank you for the above application that was received on May-15-17.

This letter is to inform you that due to current levels of internal capacity, we are unable to review your referral in your proposed timeline. With additional time, the Osoyoos Indian Band will be able to ensure that an informed review process will occur. We are setting the new timeline to be 60 days from the existing timeline.

Most recently, the Supreme Court of Canada in the *Tsilquot'in* case confirmed that the province has been applying an incorrect and restrictive test to the determination of Aboriginal Title. Aboriginal Title includes the exclusive right of a First Nation to decide how that land is used and the right to benefit economical from those uses.

Please note that *not* receiving a response regarding a referral from the Osoyoos Indian Band in the pre-application, current or post-application stage does not imply our support for the project.

We appreciate your co-operation.

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Yvonne Weinert  
Lands Manager  
Per:  
Chief Clarence Louie  
Osoyoos Indian Band  
cc:



June 13, 2017

File: 58000-20/2017049  
Your File: X2014.086-ZONE

Regional District of Okanagan-Similkameen  
101 Martin Street,  
Penticton, B.C. V2A 5J9

Attention: Christopher Garrish, Planning Supervisor

Re: Bylaw referral for Update of Agricultural Regulations Amendment Bylaw No. 2728

The Ecosystems Section of the Ministry of Forests, Lands and Natural Resource Operations (FLNR) has reviewed the referral information provided and conducted a cursory review of the bylaw amendments. Two cornerstone documents guide our input to this referral: 1) *Green Bylaws Toolkit for Conserving Sensitive Ecosystems and Green Infrastructure*<sup>i</sup>, and 2) *Develop with Care: Environmental Guidelines for Urban and Rural Land Development in British Columbia*<sup>ii</sup>. We provide the following comments for consideration.

The proposed amendment removes existing sections that specify 30.0m “riparian assessment areas” for residential, commercial and/or industrial uses (e.g., section 2.xvi, pg. 4). As you are aware, the *Riparian Areas Regulation* applies to all non-farming activities on land designated or zoned for agriculture. Our expectation is that the application of the *Riparian Areas Regulation* to the zones included in this amendment is effected through other bylaws (e.g., a watercourse or other environmentally sensitive development permit area).

More generally, we further recommend that sensitive ecosystems, including but not limited to riparian areas and wetlands, are adequately considered in development proposals through the designation of environmentally sensitive development permit areas. The application of development permit areas to agricultural land, including the zones identified in this amendment, is possible providing agricultural use is not effectively prohibited<sup>iii</sup>. This can be achieved through exemptions for responsible normal agricultural practices in accordance with the Farm Practice in BC Reference Guide<sup>iv</sup> and the Farm Practices Protection Act<sup>v</sup>.

To ensure you are following the best community planning objectives related to the environment follow the advice outlined in Section 2 of *Develop with Care Guidelines*<sup>vi</sup>. If you need further assistance understanding the *Develop with Care* document please do not hesitate to contact me.

Please contact the undersigned at [Amy.Nixon@gov.bc.ca](mailto:Amy.Nixon@gov.bc.ca) or 250-490-8246 if you have further questions.

Sincerely,



Amy Nixon  
Ecosystems Biologist

AN/cl

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<sup>i</sup> <http://www.greenbylaws.ca/>

<sup>ii</sup> <http://www.env.gov.bc.ca/wld/documents/bmp/devwithcare/>

<sup>iii</sup> [http://www.alc.gov.bc.ca/assets/alc/assets/library/land-use-planning/alr\\_and\\_community\\_planning\\_guidelines.pdf](http://www.alc.gov.bc.ca/assets/alc/assets/library/land-use-planning/alr_and_community_planning_guidelines.pdf)

<sup>iv</sup> <http://www2.gov.bc.ca/gov/content/industry/agriculture-seafood/agricultural-land-and-environment/strengthening-farming/farm-practices-in-bc-reference-guide>

<sup>v</sup> For example wording, refer to page 186 of the Green Bylaws Toolkit (2016).

[http://www.greenbylaws.ca/documents/GreenBylawsToolkit\\_2016.pdf](http://www.greenbylaws.ca/documents/GreenBylawsToolkit_2016.pdf)

<sup>vi</sup> <http://www.env.gov.bc.ca/wld/documents/bmp/devwithcare/index.html>



File No.: 0280-30

June 13, 2017

Christopher Garrish MA, MSS, MCIP, RPP, Planning Supervisor  
Regional District of Okanagan-Similkameen  
101 Martin Street,  
Penticton, BC  
V2A 5J9

Dear Christopher Garrish:

Re: Zoning Bylaw No. 2728

Thank you for forwarding a draft copy of Bylaw No. 2728 to the Ministry of Agriculture. We appreciate the opportunity to review and provide comments on bylaws affecting the Agricultural Land Reserve (ALR). The following comments are provided by Ministry staff with respect to consistency with the *Local Government Act* (LGA) and the Ministry's Guide for Bylaw Development in Farming Areas (the Guide).

The setbacks and most provisions of the bylaw appear to be appropriate and consistent with the Guide. However, we do offer comments in the following areas, for the Regional District's consideration:

**New definition of "small livestock"**

- Ministry staff have concerns that distinguishing between types of livestock may not be consistent with s. 555 of the LGA, and in any case we do not support this distinction given that it is used in s.7.23 of the bylaw (and repeated throughout) to restrict certain types of livestock that may be kept on ALR properties.

**Multiple zones for agriculture:**

- Ministry staff have noted that there are multiple zones that permit agriculture, which differ largely in terms of minimum parcel size and the other permitted uses. The Guide recommends that local governments have a single zone for agriculture for all ALR lands, in order to provide consistency for industry and to reflect the understanding that agriculture is the priority use for these parcels.

**Maximum number of dwellings:**

- Ministry staff have concerns with the dwelling tables in sections 10.2.5 (and repeated throughout) *Maximum Number of Dwellings Permitted per Parcel*, as additional dwellings on farms increase the value of land and lead to subdivision pressure, all of which make it difficult for new farmers or those expanding their operations to access farmland. Please note that the Agricultural Land Commission (ALC) requires additional homes beyond one single family dwelling to be approved only if necessary for farm help. The experience of the Ministry is that farming technology has advanced to an extent where very few farms have an operational need

for farm help to live on site. The farm income threshold required for “farm” assessment is an inadequate measure of the need for additional residences for farm help. We recommend following the ALC’s advice to limit the maximum number of accessory dwellings to one (1) and only on parcels greater than 3.5 ha.

**Limits on number of livestock**


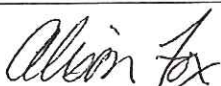
- Ministry staff do not support limits on the number of livestock on ALR parcels. The limits noted in the proposed bylaw have the potential to be quite restrictive to new farmers or those wishing to expand their operations, and in some cases may be contrary to s.555 of the LGA.

**Maximum Parcel Coverage**

- Maximum parcel coverage should be a minimum of 35% for farm buildings and 75% for greenhouses on all parcels greater than 2500m<sup>2</sup>. Less than this has the potential to restrict expansion of certain sectors of the agriculture industry. If the regional district would like to restrict parcel coverage of residential uses in the ALR, Ministry staff would be supportive of that.

We hope you find the above information useful for providing direction as to how to support and strengthen agriculture within your jurisdiction. If you have any questions, please feel free to contact us.

Sincerely,

	
Anne Skinner, P.Ag. Regional Agrologist BC Ministry of Agriculture Anne.Skinner@gov.bc.ca (250) 861-7272	Alison Fox, P.Ag. Land Use Agrologist BC Ministry of Agriculture Alison.Fox@gov.bc.ca (604) 556-3106

pc: Selena Basi, Director, Strengthening Farming Program  
Martin Collins, Director of Policy and Planning, ALC

## RESPONSE SUMMARY

### AMENDMENT BYLAW NO. 2728

- Approval Recommended for Reasons Outlined Below
- Interests Unaffected by Bylaw
- Approval Recommended Subject to Conditions Below
- Approval Not Recommended Due to Reasons Outlined Below

Signature: 

Signed By: Dean Strachen

Agency: District of Sumnerland

Title: Director of Dev Serv.

Date: May 26, 2017



**Agricultural Land Commission**  
133-4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
Tel: 604 660-7000  
Fax: 604 660-7033  
www.alc.gov.bc.ca

June 1, 2017

Reply to the attention of Martin Collins  
ALC File: 46581

Christopher Garrish MA, MSS, MCIP, RPP · Planning Supervisor  
Regional District of Okanagan-Similkameen  
101 Martin Street,  
Penticton, BC  
V2A 5J9

**Re: Zoning Bylaw No. 2728**

Thank you for forwarding a draft copy of Bylaw No. 2728 for the Agricultural Land Commission's (the ALC's) review and comment. The following comments are provided to help ensure that the Bylaw is consistent with the purposes of the *Agricultural Land Commission Act* and regulation, and decisions of the ALC.

The ALC remains concerned with the Table 10.4.5 *Maximum Number of Dwellings Permitted per Parcel* and repeated throughout the bylaw. The ALC remains unconvinced that parcels greater than 8 ha require additional homes beyond a single accessory dwelling for farm help even with the "farm" assessment classification. In particular there is concern that the relatively low farm income threshold required for "farm" assessment does not usually require an additional residence for farm help. As such it is recommended that in the ALR, the maximum number of accessory dwellings be limited to one (1) and only on parcels greater than 3.5 ha.

In addition, it is difficult to conceive that an additional permanent dwelling for farm help would be required on a parcel smaller than 3.5 ha. It is recommended that ALC non-farm use application should be submitted for additional dwellings for farm help for farm operations smaller than 3.5 ha. Retaining the proposed Table(s) that specify the number of permitted dwellings in the draft bylaw without the re-worded qualification (as noted below) will result in the proliferation of residences not necessary for farm help on ALR parcels. It is the ALC's experience that multiple residences on farm parcels erodes the parcel's productive capacity and increases subdivision pressure.

It is requested that the Regional District amend the draft bylaw to amend the exception below the table following b);

*c) Despite Section 10.4.5(a) for parcels situated with the Agricultural Land Reserve only one principal dwelling, and one accessory dwelling for farm help are permitted on parcels larger than 3.5 ha. The accessory dwelling must be on a temporary foundation and used only for the accommodation of persons engaged in farming on parcels classified as "farm" under the Assessment Act. For parcels smaller than 3.5 ha an application for an accessory dwelling for farm help must be submitted to the ALC.*

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The ALC notes that there are also portions of the bylaw which are not consistent with the advice provided in the Ministry of Agriculture's *Guide for Bylaw Development in Farming Area (the Guide)*. Specifically it is noted that site coverage for Greenhouses is less than is recommended by the *Guide* (75%), as well as the permitted site coverage for farm structures. In addition, restrictions on livestock density (as per Section 7.23 and others repeated throughout the bylaw) are not supported by the *Guide* or by s. 555 of the Local Government Act.

If you have any questions about the above comments, please contact the undersigned at 604-660-2554 or by e-mail ([martin.collins@gov.bc.ca](mailto:martin.collins@gov.bc.ca))

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION



Martin Collins, Director of Policy and Planning