
CITY OF KELOWNA
MEMORANDUM

Date: November 17, 2005
To: City Manager
From: Planning and Corporate Services Department
Subject:

APPLICATION NO. TA05-0009 APPLICANT: CITY OF KELOWNA

PURPOSE: HOUSEKEEPING AMENDMENTS TO THE ZONING BYLAW AND SIGN BYLAW.

REPORT PREPARED BY: RYAN SMITH

1.0 RECOMMENDATION

THAT Zoning Bylaw Text Amendment No. TA05-0009 to amend City of Kelowna Zoning Bylaw No. 8000 and Sign Bylaw No.8235 by as outlined in Schedule "A" of the report of the Planning & Corporate Services Department dated November 4, 2005 be considered by Council;

THAT Zoning Bylaw Text Amendment No. TA05-0009 be forwarded to a Public Hearing for further consideration;

2.0 SUMMARY/DISCUSSION

The proposed text amendments attached as Schedule "A" below are a package of housekeeping amendments initiated to clarify several sections of the bylaw. Staff are seeking to clarify side yard setback requirements in several urban residential zones, update several definitions, change drive-through food services from a land use definition to a development regulation, and make a minor amendment to the Sign Bylaw.

Andrew Bruce
Manager of Development Services

Approved for inclusion

R.L. (Ron) Mattiussi, ACP, MCIP
Director of Planning & Corporate Services

RM/AB/rs
Attach.

**SCHEDULE A – AMENDMENTS TO CITY OF KELOWNA ZONING
BYLAW NO. 8000**

Section	Existing Definition/Bylaw	Proposed Definition/Amendment
Add 1.7.3 Non-Conforming Uses	N/A	If a non-conforming use is limited to a non-conforming driveway access from a fronting street where access to a rear or side lane is available, the non-conforming driveway may remain to provide access to the existing development. If the property is re-developed to the extent where a new dwelling unit is added to the property (either a new principal or secondary unit), all access to the new development must meet the requirements of the zoning regulations. Renovations or alterations to an existing building may be permitted with an existing non-conforming driveway access.
2.0 Interpretation (CHANGE)	TOP OF BANK means the natural topographical break where elevation of land is at its peak. With the exception of Mission Creek, if the distance from the high water mark to the toe of the slope is less than 15.0 m, then setbacks should be measured from the first significant and regular break in slope which is at least 15.0 m wide. Terraces less than 15.0 m wide below the slope break shall be included in the leave strip area. Notwithstanding the foregoing, in the canyon areas of the Mission Creek stream corridor east of Mission Creek Regional Park, setbacks shall be measured from the canyon rim.	TOP OF BANK means the natural topographical break where elevation of land is at its peak. With the exception of Mission Creek, if the distance from the high water mark to the toe of the slope is less than 15.0 m, then setbacks should be measured from the first significant and regular break in slope which is at least 15.0 m wide. <u>A break in the slope is defined as a section flatter than 3:1 for a minimum distance of 15.0m.</u> Terraces less than 15.0 m wide below the slope break shall be included in the leave strip area. Notwithstanding the foregoing, in the canyon areas

		of the Mission Creek stream corridor east of Mission Creek Regional Park, setbacks shall be measured from the canyon rim.
Add new 7.5.7 and renumber following sections.	N/A	No razor wire fences shall be allowed in any zone except where associated with penitentiaries, jails or places of incarceration.
6.2 Swimming Pools (CHANGE)	Above ground swimming pools shall meet the siting requirements of accessory buildings .	Above ground swimming pools <u>and associated decks great than 0.6m in height</u> shall meet the siting requirements of accessory buildings.
12.3.6(d) (CHANGE)	The minimum side yard is 2.0 m for a 1 or 1½ storey building or an accessory building or structure and 2.3 m for a 2 or 2½ storey building , except it is 4.5 m from a flanking street or as required by Section 12.3.5(e). Where there is no direct vehicular access to the rear yard or there is an attached garage or carport , one side yard shall be at least 3.0 m.	The minimum side yard is 2.0 m for a 1 or 1½ storey building or an accessory building or structure and 2.3 m for a 2 or 2½ storey building , except it is 4.5 m from a flanking street or as required by Section 12.3.5(e). <u>Where there is no direct vehicular access to the rear yard or to an attached garage or carport, one side yard shall be at least 3.0 m.</u>
13.1.6 (d) (CHANGE)	The minimum side yard is 2.0 metres for a 1 or 1 ½ storey portion of a building and 2.3 metres for a 2 or 2 ½ storey portion of a building , except that it is 4.5 metres (other than in RU1h zones) from a flanking street or when required by subparagraph 13.1.5 (e), and it is 6.0 metres from a flanking street if the setback is to a garage or carport which is accessed from that street. Where there is no direct vehicular access to the rear yard or to an attached garage or carport, one side yard shall be at least 3.0 metres. In RU1h zones the minimum setback from a flanking street shall	The minimum side yard is 2.0 metres for a 1 or 1 ½ storey portion of a building and 2.3 metres for a 2 or 2 ½ storey portion of a building , except that it is 4.5 metres (other than in RU1h zones) from a flanking street or when required by subparagraph 13.1.6 (e). From a flanking street the setback to a garage or carport which is accessed from that street is 6.0m. <u>Where there is no lane abutting the site, one side yard must be a least 3m for</u>

	<p>be 3.0 metres, except that it is 6.0 metres measured from the back of curb or a sidewalk, whichever is closest <u>to a garage or carport having vehicular entry from the front.</u></p>	<p><u>vehicular access, unless there is an attached garage or carport which is an integral part of the dwelling.</u></p> <p>In RU1h zones the minimum setback from a flanking street for a garage or carport with vehicular entry from the front shall be the lesser of 3.0 metres to property line or 6.0 metres measured from the back of curb or a sidewalk.</p>
13.2.6(d) (CHANGE)	<p>The minimum side yard is 1.5 m for a 1 or 1½ storey portion of a building and 1.8 m for a 2 or 2 ½ storey portion of a building, except it is 4.5 from a flanking street or when required by Section 13.2.5(3), unless there is a garage it shall be 6.0m. In RU2h and RU2hs zones, the minimum side yard shall be 3.0m except it is 6.0m measured from the back of curb or sidewalk, whichever is closest, to a garage or carport having vehicular entry from the front. Where there is no direct vehicular access to the rear yard or to an attached garage or carport, one side yard shall be at least 3.0m.</p>	<p>The minimum side yard is 1.5 m for a 1 or 1½ storey portion of a building and 1.8 m for a 2 or 2 ½ storey portion of a building, except it is 4.5 from a flanking street, unless there is vehicular access to a garage or carport where it shall be 6.0m.</p> <p><u>In RU2h and RU2hs zones the minimum setback from a flanking street for a garage or carport with vehicular entry from the front shall be the lesser of 3.0 metres to property line or 6.0 metres measured from the back of curb or a sidewalk.</u></p> <p><u>In RU2, RU2s and RU2h zones where there is no lane abutting the site, one side yard must be a least 3m for vehicular access, unless there is an attached garage or carport which is an integral part of the dwelling.</u></p>
13.1.6(g) (CHANGE)	<p>For RU1h zones, all decks, supporting posts or columns shall not exceed the lesser of 4.5m or 1 storey in height, such measurements to include the height of any support structure or</p>	<p>For RU1h zones, all decks, supporting posts or columns shall not exceed the lesser of 4.5m or 1 storey in height, such measurements are to include the height of any</p>

	retaining wall.	support structure or retaining wall . <u>Height will be measured from the grade at the base of the deck, post, or column to the highest point of the deck, exclusive of railings.</u>
13.6.6(d)	The minimum site side yard is 2.0 m for a 1 or 1½ storey portion of a building and 2.3 m for a 2 storey portion of a building , except it is 4.5 m from a flanking street or unless there is a garage accessed from the flanking street , it is 6.0m. However, unless there is direct vehicular access to the rear yard or to an attached garage or carport , one side yard shall be at least 3.0 m. In RU6h zones the minimum setback from a flanking street shall be 3.0m, except that it is 6.0m measured from the back of curb or a sidewalk, whichever is closest to a garage or carport having vehicular entry from the front.	The minimum site side yard is 2.0 m for a 1 or 1½ storey portion of a building and 2.3 m for a 2 storey portion of a building , except it is 4.5 m from a flanking street or unless there is a garage accessed from the flanking street , it is 6.0m. <u>In RU6, RU6h and RU2b zones where there is no lane abutting the site, one side yard must be a least 3m for vehicular access, unless there is an attached garage or carport which is an integral part of the dwelling.</u> In RU6h zones the minimum setback from a flanking street shall be 3.0m, except that it is 6.0m measured from the back of curb or a sidewalk, whichever is closest to a garage or carport having vehicular entry from the front.
6.14.4 (delete)	Where a Riparian Management Area is required as a condition of development of a lot , or has previously be established on an existing lot , all buildings or structures must orient on the lot so that access to or from the building or structure encroaches no more than 5.0 metres into the required RMA setback.	Does not conform to provincial riparian areas regulation.
6.14.3 (change)	When new lots are created abutting a watercourse where a Riparian Management Area	When new lots are created abutting a watercourse where a Riparian Management

	setback is required, the land within the RMA may be used for calculating the minimum lot area and for the determination of permitted density and lot coverage , provided the requirements of paragraph 6.14.4 have been provided for.	Area setback is required, the land within the RMA may be used for calculating the minimum lot area and for the determination of permitted density and lot coverage .
6.4 – Projections Into Yards (CHANGE)	Chimneys, cornices, leaders, gutters, pilasters, belt courses, sills, bay windows , a cantilevered section of a building or ornamental features may project into a required yard , provided such projections do not exceed 0.6 m. The total area of structural projections, excluding purely architectural or aesthetic features, shall not comprise of more than 30% of the total area of the exterior wall in which they are located. The total area of the exterior wall is to be calculated based on the total area of the wall, generally parallel to the side lot line, measured from the front to the rear of the building , not including decks , trellises, or other open structures. For buildings or structures that are more than one storey, the area of the structural projection shall be calculated per storey. No individual structural projection shall exceed 3.0 metres in length. No two structural projections shall be closer than 1.5 metres apart.	Chimneys, cornices, leaders, gutters, pilasters, belt courses, sills, bay windows , a cantilevered section of a building , <u>portions of a building on a foundation</u> or ornamental features may project into a required yard , provided such projections do not exceed 0.6 m. The total area of structural projections, excluding purely architectural or aesthetic features, shall not comprise of more than 30% of the total area of the exterior wall in which they are located. The total area of the exterior wall is to be calculated based on the total area of the wall, generally parallel to the side lot line, measured from the front to the rear of the building , not including decks , trellises, or other open structures. For buildings or structures that are more than one storey, the area of the structural projection shall be calculated per storey. No individual structural projection shall exceed 3.0 metres in length. No two structural projections shall be closer than 1.5 metres apart.
6.5.6 Accessory Development (CHANGE)	Where an accessory building or structure is used as a dwelling ,	Where an accessory building or structure is used

	the accessory building or structure must include a garage or a carport for a minimum of one vehicle .	as a dwelling <u>and is greater than one storey in height</u> , the accessory building or structure must include a garage or carport for a minimum of one vehicle .
Section 14 Delete Subsections: 14.3.2(h) 14.4.2(j) 14.6.2 (c) 14.10.2(o) CD15 – 1.2.2(b)	drive-in food services	N/A
Section 2 – Interpretation	FOOD PRIMARY ESTABLISHMENT, means development where prepared food and beverages are offered for sale to the public. Typical uses include but are not limited to licensed restaurants, theatre restaurants, banquet facilities, cafes, delicatessens, tea rooms, lunch rooms, refreshment stands and take-out restaurants. Licensed restaurants may serve any kind of liquor, even to customers who do not order food. However a full range of appetizers and main courses must be available whenever liquor is available. Restaurants may remain open 24 hours a day but may only serve liquor between 9:00 a.m. and 4:00 a.m. daily. This does not include drive-through food services. These establishments may be holders of a Food Primary License.	FOOD PRIMARY ESTABLISHMENT, means development where prepared food and beverages are offered for sale to the public. Typical uses include but are not limited to licensed restaurants, theatre restaurants, banquet facilities, cafes, delicatessens, tea rooms, lunch rooms, refreshment stands and take-out restaurants. Licensed restaurants may serve any kind of liquor, even to customers who do not order food. However a full range of appetizers and main courses must be available whenever liquor is available. Restaurants may remain open 24 hours a day but may only serve liquor between 9:00 a.m. and 4:00 a.m. daily. <u>This definition includes drive-in food services unless otherwise stipulated in development regulations for specific zones.</u> These establishments may be holders of a Food Primary License.
Add to Other Regulations in the following zones:	N/A	Drive-in food services are not a permitted form of

14.2.6 14.7.6 14.8.6 14.9.6 15.1.6 15.2.6 15.4.6 16.1.6 16.3.6 16.5.6 16.7.6 CD2 – 1.5 CD3 – 1.5 CD5 – 1.9 CD6 – 1.6 CD8 – 1.6 CD9 – 1.6 CD12 – 1.6 CD14 – 1.6 CD16 – 1.5 CD17 – 1.5		development in this zone.
Add to CD15 – Section 1.8	None	Drive-in food services are a permitted form of development in the area designated for commercial development in this zone as shown on Map 1, provided they are structurally connected to and affiliated with a food primary establishment.
Sign Bylaw No.8235 Changes		
2.3.1 Exemptions from Permits	No existing exemption clause for City related information signage on public property.	Add (v): signs that convey a public informational message, are located on public property and have been approved by the City Engineer;