

# CITY OF KELOWNA

## BYLAW NO. 9530

### Text Amendment No. TA05-0009 – City of Kelowna Miscellaneous Housekeeping Amendments to the Zoning Bylaw No. 8000

---

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts that City of Kelowna Zoning Bylaw No. 8000 be amended as follows:

1. THAT **Section 1 – General Administration**, sub-section **1.7 Non-Conforming Uses** be amended by adding a new sub-paragraph 1.7.3 as follows:

“1.7.3 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. AND THAT **Section 2 – Interpretation**, sub-section **2.3 General Definitions**, sub-paragraph 2.3.3 be amended by:
  - (i) deleting the definition of “**FOOD PRIMARY ESTABLISHMENT**” and replacing it with:

“**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 definition includes drive-in food services unless otherwise stipulated in development regulations for specific zones. These establishments may be holders of a Food Primary License.”; and
  - (ii) deleting the definition of “**TOP OF BANK**” and replacing it with the following:

“**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. A break in the slope is defined as a section flatter than 3:1 for a minimum distance of 15.0m. 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.”;

3. AND THAT **Section 6 – General Development Regulations**, be amended by:
  - (i) deleting sub-paragraph 6.2.2 of sub-section **6.2 Swimming Pools**, in its entirety and replacing it with the following:

“Above ground swimming pools and associated decks greater than 0.6m in height shall meet the siting requirements of accessory buildings.”;
  - (ii) adding sub-paragraph 6.4.1 to sub-section **6.4 Projections Into Yards**, the words “portions of a building on a foundation” after the words “Chimneys, cornices, leaders, gutters, pilasters, belt courses, sills, **bay windows**, a cantilevered section of a **building**,”;
  - (iii) adding sub-paragraph 6.5.6 to sub-section **6.5 Accessory Development**, the words “and is greater than one storey in height,” after the words “Where an **accessory building** or **structure** is used as a dwelling”;
  - (iv) deleting sub-paragraph 6.14.3 of sub-section **6.14 Riparian Management Area (RMA) Setbacks**, in its entirety and replacing it with the following:

“When new **lots** are created abutting a **watercourse** where a **Riparian Management 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**.”; and
  - (v) deleting sub-paragraph 6.14.4 of sub-section **6.14 Riparian Management Area (RMA) Setbacks**, in its entirety;
4. AND THAT **Section 7 – Landscaping and Screening**, sub-section **7.5 Fencing and Retaining Walls** be amended by adding a new sub-paragraph 7.5.7 as follows and renumbering the subsequent paragraphs:

“7.5.7 No razor wire fences shall be allowed in any zone except where associated with penitentiaries, jails or places of incarceration.”;
5. AND THAT **Section 12.3 – RR3 – Rural Residential 3 RR3s – Rural Residential 3 with Secondary Suite**, sub-section **12.3.6 Development Regulations**, sub-paragraph 12.3.6 (d) be amended by deleting the last sentence and replacing it with the words “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.”;
6. AND THAT **Section 13 – Urban Residential Zones** be amended by:
  - (i) deleting sub-paragraph (d) of **Section 13.1 RU1 – Large Lot Housing/RU1s-Large Lot Housing with Secondary Suite/RU1h-Large Lot Housing (Hillside Area)** sub-section **13.1.6 Development Regulations** in its entirety and replacing it with the following:

“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. Where there is no lane abutting the site, one side yard must be a least 3.0m for vehicular access, unless there is an attached garage or carport which is an integral part of the dwelling. 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.”; and

- (ii) adding the following to the end of sub-paragraph (g); of **Section 13.1 RU1 – Large Lot Housing/RU1s-Large Lot Housing with Secondary Suite/RU1h-Large Lot Housing (Hillside Area)** sub-section **13.1.6 Development Regulations**:

“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.”;

- (iii) deleting sub-paragraph (d) of **Section 13.2 RU2-Medium Lot Housing/RU2s-Medium Lot Housing with Secondary Suite/RU2h-Medium Lot Housing (Hillside Area)/ RU2hs-Medium Lot Housing (Hillside Area) with Secondary Suite** sub-section **13.2.6 Development Regulations** in its entirety and replacing it with the following:

“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. 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. In RU2, RU2s and RU2h zones where there is no lane abutting the site, one side yard must be a least 3.0m for vehicular access, unless there is an attached garage or carport which is an integral part of the dwelling.”; and

- (iv) deleting sub-paragraph (d) of **Section 13.6-Two Dwelling Housing/RU6b-Two Dwelling Housing with Boarding or Lodging House/RU6h-Two Dwelling Housing (Hillside Area)** sub-section **13.6.6 Development Regulations** in its entirety and replacing it with the following:

“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. In RU6, RU6h and RU2b zones where there is no lane abutting the site, one side yard must be a least 3.0m for vehicular access, unless there is an attached garage or carport which is an integral part of the dwelling. 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.”

7. AND THAT **Section 14 – Commercial Zones** be amended by:

- (i) adding a new sub-paragraph (g) to **Section 14.2 C2 – Neighbourhood Commercial/C2rls-Negihbourhood Commercial (Retail Liquor Sales)** sub-section **14.2.6 Other Regulations** as follows:

“(g) Drive-in food services are not a permitted form of development in this zone.”

- (ii) deleting sub-paragraph (h) **drive-in food services** from **Section 14.3 C3-Community Commercial/C3lp/rls – Community Commercial (Liquor Primary/Retail Liquor Sales)** sub-section **14.3.2 Principal Uses** and renumbering the subsequent sub-paragraphs;

- (iii) deleting sub-paragraph (j) **drive-in food services** from **Section 14.4 C4-Urban Centre Commercial/C4rls – Urban Centre Commercial (Retail Liquor Sales)/C4lp-Urban Centre Commercial (Liquor Primary)/ C4lp/rls – Urban Centre Commercial (Liquor Primary/Retail Liquor Sales)** sub-section **14.4.2 Principal Uses** and renumbering the subsequent sub-paragraphs;

- (iv) deleting sub-paragraph (c) **drive-in food services** from **Section 14.6 C6-Regional Commercial/C6rls-Regional Commercial (Retail Liquor Sales)/C6lp-Regional Commercial (Liquor Primary)** sub-section **14.6.2 Principal Uses** and renumbering the subsequent sub-paragraphs;
  - (v) adding a new sub-paragraph (e) to **Section 14.7 C7-Central Business Commercial/C7rls-Central Business Commercial (Retail Liquor Sales)/C7lp-Central Business Commercial (Liquor Primary)/C7lp/rls-Central Business Commercial (Liquor Primary/Retail Liquor Sales)** sub-section **14.7.6 Other Regulations** as follows:
    - “(e) Drive-in food services are not a permitted form of development in this zone.”;
  - (vi) adding a new sub-paragraph (d) to **Section 14.8 C8-Convention Hotel Commercial/C8rls-Convention Hotel Commercial (Retail Liquor Primary)/C8lp-Cncention Hotel Commercial (Liquor Primary)** sub-section **14.8.6 Other Regulations** as follows:
    - “(d) Drive-in food services are not a permitted form of development in this zone.”;
  - (vii) deleting sub-paragraph (e) **drive-in food services** to **Section 14.9 C9-Tourist Commercial/C9rls-Tourist Commercial (Retail Liquor Sales)/C9lp-Tourist Commercial (Liquor Primary)/C9lp/rls-Tourist Commercial (Liquor Primary/Retail Liquor Sales)** sub-section **14.9.2 Principal Uses** and renumbering the subsequent sub-paragraphs;
  - (viii) deleting sub-paragraph (o) **drive-in food services** from **Section 14.10 C10-Service Commercial/C10lp-Service Commercial (Liquor Primary)/10lp/rls-Service Commercial (Liquor Primary/Retail Liquor Sales)** sub-section **14.10.2 Principal Uses** and renumbering the subsequent sub-paragraphs;
11. AND THAT **Section 15-Industrial Zones**, be amended by:
- (i) adding a new sub-paragraph (f) to **Section 15.1 I1-Business Industrial** sub-section **15.1.6 Other Regulations** as follows:
    - “(f) Drive-in food services are not a permitted form of development in this zone.”;
  - (ii) adding a new sub-paragraph (f) to **Section 15.2 I2-General Industrial** sub-section **15.2.6 Other Regulations** as follows:
    - “(f) Drive-in food services are not a permitted form of development in this zone.”
  - (iii) adding a new sub-paragraph (f) to **Section 15.4 I4-Central Industrial** sub-section **15.4.6 Other Regulations** as follows:

“(f) Drive-in food services are not a permitted form of development in this zone.”

12. AND THAT **Section 16-Public & Institutional Zones** be amended by:

- (i) adding a new sub-paragraph (b) to **Section 16.1 P1-Major Institutional/P1lp-Major Institutional (Liquor Primary)** sub-section **16.1.6 Other Regulations** as follows:

“(b) Drive-in food services are not a permitted form of development in this zone.”

- (ii) adding a new sub-paragraph (c) to **Section 16.3 P3-Parks and Open Space/P3lp-Parks and Open Space (Liquor Primary)** sub-section **16.3.6 Other Regulations** as follows:

“(c) Drive-in food services are not a permitted form of development in this zone.”

- (ii) adding a new sub-paragraph (e) to **Section 16.5-Municipal District Park/P5lp-Municipal District Park (Liquor Primary)** sub-section **16.5.6 Other Regulations** as follows:

“(e) Drive-in food services are not a permitted form of development in this zone.”

- (v) adding a new sub-paragraph (j) to **Section 16.7 W2-Intensive Water Use** sub-section **16.7.6 Other Regulations** as follows:

“(j) Drive-in food services are not a permitted form of development in this zone.”

13. AND THAT **Schedule ‘B’ – Comprehensive Development Zones** be amended by:

- (i) adding a new sub-paragraph (n) to **CD2 – Kettle Valley Comprehensive Residential Development** sub-section **1.5 Other Regulations** as follows:

“(n) Drive-in food services are not a permitted form of development in this zone.”

- (ii) adding a new sub-paragraph (j) to **CD3-Comprehensive Development Three** sub-section **1.5 Other Regulations** as follows:

“(j) Drive-in food services are not a permitted form of development in this zone.”

- (iii) adding a new sub-section (b) to **CD5-Multi-Purpose Facility/CD5lp-Multi-Purpose Facility (Liquor Primary)** sub-section **1.9 General Regulations** as follows:

“(b) Drive-in food services are not a permitted form of development in this zone.”

- (iv) adding a new sub-section (i) to **CD6-Comprehensive Residential Golf Resort/CD6lp-Comprehensive Residential Golf Resort (Liquor Primary)** sub-section **1.6 Other Regulations** as follows:

- “(i) Drive-in food services are not a permitted form of development in this zone.”
  - (v) adding a new sub-section (f) to **CD8-Heritage Industrial/CD8lp/rls-Heritage Industrial (Liquor Primary/Retail Liquor Sales)** sub-section **1.6 Other Regulations** as follows:
    - “(f) Drive-in food services are not a permitted form of development in this zone.”
  - (vi) adding a new sub-section (e) to **CD9-Heritage Commercial** sub-section **1.6 Other Regulations** as follows:
    - “(e) Drive-in food services are not a permitted form of development in this zone.”
  - (vii) adding a new sub-section (d) to **CD12lp/rls-Airport (Liquor Primary/Retail Liquor Sales)**, sub-section **1.6 Other Regulations** as follows:
    - “(d) Drive-in food services are not a permitted form of development in this zone.”
  - (viii) adding a new sub-section (k) to **CD14-Comprehensive High Tech Business Campus** sub-section **1.6 Other Regulations** as follows:
    - “(k) Drive-in food services are not a permitted form of development in this zone.”
  - (ix) deleting sub-paragraph **(b) drive-in food services** from **CD15-Airport Business Park**, sub-section 1.2.2 and renumbering the subsequent sub-paragraphs;
  - (x) adding a new sub-section (o) to **CD15-Airport Business Park** sub-section **1.8 Other Regulations** as follows:
    - “(o) 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.”
  - (xi) adding a new sub-section (d) to **CD16-Bingo and Gaming** sub-section **1.5 Other Regulations** as follows:
    - “(d) Drive-in food services are not a permitted form of development in this zone.”
  - (xii) Adding a new sub-section (f) to **CD17-Mixed Use Commercial – High Density** sub-section **1.5 Other Regulations** as follows:
    - “(f) Drive-in food services are not a permitted form of development in this zone.”
2. This bylaw may be cited as "Bylaw No. 9530, being Miscellaneous Housekeeping Amendments to the Zoning Bylaw No. 8000".
  3. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 12<sup>th</sup> day of December, 2005.

Considered at a Public Hearing on the 10<sup>th</sup> day of January, 2005.

Read a second and third time by the Municipal Council this 10<sup>th</sup> day of January, 2006.

Approved under The Highways Act this    day of    , 2005.

---

(Approving Officer - Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this    day of    , 2005.

---

Mayor

---

City Clerk