

# CITY OF KELOWNA

## BYLAW NO. 9580

### A Bylaw to Adopt Housekeeping Amendments to Bylaw No. 7600 *Kelowna 2020 – Official Community Plan*

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AND WHEREAS Council wishes to adopt certain housekeeping amendments to Bylaw No. 7600 *Kelowna 2020 – Official Community Plan*;

AND WHEREAS Council may adopt an official community plan by bylaw and each reading of the bylaw must receive an affirmative vote of a majority of all members of Council;

AND WHEREAS after first reading of the bylaw and before third reading of the bylaw, Council held a public hearing on the proposed amendments to the official community plan in accordance with Sections 890 through 894 of the *Local Government Act*;

NOW THEREFORE the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT **List of Maps** to *Kelowna 2020* - Official Community Plan Bylaw No. 7600 is amended by deleting Map 7.2 Wildland Fire Hazard Areas and replacing it with the following:

“Map 7.2 Wildland Fire Hazard Development Permit Area Designation”

2. AND THAT **Definitions** is amended by:

- (a) adding a new definition of **Potential Riparian Vegetation** in its appropriate location as follows:

“**Potential Riparian Vegetation** – means vegetation must be considered to be “potential” if there is a reasonable ability for regeneration either with assistance through enhancement or naturally, but an area covered by a permanent structure must be considered to be incapable of supporting potential vegetation.”;

- (b) deleting the definition of **Riparian Management Area (RMA)** in its entirety and replace it with the following:

“**Riparian Management Area (RMA)** – means an area:

- (a) adjacent to a stream that links aquatic to terrestrial ecosystems and includes both existing and potential riparian vegetation and existing and potential adjacent upland vegetation that exerts an influence on the stream, and
- (b) the size of which is determined in accordance with Table 7-1, previously established under the Streamside Protection Regulation, B.C. Reg. 10/2001 Regulation (SPR).”;

- (c) deleting the definitions of **Riparian Management Zone (RMZ)** and **Riparian Reserve Zone (RRZ)** in their entirety;

- (d) adding a new definition **Top of Ravine Bank** in its appropriate location as follows:

**“Top of the Ravine Bank** - means the first significant break in a ravine slope where the break occurs such that the grade beyond the break is flatter than 3:1 for a minimum distance of 15 meters measured perpendicularly from the break, and the break does not include a bench within the ravine that could be developed.”;

- (e) deleting the definition of **Wetland** in its entirety and replacing it with the following:

**“Wetland** – means land that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, vegetation typically adapted for life in saturated soil conditions including swamps, marshes, bogs, fens, estuaries and similar areas that are not part of the active floodplain of a stream.”;

2. AND THAT **Chapter 1 - Introduction** be amended by deleting the third paragraph and replacing it with the following:

“The Official Community Plan (OCP) is based on population projections with a base year of 2000. The Plan will guide development activity and provide both short and long-term directions from the date of adoption in 2004 until 2020. The Plan will be re-evaluated every five years to ensure that it continues to reflect community needs and desires.”;

3. AND THAT **Chapter 5- Growth Management** be amended by adding a new policy 5.1.11 to Section **5.1 Growth Management Policies/Considerations in Reviewing Development Applications** as follows:

“.11 **Future Urban Reserve.** Lands within the Future Urban Reserve are not supported for any further parcelization. An applicant or land owner may apply to change the future land use designation to Rural/Agricultural if it can be demonstrated that a rural use of the land, such as a rural lot subdivision, is the highest and best use of the subject lands. A proposal to amend the land use designation to Rural / Agricultural may be supported where the land is deemed not to have the potential to be developed as part of a comprehensive urban development in the future.”;

4. AND THAT **Chapter 6- Urban Centres** be amended by:

- (a) deleting the existing policy 6.1.9 **Transit Service** from Section **6.1 Urban Centre Policies/Enhancements to the Public Environment** and replacing it with the following:

“.9 **Transit Service.** Encourage frequent and convenient bus service between Urban Centres and surrounding urbanized, central areas, as well as institutional and community services, such as the hospital, the college and park facilities, with a particular view of servicing lower income populations that live and work in these areas and may have limited alternate means of transportation.”;

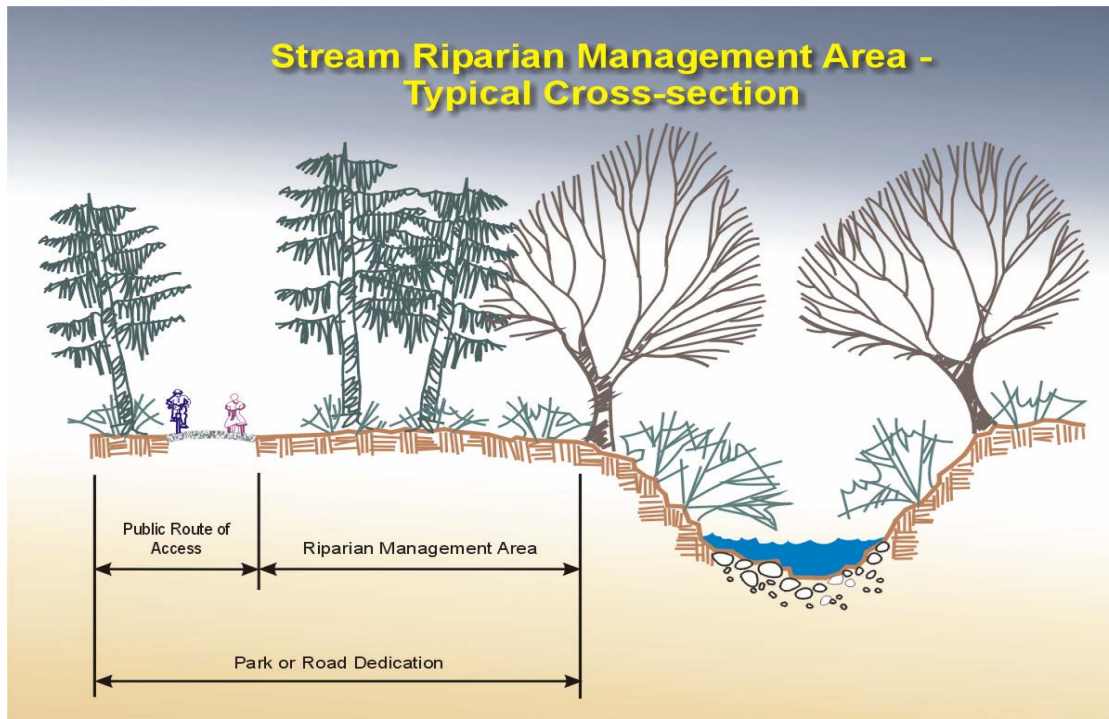
- (b) deleting the existing policy 6.1.31 **Employment Opportunities** from Section **6.1 Urban Centre Policies/Considerations in Reviewing Development Applications/Uses to be Encouraged** and replacing it with the following:

“.31 **Employment Opportunities.** Encourage increased employment opportunities within Urban Centres to support the Transportation Demand Management (TDM) strategies of Chapter 12 – Transportation, and to

continue to improve the economic health of the labour force residing within and adjacent to the Urban Centres;”;

5. AND THAT **Chapter 7 - Environment** be amended by:

- (a) deleting the existing policy 7.3.11 **Establishment Riparian Management Areas** from Section **7.3 Water Shed Policies/Implementation** and replacing it with the following:
  - “.11 **Establish Riparian Management Areas.** Require riparian management areas to be provided to limit environmental and hydrological impacts on local watercourses (Table 7.1 in Section 7.11 Development Permit Guidelines). Riparian Management Areas may include provision for public access provided there has been an assessment by a Qualified Environmental Professional demonstrating “no harm” to features, values and functions of fish and fish habitat, and an authorization by the appropriate federal or provincial ministry or agency.”;
- (b) deleting the existing policy 7.3.12 **Varying Requirements** from Section **7.3 Water Shed Policies/Considerations in Reviewing Development applications/Special Requirements** and replacing it with the following:
  - “.12 **Varying Requirements.** Retain the option to vary, within the context of Table 7.1 requirements, the width of Riparian Management Areas to accommodate the maximum retention of desirable natural vegetation and wildlife habitat, ground formations, water features, and flood control protection. Any proposed relaxation of stream setback widths, storm water requirements, erosion and sediment control requirements are to be referred to the City for review prior to filing the assessment report by a Qualified Environmental Professional (QEP) with the appropriate provincial ministry or agency. Within the Riparian Management Area, restoration of streamside vegetation may be a requirement of the development process;”;
- (c) deleting the existing policy 7.10.4 **Wildland Fire Hazard Protection** from Section **7.10 Hazardous Condition Policies/Considerations in Reviewing Development applications** and replacing it with the following:
  - “.4 **Wildland Fire Hazard Protection.** Continue to consider, as an exemption to the Hazardous Condition Development Permit requirements of Section 7.12, registration of Section 219 Restrictive Covenants under the *Land Title Act* at the time of subdivision or building permit for properties within or near the Wildland Fire Hazard Development Permit Area Designation on Map 7.2.”;
- (d) deleting the words “**Riparian Management Zone (RMZ)** and “**Riparian Reserve Zone (RRZ)**” from **Objectives** in Section **7.11 Development Permit Guidelines for the Protection of the Natural Environment, its Ecosystems and Biological Diversity**;
- (e) deleting the diagram “**Stream Riparian Management Area – Typical Cross-section**” from **Objectives** in Section **7.11 Development Permit Guidelines for the Protection of the Natural Environment, its Ecosystems and Biological Diversity** and replacing it with a new diagram as follows:



- (f) deleting bullet number 5 from **Properties Qualifying for a Waiver** in Section **7.11 Development Permit Guidelines for the Protection of the Natural Environment, its Ecosystems and Biological Diversity** and replacing it with the following:

“

- The construction or maintenance of public facilities within a designated Riparian Management Area and authorized by the appropriate provincial ministry or agency.”;

- (g) deleting bullet number 7 from **Properties Qualifying for a Waiver** in Section **7.11 Development Permit Guidelines for the Protection of the Natural Environment, its Ecosystems and Biological Diversity** and replacing it with the following:

“

- A development when the proposed use is a location which:
  - does not include areas of 30% slope or more;
  - is beyond the boundary of a Riparian Management Area as determined using **Table 7 – 1**; and
  - the proposed development proceeds in accordance with Section 4 (2) or (3) and Section 7 of the *Riparian Areas Regulation*.”;

- (h) deleting bullet number 3 from **Guidelines for Development – Riparian Management Areas/Riparian Management Area Requirements** in Section **7.11 Development Permit Guidelines for the Protection of the Natural Environment, its Ecosystems and Biological Diversity** and replacing it with the following:

“

- Where the *Riparian Management Area* occupies more than 30 % of an existing lot, and where a ‘hardship’ can be demonstrated the City of Kelowna may consider supporting the proponent’s application for relaxation for authorization by DFO. Restoration / mitigation in accordance with Section 4 and 7 of the Riparian

Areas Regulation (i.e. assessment report prepared by a Qualified Environmental Professional) would be a condition of that support.”;

- (i) deleting bullet number 4 from **Guidelines for Development – Riparian Management Areas/Riparian Management Area Requirements** in Section 7.11 **Development Permit Guidelines for the Protection of the Natural Environment, its Ecosystems and Biological Diversity** and replacing it with the following:

“

- Within the *Riparian Management Area*, where relaxation is considered, environmental mitigation and restoration in accordance with Section 4, 7 & 8 (3) of the *Riparian Areas Regulation* will be a requirement of the development process.”;

- (j) deleting bullet number 6 from **Guidelines for Development – Riparian Management Areas/Riparian Management Area Requirements** in Section 7.11 **Development Permit Guidelines for the Protection of the Natural Environment, its Ecosystems and Biological Diversity** and replacing it with the following:

“

- Any proposed relaxation of *Riparian Management Area* widths, storm water mitigation requirements, or erosion & sediment control requirements are to be referred to the City for review prior to filing the report by a Qualified Environmental Professional (QEP) with the appropriate provincial ministry or agency for authorization. “;

- (k) deleting bullet number 2 from **Guidelines for Development – Riparian Management Areas/Measuring Details** in Section 7.11 **Development Permit Guidelines for the Protection of the Natural Environment, its Ecosystems and Biological Diversity** and replacing it with the following:

“

- Measure *Riparian Management Areas* along ravines and other stream corridors with steeply pitched banks from the top of ravine bank.”;

- (l) deleting all of Permitted Uses/Activities within Riparian Management Area and Prohibited/Uses Activities within Riparian Management Area in **Guidelines for Development – Riparian Management Areas** in Section 7.11 **Development Permit Guidelines for the Protection of the Natural Environment, its Ecosystems and Biological Diversity** and replacing it with the following:

“Activities within Riparian Management Area

- Where it can be demonstrated to the satisfaction of the City and the appropriate provincial ministry or federal agency that there will be no negative effects on fisheries habitat, the *Riparian Management Area (RMA)* may include uses such as public or private pathway, utility corridor, road crossing, etc.
- Prohibit the development of buildings, structures, and hard-surfacing, such as driveways and parking areas and limit soil deposition and some agricultural practices within the *Riparian Management Area*.”;

- (m) adding to the end of **Table 7-1: Riparian Management Area Setbacks** in Section 7.11 **Development Permit Guidelines for the Protection of the Natural Environment, its Ecosystems and Biological Diversity** the following:

“\* Note: Any stream not in the above list is subject to the *Riparian Areas Regulation*.”;

- (n) deleting number 3 in Notes for Table 7-1 from Section **7.11 Development Permit Guidelines for the Protection of the Natural Environment, its Ecosystems and Biological Diversity** and replacing it with the following:

“3. Riparian Management Areas along Lake Okanagan are to remain in a natural condition or be landscaped in a manner that either enhances conditions for fish and wildlife or maintains conditions equivalent to those that would have existed had no development occurred. Upon review of lakefront development permits, staff shall give recognition to the fact that upland property owners have riparian rights to protect their property from erosion, the right of access to water, and the right of naturally accreted material (gradual and imperceptible natural deposition). This right may in some cases mean that vegetation cannot be preserved or planted.”;

- (o) deleting number 4 in Notes for Table 7-1 from Section **7.11 Development Permit Guidelines for the Protection of the Natural Environment, its Ecosystems and Biological Diversity** and replacing it with the following:

“4. In areas along Mission Creek (east of Gordon Drive), the City of Kelowna will pursue the establishment of a *Riparian Management Area*, which will average 30 metres in width plus an additional 20 metres (Public Route of Access dedication) for a total width of approximately 50 metres. The Riparian Management Area along Mission Creek may vary in width but shall be of sufficient width to include any significant natural features (e.g., vegetation, water features, fish & wildlife habitat, escarpments, terraces, steep valley sides and cliffs).”;

- (p) deleting all of **Areas Designated** from Section **7.12 Development Permit Guidelines for the Protection of Development from Hazardous Conditions** and replacing it with the following:

“The areas shown as Hazardous Condition Development Permit Areas on Map 7.1 and as Wildland Fire Hazard Development Permit Areas on Map 7.2 or affected by the conditions listed in Section 7.12 are designated as Hazardous Condition Development Permit areas.”

- (q) deleting bullet number 1 and 2 in **Guidelines for Development within Hazardous Condition Areas/Flooding** from Section **7.12 Development Permit Guidelines for the Protection of Development from Hazardous Conditions** and replacing it with the following:

“

- Setback development on properties along streams and water bodies in accord with the appropriate provincial ministry or agency required minimum horizontal setback of 15 metres. Applications for a relaxation of the horizontal setback will require a report by a Qualified Environmental Professional (QEP). Require the registration of a S. 219 covenant to save the City of Kelowna and the Province harmless from any future flooding damage resulting from a relaxation of the required floodplain management setback.”;

6. AND THAT **Chapter 8 - Housing** be amended by:

- (a) deleting the existing policy 8.1.31 **Rezoning to Higher Densities in Considerations in Reviewing Development Applications/Application Processing** from Section **8.1 Housing Policies** and replacing it with the following:

“31 **Rezoning to Higher Densities.** Consider supporting an OCP amendment and rezoning application for residential densities greater than those provided for on the Generalized Future Land Use Map 19.1 where a

portion of the proposed units are available for affordable, special needs or rental housing identified to be in short supply (guaranteed through a Housing Agreement). To mitigate the neighbourhood impact of higher densities, it is important that:

- supporting infrastructure and park land is sufficient to accommodate the proposed development (or the developer is prepared to upgrade the necessary infrastructure and park land); and
- the proposed densities do not exceed the densities provided for on Map 19.1 by more than one increment (e.g. medium density multiple units might be entertained where low-density has been provided for, and low-density multiple units might be entertained where single/two unit residential densities have been provided for); and
- the project be sensitively integrated into the surrounding neighbourhood, with no more than a one-storey height gain between the proposed development and the height permitted within land use designations assigned to adjacent parcels (Where the property being proposed for redevelopment is large, consideration may be given to providing greater heights at the centre of the property provided that the new building is sensitively integrated with the surrounding neighbourhood); and
- approval of the project not destabilize the surrounding neighbourhood or threaten viability of existing neighbourhood facilities (e.g. schools, commercial operations etc.).”;

- (b) deleting the existing policy 8.1.38 **Family Housing** in **Considerations in Reviewing Development Applications/Uses to be Encouraged** from Section **8.1 Housing Policies** and replacing it with the following:

“.38 **Family Housing.** Encourage family-oriented townhouses or apartment housing, and work to achieve some family housing that conforms to the City’s definitions of affordability (see 8.1.16), especially within, and in proximity to, Urban Centre areas;”;

- (c) deleting the existing policy 8.1.48 **Housing for Lower Income Singles** in **Considerations in Reviewing Development Applications/Uses to be Encouraged** from Section **8.1 Housing Policies** and replacing it with the following:

“.48 **Housing for Lower Income Singles.** Actively encourage affordable housing in accordance with the City’s definitions, for lower income singles, in response to the documented shortage of housing for this particular group and focus on locating housing for this population both within and in proximity to Urban Town Centres;”;

- (d) adding a new policy 8.1.49 **Housing in the Urban Corridor** in **Considerations in Reviewing Development Applications/Uses to be Discouraged** from Section **8.1 Housing Policies** as follows and renumber all subsequent policies:

“.49 **Housing in the Urban Corridor:** A more varied housing supply and means of increasing affordability should be actively sought for the neighbourhoods surrounding and including the Urban Town Centres and the Highway 97 corridor extending to the north boundary of the City, north, south and east of Highway 97 as it changes to a northerly direction.”;

7. AND THAT **Chapter 13 – Services & Utilities** be amended by:

- (a) deleting the existing policy 13.5.4 **Residential Setback** in Section **13.5 Other Utilities Policies/Considerations in Reviewing Development Applications/Uses to be Encouraged** and replacing it with the following:

“.4 **Residential Setback.** Encourage new residential development setbacks of 30 metres from the edge of the transmission line wires for feeder lines;”;

- (b) deleting the existing policy 13.5.5 **CSA Standards** in in Section **13.5 Other Utilities Policies/Considerations in Reviewing Development Applications/Uses to be Encouraged** and replacing it with the following:

“.5 **Non-Residential Setback.** Encourage new development setbacks of 6 metres from the edge of high voltage power lines or as required by the electrical utility owner;”;

8. AND THAT **Chapter 14 – Parks and Leisure** be amended by:

- (a) deleting the existing policy 14.1.32 **Linear Park Dedications** in Section **14.1 Parks and Leisure Policies/Considerations in Reviewing Development Applications/Special Requirements** and replacing it with the following:

“.32 **Linear Park Dedications.** At subdivision for all development types and at rezoning for multiple unit housing, commercial, industrial and institutional developments, secure a 10-metre statutory right-of-way for public access where trails are included in **Table 14.1** and/or are shown on **Map 14.2**. The 10-metre access corridor may be in addition to, and outside, any riparian management area requirements imposed through the Environment Chapters of the OCP. On the private property side of the public access corridor, the city may, as necessary, consider stipulating additional “no disturb” zones. Lot line adjustments or other subdivision application are resulting in the creation of new lots suitable for the construction of buildings permitted under the applicable zoning will be considered exempt from this policy;”;

9. AND THAT **Chapter 19 – Future Land** be amended by:

- (a) deleting the words “up to 25 people” from **Land Use Designations** in both **Multiple Unit Residential (Medium Density)** and **Multiple Unit Residential (High Density)**;

- (b) adding to the end of the section **Area Structure Plans** under **Mapping Notes** the following:

▪ Vintage Landing Area Structure Plan, dated July 2005”;

- (c) deleting the first paragraph under section **Sector and Neighbourhood Plans** in its entirety and replace it with the following:

“More detailed Plans have been prepared for a number of areas in the City. The areas of the City covered by these plans are illustrated on **Map 19.2**. After endorsement of the Sector Plan or Neighbourhood Plan and the undertaking of any required refinements, the land use designations (**Map 19.1 Generalized Future Land Use**) and relevant policy wording that has applicability to the wider City context from these plans was incorporated as part of the Official Community Plan. Sector Plans and Neighbourhood Plans are prepared to provide a refinement to the level of detail within the context of the Official Community Plan, but these Plans are not statutory documents, they have not been adopted by bylaw and once endorsed they have not been updated on an on-going basis. With respect to land use the current OCP is the relevant policy document.”;

10. Deleting the existing **Map 6.2 Urban Development Permit Area Designation** and replacing it with the new **Map 6.2 Urban Development Permit Area Designation** which is attached hereto as Schedule "A";
11. Deleting the existing **Map 7.1 Natural Environment/Hazardous Condition Development Permit Areas** and replacing it with the new **Map 7.1 Natural Environment/Hazardous Condition Development Permit Areas** which is attached hereto as Schedule "B";
12. Deleting the existing **Map 7.2 Wildland Fire Hazard Areas** and replacing it with the new **Map 7.2 Wildland Fire Hazard Development Permit Area Designation** which is attached hereto as Schedule "C";
13. Deleting the existing **Map 8.1 New Housing Distribution** and replacing it with the new **Map 8.1 New Housing Distribution** which is attached hereto as Schedule "D";
14. Deleting the existing **Map 10.1 Sand and Gravel Deposits** and replacing it with the new **Map 10.1 Sand and Gravel Deposits** which is attached hereto as Schedule "E";
15. Deleting the existing **Map 11.2 Urban – Rural Agricultural Boundaries** and replacing it with the new **Map 11.2 Urban – Rural Agricultural Boundaries** which is attached hereto as Schedule "F";
16. Deleting the existing **Map 12.1 20 Year Major Road Network Plan** and replacing it with the new **Map 12.1 20 Year Major Road Network Plan** which is attached hereto as Schedule "G";
17. Deleting the existing **Map 13.2 Sanitary Sewer System** and replacing it with the new **Map 13.2 Sanitary Sewer System** which is attached hereto as Schedule "H";
18. Deleting the existing **Map 13.3 Water Supply System** and replacing it with the new **Map 13.3 Water Supply System** which is attached hereto as Schedule "I";
19. Deleting the existing **Map 14.2 Linear Park Concept Plan** and replacing it with the new **Map 14.2 Linear Park Concept Plan** which is attached hereto as Schedule "J";
20. Deleting the existing **Map 19.1 Generalized Future Land Use** and replacing it with the new **Map 19.1 Generalized Future Land Use** which is attached hereto as Schedule "K"; and
21. Deleting the existing **Map 19.2 Sector and Neighbourhood Plans** and replacing it with the new **Map 19.2 Sector and Neighbourhood Plans** which is attached hereto as Schedule "L".
22. If any statement, section, sub-section, clause, sub-clause or phrase of this bylaw and the official community plan adopted by this bylaw is for any reason held to be invalid by a decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of the bylaw and official community plan.

Read a first time by the Municipal Council this 1<sup>st</sup> day of May, 2006.

Considered at a Public Hearing on the    day of    , 2006.

Read a second and third time and be adopted by the Municipal Council of the City of Kelowna this    day of    , 2006.

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Mayor

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City Clerk