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# CITY OF KELOWNA MEMORANDUM

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DATE: March 24, 2009  
TO: City Manager  
FROM: Community Sustainability Division  
APPLICATION NO.: TA09-0001  
APPLICANT: City of Kelowna (Andrew Browne)  
PURPOSE: AMENDMENTS TO ZONING BYLAW NO. 8000

1. TO ADD "WET BAR" AS A DEFINED TERM;
2. TO REMOVE DIAGRAMS 7.1 AND 7.2 AND REPLACE THEM WITH CORRECT VERSIONS THAT REFLECT THE ACTUAL EFFECT OF THE REGULATION;
3. TO CLARIFY THE MAXIMUM PERMITTED BUILDING HEIGHT FOR URBAN RESIDENTIAL – HILLSIDE DESIGNATION ZONES;
4. TO AMEND THE DEFINITION OF "LOT LINE, FRONT – URBAN AND RURAL RESIDENTIAL" TO ALLOW LOT CONFIGURATIONS THAT ARE NOT OTHERWISE DESCRIBED IN THE DEFINITION;
5. TO AMEND THE DEFINITION OF "CARE CENTRE, MINOR" TO ALLOW FOR ONE ADDITIONAL KITCHEN;
6. AND TO AMEND THE THE DEFINITION OF "DWELLING" TO PERMIT ONE WET BAR AND TO ALLOW FOR ONE KITCHEN EXCEPT WHERE OTHERWISE PERMITTED IN THE ZONING BYLAW.

REPORT PREPARED BY: Andrew Browne

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## 1.0 RECOMMENDATION

THAT Zoning Bylaw Text Amendment No. TA09-0001 to amend City of Kelowna Zoning Bylaw No. 8000 as outlined in Schedule "A" of the report of the Land Use Management Department dated March 24, 2009 be considered by Council;

AND THAT Zoning Bylaw Text Amendment No. TA09-0001 be forwarded to a Public Hearing for further consideration.

## 2.0 SUMMARY

Various housekeeping amendments to the City of Kelowna Zoning Bylaw No. 8000 are necessary to ensure clear and comprehensible interpretation of the Bylaw. These proposed changes respond to the needs of Staff and the general public and aim to provide clarity to existing regulation and to accommodate reasonable requests that are otherwise not possible under current Bylaw definitions.



### **3.0 ADVISORY PLANNING COMMISSION**

At a meeting held on March 17, 2009, the Advisory Planning Commission passed the following recommendation:

THAT the Advisory Planning Commission support Text Amendment Application No. TA09-0001, by City of Kelowna (A. Browne), to amend Zoning Bylaw No. 8000 for various housekeeping text amendments, subject to the addition of the word “permanent” before cooking facilities in the definition of wetbar.

This application has incorporated the Commission’s suggested wording change in the submission to Council.

### **4.0 TECHNICAL COMMENTS**

#### **4.1 BUILDING & PERMITTING**

Building & Permitting Branch staff have reviewed and support the proposed wording and believe that these changes clarify the objectives of these articles. Also, it reduces the need for interpretation by staff which adds to the consistency of the administration and enforcement of the Bylaw for our customers.

#### **4.2 POLICY & PLANNING**

No concerns.

### **5.0 LAND USE MANAGEMENT DEPARTMENT COMMENTS**

Land Use Management Staff, in conjunction with Building & Permitting Staff, recommend several housekeeping amendments to the City of Kelowna Zoning Bylaw No. 8000. The proposed amendments and accompanying rationale are provided below. For the exact wording changes proposed, refer to Schedule “A” attached.

#### **1. Addition of “WET BAR” as a defined term.**

The Building & Permitting Department have requested that a definition of wet bar be created. As only one kitchen is permitted per dwelling unit, this definition will allow staff and residents to clearly communicate what is permitted as an alternative to a second kitchen. This definition may also aid in the control of illegal secondary suites.

#### **2. Correction of Diagrams 7.1 and 7.2 to accurately reflect the regulation.**

Building & Permitting Department staff noted that the existing diagrams do not accurately represent the actual effect of fence height regulation (see Attachment “B”). Revised diagrams have been produced by Policy & Planning staff to correct this error (see Attachment “C”).

**3. Clarification of maximum building height regulations for Hillside designations.**

While a maximum height is expressed for Urban Residential zones (for example, RU1 – Large Lot Housing), there is no maximum height specifically noted for Hillside designations. The maximum height of the parent zone applies to all designations of the same zone, however, this amendment aims to clarify this for residents and builders.

**4. Amendment of “LOT LINE, FRONT” definition.**

Some recent applications being considered by the Land Use Management Department have encountered lot configurations that are not described or otherwise dealt with by the existing definition. Recognizing that it is not possible to completely foresee all possible irregular lot configurations, this amendment will provide Staff, with the approval of the Director of Land Use Management, the ability to set a front lot line where any element of the existing definition does not apply.

**5. Amendment of ‘CARE CENTRE, MINOR’ definition.**

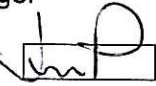
A second kitchen is often required for the preparation of lunch and snacks at licensed daycare facilities. For daycare facilities that are licensed under the *Community Care Facilities Act* and with the Interior Health Authority, this amendment would allow one additional kitchen to be established, except that the additional kitchen must be removed if the ‘care centre, minor’ use should cease. In facilitating this reasonable request for the ‘care centre, minor’ use only, the City is ensuring that any kitchen facilities are provided legitimately and in compliance with provincial health and safety regulations.

**6. Amendment of DWELLING definition.**

The current definition provides for only one kitchen and the proposed change would allow for one kitchen except as otherwise permitted in the Bylaw. This amendment enables the additional kitchen proposed to be permitted under the amended definition of ‘care centre, minor’ and would also enable one wet bar as a permitted feature of a dwelling.

Land Use Management staff recommend support for the application.

Danielle Noble  
Urban Land Use Manager

Approved for inclusion. 

Shelley Gambacort  
Director of Land Use Management



**Attachments**

- Schedule “A” – Proposed text amendments
- Attachment “B” – Existing, incorrect fencing diagram
- Attachment “C” – Proposed, correct fencing diagram

Schedule "A"  
Text Amendment No. TA09-0001 – Proposed Text Amendments

<b>Zoning Bylaw No. 8000</b>			
No.	Section	Existing Text	Proposed Text
1	§ 2.3.3 Definition of "WET BAR"		<u>WET BAR means a small facility that is used exclusively to prepare beverages or other items that do not require cooking. Exhaust fans, 220-volt wiring, natural gas rough-in, and permanent cooking facilities of any type are not permitted. The provision of a wet bar in no way permits an additional dwelling to be established.</u>
2	Diagram 7.1 and 7.2	The existing diagrams (Attachment "A") are incorrect and do not visually represent the regulation.	The proposed diagrams (Attachment "B") has been corrected to accurately reflect the regulation. No change is proposed to fencing regulations.
3	§ 13.1.6 (b) RU1 Zone – Development Regulations – Height  And for all other Urban Residential zones with 'h' designations.	The maximum height is the lesser of 9.5 m or 2 ½ storeys, except it is 4.5 m for accessory buildings and accessory structures. For the RU1h zone the maximum height of any vertical wall element facing a front, flanking street or rear yard (including walkout basements) is the lesser of 6.5m or 2 storeys, above which the building must be stepped back at least 1.2m.	The maximum height is the lesser of 9.5 m or 2 ½ storeys, except it is 4.5 m for accessory buildings and accessory structures. For the RU1h zone the maximum height is 2 ½ storeys and the maximum height of any vertical wall element facing a front, flanking street or rear yard (including walkout basements) is the lesser of 6.5m or 2 storeys, above which the building must be stepped back at least 1.2m.
4	§ 2.3.3 Definition of "LOT LINE, FRONT – URBAN AND RURAL RESIDENTIAL"	<b>LOT LINE, FRONT – URBAN AND RURAL RESIDENTIAL</b> means, in the case of an interior lot, a lot line separating the lot from the street; or in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street not including a corner rounding or corner cut; or in the case of a lot extending between two parallel streets, the front lot line shall be determined by the average front yard setback on that block.	<b>LOT LINE, FRONT – URBAN AND RURAL RESIDENTIAL</b> means, in the case of an interior lot, a lot line separating the lot from the street; or in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street not including a corner rounding or corner cut; <del>or</del> in the case of a lot extending between two parallel streets, the front lot line shall be determined by the average front yard setback on that block; <u>or for a lot configuration that is not otherwise described in this definition, a lot line, front as approved by the Director of Land Use Management.</u>

5	<p>§ 2.3.3 Definition of "CARE CENTRE, MINOR"</p>	<p><b>CARE CENTRE, MINOR</b> means an establishment licensed as required under the <i>Community Care Facilities Act</i> intended to provide care, educational services, and supervision for children or adults during the day or evening, and may include limited overnight accommodation to accommodate shift workers. This <b>use</b> includes drop-in centres and group day care centres for up to 8 patrons, and up to 10 children for the provision of care, before and after school hours and during school holidays, for children attending school, and pre-schools for up to 15 children.</p>	<p><b>CARE CENTRE, MINOR</b> means an establishment licensed as required under the <i>Community Care Facilities Act</i> intended to provide care, educational services, and supervision for children or adults during the day or evening, and may include limited overnight accommodation to accommodate shift workers. This <b>use</b> includes drop-in centres and group day care centres for up to 8 patrons, and up to 10 children for the provision of care, before and after school hours and during school holidays, for children attending school, and pre-schools for up to 15 children. <u>A care centre, minor operating lawfully within a dwelling may establish one additional kitchen provided that it must be removed should the care centre, minor use cease.</u></p>
6	<p>§ 2.3.3 Definition of "DWELLING"</p>	<p><b>DWELLING</b> means accommodation providing sleeping, washrooms, and a <b>kitchen</b> intended for domestic <b>use</b>, and used or intended to be used permanently or semi-permanently for a <b>household</b>. A <b>dwelling</b> includes only one room which, due to its design, plumbing, equipment, and furnishings, may be used primarily as a <b>kitchen</b>. This <b>use</b> does not include a room in a <b>hotel</b> or a <b>motel</b>.</p>	<p><b>DWELLING</b> means accommodation providing <u>interconnected, freeflowing space including bedroom(s) sleeping, washrooms, and a kitchen</u> intended for domestic <b>use</b>, and used or intended to be used permanently or semi-permanently for a <b>household</b>. A <b>dwelling</b> includes only one room which, due to its design, plumbing, equipment, and furnishings, may be used primarily as a <b>kitchen</b>, <u>except where otherwise permitted in this Bylaw. One wet bar is permitted within a dwelling.</u> This <b>use</b> does not include a room in a <b>hotel</b> or a <b>motel</b>.</p>

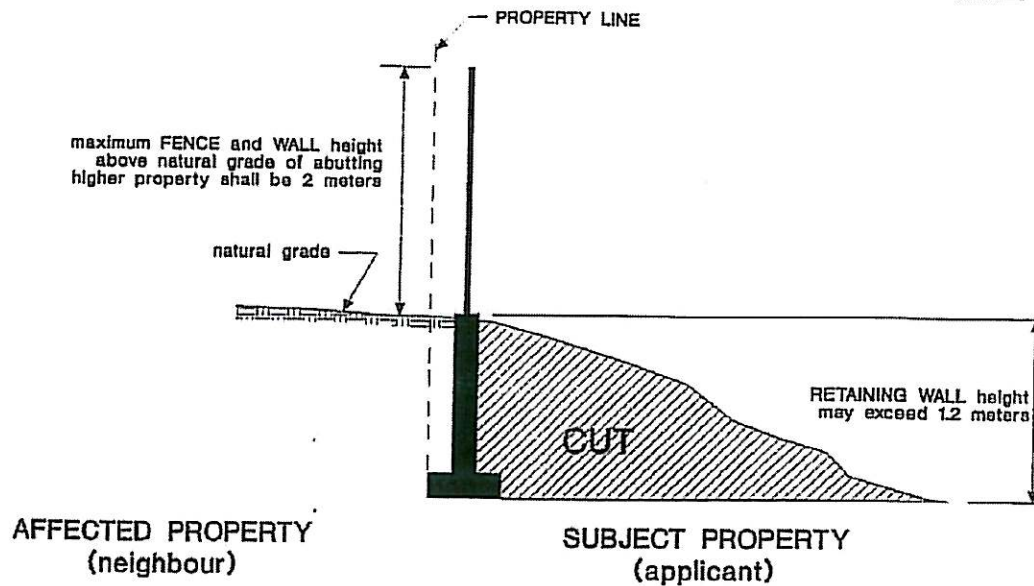


Diagram 7.1

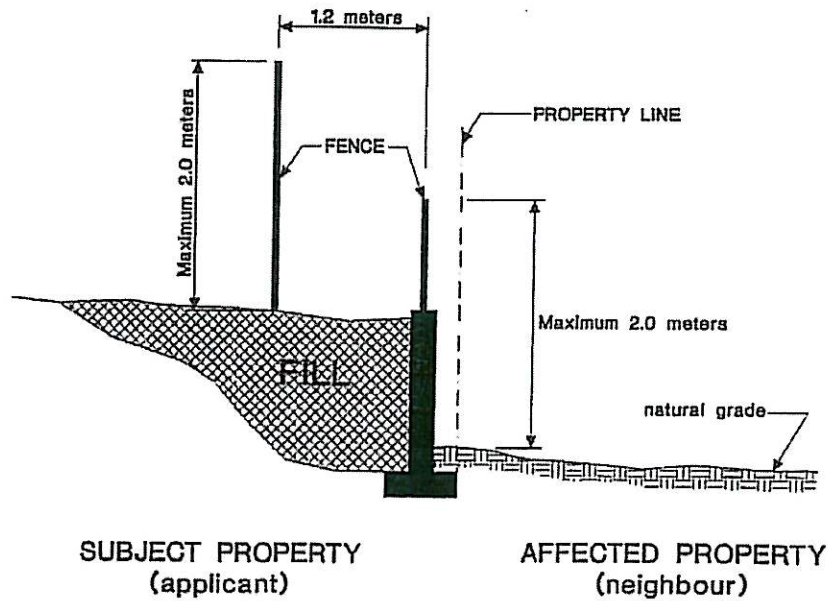
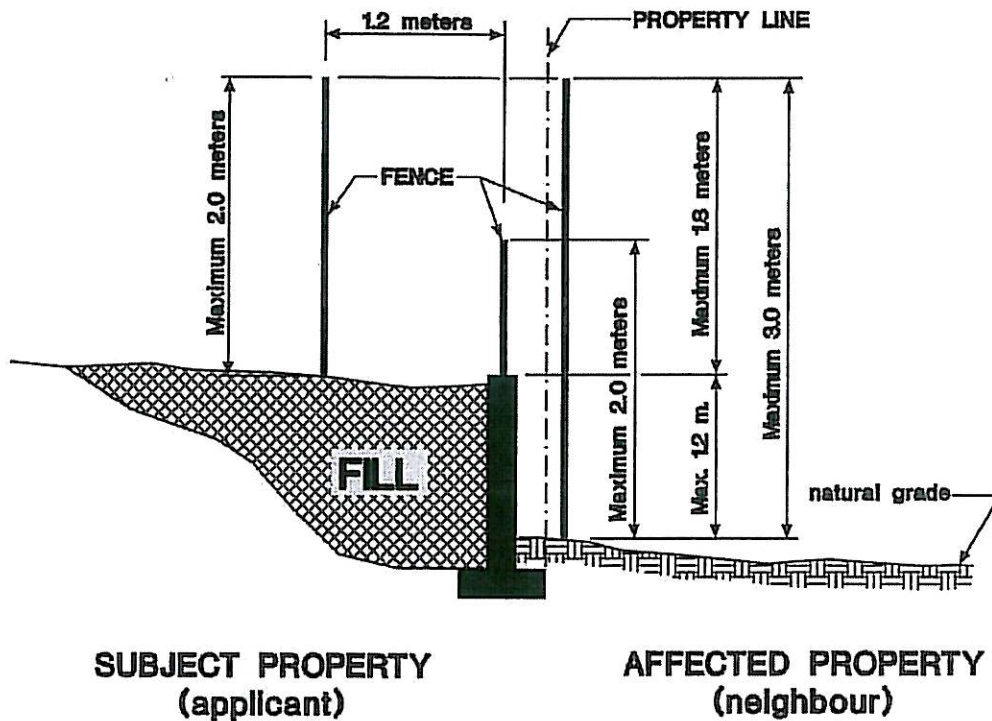
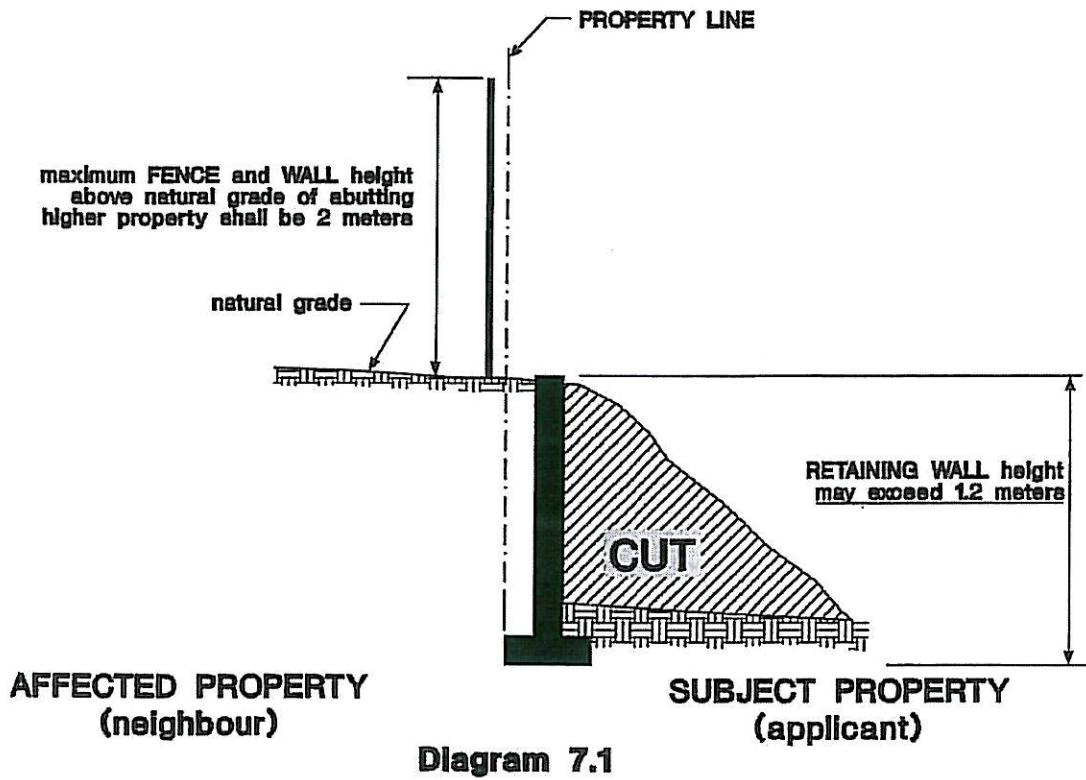


Diagram 7.2

**NOTE: DIAGRAMS ARE FOR ILLUSTRATIVE PURPOSES ONLY**

**Attachment "B"**



Attachment "C"

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