

Memo



Date: September 16, 2011

To: City Manager

From: Land Use Management, Community Sustainability (JM)

Application: TA11-0006

Applicant: City of Kelowna

Subject: Housekeeping Text Amendments to Zoning Bylaw No. 8000

1.0 Recommendation

THAT Zoning Bylaw Text Amendment No. TA11-0006 to amend City of Kelowna Zoning Bylaw No. 8000, as outlined in Schedule 'A' of the report of the Land Use Management Department dated September 16, 2011 be considered by Council.

THAT Zoning Bylaw Text Amendment No. TA11-0006 be forwarded to a Public Hearing for further consideration.

2.0 Purpose

Housekeeping text amendments to City of Kelowna Zoning Bylaw No. 8000 are proposed as follows:

1. To clarify bicycle parking requirements and standards;
2. To clarify Riparian Management Area wording;
3. To add setback requirements from watercourses for agricultural buildings, in accordance with provincial standards;
4. To ensure the consistency of Dock and Boatlift regulations with provincial guidelines; and
5. To add a new Alternative Transportation Corridor Zone.

3.0 Land Use Management

Following the adoption of the Kelowna 2030 - Official Community Plan, Land Use Management is proposing a number of amendments to the Zoning Bylaw in order to implement the provisions of the OCP. A secondary purpose to the amendments is to ensure consistency with provincial and federal policies and guidelines. The proposed amendments have been supported by both the Agricultural Advisory Committee (AAC) and the Advisory Planning Commission (APC).

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4.0 Proposal

4.1 Project Description

The proposed amendments are discussed in detail below, with the exact wording changes contained in *Schedule 'A'*.

Bicycle Parking

Two changes are proposed for the bicycle parking provisions of the zoning bylaw. The first consists of simply rewording an existing clause to improve readability. The second is the addition of a new clause that provides some guidance to ensure that secure, long-term bicycle parking is conveniently located and easily accessible.

Riparian Management Areas:

The proposed changes to the Riparian Management Area provisions of the Zoning Bylaw seek to clarify the link between the Zoning Bylaw and the OCP to ensure that riparian areas in the City are protected from development that has not received necessary permits.

Setbacks from Watercourses for Agricultural Buildings:

The Ministry of Agriculture has developed updated guidelines that feature setback standards from watercourses for agricultural buildings and facilities. The proposed regulations represent a comparable approach for agricultural land development that takes into consideration the mandated use under the *Agricultural Land Commission Act* while still meeting requirements for riparian protection under the federal *Fisheries Act*. The regulations have been developed through the Partnership Committee on Agriculture and the Environment (including the BC Agriculture Council, provincial and federal governments, and the Union of British Columbia Municipalities).

In separate letters to Local Governments in general and to the City of Kelowna specifically, dated May 18, 2011, and July 27, 2011 respectively (see Schedules 'B' and 'C'), the Province requested that local governments review their zoning bylaws for consistency with the new standards, and, where necessary, that the zoning bylaws be amended. The City of Kelowna Zoning Bylaw No. 8000 does not include setbacks from watercourses for agricultural buildings or facilities. It is therefore proposed that the zoning bylaw be amended to incorporate the new standards.

Dock & Boatlift Regulations:

The province, through several ministries, and Fisheries and Oceans Canada set regulations and require permits for dock structures on Okanagan Lake. The proposed changes seek to rectify minor inconsistencies between the City's dock and boatlift regulations and those of other levels of government.

Alternative Transportation Zone:

The Kelowna 2030 - Official Community Plan identifies a new future land use designation of Transportation Corridor which is applied uniquely over the existing rail corridor. Presently, the rail corridor does not have a sole zoning designation, but is subject to the

zones of the abutting properties. This has presented enforcement challenges and places the future preservation of the corridor at risk.

The proposed Alternative Transportation Zone (P6) proposes to zone the railway corridor uniquely in order to clarify which zoning regulations apply and to secure the use of the corridor for either a railway (private or public) or for linear corridor use.

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Development Process Policies:

Ensure new development is consistent with OCP goals¹.

Ensure adherence to form and character, natural environment, hazardous condition and conservation guidelines².

Ensure environmentally sustainable development³.

Maximize Pedestrian / Cycling Connectivity⁴. Require that pedestrian and cyclist movement and infrastructure be addressed in the review and approval of all City and private sector developments, including provision of sidewalks and trails and recognition of frequently used connections and informal pedestrian routes. With new developments, require dedication of on-site walking and cycling paths where necessary to provide links to adjacent parks, schools, transit stops, recreation facilities, employment nodes, cul-de-sacs and large activity areas.

Maintain biodiversity and connectivity in agricultural environments.⁵

Infrastructure Policies:

Place increased emphasis on sustainable modes of transportation (walking, cycling, transit) while maintaining automobile, commercial goods and emergency vehicle mobility⁶.

Provide more active transportation infrastructure to: increase resilience in the face of higher energy prices; improve community health; and reduce greenhouse gas emissions.⁷

Bicycle Parking⁸. Provide bicycle parking facilities on public lands within Urban Centres, where provision of such facilities are needed or would likely result in increased bicycle usage.

¹ City of Kelowna Official Community Plan, Objective No.5.1, Chapter 5

² City of Kelowna Official Community Plan, Objective No.5.4, Chapter 5

³ City of Kelowna Official Community Plan, Objective No.5.15, Chapter 5

⁴ City of Kelowna Official Community Plan, Policy No.5.10.1, Chapter 5

⁵ City of Kelowna Official Community Plan, Objective No.5.35, Chapter 5

⁶ City of Kelowna Official Community Plan, Objective No.7.6, Chapter 7

⁷ City of Kelowna Official Community Plan, Objective No.7.8, Chapter 7

⁸ City of Kelowna Official Community Plan, Policy No.7.8.8, Chapter 7

Utility and R.O.W. Corridors⁹. Seek co-operation for the pedestrian/bicyclist use of utility and right-of-way corridors. Should the right-of-way no longer be needed for utility purposes, the City would seek to preserve these corridors for future linear paths as part of the pedestrian and bicycle networks.

Future Land Use Policies:

Transportation Corridor¹⁰. Railway (public or private), transit, cycling, or pedestrian corridors or other uses that complement an alternative transportation function.

6.0 Application Chronology

Advisory Planning Commission August 30, 2011

The above noted application was reviewed by the Advisory Planning Commission at the meeting on August 30, 2011 and the following recommendations were passed:

THAT the Advisory Planning Commission support housekeeping amendments in Schedule A, Text Amendment Application No. TA11-0006, to support the policies and guidelines of the new 2030 OCP.

Agricultural Advisory Committee July 14, 2011

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting on July 14, 2011 and the following recommendations were passed:

THAT the Agricultural Advisory Committee supports Text Amendment Application No. TA11-0006 by the City of Kelowna to amend Zoning Bylaw No. 8000 to include new setback standards for agricultural buildings and facilities from watercourses in farming areas.

Anecdotal Comment: The Agricultural Advisory Committee supports the Text Amendment Application as the Members believe that it is a good idea to clearly define the setbacks and guidelines.

Report prepared by:



James Moore, Urban Land Use Planner

Reviewed by:



Todd Cashin Manager, Environmental Land Use Management

Approved for Inclusion:



Shelley Gambacort, Director, Land Use Management

⁹ City of Kelowna Official Community Plan, Policy No.7.8.9, Chapter 7

¹⁰ City of Kelowna Official Community Plan, Policy, Chapter 4, Land Use Designation Definitions

Attachments:

Schedule 'A' - Summary of Proposed Text Amendments

Appendix A - Alternative Transportation Corridor Zone

Appendix B - Riparian Protection Setbacks for Agricultural Buildings and Facilities

Schedule 'B' - Letter from the Ministry of Agriculture, dated July 27, 2011

Schedule 'C' - Letter from the Ministry of Agriculture, dated May 28, 2011



Schedule 'A' - Summary of Proposed Text Amendments

Topic	Section	Existing	Proposed
1. Bicycle Parking	Amend 8.4.9	Bicycle racks shall be located in a convenient, well-lit location that is easily located and accessible by visitors and subject to casual surveillance by occupants of the building served by the rack.	Class II bicycle parking shall be sited in a convenient, well-lit location that is clearly visible and accessible by visitors and that is subject to casual surveillance by occupants of the building(s) served.
	Add 8.4.10	n/a	Where Class I bicycle parking is provided, it shall be located at building grade or within one storey of building grade, and shall be easily accessible to users.
2. Riparian Management Area	Amend 6.14.1	In all zones where Riparian Management Area setbacks are required along watercourses, as specified by Official Community Plan Bylaw No. 7600, the specified setback distance shall be...	In all zones where Riparian Management Area setbacks are required along watercourses, as specified by the Kelowna 2030 - Official Community Plan Bylaw No. 10500 , the specified setback distance shall be...
	Amend 6.14.2	No alteration of land shall be permitted within a Riparian Management Area without an authorized Development Permit.	No development shall be permitted within a Riparian Management Area that does not conform to the setbacks as prescribed by Table 12.1 of the Kelowna 2030 - Official Community Plan without an authorized Development Permit.
3. Agricultural building setbacks from Watercourses	Add the following definitions to Section 2.3.3	n/a	<p>NATURAL STREAM means watercourses that have not been significantly altered by human activity and are predominantly in their natural state.</p> <p>CHANNELIZED STREAM means permanent or relocated streams that have been dyked, diverted or straightened and carry drainage flows from headwaters or significant sources of groundwater. Reaches of channelized streams may be confined by roads and fences and in many cases can also meander through fields. Man-made channels that divert irrigation water from a stream but return overflow water back to a stream in a manner that allows fish access are classified as channelized streams.</p> <p>CONSTRUCTED CHANNEL means man-made drainage channels that carry drainage water from more than one property but do not carry water from headwaters or significant sources of groundwater. Flows in agricultural constructed channels may be year-round and are not regulated. Constructed channels may also deliver water for irrigation purposes.</p> <p>CONSTRUCTED DITCH means man-made drainage channels that carry drainage water from one property only but do not carry water from headwaters or significant sources of groundwater. Flows in agricultural constructed ditches may be year-round and are not</p>

				regulated. Constructed ditches may also deliver water for irrigation purposes. A constructed ditch that temporarily diverts water for irrigation purposes, but is dry during the non-irrigation season, should be screened to prevent fish access. See Appendix 'B'
4. Dock & Boatlift Regulations	Add a new Section 6.14.4	n/a		
	Replace 9.9.4	Development shall be in conformance with Land Development Guidelines for the Protection of Aquatic Habitat of the Canada Department of Fisheries and Oceans and the Ministry of Environment, Lands, and Parks. Prior to construction on the Crown foreshore, permission must be obtained from the Ministry of Environment, Lands, and Parks.		<i>Development shall be in conformance with federal and provincial regulations, best management practices and guidelines. Prior to construction on the Crown foreshore, permission must be obtained from the pertinent provincial and federal agencies.</i>
	Amend 9.9.5 Introduction	Moorage facilities consisting of docks shall be permitted if developed consistently with the following regulations or as approved by the Ministry of Environment, Lands and Parks.		Moorage facilities consisting of docks <i>and boat lifts</i> shall be permitted if developed consistently with the following regulations or as approved by the <i>pertinent provincial and federal agencies</i> Ministry of Environment, Lands and Parks.
	Insert new 9.9.5(a) and renumber the rest	n/a		The owner of the moorage facilities is the owner of the upland property or is the holder of a Crown land residential lease for the upland property.
	Amend 9.9.5(b)	Dock walkways shall not exceed a width of 3.0m.		Dock walkways shall not exceed a width of 3.0m. <i>Dock access ramps and walkways shall not exceed a width of 1.5m. Any other surface of the dock shall not exceed a width of 3.0m.</i>
	Amend 9.9.5(e)	Setback from the side property line of the upland parcel, projected onto the foreshore, shall be a minimum of 3.0m.		Setback from the side property line of the upland parcel, projected onto the foreshore, shall be a minimum of 3.0m <i>5.0m</i> .
	Amend 9.9.5(g)	Siting of the dock shall be undertaken only in a manner that is consistent with the orientation of neighbouring docks, and avoids impacts on access to existing docks and adjacent properties.		Siting of the dock shall be undertaken only in a manner that is consistent with the orientation of neighbouring docks, <i>that is sensitive to views and other impacts</i> , and <i>that</i> avoids impacts on access to existing docks and adjacent properties.
	Amend 9.9.5(h)	No roof or covered structures shall be placed on the dock.		No roof, <i>overhead</i> or covered structures shall be placed on the dock.
5. Alternative Transportation Corridor	Insert new 16.8	n/a		See Appendix 'A'

Appendix 'A'

16.8 P6 - Alternative Transportation Corridor Zone

16.8.1 Purpose

The purpose is to provide a zone to regulate the present and future use of the existing railway corridor, and to reduce conflict between uses. The corridor is to remain used as a railway or as an alternative transportation corridor and corresponding uses.

16.8.2 Principal Uses

The principal uses in this zone are:

- (a) public park
- (b) railway use

16.8.3 Secondary Uses

The secondary uses in this zone are:

- (a) agriculture, urban
- (b) utility services, minor impact

16.8.4 Buildings and Structures Permitted

- (a) accessory buildings and structures.

16.8.5 Subdivision Regulations

- (a) N/A

16.8.6 Development Regulations

- (a) The maximum site coverage of buildings is 5%.
- (b) The maximum height is the lessor of 4.5 m or one storey.
- (c) The minimum site front yard is 1.0m.
- (d) The minimum site side yard is 1.0m.
- (e) The minimum site rear yard is 1.0m.

16.8.7 Other Regulations

- (a) In addition to the regulations listed above, other regulations will apply. These include, but are not limited to, the general development regulations of Section 6 (accessory development, yards, projections into yards, lighting, stream protection, etc.), the landscaping and fencing provisions of Section 7, the parking and loading regulations of Section 8, and the specific use regulations of Section 9.

Appendix 'B'

6.14 Riparian Protection Setbacks From Watercourses For Buildings And Facilities In Farming Areas

6.14.4a Despite lesser setback requirements outlined within each Agricultural Zone specified in this Bylaw, buildings and facilities identified below shall comply with the following minimum setbacks (headings in Tables are part of this Bylaw):

Table 6.1 - Building and Facilities Setbacks from Watercourses for Riparian Protection in Farming Areas				
FACILITY TYPE / WATERCOURSE TYPE	Category 1 Confined Livestock Area with more than ten (10) agricultural units ¹ ; Seasonal Feeding Area; Solid Agricultural Waste (Field Storage) with greater than two (2) weeks storage capacity	Category 2 Agricultural Waste Storage Facility; Chemical, Compost and Wood Waste Storage; Confined Livestock Area with fewer than ten (10) agricultural units ¹ ; Incinerator; Mushroom Barn; On-Farm Composting; On-Farm Soil-less Medium Production and Storage; Silo; Petroleum Storage	Category 3 Brooder House; Hatching; Fur Farming Shed; Livestock Barn; Livestock Shelter; Milking Facility; Stable	Category 4 Boiler Room; Cider Processing Facility; Cold Frame Structure; Crop Storage Structure; Detention Pond; Direct Farm Marketing Buildings; Granary; Greenhouse; Impervious Surfaces; Machinery Storage; On-Farm Processing; On-Farm Product Preparation; Retention Pond
Naturalized Stream	30m	15m	15m	15m
Channelized Stream	30m	15m	15m	Twice Channel Width ² (minimum: 10m) (maximum: 15m)
Constructed Channel or Ditch ³	30m	15m	5m ⁴	5m ⁴

¹ An agricultural unit is equivalent to a live farm animal weight corresponding to 455 kilograms (1000 pounds) for livestock, poultry or farmed game or any combination of them equaling 455 kilograms.

² Channel width is determined from the top of the bank on one side to the top of the bank on the opposite side.

³ No differentiation is made between either constructed channels or constructed ditches when determining building setbacks; however, differences between the two exist for drainage maintenance considerations.

⁴ The minimum building setback distance from a constructed channel or constructed ditch for which a municipality is responsible is seven (7) metres.

SCHEDULE 'B'



July 27 2011

City of Kelowna
1435 Water Street
Kelowna BC V1Y 1J4

Attn: Shelley Gambacort - Director Land Use.

Dear Madam,

Please accept this letter as encouragement and endorsement by the Ministry of Agriculture for the recently signed and approved Agricultural Building Setbacks set to your planning department approximately two months ago.. This document is the result of significant work, negotiations and discussions between the Ministry of Agriculture, Ministry of Environment and the Department of Fisheries and Oceans following the coming into force of the Riparian Areas Regulation.

As you are aware these land management and use discussions are not easy, but in the end the document finds the balance between environmental interests, economic development in the agriculture sector and the societal values the province of British Columbia prides itself on.

I am aware that this document has been vetted through your Agricultural Advisory Committee and has been given a favourable response. Anything that I can add to assisting you, and the City of Kelowna generally, in getting these setbacks incorporated to by-law I am willing and able to do.

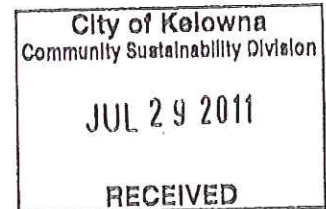
Should you have questions or concerns in regards to this letter please, call me at your convenience at 250-861-7229.

Yours truly,

Carl Withler, P.Ag
Resource Stewardship Agrologist
Sustainable Agriculture Management Branch

cc. Todd Cashin
City of Kelowna

Bert van Dalssen
Manager, Strengthening Farming
Ministry of Agriculture





May 18, 2011

File:

Planning Departments, Local Governments

Dear Sir:

Re: Riparian Building Setbacks – Guide for Bylaw Development in Farming Areas

The Minister of Agriculture has adopted the 'agricultural building setbacks' as a standard to guide local government bylaw development in farming areas (s.916 Local Government Act). The Ministry's "Guide for Bylaw Development in Farming Areas" has been updated to include the agricultural building setbacks from watercourses and is posted on the Ministry's website <http://www.agf.gov.bc.ca/resmgmt/publist/800Series/840000-1.pdf>. The new information begins on page C-25.

The 'agricultural building setbacks' in the Bylaw Guide have the support of the stakeholders involved in this issue. The Partnership Committee on Agriculture and the Environment has provided a forum where Fisheries and Oceans Canada, the BC Ministry of Agriculture and the BC Ministry of Environment, the BC Ministry of Forest, Lands and Natural Resource Operations, the Union of BC Municipalities and the BC Agriculture Council have discussed the application of the Riparian Areas Regulation to agriculture. These parties have agreed to the agricultural building setbacks outlined in the attached publication "Agricultural Building Setbacks from Watercourses in Farming Areas". This publication is also posted on our website http://www.al.gov.bc.ca/resmgmt/publist/800Series/823400-1_Agriculture_Building_Setback_Factsheet.pdf.

The agricultural building setbacks from watercourses are intended to be incorporated into local government bylaws province wide. They apply to agricultural land that is currently growing a crop or fallowed and is therefore considered developed.

Please review your bylaws to determine if they are consistent with the Ministry standards for building setbacks in riparian areas and consider amending the bylaws where appropriate. Ministry regional agrologists (<http://www.agf.gov.bc.ca/ministry/who.htm>) are available to assist in this matter or you may telephone me (604 556-3109) if you have questions.

Ministry of Agriculture
and Lands

Sustainable Agriculture
Management Branch

Mailing Address:
1767 Angus Campbell Road
Abbotsford, BC V3G 2M3

Telephone: 604 556-3109
Facsimile: 604 556-3099

Web Address: <http://www.al.gov.bc.ca>

Sir
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Thank you for your consideration of this matter.

Yours truly,

Original signed by

Bert van Daltsen, PEng.
Manager, Strengthening Farming Program
Sustainable Agriculture Management Branch

Attachment

pc: Sylvia von Schuckmann, Standards and Guidelines Specialist,
Ministry of Forests, lands and Natural Resource Operations.
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