

ADMINISTRATIVE REPORT



TO: Board of Directors
FROM: B. Newell, Chief Administrative Officer
DATE: March 17, 2022
RE: Okanagan Valley Zoning Bylaw No. 2800 – Electoral Areas “A”, “C”, “D”, “E”, “F” & “I” (X2021.013-ZONE)

Administrative Recommendation:

THAT Bylaw No. 2954, 2022, a bylaw to amend the Okanagan Valley Official Community Plans be read a first and second time and proceed to public hearing; and,

THAT Bylaw No. 2800, 2022, a bylaw to amend the Okanagan Valley Zoning Bylaws be read a first and second time and proceed to public hearing; and,

THAT Bylaw No. 2507.15, 2022, a bylaw to amend the Bylaw Notice Enforcement Bylaw be read a first and second time;

THAT the Board of Directors considers the process, as outlined in this report from the Chief Administrative Officer dated March 17, 2022, to be appropriate consultation for the purpose of Section 475 of the *Local Government Act*;

THAT, in accordance with Section 477 of the *Local Government Act*, the Board of Directors has considered Amendment Bylaw No. 2954, 2022, in conjunction with its Financial and applicable Waste Management Plans;

THAT the holding of a public hearing be scheduled for the Regional District Board meeting of April 7, 2022; and

THAT the public hearing be advertised in accordance with the requirements of the *Local Government Act*.

Purpose:

The Okanagan Valley Zoning Bylaw No. 2800 represents the culmination of a multi-year project to review, update and consolidate the zoning bylaws for Electoral Areas “A”, “C”, “D”, “E”, “F” and “I”.

A series of amendments are being proposed to the Okanagan Valley official community plan (OCP) bylaws to address text references within the bylaws, or supporting mapping amendments.

The proposed amendments to the Bylaw Notice Enforcement Bylaw No. 2507, 2010, are intended to ensure that this bylaw accurately reflects the new section numbers in Zoning Bylaw No. 2800.

Background:

The current Okanagan Electoral Area zoning bylaws are the result of a “Repeal and Re-enactment” (R&R) Process initiated by the Regional District in 2008 in order to address a number of

“administrative deficiencies” related to the adoption of new official community plan (OCP) bylaws as well as amendment bylaws.

Since their adoption, the zoning bylaws have been the subject of numerous amendments (e.g. over 50 amendments to Electoral Area “D”) affecting hundreds of lines of text within the bylaws.

The review and consolidation of the Okanagan zoning bylaws has been identified as a strategic Board priority for a number of years and supports the objective of ensuring “all existing bylaws and policies are kept in a current and useful form ...”. A number of major reviews of the zoning bylaws have been completed within the past 6 years.

At its meeting of March 3, 2022, the Planning and Development (P&D) Committee considered a “Land Use Bylaw Transition Policy” (2016), which provided an overview of “significant policy changes” contained within the Draft Okanagan Valley Zoning Bylaw No. 2800.

Referrals:

Approval from the Ministry of Transportation and Infrastructure (MoTI) is required prior to adoption as the proposed amendments involve lands within 800 metres of a controlled access highway (i.e. Highway 97 & 3).

Pursuant to Section 476 of the *Local Government Act*, the Regional District must consult with the relevant School District when proposing to amend an OCP for an area that includes the whole or any part of that School District. In this instance, School District No. 53 & 67 have been made aware of the proposed amendment bylaw.

Pursuant to Section 477 of the *Local Government Act*, after first reading the Regional Board must consider the proposed OCP amendment in conjunction with Regional District's current financial and waste management plans. The proposed OCP amendment has been reviewed by the Public Works Department and Finance Department, and it has been determined that the proposed bylaw is consistent with RDOS's current waste management plan and financial plan.

Pursuant to Section 475 of the *Local Government Act*, the Regional District must consult with the Agricultural Land Commission (ALC) when proposing to amend an OCP which might affect agricultural. Both the ALC and the Ministry of Agriculture have been made aware of the proposed amendment bylaw(s).

Public Process:

On March 1, 2022, an electronic Public Information Meeting (PIM) was held via the Webex platform and was attended by approximately eight (8) members of the public.

The written notification of affected property owners, the public meetings as well as formal referral to the agencies listed at Attachment No. 1, is considered appropriate consultation for the purpose of Section 475 of the *Local Government Act*. As such, the consultation process undertaken is seen to be sufficiently early and does not need to be further ongoing.

All comments received to date in relation to this application are included in the Board Agenda package.

Analysis:

There are many benefits of a single zoning bylaw for the Okanagan electoral areas and include, amongst other things, reduced inefficiencies, duplication and overlap between electoral areas.

By way of example, at the beginning of this project it was estimated that there were approximately 20 different residential zones (e.g. five different versions of the RS1 Zone) across the electoral areas due to differences in setbacks, parcel coverage, height, permitted uses, etc. This has now been reduced to a core group of seven (7) low density and medium density residential zones in Zoning Bylaw No. 2800.

The creation of a single zoning bylaw for the Okanagan electoral areas will ease the burden of maintaining and interpreting numerous regulations that were similar but slightly divergent in important ways.

For example, the definitions of “height” varied across each of the electoral areas, making it difficult to apply the regulation consistently and resulting, at one point, in legal proceedings involving the Electoral Area “D” Zoning Bylaw and three (3) different height calculations for a dwelling unit being submitted in proceedings.

Similarly, slightly divergent regulations for “bed and breakfast” operations in Electoral Area “E” resulted in a legal ruling allowing “vacation rentals” as a form of B&B in that community.

A single bylaw will allow for the implementation of a *generally* uniform set of definitions and a consistent set of use regulations across the electoral areas and will facilitate the on-going updating and interpretation of these provisions.

Where, however, different regulations are required for different electoral areas – such as with solar energy systems – this can be accommodated through the bylaw.

Administration further notes that when the current electoral area zoning bylaws were adopted in 2008, they represented a combined 588 pages, a number that has increased by 46% (to 818 combined pages) as of 2022. The transition to a single bylaw will reduce this page count by 74%, to the 233 pages contained in Zoning Bylaw No. 2800.

Administration further considers that this will improve ease of use of the zoning bylaw by the public as well as staff, particularly where a property owner or contractor is holding or developing land in multiple electoral areas.

Finally, the introduction of a new zoning bylaw is an opportune time to address internal inconsistencies and conflicts that may have arisen within a bylaw following its initial adoption. This can result from the adoption of multiple amendments over a long period time.

Alternatives:

1. THAT Official Community Plan Amendment Bylaw No. 2954, 2022, Okanagan Valley Zoning Bylaw No. 2800, 2022, and Bylaw Notice Enforcement Amendment Bylaw No. 2507.15, 2022, be denied.

Respectfully submitted:



C. Garrish, Planning Manager

Attachments:

No. 1 – Agency Referral List

Attachment No. 1 – Agency Referral List

Referrals have been sent to the following agencies as highlighted with a , regarding Amendment Bylaw No. 2954, 2022:

<input checked="" type="checkbox"/>	Agricultural Land Commission (ALC)	<input checked="" type="checkbox"/>	Fortis
<input checked="" type="checkbox"/>	Interior Health Authority (IHA)	<input checked="" type="checkbox"/>	City of Penticton
<input checked="" type="checkbox"/>	Ministry of Agriculture	<input checked="" type="checkbox"/>	District of Summerland
<input type="checkbox"/>	Ministry of Energy, Mines & Petroleum Resources	<input checked="" type="checkbox"/>	Town of Oliver
<input type="checkbox"/>	Ministry of Municipal Affairs & Housing	<input checked="" type="checkbox"/>	Town of Osoyoos
<input checked="" type="checkbox"/>	Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Ecosystem Section)	<input type="checkbox"/>	Town of Princeton
<input type="checkbox"/>	Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Archaeology Branch)	<input type="checkbox"/>	Village of Keremeos
<input type="checkbox"/>	Ministry of Jobs, Trade & Technology	<input checked="" type="checkbox"/>	Osoyoos Indian Band
<input checked="" type="checkbox"/>	Ministry of Transportation and Infrastructure	<input checked="" type="checkbox"/>	Penticton Indian Band
<input type="checkbox"/>	Integrated Land Management Bureau	<input type="checkbox"/>	Environment Canada
<input type="checkbox"/>	BC Parks	<input type="checkbox"/>	Fisheries and Oceans Canada
<input checked="" type="checkbox"/>	School District #53 (Areas A, B, C, D & G)	<input type="checkbox"/>	Canadian Wildlife Services
<input type="checkbox"/>	School District #58 (Area H)	<input type="checkbox"/>	OK Falls Irrigation District
<input checked="" type="checkbox"/>	School District #67 (Areas D, E, F, I)	<input type="checkbox"/>	Kaleden Irrigation District
<input type="checkbox"/>	Central Okanagan Regional District	<input checked="" type="checkbox"/>	Okanagan Falls Irrigation District
<input type="checkbox"/>	Thompson Nicola Regional District	<input type="checkbox"/>	Kootenay Boundary Regional District
<input checked="" type="checkbox"/>	Kaleden Irrigation District	<input type="checkbox"/>	Fraser Valley Regional District