

ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: B. Newell, Chief Administrative Officer

DATE: January 23, 2020

RE: Official Community Plan Bylaw Amendment – Electoral Area “A”, “C”, “D”, “E”, “F”, “H” & “I”
Development Procedures Bylaw Amendment
Watercourse Development Permit (WDP) Area Update

Administrative Recommendation:

THAT Bylaw No. 2500.13, 2020, Regional District of Okanagan-Similkameen Development Procedures Amendment Bylaw, be read a first and second time;

AND THAT Bylaw No. 2876, 2020, Regional District of Okanagan-Similkameen Watercourse Development Permit Area Update Amendment Bylaw be read a first and second time and proceed to public hearing;

AND THAT the Board of Directors considers, in accordance with Section 12(4)(b) of the *Riparian Areas Protection Act*, that the requirements for an Expedited Watercourse Development Permit contained in Bylaw No. 2876, 2020, provides a level of protection that is comparable to or exceeds that established by the *Riparian Areas Protection Regulation*;

AND THAT the Board of Directors considers the process, as outlined in this report from the Chief Administrative Officer dated January 23, 2020, to be appropriate consultation for the purpose of Section 475 of the *Local Government Act*;

AND THAT, in accordance with Section 477 of the *Local Government Act*, the Board of Directors has considered Amendment Bylaw No. 2876, 2020, in conjunction with its Financial and applicable Waste Management Plans;

AND THAT the holding of a public hearing be scheduled for the Regional District Board meeting of February 20, 2020;

AND THAT staff give notice of the public hearing in accordance with the requirements of the *Local Government Act*.

Proposed Development:

The purpose of the proposed amendments to the Electoral Area Official Community Plan (OCP) Bylaws is to update the Watercourse Development Permit (WDP) Area designations in order to remain consistent with the recently implemented provincial *Riparian Area Protection Regulation* (RAPR) (November 1, 2019).

The proposed amendments to the application requirements and processing procedures for WDPs found in the Regional District’s Development Procedures Bylaw No. 2500, 2011, is intended to further ensure consistency with the RAPR.

Background:

On March 31, 2005, the provincial *Riparian Areas Regulation* (RAR) came into effect with the purpose of establishing “directives to protect riparian areas from development so that the areas can provide natural features, functions and conditions that support fish life processes.”

At Section 3 of the *Regulation*, the provincial government listed 14 regional districts — including the Regional District of Okanagan-Similkameen — that were required to implement RAR through their land use bylaws.

At its meeting of June 8, 2006, the Regional District Board adopted Amendment Bylaw No. 2337, 2006, which introduced Watercourse Development Permit (WDP) Area designations into the Electoral Area “A”, “C”, “D”, “E”, “F”, “H” & “I” OCP Bylaws.

On November 1, 2019, a new provincial *Riparian Area Protection Regulation* (RAPR) came into effect and, amongst other things, introduced a requirement allowing the provincial government to withhold an assessment report that does not comply with RAPR until the deficiencies are rectified.

At its meeting of December 5, 2019, the Planning and Development (P&D) Committee of the Board resolved “that Bylaw No. 2876, Watercourse Development Permit Area Update and Bylaw No. 2500.14, 2019, Regional District of Okanagan-Similkameen Development Procedures Amendment Bylaw, be brought forward for consideration of first reading.”

Referrals:

Approval from the Ministry of Transportation and Infrastructure (MoTI) is not required prior to adoption as the proposed amendments are to an OCP Bylaw.

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, 58 & 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 land. Both the ALC and the Ministry of Agriculture have been made aware of the proposed amendment bylaw.

Public Process:

Administration recommends that the formal referral to the agencies listed in Attachment No. 1, should be 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 further ongoing.

All comments received to date in relation to this application are included as a separate item on the Board Agenda.

Analysis:

Administration considers that the proposed amendments to the WDP Area designation will ensure greater compliance with the recently enacted provincial *Riparian Area Protection Regulation* (RAPR). These amendments include, amongst other things, the following:

- submission of an Assessment Report prepared in accordance with Part 4 (Assessments and Assessment Reports) of the provincial RAPR and which has been successfully reviewed by the responsible provincial minister;
- updating the list of activities that constitute “development”, which is currently based on the (now rescinded) *Riparian Area Regulation* (RAR), to those used in other DP Areas (i.e. ESDP triggers);
- placing development permit triggers (i.e. building, subdivision, land disturbance) in their own sub-section as is done with other DP Area designations (currently, the triggers are comprised within the “Guidelines” section);
- removing the section related to the requirement for monitoring reports as the Regional District does not have the legal authority to require these; and
- introducing new exemptions for in-stream works approved under the Water Sustainability Act and for works undertaken in relation to an emergency event (i.e. emergency flood or protection works).

In support of this, and to prevent the Regional District from having to manage applications that are still being assessed by the provincial government, it is further proposed that the Development Procedures Bylaw be amended to require that applications may only be submitted once successfully reviewed by the responsible provincial minister.

Expedited Development Permit Process:

To ensure the continuing validity of the “Expedited” permitting option in light of the new requirements contained within the RAPR, Administration is recommending that the Board consider a resolution to the effect that;

The Regional District Board considers, in accordance with Section 12(4)(b) of the Riparian Areas Protection Act, that the requirements for an Expedited Watercourse Development Permit provides a level of protection that is comparable to or exceeds that established by the Riparian Areas Protection Regulation.

Alternatives:

1. THAT Bylaw No. 2500.13, 2020, Regional District of Okanagan-Similkameen Development Procedures Amendment Bylaw and Bylaw No. 2876, 2020, Regional District of Okanagan-Similkameen Watercourse Development Permit Area Update Amendment Bylaw be deferred; or
2. THAT Bylaw No. 2500.13, 2020, Regional District of Okanagan-Similkameen Development Procedures Amendment Bylaw and Bylaw No. 2876, 2020, Regional District of Okanagan-Similkameen Watercourse Development Permit Area Update Amendment Bylaw be denied.

Respectfully submitted:

Endorsed By:



C. Garrish, Planning Manager

B. Dollevoet, G.M. of Dev. Services

Attachment No. 1 – Agency Referral List

Referrals have been sent to the following agencies as highlighted with a , regarding Amendment Bylaw No. 2876:

<input checked="" type="checkbox"/>	Agricultural Land Commission (ALC)	<input type="checkbox"/>	Fortis
<input checked="" type="checkbox"/>	Interior Health Authority (IHA)	<input type="checkbox"/>	City of Penticton
<input checked="" type="checkbox"/>	Ministry of Agriculture	<input type="checkbox"/>	District of Summerland
<input type="checkbox"/>	Ministry of Energy, Mines & Petroleum Resources	<input 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 Environment & Climate Change Strategy	<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 type="checkbox"/>	Okanagan Nation Alliance (ONA)
<input checked="" type="checkbox"/>	Ministry of Transportation and Infrastructure	<input checked="" type="checkbox"/>	Penticton Indian Band (PIB)
<input type="checkbox"/>	Integrated Land Management Bureau	<input checked="" type="checkbox"/>	Osoyoos Indian Band (OIB)
<input type="checkbox"/>	BC Parks	<input checked="" type="checkbox"/>	Upper Similkameen Indian Band (USIB)
<input checked="" type="checkbox"/>	School District #53 (Areas A, B, C, D & G)	<input checked="" type="checkbox"/>	Lower Similkameen Indian Band (LSIB)
<input checked="" type="checkbox"/>	School District #58 (Area H)	<input type="checkbox"/>	Environment Canada
<input checked="" type="checkbox"/>	School District #67 (Areas D, E, F, I)	<input checked="" type="checkbox"/>	Fisheries and Oceans Canada
<input type="checkbox"/>	Central Okanagan Regional District	<input checked="" type="checkbox"/>	Canadian Wildlife Services
<input type="checkbox"/>	Kootenay Boundary Regional District	<input checked="" type="checkbox"/>	OK Falls Irrigation District
<input type="checkbox"/>	Thompson Nicola Regional District	<input checked="" type="checkbox"/>	Kaleden Irrigation District
<input type="checkbox"/>	Fraser Valley Regional District		