



PUBLIC HEARING REPORT

To: Paul Gipps, CAO

Date: June 28, 2022

From: Carla Eaton, Senior Planner

File No: P 20-07

Subject: **P 20-07, Zoning Bylaw No. 0265, 2022 (Public Hearing)**

BACKGROUND

Bylaw No. 0265 was given first reading on April 19, 2022, and given second reading as amended on May 24, 2022. For ease of reference, the Public Hearing Report has been prepared as a full summary of the proposed bylaw changes reflecting the bylaw as amended at second reading (*Attachment 1*).

ADDITIONAL INFORMATION FOR PUBLIC HEARING

West Kelowna's current Zoning Bylaw No. 0154 was adopted in 2014. Since then, the City has undergone significant social and economic change, evidenced by a growing population, increasing housing demand, and tourism growth. These changes have provided both opportunities and challenges in the community and have led to various amendments and stand alone reviews to our existing Bylaw (e.g., suites and carriage homes, cannabis production, temporary farm worker housing, etc).

As part of Council's strategic priorities, it was identified in 2017 that the Zoning Bylaw required a comprehensive review to address the entire Bylaw in order to provide more clarity, help with the ease of use, and create opportunities for consistency. During the review of the Zoning Bylaw, the scale and number of the updates continued to grow based on feedback from staff, stakeholder and the development community. The proposed Zoning Bylaw No. 0265 represents the culmination of this significant review period and presents an opportunity to address chronic challenges in advance of future amendments following the adoption of the City's new Official Community Plan.

DISCUSSION

The intent of the proposed changes is to be administrative in nature, while also addressing several key sections based on feedback from staff, Council and the development community. The updates have been highlighted in two key categories that represent the major and minor changes. While these have been categorized for convenience, many of the minor changes pose frequent challenges to builders, designers and the development community and present a significant opportunity for applicants and staff to save time during application processing. A general summary of these changes is provided below:

Major Changes

Housing

- Secondary Suites
 - Increased the maximum size from 90 m² to 100 m², to address conflicts with suite conversions in existing homes and allow for greater flexibility in design for homeowners.
 - Moved the minimum parcel area requirement for RC3 lots to General Regulations.
- Carriage Houses
 - Increased maximum size from 90 m² to 110 m² for RC1, RC2, R1, R1L, and RU1 Zones to provide greater flexibility and allow for additional living space (e.g., three bedrooms). Regional comparisons from four other jurisdictions were provided for Council's information at second reading (*Attachment 2*).
 - Removed regulations that were intended to influence the design and scale of carriage houses (e.g., peak height over principal dwelling, dormer restrictions, 1.5 storey limitation, etc.).
 - Removed 75% upper floor area limitation intended to influence the design and scale of carriage houses.
 - Increased maximum height by 0.5 m (from existing 6.5 m to 7.0 m) to reflect the new height definition (measured to mid-point of roof) for carriage houses.
 - Confirmed the requirement in General Regulations for a solid screen (fencing or hedge) for a carriage house located within 25 m of a rear or interior side parcel boundary that abuts a residential or rural zone, based on Council feedback regarding mitigating impacts to neighbouring properties.
- Driveway Parking/ Garage Setbacks
 - Added regulations within the R1, R2 and RC3 Zones to allow for reduced front parcel setbacks and a portion of a required parking space to be located in the road right-of-way, where there is an existing curb or sidewalk. The minimum setback from back of curb or edge of sidewalk is proposed at 6.2 m based on Council feedback and a comparative analysis of the average length of five of the most common light duty trucks (*Attachment 3*). The intent is to create more opportunities for secondary suite and carriage house parking where driveway lengths are adequate and reduce the impacts and grading associated with hillside development, but to ensure that unintended overhang of vehicles is reduced.

Building Height Measurement

- Updated the 'height' definition and increased the maximum dwelling heights from 9m to 10m in the RU1, RU2, RU3, RC1, RC2, RC3, RC4, R1, R1M, R1L, RMP,

R2 and R3 Zones to allow for the industry transition to higher ceilings and to accommodate the new height definition.

- Clarified that height is measured to the highest point for a flat roof, or the midpoint for a sloping roof from grade at a point 1.5 m from the base of the wall. This change will eliminate the single wall face measurement which has created significant challenges for designers and Building Department staff.
- New definition for 'localized depression' to prevent the manipulation of grade (e.g., sinking an entire building footprint below grade to circumvent height regulations).
- Updated 'storey' definition to clarify rooftop access, non-surface parking areas, and crawlspaces are not considered a storey.

Minor Changes

Interpretation:

- Updated 'split zoned parcels' which apply where a parcel contains more than one zone to clarify what regulations apply to the parcel versus each separate zone within the parcel.
- Updated definitions of 'dwelling' and 'wet bar' to clarify that a single wet bar is permitted within a dwelling, and that a second kitchen is not permitted unless it is part of a secondary suite.
- Changed 'winery or cidery' and 'brewery, distillery or meadery' to 'alcohol production facility'.
- Added accommodation for people requiring immediate shelter for a short period of time as an accessory use to the Community or Assembly Hall use.
- Updated 'gross floor area' definition, to improve clarity that crawl spaces and roof top patios are not included.
- Updated 'boundary' definitions to clarify that pathways, walkways, and park access are not to be considered in determining a front or exterior parcel boundary, to avoid situations where a pathway or park access may be used for frontage for the purposes of subdivision/development.
- New definition for 'parcel width' to help in new regulations to determine parcel width for a property on a cul-de-sac, that may not be able to meet minimum frontage requirements if the parcel is a reverse-pie.
- Updated 'storey' definition to not include projections (including a rooftop access), crawlspaces, and non-surface parking to align with the BCBC.

General Regulations:

- Added 'civic uses' as a permitted use in all zones.
- Aggregate Processing
 - Added 'temporary processing of on-site aggregates' as a permitted use in all zones when part of a development application, to reduce impacts of hauling on local roadways, and green house gas emissions.

- Added 'for on-site use' as a limitation to the proposed addition of processing of on-site aggregates' to ensure that the proposed use would not extend to commercial processing and re-sale of material not associated with the on-site development.
- Revised regulations regarding the temporary use of a dwelling or recreational vehicle during construction (previously in the Building Bylaw).
- Added 'municipal facilities' to height regulation and siting exemptions to provide greater opportunity for the use and the provision of City owned lands.
- Included the use of 'shipping containers' in Rural Zones.
- Updated 'landscape buffer requirements' from Agricultural Land to provide greater design flexibility and site specific considerations associated with fencing materials and/or plant types and spacing. It should also be noted that one post Public Hearing change is recommended to remove the requirement for only coniferous species as this limitation was overlooked in the previous update as the intention was to allow a mix of coniferous and deciduous species. As this post Public Hearing change does not alter land use or density, this is a permissible bylaw amendment which will be presented for Council's consideration at Third Reading.
- Updated 'floodplain designation' to align with regional standards.
- Revised setback requirements for pools on parcels with two front parcel boundaries.

Parking:

- Added clarity for home based business parking, which requires parking be provided where the employee does not reside on the premise where the home based business takes place.
- Reduced the provision that cash-in-lieu for apartments in Westbank Centre can provide from 50% to 10% to reduce the potential impact of on-street parking in advance of a more comprehensive parking review.
- Revised loading space requirements for apartments and townhomes within a strata development to be regionally consistent and to reduce variances.
- It should also be noted that one post Public Hearing change is recommended to the bylaw to address the inclusion of the Institutional use as part of the uses that trigger the requirement for accessible parking spaces as this use was overlooked in the Zoning Bylaw that was presented for second reading as amended. As this post Public Hearing change does not alter land use or density, this is a permissible bylaw amendment which will be presented for Council's consideration at Third Reading.

Staff recognize that additional parking review is necessary moving forward; a parking study has been budgeted and staff will be completing a detailed review of parking requirements as a future project. The scope of the project will include a thorough review of the City's parking requirements and identify recommendations that will address existing challenges in the community (e.g., multi-residential parking, suite parking, etc.) as well as new opportunities that are presented through the new Official Community Plan.

Water Zones:

- Removed 'Detached swim platforms' from the W1 and W4 Zones based on concern with impact of floating water structures. The 'detached swim platform' was revised in the W2 Zone to only permit either a dock or a swim platform, but not both, to reflect the intended increasing intensity of the zones. The 'detached swim platform' use is not proposed to be removed from the W3 Zone as the use is considered appropriate within the commercial and more intensive uses intended for the W3 Zone.
- Removed 'Boat launch' from the existing W1 Zone based on the additional review of the Water Use Zones. The level of intensive water use associated with a boat launch is not considered appropriate to the intention of the W1 Zone to allow for less intensive recreational water uses related to typical less intensive upland residential density.
- Added a 'Regulations Table' to the W4 Zone for bylaw consistency.

Given this additional review of the Water Use Zones and proposed revision following first reading, a comparison of the existing and proposed Water Use Zones as it relates to the noted changes has been prepared for Council's consideration (*Attachment 4*).

Agricultural Zone:

- Added Cannabis Production Facility on ALR parcels (ALC has determined this is a farm use that cannot be prohibited).
- Clarified that carriage homes are permitted as secondary uses, subject to regulations of ALC.
- Parcel frontage - deleted 'or 10% of the perimeter of the parcel, whichever is less', to be consistent with the *LGA* (authority delegated to SAO).
- Included driveways and parking areas as part of the maximum permitted parcel coverage.
- Removed 'barn' from development regulations and changed it to 'Buildings used as part of a farm operation as defined in the *Farm Practices Protection Act*', and reduced height from 20 m to 15 m to keep consistent with provincial regulations.
- Added a maximum size for single detached dwelling: 500 m² to be consistent with ALC regulations.
- Increased siting regulations for alcohol production facilities whereby the building setback for rear and interior side yards is increased from 3.0 m to 6.0 m for the first 9.0 m of building height, and further increased to 12.0 m for any portion of the building over 9.0 m in height to reduce the potential impact of imposing building structures adjacent to less intrusive uses on neighbouring properties.

Rural Zones:

- Added alcohol production facility and cannabis production facility as principal uses (within ALR only).
- Clarified that carriage houses are permitted, subject to ALC regulations in the ALR.

- Removed ‘barn’ from development regulations and changed it to ‘Buildings used as part of a farm operation as defined in the *Farm Practices Protection Act*’, and reduced height from 20 m to 15 m to keep consistent with provincial regulations.
- Increased siting regulations within the RU1, RU2, RU3, RU4 and RU5 Zones for alcohol production facilities whereby the building setback for rear and interior side yards is increased from 3.0 m to 6.0 m for the first 9.0 m of building height, and further increased to 12.0 m for any portion of the building over 9.0 m in height to reduce the potential impact of imposing building structures adjacent to less intrusive uses on neighbouring properties.
- Moved siting regulations for cannabis production facilities.

Residential Zones:

- Deleted the ‘single wall face height’ regulation based on revised height measurements.
- Updated siting regulations in each zone to reference appropriate agricultural setback requirements.
- Removed outdoor amenity space requirements for multi-residential zones in anticipation of managing amenity space through Official Community Plan - Development Permit processes¹.

Commercial Zones:

- Updated the section reference for agricultural setback regulations.
- Clarified that those proposing to utilize density bonusing are still able to use the optional parking provisions for Westbank Centre, if all parking is provided in the form of non-surface parking (C1 Zone).
- Removed Temporary Shelter Service based on the revised definition for Community or Assembly Halls.

Industrial Zones:

- Added ‘Alcohol production facility’ as a permitted use in the I1-Light Industrial Zone.
- Added “High Technology Industry” as a permitted use in the I1 – Light Industrial Zone (previously only permitted in the C4 – Service Commercial Zone).
- Moved the siting regulations for cannabis production facilities from General Regulations to I1 Zone.

Mapping Changes:

As part of the referral process, the Regional District of Central Okanagan requested that the City rezone some recent park land acquisitions to the P1 – Parks and Open Space Zone. Where consistent with the existing OCP, staff have revised the Zoning Bylaw map to reflect these changes. It is anticipated that following the adoption of the new OCP,

¹ As part of ongoing DCC bylaw update, parks DCC’s for multi-residential units is proposed to increase.

there may be subsequent mapping changes that will be required. A Summary of the mapping changes is included below (Table 1):

Table 1. Mapping Changes Summary

Park Name	Legal Description	Existing Zone	Proposed Zone	Update in the Zoning Bylaw
Goats Peak Regional Park	Lot 1, Plan EPP31107, DL 4494, ODYD (2990 Seclusion Bay Rd)	RU5	P1	Yes
Goats Peak Regional Park	Plan EPP114519 (Whitworth Rd)	A1	P1	Yes
Glen Canyon Regional Park	Parcel A, DL 3187, ODYD, DD132357 (2605 Hebert Rd)	A1	P1	No

The subject parcel (2605 Herbert Road) identified by the RDCO is not being updated as part of the proposed changes to Zoning Bylaw No. 0265. The identified parcel must first be updated through the Official Community Plan's Land Use Bylaw.

REFERRAL COMMENTS

The proposed changes have been considered through an internal and external review process. As part of the referral to external agencies (City of Kelowna, Interior Health, Ministry of Agriculture, SD 23, Westbank First Nation, CHBA, and UDI) input was received. The following is a summary of the feedback provided:

Urban Development Institute

The Urban Development Institute (UDI) Okanagan Chapter provided a letter with feedback and recommendations for consideration as part of the referral process (*Attachment 5*). Overall, UDI's focus was on affordable and attainable housing, wherein they saw challenges with the processing time for applications, cost of development, and existing constraints in the Zoning Bylaw that limit building opportunity, including building heights, parking requirements, and amenity space demands. Staff have included changes to the proposed Bylaw that address a number of these concerns and will continue to evaluate additional opportunities with UDI as part of subsequent amendments to the Zoning Bylaw and upcoming OCP.

Interior Health

Interior Health commented on a single section of the Bylaw; parcel coverage exemptions for swimming pools. The concern raised was that by excluding pools, this may take away from the space required for sewage disposal fields.

Ministry of Agriculture

The Ministry of Agriculture provided suggestions to improve clarity in the Bylaw and ensure that it is aligned with Provincial legislation. Changes have been included in the Bylaw to address issues with consistency and staff will continue to work with the Ministry

on other areas of concern such as Agricultural Worker Housing and buffering requirements.

School District 23

The SD 23 provided specific comments regarding the parking requirements for institutional uses. Concerns were raised regarding regional consistency and staff anticipate that a detailed review of parking requirements will be complete as part of the future parking study.

Advisory Planning Commission

The Advisory Planning Commission passed a motion recommending support for the proposed Bylaw at the February 16th, 2022 meeting. The members of the Commission had a number of questions regarding reduced driveway setbacks and inquired about future changes regarding electric vehicle charging infrastructure and the minimum lot size of the RC3 Zone.

Agricultural Advisory Committee

The Agricultural Advisory Committee passed a motion recommending support for the proposed Bylaw at the March 2nd, 2022 meeting. The members of the Committee had questions and comments regarding the following:

- General comment that there is concern that more buildings will increase speculation and the value of farmland.
- Can the City prohibit carriage homes? *Yes, the City can prohibit Carriage Homes in all zones and the ALR (not proposed).*
- Are there impacts from the ALC's comments for vertical farming? *No, there are no impacts to the proposed regulations that would limit vertical farming as a farm use.*
- What is the difference between general and intensive agriculture? *Both of these uses are defined in the Bylaw and are not proposed to change.*

Public Notification:

In accordance with the *Local Government Act*, advertisements have been placed in the local newspaper, advising of the time and date of the Public Hearing and how to make a submission. As 10 or more parcels, owned by 10 or more persons, are the subject of the bylaw alteration, the requirement for individual notification of the Public Hearing does not apply.

At the time of writing this report, no submissions have been received for the Public Hearing.

NEXT STEPS

Concurrent Amendments

As part of the update to the Zoning Bylaw, concurrent amendments are proposed for the Building Regulations Bylaw No. 0086. The proposed changes are to ensure there is consistency with the proposed changes in the Zoning Bylaw, with the addition of regulations for:

- Section 3.3: Temporary Use of a Dwelling During Construction
- Section 3.4: Temporary Use of a Recreational Vehicle During Construction

The proposed amendments to the Building Regulations Bylaw will be brought forward for Council's consideration if the proposed Bylaw receives third reading.

Post Public Hearing

Following Public Hearing, Council will consider giving the Bylaw third reading. Should third reading pass, the Bylaw is required to be referred to the Ministry of Transportation and Infrastructure (MOTI) for sign-off prior to consideration of adoption.

COUNCIL REPORT / RESOLUTION HISTORY

Date	Report Topic / Resolution	Resolution No.
May 24, 2022	THAT Council give Second Reading as amended to the City of West Kelowna Zoning Bylaw No. 0265, 2022; and THAT Council direct staff to schedule the proposed bylaw for Public Hearing.	C152/22
Apr 19, 2022	THAT Council give first reading to the City of West Kelowna Zoning Bylaw No. 0265, 2022.	C117/22

REVIEWED BY

Brent Magnan, Director of Development Services

Chris Oliver, Planning Supervisor

Shelley Schnitzler, Legislative Services Manager/Corporate Officer

APPROVED FOR THE AGENDA BY

Paul Gipps, CAO

Attachments:

1. Zoning Bylaw No. 265, 2022
2. Carriage House Regional Comparison Summary
3. Comparative Analysis of the Average Length Common Light Duty Trucks
4. Comparison of Water Use Zones
5. Urban Development Institute Letter