

Zoning Bylaw Update

Committee of the Whole - Tuesday February 13, 2024

Zoning Bylaw Update

- Preparation of a new zoning bylaw has been on-going since 2022;
- There are two other components to the review (Foreshore & Lake Zoning and Short-Term Rentals);
- In light of recent legislative changes, it is being proposed that implementation of the new zoning bylaw occur prior to June 30, 2024.



Zoning Bylaw No. 1085

Zoning Bylaw No. 1085 regulates how land within different zones of the community can be used.



Foreshore & Lake Zoning Bylaw No. 1294

Foreshore & Lake Zoning Bylaw No. 1294 regulates what activities are permitted within the foreshore and adjacent areas of Osoyoos Lake that lie within the Town's boundaries.



Short-Term Rentals

Short-term rentals are currently not permitted in Osoyoos. The Town is considering the regulation of short-term rentals in the community.

Zoning Bylaw Update

“Cannabis Operation”:

- means the cultivation, growth, harvesting, processing packaging, storage, distribution, dispensing, trading, or selling of cannabis;
- use is prohibited in all zones unless approved by Council;
- Council policy contained in zoning bylaw
 - will be considered on a site specific basis in Industrial zone
 - will consider impact on public health and safety
 - will also consider nuisance impacts (smell, noise, etc.)

Zoning Bylaw Update

“Cannabis Operation”:

- proposed that new use of “agriculture, indoor” be introduced;
- use would apply to indoor cultivation of produce, flowers, cannabis, etc;
- “agriculture, indoor” be permitted in the M1 Zone; and
- Council policy contained in zoning bylaw be deleted (NOTE: OCP is silent on Council policy towards cannabis).

Zoning Bylaw Update

“Cannabis Sales”:

- “cannabis sales” is an un-defined use in the zoning bylaw;
- use is prohibited in all zones unless approved by Council;
- one (1) “cannabis sales” use has been approved on a site specific basis (i.e. C1s Zone at 8322 Main Street);
- Council policy contained in zoning bylaw
 - will be considered on a site specific basis in C1, C2 & C3 zones
 - will consider against Council Policy PLA-019

Zoning Bylaw Update

“Cannabis Sales”:

- proposed that “cannabis sales” be considered a “retail” use;
- the retail sales of cannabis would be permitted in all zones in which “retail” is listed as a permitted use (i.e. C1, C2, C3, C4, etc);
- retail cannabis sales would still be subject to provincial licensing; and
- Council policy contained in zoning bylaw be deleted (NOTE: OCP is silent on Council policy towards cannabis).

Zoning Bylaw Update

“Home Occupation”:

- “home occupation” is a common accessory residential use in local government zoning bylaws;
- supports small businesses, encourages entrepreneurship, and provide residents with opportunities to generate income from their homes;
- is permitted in the AG, R1, R2, R3, R4, R5, RSS, R6, R7 & R7A zones;
- common elements include limiting the use to residents of the dwelling (i.e. no employees), no outdoor storage and provision of sufficient on-site vehicle parking.

Zoning Bylaw Update

“Home Occupation”:

- current regulations contained within the zoning bylaw are overly-prescriptive yet vague:
 - establishes two categories (Level I & II)
 - introduces discretion (as approved by DSM)
 - limits number and size of home occupation based on “Level” (“shall suit the type of dwelling”??)
 - limits type of structure based on “Level”

4.6 CONDITIONAL USE REGULATIONS FOR HOME OCCUPATIONS

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| AMENDMENT No. 1085-1088 & 1094.87 | ➔ | 1 | A home occupation business is allowed subject to meeting the following general conditions to minimize nuisances for residential neighbours: <ol style="list-style-type: none">1 The business is conducted entirely within the dwelling, and / or in its accessory building where allowed;2 Only permanent residents of the dwelling are engaged in the business;3 The business does not create a nuisance at any time which is detectable from |
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- 4 outside the premises from dust, electrical or radio disturbance, glare, heat, smoke, noise, odour or vibration, or present a safety risk from hazardous materials or equipment;
- 4 Any products shown for sale or display in the premises have all been processed or made on the premises, with the exception of products associated with hosted events such as kitchenware or beauty products, or hair care products ancillary to a hairdresser;
- 5 The business does not result in any change to the outside appearance of the dwelling that is inconsistent with its residential character, other than a sign which conforms with the Town's Sign Bylaw;
- 6 The business does not entail any outdoor storage or display of materials, containers, finished products or equipment;
- 7 The business does not entail any parking on or about the residential property of more than two (2) commercial vehicles no larger than 5,500 kg gross weight, or one such vehicle and a commercial trailer;
- 8 The business does not involve receipt or delivery of materials or products more frequently than once per week; and
- 9 The business has a valid and subsisting business licence pursuant to the Town's Business Licence Bylaw.

- 2 The following types of home occupations are allowable subject to meeting all other provisions of Section 4.6:

Level I

- consulting services delivered primarily through telecommunications or off the property;
- chartered accountant;
- computer repairs (but not sales).

Level II

- alternative health practitioner providing acupuncturist, esthetics, herbalist, holistic healing, naturopath or yoga services;
- animal grooming;
- arts and crafts production and sales;
- barber, hairdresser or beauty salon;
- bed and breakfast utilizing one or two bedrooms;
- bus or taxi service home base;
- carpet cleaning or janitorial services delivered off the property;
- caterer without any sales on the property;
- construction company home office;
- day care for up to five (5) pre-school children as regulated under the Community Care and Assisted Living Act;
- hosted events for kitchenware or beauty products;
- landscaping services;
- sales representative for delivering products or services off the property.

Levels I or II

- Any other home occupation use approved by the Director of Planning and Development Services as meeting the general conditions of subsection 4.6.1.

- 3 The levels and numbers of allowable home occupation businesses shall suit the type of dwelling on the lot in which they are located as follows:

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- 1 One (1) Level II home business is permitted within a single-family dwelling unit and / or its accessory building;
- 2 Two (2) home businesses are only permitted within a single-family dwelling unit and / or its accessory building if at least one of them is a Level I home business;
- 3 One (1) Level I home business is permitted within a two-family or multiple-family dwelling unit, carriage house, or secondary suite, but not in any accessory building;
- 4 The total size of one or two home occupation business as allowed on the property shall be clearly incidental and subordinate to its primary residential use as follows:
 - 1 If located within a single-family dwelling unit shall not exceed 30% of its gross floor area or 80 m², whichever is less; and
 - 2 If located within an accessory building shall not exceed 50m²; and
 - 3 If located within a two-family or multiple-family dwelling unit, carriage house, or secondary suite shall not exceed 40% of the gross floor area or 40 m², whichever is less.
- 5 Home occupation business shall require sufficient on-site parking spaces on their lot in addition to that required for dwellings under Schedule 1, Off-Street Parking as follows:
 - 1 One additional parking space for each commercial vehicle or trailer required for the business;
 - 2 One additional parking space per bedroom used for a bed and breakfast; and
 - 3 All additional parking spaces shall accord with the applicable provisions of Section 6.9, Standards for Parking Spaces.

Zoning Bylaw Update

“Home Occupation”:

- it is recommended that a more flexible approach to “home occupations” be applied, including:
 - a standard floor area allowance (e.g. 40% of the floor area of the principal dwelling up to 50.0 m²);
 - replacement of “Levels” of permitted types of home occupations with a list of what is not allowed as a home occupation.
- “bed and breakfast” be addressed as its own use class (i.e. no longer considered a form of “home occupation”).

Zoning Bylaw Update

“Mobile Vendor”:

- a Food Truck may operate within Town subject to a Business Licence being issued;
- Town website suggests that “a Stationary Street Vendor or Food Truck may operate on private property if it is commercially zoned and has a minimum of 10 parking spaces available on site.”
- current zoning bylaw is silent on “Mobile Vendors” (i.e. not permitted in any zone).

Zoning Bylaw Update

“Mobile Vendor”:

- it is recommended “Mobile Vendors” be permitted on lands zoned Agriculture, Commercial, Tourist Commercial, Industrial and Parks and Recreation; and
- on-site vehicle parking requirements for “Mobile Vendors” be clarified (e.g. 10 on-site vehicle parking space be available).

Zoning Bylaw Update

Residential Uses in the C1 Zone:

- The Downtown Commercial (C1) Zone is a mixed-use zone that allows for commercial and residential uses to occur;
- the ground floor of any structure in the C1 Zone must only be used for commercial purposes;
- further restrictions prohibit certain commercial uses on parcels that front Main Street (e.g. car wash, bottle depot, pawn shop, etc.);
- an allowance exists for existing single detached dwellings to be maintained.

Zoning Bylaw Update



Zoning Bylaw Update

Residential Uses in the C1 Zone:

- the Town's OCP speaks to making allowances for dedicated residential buildings, subject to certain conditions being present:
 - 1,000 m² parcel size;
 - on-site parking via a back lane; and
 - a “comprehensive plan” (??) being developed for the site.

Zoning Bylaw Update

Residential Uses in the C1 Zone:

- it is recommended that the following changes be implemented:
 - allowance for single detached dwellings be deleted (i.e. remaining SDDs will become legally non-conforming);
 - residential uses be permitted on the ground floor of structures not fronting Main Street.

Zoning Bylaw Update

“Service Station” (Gas Station):

- “service stations” are defined as meaning “a building and land used for the retail sale of motor fuels and lubricants and includes as accessory uses, the servicing and repair of motor vehicles and the sale of automobile accessories ...”
- typically involve the storage, handling, and dispensing of flammable and hazardous materials; and
- are currently permitted as-of-right in the Highway Commercial (C3) and Service Commercial (C8) zones.

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Zoning Bylaw Update

“Service Station” (Gas Station):

- it is recommended that a new “Service Commercial One (CS1) Zone” be created and applied to existing “service station” sites;
- CS1 Zone would permit “service station” and related automobile uses (i.e. car wash, retail, vehicle sales and rentals, etc.);
- that “service station” be deleted as a permitted use in all other zones (i.e. C3 & C8); and
- new “service station” proposal would require Council approval through a rezoning (would also allow public input).

Zoning Bylaw Update

Keeping of Poultry and Honeybees:

- Council resolved that the keeping of four (4) hens in the R1 zone be permitted in the new Zoning Bylaw (October 10, 2023);
- R1 Zone allows one (1) dwelling unit only (no accessory dwellings);
- November 30, 2023, *Local Government Act* is amended and requires that the Town now allow 3-4 units/parcel;
- Council direction is required on whether this is still the preferred approach; and
- Should any consideration be given to the keeping of honeybees.

Zoning Bylaw Update

Residential Occupancy of Campgrounds:

- residential occupancy of RVs, including “Park Models”, in campgrounds to be addressed in new zoning bylaw (2021);
- due to pending legislative changes required by Bill 44 (i.e. by June 30, 2024), there is limited time in which to consider this;
- recommended that this issue be deferred pending completion of new zoning bylaw.

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Zoning Bylaw Update

Residential Occupancy of Campgrounds:

- alternative options that *could* be addressed in new zoning bylaw include:
 - clarifying that short-term occupation of an RV is a campground use (i.e. delete the use category of “recreational vehicle park”);
 - clarifying that a campground is intended for the temporary accommodation of the travelling public; and
 - rezone converted RV parks to the Manufactured Home Park (R4) Zone to reflect their predominant use.

Zoning Bylaw Update

“Neighbourhood Consent”:

- defined as meaning the following:
the action of obtaining consent of at least 75% of the registered property owners within a radial distance of 100 metres of a property requiring neighbourhood consent to perform an activity ...
- can be used in relation to varying fence height and commercial vehicle parking.

Zoning Bylaw Update

“Neighbourhood Consent”:

- is a potentially unlawful delegation of Council authority (i.e. decision-making has been granted to a third party);
- variance applications need to be considered by Council;
- “neighbourhood consent” does not address the merits of a proposal vis-à-vis Council adopted regulations:
 - resistance to change and NIMBY’ism;
 - inter-personal conflicts; and
 - inequitable involvement of marginalized communities, etc.



Zoning Bylaw Update

Questions?

Zoning Bylaw Update

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Zoning Bylaw Update

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