

To: Her Worship Mayor McKortoff and Members of Council

From: Christopher Garrish, Planner

Date: June 11, 2024

Subject: Draft Zoning Bylaw No. 1395

Tracker No: BLW-389

RECOMMENDATION:

For Information.

CAO Comments:

Approved for Council consideration.

Executive Summary:

The purpose of this report is to provide Council with a summary overview of some of the proposed regulatory changes contained within Draft Zoning Bylaw No. 1395.

Background:

The Town's current Zoning Bylaw was adopted in 1998 and has been formally amended over 150 times in the intervening 25 years, which has affected hundreds of lines of text within the bylaw.

Extensive amendments to a bylaw can, over time, impact its effectiveness as internal inconsistencies and conflicts are introduced, impairing its coherence and ease of use by staff and the public. In addition, the Town completed a review of its Official Community Plan (OCP) in 2022 and it is considered good practice to ensure zoning regulations are aligned with and support the strategic direction contained within an OCP.

For these reasons, the Council initiated a comprehensive update of the Zoning Bylaw in 2022, which was to comprise three distinct components:

1. updating of Zoning Bylaw No. 1085, 1998;
2. reviewing the Foreshore and Lake Zoning Bylaw No. 1294, 2011; and
3. exploring regulatory options for short-term tourist accommodations.

Following commencement of the Zoning Bylaw Review project, the provincial government introduced two pieces of new legislation in October of 2023 that have significantly impacted the timing and scope of the Zoning Bylaw Update:

- *Housing Statutes (Residential Development) Amendment Act, 2023* (Bill 44); and

- *Short-Term Rental Accommodations Act* (Bill 35)

In response, the Zoning Bylaw Update will also now address implementation of the Small-Scale Multi-Unit Housing (SSMUH) requirements introduced into the *Local Government Act* by Bill 44.

Consideration of regulatory options for short-term tourist accommodations (i.e. "vacation rentals") will be completed separately to the Zoning Bylaw Update.

Small-Scale Multi-Unit House (SSMUH) Implementation:

The amendments to the *Local Government Act* enacted under *Housing Statutes (Residential Development) Amendment Act, 2023* (Bill 44), are intended to facilitate the delivery of "more small-scale, multi-unit housing for people, including townhomes, triplexes and laneway homes, and fix outdated zoning rules to help build more homes faster."

Further, a new Section 481.3(7) of the *Act* requires that the Town "consider applicable guidelines" made by the Minister when developing or adopting a zoning bylaw to permit the use and density of use required under to be permitted under the *Act*.

The *Provincial Policy Manual & Site Standards* (the "Small-Scale, Multi-Unit Housing (SSMUH) Policy Manual", or the "Manual") includes recommended approaches to regulations governing building types, density, setbacks, building height, parcel coverage, vehicle parking requirements as well as the use of development permit area designations.

When considering these regulations, the province has advised that "creating a favourable regulatory environment for SSMUH housing to help overcome these barriers will require an openness to new building forms in areas traditionally reserved for detached single-family and duplex homes."

SSMUH Implementation Extension Request:

On May 27, 2024, the Town submitted a request to the Minister of Housing for an extension to SSMUH Implementation to the end of 2028 due to current water production wells being unable to provide sufficient water to meet current peak hour demands and should increased densities be permitted before a surface water system is completed, there is risk to the community in regard to fire protection.

The province has advised that decisions on such SSMUH Implementation Extension Requests should be received prior to June 30, 2024.

Previous Council Consideration:

In addition to various Zoning Bylaw Review Workshops completed in 2022 and 2023, Council has, more recently, considered and provided direction on a number of different zoning matters presented at its Committee of the Whole (COTW) between February and May of 2024, including:

- SSMUH implementation in the low density and medium density residential zone (see below for more details);

- repeal and incorporation of the Foreshore and Lake Zoning Bylaw No. 1294, 2012, into the new zoning bylaw;
- including “child care facilities” as a permitted principal use in low density residential zones;
- review and consolidate existing Comprehensive Development (CD) Zones into other, existing zones (e.g. CD11 & CD12 zones be combined into the new RM1 Zone);
- increasing cash in-lieu payments for deficient on-site vehicle parking spaces in the Downtown area from \$3,000/space to \$10,000/space;
- the retail sale of cannabis as a general “retail” use;
- cannabis production be considered an “agriculture, indoor” use and permitted in the industrial zone;
- that the regulations for “home occupations” and “bed and breakfast” be simplified;
- that regulations be introduced to clarify requirements for “mobile vendors”;
- that the C1 zone be revised to allow for dedicated residential buildings;
- that “service stations” only be permitted within a new CS1 Zone; and
- that “Neighbourhood Consent” not be carried forward into the new zoning bylaw;
- that the keeping of livestock (e.g. chickens) and beehives be prohibited in residential zones;
- that the residential occupancy of recreational vehicles (RVs), including “Park Models”, in campgrounds, be deferred to after the adoption of the new zoning bylaw;
- providing “rough-in’s” for electric vehicle charging stations in new residential developments; and
- increasing the maximum building height in the proposed medium density residential zone to 15.0 metres.

Analysis:

In light of previous direction provided by the Committee of the Whole (COTW) of Council, most “significant” regulatory changes contained within Draft Zoning Bylaw No. 1395, have already been considered by Council (and are outlined above under “Background”).

Nevertheless, the following is a brief summary of other proposed changes:

- **Small-Scale Multi-Unit Housing (SSMUH) Implementation:**

In response to a statutory requirement that the Town’s zoning bylaws be compliant with recent changes to the *Local Government Act*, Administration is proposing the following changes:

- the current R1, R2, R3, RSS, R5 and IRD zones be replaced with a new “Small-Scale Multi-Unit Residential (RS1) Zone;
- the permitted residential density in the RS1 on a parcel within the Town’s “urban growth boundary”) and serviced by Town water and sewer be:
 - ❖ 3 units on parcels less than 280 m² in area; and
 - ❖ 4 units on parcels greater than 280 m².

- the setbacks for structures in the proposed RS1 Zone be 2.0 metres (front) 1.5 metres (rear), 1.2 metres (interior side) and 3.0 metres (exterior side);
 - the maximum building height in the proposed RS1 Zone be 11.0 metres;
 - a maximum building height of 8.0 metres for accessory dwellings be introduced;
 - the maximum parcel coverage in the proposed RS1 Zone be 45%;
 - a minimum parcel size for subdivision of 1,000 m²;
 - the maximum floor area limit for secondary suites be deleted;
 - the required on-site vehicle parking requirements for single detached dwellings, duplexes, secondary suites and accessory dwellings be 1 space per dwelling unit;
 - the required on-site vehicle parking requirements for townhouses and apartment building units be 1.5 space per dwelling unit outside of the "core area".
- Updated Definitions (Section 4.0):

The definitions section of the bylaw has been updated in order to ensure meanings are being provided for terms used elsewhere in the bylaw. Generally, well-defined terms improve the ability to enforce the regulations of a bylaw and also assist with ensuring the integrity of the bylaw and the coherence of the various sections.
 - Occupancy of an RV during construction (Section 6.6):

It is proposed to include a new regulation allowing for the occupancy during the construction of a new dwelling provided a valid building permit has been issued and the occupancy ceases within 30 days of the dwelling being completed.
 - Retaining Walls (Section 6.8):

It is proposed to include new regulations for retaining walls to discourage the construction of large walls by establishing a maximum height of 2.0 metres to encourage the stepping of walls. It is also proposed to further limit the height of retaining walls within a prescribed parcel line setback to 1.2 metres.
 - Waterfront Facilities (Section 6.13):

It is proposed to include the regulations for docks, boatlifts and swimming platform that are currently comprised within the Foreshore and Lake Bylaw as a new "Waterfront Facilities" regulations.
 - Subdivision Regulations (Section 8.0):

It is proposed to clarify that the creation of new "hooked" parcels are prohibited and to introduce new requirements for the "panhandle" parcels (e.g. minimum panhandle width and calculation of parcel area).

- Floodplain Regulations (Section 9.0):

It is proposed to update the floodplain regulations in order to ensure compliance with Section 524 (Requirements in relation to flood plain areas) of the *Local Government Act*. This includes a new Schedule '3' to the bylaw, which comprises available provincial floodplain mapping for Osoyoos.

It is anticipated that this information will be subject to amendment as part of the separate "Floodplain Manager Bylaw Review" that is currently being completed by the Town.

- Vehicle Parking Regulations (Section 10.0):

It is proposed to update the table (10.2.1) outlining "Required Off-Street Vehicle Parking Spaces" to align with the uses being permitted in each zone and also to clarify the parking requirements that apply when a use is not specifically listed in the table.

- Vacation Rentals (Section 15.4):

At present, the Town permits vacation rentals in the CR, CD5, CD6, CD7, CD9 & CD11 zones in the form of the "resort multiple family dwelling" use class, which generally allows for the use of a dwelling unit for "paid temporary accommodation with a minimum stay of one week."

It is being proposed to carry this allowance forward into Zoning Bylaw No. 1395 in the form of a new CT4 Zone in which "resort residential building" is listed as the only principal permitted use and is defined as meaning:

an apartment building within which a dwelling unit may be used for a residential or short-term rental accommodation use, with the latter being for periods of less than one month. The resort residential building may include accessory facilities such as eating and drinking establishments, banquet and convention rooms, recreation facilities and personal service establishments for the convenience of residents and guests

It is anticipated that this definition may requiring amendment depending on the outcome of the separate Vacation Rental Review (which remains on-going).

- Industrial Zones (Section 16.0):

It is being proposed that the current General Industrial (M1) and Heavy Industrial (M2) being consolidated into a new General Industrial (I1) Zone with site specific regulations being used to permit asphalt plants, concrete plants and gravel processing on those properties currently zoned M2.

- Airport Zone (Section 17.2):

It is being proposed that the dedicated airport zone that applies to the Osoyoos Airport be re-classified as an institutional zoning from the current commercial zoning.

- Desert Park Zone (Section 18.2):

At present, the use of the Desert Park site is regulated through a Site-Specific Parks and Recreation (PRs) zoning. It is proposed that this site-specific approach be replaced by a dedicated zone.

- Osoyoos Lake Zoning (Sections 15.3 & 18.4):

As part of the consolidation of the Foreshore and Lake Zoning Bylaw No. 1294, 2012, into Draft Zoning Bylaw No. 1395, it is being proposed to replace the four (4) zones currently found in Bylaw 1294 (being the W1, W2, W3 & W4 Zones), with a new Osoyoos Lake (W1) Zone and a Marina Commercial (CT3) Zone.

The new W1 Zone would be supported by the proposed regulations to be contained at Section 6.13 (Waterfront Facilities).

- Comprehensive Development Zones (Sections 20.0):

A review of existing CD Zones was completed to determine if the form of development was otherwise contemplated or reasonably regulated by another zone in the bylaw. As a result, it is being recommended that a majority of the properties that currently have a CD zone be transitioned to another zone, such as RM1.

The exception to this is the CD9 Zone, which applies to the property at 4217 Lakeshore Drive, as it is seen to be of a complexity that warrants retention as a new CD1 Zone in Bylaw No. 1395. This is due to the un-developed nature of the site, proposed phasing, infrastructure upgrade requirements and involvement by the Ministry of Transportation and Infrastructure.

In future, it is being proposed that a new CD Zone only be created where a proposed development is of a scale, character, or complexity requiring comprehensive planning and implementation that, in the opinion of the Town of Osoyoos Council, is of a unique form or nature not contemplated or reasonably regulated by another zone.

Next Steps:

It is proposed that the following steps be undertaken prior to Council consideration of 1st reading for Draft Zoning Bylaw No. 1395:

- Agency Referrals;
- Public Notification (e.g. newspaper ads, email news, etc.);
- Posting of Materials (e.g. Town website);
- Online Public Information Meeting; and
- In-person meetings by appointment.

Options/discussion:

Not applicable.

Implications:

a) Community:

- A new zoning bylaw can help promote organized and planned development, ensuring that land uses are compatible and consistent with the strategic directions contained in the Town's 2022 OCP Bylaw. With the proposed changes to residential densities, the new zoning bylaw should also assist with housing availability and affordability.

b) Organizational:

- Implementation of a new bylaw will ensure that the Town is compliant with provincial legislation, the strategic directions contained in its OCP and is utilizing a document that is up-to-date and more reflective of current approaches to land use planning.

c) Budget - Financial/Risk Implications:

- The infrastructure costs for water and sewer system upgrades as well as new equipment for the fire department to accommodate required residential densities will require upsizing in some areas of the Town that will likely be substantial in terms of costs. The Town is completing a separate Development Cost Charge (DCC) Bylaw Review to address some of these pending costs.

d) Significant Dates:

- Zoning Bylaw changes must be implemented by June 30, 2024.

e) Sustainability:

- The new zoning bylaw contains regulations that protect natural resources, manage growth in accordance with available infrastructure, and promotes sustainable land use practices.

Others Consulted:

Building
Operations
Legislative Services
Fire Department

Attachments:

- No. 1 – Summary Comparison Table of RS Zones (Zoning Bylaw No. 1085) vs Proposed New RS1 Zone
No. 2 – Draft Zoning Bylaw No. 1395 – Schedule '1' (Zoning Text)
No. 3 – Draft Zoning Bylaw No. 1395 – Schedule '2' (Zoning Map)
No. 4 – Draft Zoning Bylaw No. 1395 - Schedule '3' (Floodplain Map)

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