

Division 7 - Zoning and Other Development Regulations

Zoning bylaws

Section 903

(1) A local government may, by bylaw, do one or more of the following:

(a) divide the whole or part of the municipality or regional district into zones, name each zone and establish the boundaries of the zones;

(b) limit the vertical extent of a zone and provide other zones above or below it;

(c) regulate within a zone

(i) the use of land, buildings and other structures,

(ii) the density of the use of land, buildings and other structures,

(iii) the siting, size and dimensions of

(A) buildings and other structures, and

(B) uses that are permitted on the land, and

(iv) the location of uses on the land and within buildings and other structures;

(d) regulate the shape, dimensions and area, including the establishment of minimum and maximum sizes, of all parcels of land that may be created by subdivision, in which case

(i) the regulations may be different for different areas, and

(ii) the boundaries of those areas need not be the same as the boundaries of zones created under paragraph (a).

(2) The authority under subsection (1) may be exercised by incorporating in the bylaw maps, plans, tables or other graphic material.

(3) The regulations under subsection (1) may be different for one or more of the following, as specified in the bylaw:

(a) different zones;

(b) different uses within a zone;

(c) different locations within a zone;

(d) different standards of works and services provided;

(e) different siting circumstances;

(f) different protected heritage properties.

(4) The power to regulate under subsection (1) includes the power to prohibit any use or uses in a zone.

INTERPRETATION (Section 1)

“hone in on concise definitions to avoid ambiguity and subjectivity” | “definitions need to be clearer and more concise”

DEFINITION

Height: with reference to a building or structure to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, to the mean level between the eaves and the ridge of a gable, hip gambrel, or other sloping roof, and or the highest point of a structure other than a building

Grade, Natural Grade: the average level of finished ground adjoining the exterior walls of a building except that localized depressions such as for vehicle or pedestrian entrances need not be considered in the determination of the average level or finished ground; means the level of the ground at a particular point on a site prior to any disturbance.

Fence: a type of screening that is used to form a boundary or enclose an area, and includes but is not limited to arbours, archways, boundary fences, gates, pergolas, screens, trellises, or walls and chain link fences where such fences are permitted by this bylaw.

Parking Area, Underground Parking: means a covered or uncovered area of a lot used for parking vehicles of persons occupying or visiting a lot; means an off-street parking use located below the finished ground elevation of the lot.

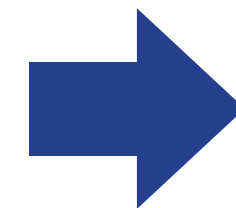
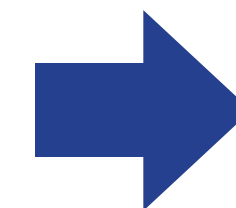
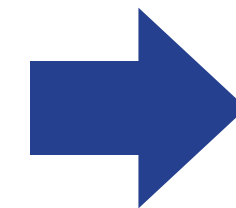
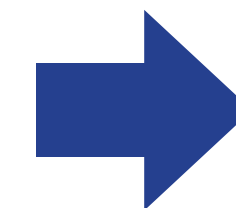
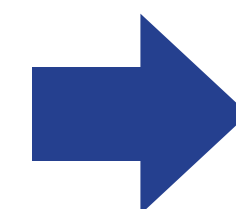
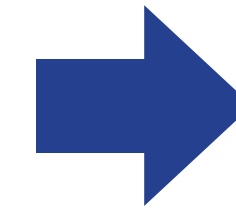
Storey: the space between a floor level and the ceiling above it, excluding a basement.

Yard, front: portion of a lot between the front lot line and a line extending along the front face of a principal building to the side lot lines.

Yard, rear: portion of a lot between the rear lot line and a line extending along the rear face of a principal building to the side lot line

Yard, side: means the portion of a lot extending from the front yard to the rear yard, between the side lot line and a line extending along the side face of a principal building.

ISSUES



- Different height limits in different zones leads to ambiguous interpretation
- BC Building Code conflicts with Zoning Bylaw
- What constitutes a high rise and thus the related fire protection requirements.
- Varying site conditions lead to confusion - what constitutes prior to disturbance?
- Grade definition needs alignment with fill regulations in subdivision bylaw.
- What is the difference between ‘retaining walls’ and fences.
- What constitutes a parkade?
- Regulates fire protocol - gated or ungated.
- Massing regulations for a building’s 2nd/upper stories is uncertain (i.e. 80% rule on second storey). Are these standards based on an average or an absolute value?.
- Current mandates have limited access in regulating good design principles.
- Issue with control of siting / setbacks, the projection of stairs and its relation to the ‘yard’ definition.
- Need to rework yard definitions.
- Amendments completed in 2006 were considered temporary and are now being used.

INTERPRETATION (Section 1 cont'd)

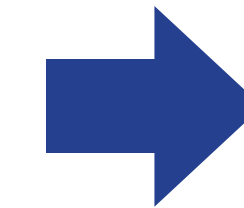
DEFINITION

Density: figure obtained by dividing the total number of dwelling units by the size of the parcel upon which the units are located, and for the purpose of single-family or duplex lots, means the total gross floor area divided by the total lot area.

Gross Floor Area: total area of space on all storeys of a building measured to the outside surface of the exterior walls, and for the purpose of multi-family residential buildings excludes balconies, common stairwells, elevator shafts, common corridors, crawlspaces, concealed parking areas, and common recreation or service facilities, and for the purpose of commercial buildings excludes areas used for storage and warehouse.

Floor Area Ratio: the figure obtained when the gross floor area of all buildings is divided by the area of the parcel.

ISSUES



- Need to define density to balance land use intensity and massing, especially in multi-family zones.
- Density and metrics for measuring - need appropriate GFA, FSR in individual Zones

OPPORTUNITIES FOR NEW DEFINITIONS

- Urban Agriculture
- Off leash dog park
- Accessibility measures?
- Sustainability measures?

DEFINITIONS REQUIRING CLARIFICATION

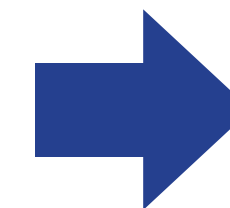
GENERAL REGULATIONS (Section 4)

Apply to all zones and include items related, but not limited to: uses permitted in all zones; accessory buildings; storage; fencing; screening and landscaping; projections, etc.

Regulation

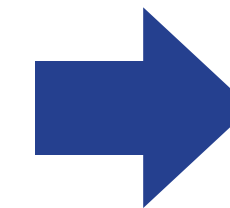
4.11 Projections into Required Setback

The following features of the building are exempt from the siting requirements of this bylaw.....



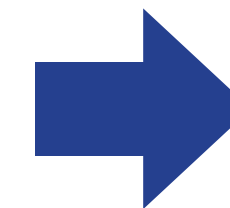
4.27 Flood Construction Level (FCL)

Spaces other than parking areas and entry foyers, located below the established FCL in any residential building shall be limited to a maximum ceiling height of 1.5 meters (4.9 feet).



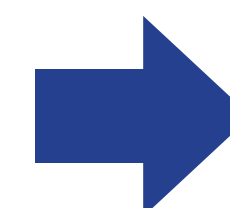
4.20 Watercourse Setbacks

Repealed by Bylaw 1797 in 2004



4.13 Keeping of Animals

No animals, other than household pets and guard dogs may be kept in any zone, unless specifically permitted in that zone.



Issue

- How to relate to “yard” definition?
- Issue with control of siting / setbacks, the projection of stairs and relation to the ‘yard’ definition.

- Uncertainty as to whether mechanical equipment and non-living spaces are permitted below the FCL (e.g. washer/dryer).
- Homeowners/designers/etc - taking away from allowable FAR.
- Electrical under water poses fire safety issue.
- Noted that the regulations pertaining to FCL were repealed in 2004 and have since been contingent upon the applicants provision of a geotechnical study.

- Preservation of wildlife corridors and riparian areas

- Residents may be interested in keeping small barnyard animals for personal use (e.g. chickens) - urban agriculture.

Other Issues

- Limiting the extent of impervious surfaces.
- Site fill and removal of landscape - need more direction in Zoning Bylaw.
- How to integrate exemptions to allow for utilities/infrastructure (e.g., pumphouse)?
- Interface areas were noted - raising suggestions about increased separation between differing zones, natural features, others?
- Sustainability - “green” provisions to be provided wherever possible in the Zoning Bylaw as it should regulate and offer opportunities for sustainable choices.

ZONES (Sections 6 - 39)

Residential

Urban Agriculture - whether this should be permitted in more than just Rural Residential; and if so how to address in Zoning Bylaw.

- Linking agricultural activity to parcel size. The intent being that rural parcels might be appropriate for low scale agricultural activity such as keeping hens or bees.
- Permit a percentage of area for food production.

Home Occupation - Home Occupation activities were identified as an issue, especially in the rural zones.

- Should certain uses or activities be prohibited in relation to Home Occupation?

Definition: any occupation carried on for financial gain or otherwise, in or from a dwelling unit or accessory building, which use is separate and subordinate to the use of the dwelling unit for residential purpose, shall not alter the residential character of the area, and shall be subject to the provisions of section 4.18 of the Bylaw, and includes a home occupation office and a residential child care facility.

Height - provisions for accessory buildings in the rural zone contradict the provisions as set out in the general regulations:

Section 21.5 Height of Principal and Accessory Buildings

No building shall exceed a height of 10.68 meters (35 feet), or three storeys, or whichever is less.

Section 4.4d (f) General Regulations

No accessory building shall exceed a height of 4.58 meters (15 feet) unless it contains a permitted secondary suite, in which case the maximum height is 6.7 meters (22 feet).

- Additional concerns with heights of single attached dwellings that are three and four stories high.

Comprehensive Development

Small lot zones were discussed in the context of CD Zones, with specific mention of Willow Crescent area. Is there an opportunity for a new small lot zone instead of using CD?

CD zones and appropriate application.

Industrial

Residential uses in industrial zones were noted as problematic - conflict of users, bylaw enforcement and fire code infractions.

Opportunity for New Zones

Airport zoning would help support the existing airport related issues and leases/uses. The zone would be limited to aviation uses, although there was some discussion about providing for ancillary uses.

The airport is currently zoned as a resource zone.

Downtown and Business Park Zones may need new zones, density, and parking regulations. The downtown plan will inform many of the new regulatory directions for the downtown area.

Waterfront Zones

Many of the current waterfront sites are zoned industrial; should the District consider new uses (e.g. floating homes, marine based uses etc.).

Utility Zone?

General Issues with Zones

Multifamily and **Industrial** zones were identified.

- The more intensive a zone, the more that is permitted. In terms of multifamily, all residential uses are permitted.
- Specific forms of development should be linked to such zones.

Prohibit Uses how can the zoning bylaw prohibit uses explicitly? If a use or activity is not permitted, it is not allowed under any circumstance.

Statement of Intent - explicitly define the what and why for a zone.

Section 40 & 41

ISSUES

Parking Standards & ROWs

- In some instances, low parking standards do not deter ownership of multiple vehicles, only limit ability to retain vehicles on site.
- When combined with alternate street width standards, results in on-street parking.
- On site guest parking is often a problem as guests tend to park their vehicles on the street, potentially challenging emergency access.
- Densification - smaller roads - more cars...
- How to limit parking on streets in winter (i.e., to allow snow removal)?
- Limits District ability to access the street with service or emergency vehicles.
- Existing parking standards should be confirmed / compared relative to similar municipalities. Are parking ratios appropriate?

Parking Definitions

- Surface - permeability requirement; interpretation of hard surfaced lots?
- Parkades, etc.

Hillside Development Standards

Alternative Development Standards

- Slope and access issues.
- Design phase vs. implementation (i.e., construction and 'fitting services').
- Projects requesting variances on road widths and grades citing non-comparable examples.
- Reference to Kelowna's audit of hillside standards as an example.

Setbacks

- Setbacks for parking do not exist as parking contained on site.
- Sometimes vehicles straddle property lines.

Driveway Widths

- There is a difference in maximum driveway widths between the Zoning Bylaw and the Subdivision Bylaw (11m vs. 9m).
- Zoning Section 40.9c (i) the access to all off-street parking spaces from a highway shall not be less than 6 meters (19.7 feet and not more than 11 meters (36 feet) wide).

ADDITIONAL ISSUES

Section 3 Administration and Enforcement

- Explore other methods of enforcing the Zoning Bylaw, (e.g., ticketing). Current practice is a summary conviction through the courts for Bylaw infractions.
- Opportunity to introduce/ re-evaluate fines.
- Provide more explicit direction for Development Permit Applications in the Zoning Bylaw.
- Develop a template/protocol for Right of Way agreements.
- Administrative bulletins - other methods of ensuring consistent interpretation.

Alignment with other initiatives

- GIS mapping system.
- Subdivision Bylaw Review - District staff have direction to undertake this.
- Policy alignment with Zoning Bylaw: Official Community Plan, Business Park Sub- Area, Downtown Plan
- Servicing Capacities and Capital Works - use and land use intensity should coincide with water supply/services (e.g. District pressure test tables).
- Sustainability - “green” provisions to be incorporated wherever they can be accommodated appropriately in the bylaw. Incentives to encourage sustainability?
- Accessibility - greater effort to incorporate accessibility measures.

Other....

- Landfill does not have an adequate buffer.
- Development variances through Council - interpretation.
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