

ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: B. Newell, Chief Administrative Officer

DATE: October 1, 2020

RE: Official Community Plan (OCP) and Zoning Bylaw Amendments
Proposed Dock Regulations – Okanagan Basin Lakes

Administrative Recommendation:

THAT Bylaw No. 2862, 2020 the Regional District of Okanagan-Similkameen Okanagan Basin Lakes Official Community Plan and Zoning Amendment Bylaw, be read a first and second time and proceed to public hearing;

AND THAT the Board of Directors considers the process, as outlined in this report from the Chief Administrative Officer dated October 1, 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. 2862, 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 November 19, 2020;

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

Purpose:

The purpose of this report is to seek direction from the Board regarding revised Official Community Plan (OCP) and Zoning Bylaw amendments related to the regulation of docks on major lakes within Electoral Areas "A", "C", "D", "E", "F", and "I".

Background:

The construction and placement of private moorage facilities on aquatic Crown land (foreshore) requires authorization from the Ministry of Forests, Lands, and Natural Resource Operations. Private moorage facilities include docks, boat ways/ramps or boatlifts that are used for private residential use.

Provincial permission is typically granted for docks on aquatic Crown land, as long as the dock is constructed in accordance with the terms and conditions contained in the General Permission to Use Crown Land for a Private Moorage Dock. For larger scale facilities (e.g. commercial dock or marina), a more complex tenure from the Province must first be obtained to lease Crown land.

In the past, the RDOS has responded to Crown Land Referrals for larger scale commercial docks that met the province's approval, but did not necessarily align with the RDOS's expectations. While

Administration responded with expressed concerns over potential uses and conflicts with other upland properties, there were no zoning regulations governing such water based uses.

At its meeting of May 3, 2018, the P&D Committee directed staff to research further the potential of creating a new water zone along the lakeshore of Okanagan Valley lakes.

At its meeting of March 17, 2019, the P&D Committee resolved “that the Okanagan Electoral Area Zoning Bylaws be amended to introduce a Water Use Zone in order to regulate the development of commercial docks.”

Most recently, at its meeting of May 21, 2020, the Planning and Development Committee resolved “that the Regional District of Okanagan-Similkameen Okanagan Basin Lakes Official Community Plan and Zoning Amendment Bylaw No. 2862 proceed to first reading.”

Referrals:

Approval from the Ministry of Transportation and Infrastructure is required prior to adoption as the proposed amendments involve lands within 800 metres of a controlled access highway (i.e. Highway 97 & 3).

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/inconsistent (if inconsistent additional explanation will be needed) 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. Both the ALC and the Ministry of Agriculture have been made aware of the proposed amendment bylaw(s).

Public Process:

Public Information Meetings were hosted electronically on July 30, August 4 and August 5, 2020, and were attended by approximately twenty (20) members of the public.

Administration recommends that the written notification of affected property owners, the public meetings as well as formal referral to the agencies listed at 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:

Further to the direction previously provided by the Committee, Draft Amendment Bylaw No. 2862 contains a number of proposed General Regulations that would govern the placement of docks on Okanagan, Osoyoos, Skaha, and Vaseux Lakes.

In general, the draft regulations are designed so that most residential-scale docks, swimming platforms, moorage buoys, and boat launches would not require the Board's approval. The proposed zoning regulations align with the Provincial General Permission for the Use of Crown Land for Private Moorage, including these key regulations:

- one (1) dock, one (1) boat launch, or one (1) standalone boatlift is permitted per upland parcel;
- a dock does not extend a distance greater than 42.0 metres into the lake from the upland parcel;
- a dock does not exceed a width of 1.5 metres, or a platform exceeding a width of 3.0 metres; and
- a dock does not impede pedestrian access along the foreshore.

In addition, the adjacent upland parcel must be zoned to permit a single detached dwelling, and a maximum of one (1) standalone swimming platform is permitted per upland parcel, so long as the total area of the platform does not exceed 10.0 m².

Following stakeholder input, discussions with the Province, and further analysis, some key improvements were made to the draft bylaw since the May 21, 2020 Committee meeting:

- All references to moorage buoys are removed from the draft bylaw, given the Board's primary objectives of the dock regulations initiative, higher-level government jurisdictional issues, and capacity issues related to the RDOS's capacity to properly monitor and enforce the widespread installation of moorage buoys.
- Shared neighbour docks are a permitted use, in order to promote responsible shared dock ownership and cost sharing, while potentially reducing future dock construction on the lakes over time (these are first still subject to provincial approval).
- The maximum number of boat moorage areas per dock has increased from two (2) to four (4) moorage areas, in order to reflect current private residential moorage practices, and to remove a possible disincentive for shared neighbour docks.

Intensive Uses Requiring Board Approval:

However, larger scale docks and related developments that do not meet all of the above listed requirements would automatically be subject to the Board's review through a Site Specific Rezoning process.

This will provide an opportunity for the Board to review any proposals that do not conform to the requirements, including group moorage, commercial docks and marinas, float plane moorage, on a case-by-case basis. The supporting OCP policy amendments list a number of criteria that could be used in such a review (see Attachment No. 1).

Official Community Plan (OCP) Bylaw - Objectives and Policies:

In support of the amendments, Administration is proposing the introduction of supportive objectives and policies to the Electoral Area Official Community Plan Bylaws (see Attachment No. 1).

In addition, it is being proposed to apply a new “Basin Lakes (BL)” land use designation to the surface of the lakes to indicate where these new objectives and policies are to be applied and to include this on the applicable OCP Map schedules.

Both of these proposals are new since the P&D Committee last considered this matter at its meeting of March 19, 2019.

Zoning Bylaw Map:

The new “Okanagan Basin Lakes Zone” would generally apply to the whole of the lakes within each respective Electoral Area boundary and would allow as a principal permitted use “water-based recreation”. Permitted accessory uses are to include a smaller scale dock, boatlift, and swimming platform.

Parks and Recreation (PR) Zone

Due to the PR Zone currently permitting “public moorage and marina”, it is being proposed to amend this to ensure consistency with other amendments to “public moorage”, thereby ensuring that any marina proposals are subject to the Board’s review through a site-specific rezoning process.

Electoral Area “F”:

Electoral Area “F” is the only Electoral Area that currently has zoning regulations for docks and boat lifts. The zoning designations along Okanagan Lake upland properties currently all extend out over the water and there is a section contained in the general regulations specifically for Docks and Boatlifts that outlines the size, shape, setbacks from property line, and conditions of use.

In the case of Electoral Area “F” Zoning Bylaw, the proposed Zoning Bylaw would replace the existing regulations related to docks and marinas, and also pull any existing zones that extend over the lake back to the shoreline.

It should be noted that for any existing docks or moorage that do not meet the new zoning, they will be considered legally non-conforming.

Alternatives:

1. THAT consideration of Regional District of Okanagan-Similkameen Okanagan Basin Lakes Official Community Plan and Zoning Amendment Bylaw No. 2862 be deferred; or
2. THAT Regional District of Okanagan-Similkameen Okanagan Basin Lakes Official Community Plan and Zoning Amendment Bylaw No. 2862 not proceed to first reading; or
3. THAT prior to first reading, Regional District of Okanagan-Similkameen Okanagan Basin Lakes Official Community Plan and Zoning Amendment Bylaw No. 2862 be amended to:
 - i) *TBD*

Respectfully submitted:

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Endorsed by:


C. Garrish, Planning Manager