

## ADMINISTRATIVE REPORT



**TO:** Board of Directors  
**FROM:** B. Newell, Chief Administrative Officer  
**DATE:** March 17, 2022  
**RE:** Official Community Plan (OCP) Amendment – Electoral Area “D” (D2021.022-ZONE)

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### **Administrative Recommendation:**

**THAT Bylaw No. 2603.23, 2022, a bylaw to amend the Electoral Area “D” Official Community Plan Bylaw be read a first and second time and proceed to public hearing;**

**AND THAT the holding of a public hearing be scheduled for the Regional District Board meeting of April 7, 2022;**

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

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The Regional District is proposing amendments to the Electoral Area “D” Official Community Plan (OCP) Bylaw in order to clarify the types of activities which require the issuance of a Multiple Family or Industrial Development Permit.

### **Background:**

Under Section 488 of the Local Government Act, the Regional District may designate a development permit area in order to address such things as the protection of the natural environment, the form and character of industrial buildings or the protection of development from hazardous conditions.

In designating such areas, the Act further requires that the Regional District establish the types of activities required to obtain a permit before being commenced. This generally involves either the subdivision of land, construction of buildings or alteration of land.

At its meeting of March 6, 2014, the Regional District adopted the Electoral Area “D” OCP Bylaw No. 2603, 2013, which included six different development permit area designations. A seventh development permit area was added in 2018 when the Okanagan Falls Town Centre Development Permit Area was adopted. Two of these, being the Industrial and Multiple Family Development Permit (DP) areas, do not clearly establish what forms of activities require a permit and which are exempt.

Both of these development permit areas have been designated under Section 488(1)(f) of the Act, which relates to the “establishment of objectives for the form and character of commercial, industrial or multi-family residential development.” The Industrial DP Area has further been designated under Section 488(1)(a) in order to protect the natural environment (e.g. Aquifer Protection Area).

### **Public Process:**

On February 8, 2022, a Public Information Meeting (PIM) was held online via Webex and was attended by 1 member of the public.

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At its meeting of February 8, 2022, the Electoral Area “D” Advisory Planning Commission (APC) resolved to recommend to the RDOS Board that the subject development application be approved.

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.

**Referrals:**

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 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 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 lands. Both the ALC and the Ministry of Agriculture have been made aware of the proposed amendment bylaw.

**Analysis:**

Notice of a pending subdivision of the former Weyerhaeuser site in the Okanagan Falls industrial area has been received and the Industrial DP Area that applies to these lands is not clear on what development “triggers” the need for a permit, and if a DP is required prior to final approval of the subdivision.

A review of the other development permit area designations within the OCP Bylaw revealed the same issue with the Multiple Family Development Permit Area.

Generally, a “form and character” DP is only triggered at the building permit stage as such DPs are primarily concerned with the aesthetic, or built form (i.e. appearance) of a structure. Landscaping can also be a secondary consideration.

Given both the Industrial and Multiple Family DP Areas have been designated in order to establish “form and character” objectives the construction of, addition to or alteration of a building or other structure” should be established as a “trigger”.

The Industrial DP Area was also designated to protect the aquifer which provides drinking water to the community and an additional trigger should be applied, this being:

*any development with contamination potential that involves new or existing uses for any of the purposes or activities listed in Schedule 2 of the Contaminated Sites Regulation, (B.C. Reg. 375/96).*

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For reference purposes, a copy of Schedule 2 of the Contaminated Sites Regulation is included in Attachment No. 1. This requirement will capture a majority of activities with the potential to affect the local aquifer.

**Alternatives:**

1. THAT Bylaw No. 2603.23, 2022, Electoral Area “D” Official Community Plan 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 the report from the Chief Administrative Officer dated March 17, 2022, 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. 2603.23, 2022, in conjunction with its Financial and applicable Waste Management Plans;  
  
AND THAT the holding of the public hearing be delegated to Director Obirek;  
  
AND THAT staff schedule the date, time, and place of the public hearing in consultation with Director Obirek;  
  
AND THAT staff give notice of the public hearing in accordance with the requirements of the *Local Government Act*.
2. THAT Bylaw No. 2603.23, 2022, Electoral Area “D” Official Community Plan Amendment Bylaw be deferred; or
3. THAT Bylaw No. 2603.23, 2022, Electoral Area “D” Official Community Plan Amendment Bylaw, be denied.

**Respectfully submitted:**



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Shannon Duong, Planner I

**Endorsed By:**



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C. Garrish, Planning Manager

Attachments: No. 1 – Agency Referral List

No. 2 – Schedule 2 of the *Contaminated Sites Regulation*

No. 3 – Form and Character Development Permit Areas in Electoral Area “D”

Attachment No. 1 – Agency Referral List

Referrals to be sent to the following agencies as highlighted with a , prior to the Board considering first reading of Amendment Bylaw No. 2603.23, 2022.

<input checked="" type="checkbox"/>	Agricultural Land Commission (ALC)	<input type="checkbox"/>	Fortis
<input checked="" type="checkbox"/>	Interior Health Authority (IHA)	<input type="checkbox"/>	City of Penticton
<input checked="" type="checkbox"/>	Ministry of Agriculture	<input type="checkbox"/>	District of Summerland
<input type="checkbox"/>	Ministry of Energy, Mines & Petroleum Resources	<input type="checkbox"/>	Town of Oliver
<input type="checkbox"/>	Ministry of Municipal Affairs & Housing	<input type="checkbox"/>	Town of Osoyoos
<input checked="" type="checkbox"/>	Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Ecosystem Section)	<input type="checkbox"/>	Town of Princeton
<input type="checkbox"/>	Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Archaeology Branch)	<input type="checkbox"/>	Village of Keremeos
<input type="checkbox"/>	Ministry of Jobs, Trade & Technology	<input type="checkbox"/>	Okanagan Nation Alliance (ONA)
<input type="checkbox"/>	Ministry of Transportation and Infrastructure	<input checked="" type="checkbox"/>	Penticton Indian Band (PIB)
<input type="checkbox"/>	Integrated Land Management Bureau	<input checked="" type="checkbox"/>	Osoyoos Indian Band (OIB)
<input type="checkbox"/>	BC Parks	<input type="checkbox"/>	Upper Similkameen Indian Band (USIB)
<input checked="" type="checkbox"/>	School District #53 (Areas A, B, C, D & G)	<input type="checkbox"/>	Lower Similkameen Indian Band (LSIB)
<input type="checkbox"/>	School District #58 (Area H)	<input type="checkbox"/>	Environment Canada
<input type="checkbox"/>	School District #67 (Areas D, E, F, I)	<input type="checkbox"/>	Fisheries and Oceans Canada
<input type="checkbox"/>	Central Okanagan Regional District	<input type="checkbox"/>	Canadian Wildlife Services
<input type="checkbox"/>	Kootenay Boundary Regional District	<input checked="" type="checkbox"/>	OK Falls Irrigation District
<input type="checkbox"/>	Thompson Nicola Regional District	<input type="checkbox"/>	Kaleden Irrigation District
<input type="checkbox"/>	Fraser Valley Regional District		
<input checked="" type="checkbox"/>	Okanagan Falls Volunteer Fire Department		

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Attachment No. 2 – Schedule 2 of the *Contaminated Sites Regulation*

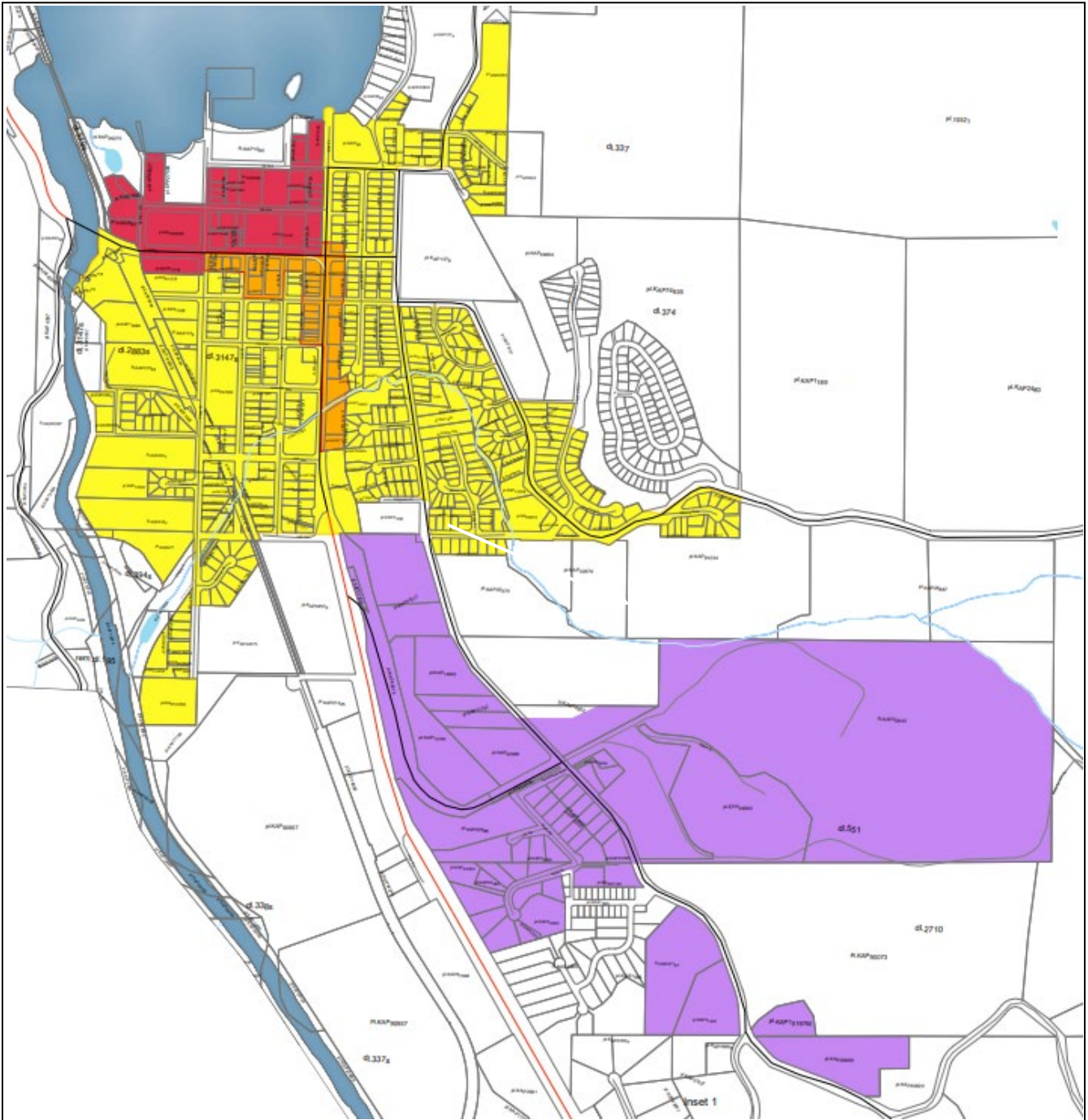
Specified Industrial or Commercial Uses

<b>A</b>	<b>Chemical industries and activities</b> <ol style="list-style-type: none"><li>1. adhesives manufacturing, bulk storage, shipping or handling</li><li>2. chemical manufacturing, bulk storage, shipping or handling</li><li>3. explosives or ammunition manufacturing, bulk storage, shipping or handling</li><li>4. fire retardant manufacturing, bulk storage, shipping or handling</li><li>5. fertilizer manufacturing, bulk storage, shipping or handling</li><li>6. ink or dye manufacturing, bulk storage, shipping or handling</li><li>7. leather or hides tanning</li><li>8. paint, lacquer or varnish manufacturing, formulation, recycling, bulk storage, shipping or handling, not including retail stores</li><li>9. pharmaceutical products, or controlled substances as defined in the <i>Controlled Drugs and Substances Act</i> (Canada), manufacturing or operations</li><li>10. plastic products (foam or expanded plastic) manufacturing or repurposing</li><li>11. textile dyeing</li><li>12. pesticide manufacturing, formulation, bulk storage, shipping or handling</li><li>13. resin or plastic monomer manufacturing, formulation, bulk storage, shipping or handling</li></ol>
<b>B</b>	<b>Electrical equipment and activities</b> <ol style="list-style-type: none"><li>1. battery manufacturing, recycling, bulk storage, shipping or handling</li><li>2. facilities using equipment that contains PCBs greater than or equal to 50 ppm</li><li>3. electrical equipment manufacturing, refurbishing, bulk storage, shipping or handling</li><li>4. electrical transmission or distribution substations</li><li>5. electronic equipment manufacturing</li><li>6. transformer oil manufacturing, processing, bulk storage, shipping or handling</li><li>7. electrical power generating operations fuelled by coal or petroleum hydrocarbons that supply electricity to a community or commercial or industrial operation, excluding emergency generators.</li></ol>
<b>C</b>	<b>Metal smelting, processing or finishing industries and activities</b> <ol style="list-style-type: none"><li>1. foundries</li><li>2. galvanizing</li><li>3. metal plating or finishing</li><li>4. metal salvage operations</li><li>5. metal smelting or refining</li><li>6. welding or machine shops (repair or fabrication)</li></ol>

<b>D</b>	<p><b>Mining, milling or related industries and activities at or near land surface</b></p> <ol style="list-style-type: none"> <li>1. asbestos mining, milling, bulk storage, shipping or handling</li> <li>2. coal coke manufacture, bulk storage, shipping or handling</li> <li>3. coal or lignite mining, milling, bulk storage, shipping or handling</li> <li>4. milling reagent manufacture, bulk storage, shipping or handling</li> <li>5. metal concentrate bulk storage, shipping or handling</li> <li>6. metal ore mining or milling</li> </ol>
<b>E</b>	<p><b>Miscellaneous industries, operations or activities</b></p> <ol style="list-style-type: none"> <li>1. appliance, equipment or engine maintenance, repair, reconditioning, cleaning or salvage</li> <li>2. ash deposit from boilers, incinerators or other thermal facilities</li> <li>3. asphalt and asphalt tar manufacture, storage and distribution, including stationary asphalt batch plants</li> <li>4. coal gasification (manufactured gas production)</li> <li>5. medical, chemical, radiological or biological laboratories</li> <li>6. outdoor firearm shooting ranges</li> <li>7. road salt or brine storage</li> <li>8. measuring instruments (containing mercury) manufacture, repair or bulk storage</li> <li>9. dry cleaning facilities or operations and dry cleaning chemical storage, excluding locations at which clothing is deposited but no dry cleaning process occurs</li> <li>10. contamination or likely contamination of land by substances migrating from an industrial or commercial site</li> <li>11. fire training facilities at which fire retardants are used</li> <li>12. single or cumulative spills to the environment greater than the reportable quantities of substances listed in the Spill Reporting Regulation</li> </ol>
<b>F</b>	<p><b>Petroleum (including blends and biodiesels) and natural gas drilling, production, processing, retailing, distribution and commercial storage</b></p> <ol style="list-style-type: none"> <li>1. petroleum or natural gas drilling</li> <li>2. petroleum or natural gas production facilities</li> <li>3. natural gas processing</li> <li>4. petroleum coke manufacture, bulk storage, shipping or handling</li> <li>5. petroleum product, other than compressed gas, dispensing facilities, including service stations and card locks</li> <li>6. petroleum, natural gas or sulfur pipeline rights of way excluding rights of way for pipelines used to distribute natural gas to consumers in a community</li> <li>7. petroleum product (other than compressed gas), or produced water storage in non-mobile above ground or underground tanks, except tanks associated with emergency generators or with secondary containment</li> <li>8. petroleum product, other than compressed gas, bulk storage or distribution</li> <li>9. petroleum refining</li> <li>10. solvent manufacturing, bulk storage, shipping or handling</li> <li>11. sulfur handling, processing or bulk storage and distribution</li> </ol>

<b>G</b>	<p><b>Transportation industries, operations and related activities</b></p> <ol style="list-style-type: none"> <li>1. aircraft maintenance, cleaning or salvage</li> <li>2. automotive, truck, bus, subway or other motor vehicle maintenance, repair, salvage or wrecking</li> <li>3. dry docks, marinas, ship building or boat repair and maintenance, including paint removal from hulls</li> <li>4. marine equipment salvage</li> <li>5. rail car or locomotive maintenance, cleaning, salvage or related uses, including railyards</li> </ol>
<b>H</b>	<p><b>Waste disposal and recycling operations and activities</b></p> <ol style="list-style-type: none"> <li>1. antifreeze bulk storage, recycling, shipping or handling</li> <li>2. barrel, drum or tank reconditioning or salvage</li> <li>3. biomedical waste disposal</li> <li>4. bulk manure stockpiling and high rate land application or disposal (nonfarm applications only)</li> <li>5. landfilling of construction demolition material, including without limitation asphalt and concrete</li> <li>6. contaminated soil or sediment storage, treatment, deposit or disposal</li> <li>7. dry cleaning waste disposal</li> </ol>
	<ol style="list-style-type: none"> <li>8. electrical equipment recycling</li> <li>9. industrial waste lagoons or impoundments</li> <li>10. industrial waste storage, recycling or landfilling</li> <li>11. industrial woodwaste (log yard waste, hogfuel) disposal</li> <li>12. mine tailings waste disposal</li> <li>13. municipal waste storage, recycling, composting or landfilling</li> <li>14. organic or petroleum material landspreading (landfarming)</li> <li>15. sandblasting operations or sandblasting waste disposal</li> <li>16. septic tank pumpage storage or disposal</li> <li>17. sewage lagoons or impoundments</li> <li>18. hazardous waste storage, treatment or disposal</li> <li>19. sludge drying or composting</li> <li>20. municipal or provincial road snow removal dumping or yard snow removal dumping</li> <li>21. waste oil reprocessing, recycling or bulk storage</li> <li>22. wire reclaiming operations</li> </ol>
<b>I</b>	<p><b>Wood, pulp and paper products and related industries and activities</b></p> <ol style="list-style-type: none"> <li>1. particle or wafer board manufacturing</li> <li>2. pulp mill operations</li> <li>3. pulp and paper manufacturing</li> <li>4. treated wood storage at the site of treatment</li> <li>5. veneer or plywood manufacturing</li> <li>6. wood treatment (antisapstain or preservation)</li> <li>7. wood treatment chemical manufacturing, bulk storage</li> </ol>

Attachment No. 3 – Form and Character Development Permit Areas in Electoral Area “D”



**Legend**

-  Okanagan Falls Commercial Development Permit Area
-  Okanagan Falls Multiple Family Development Permit Area
-  Okanagan Falls Industrial Development Permit Area
-  Okanagan Falls Town Centre DP area