

Lauri Feindell

Subject: FW: Bylaw Referral- Zoning Amendment Bylaw 2800.02 (X2022.007-Zone)

From: Naramata Fire Chief <NaramataFC@rdos.bc.ca>
Sent: May 14, 2022 10:37 AM
To: Colin Martin <cmartin@rdos.bc.ca>
Subject: RE: Bylaw Referral- Zoning Amendment Bylaw 2800.02 (X2022.007-Zone)

Hi Colin,

These changes won't affect our service.

Thanks for asking 😊

Dennis Smith, Fire Chief
Naramata Fire
Ph:250-496-5319 Cell:250-462-5023
naramatafc@rdos.bc.ca



Your File #: X2022.007-
ZONE
eDAS File #: 2022-02775
Date: May 19, 2022

Regional District Okanagan Similkameen
101 Martin Street
Penticton, BC V2A 5J9

Attention: Lauri Feindell, Planning Secretary

**Re: Proposed Text Amendment Bylaw 2800.02 for:
Okanagan Valley Zoning Bylaw-Mobile Vendor**

Preliminary Approval is granted for the rezoning for one year pursuant to section 52(3)(a) of the *Transportation Act*.

If you have any questions, please feel free to call Penticton Development Services at (250) 712-3660.

Yours truly,

Rob Bitte
Development Officer

Local District Address
Penticton Area Office 102 Industrial Place Penticton, BC V2A 7C8 Canada Phone: (250) 712-3660 Fax: (250) 490-2231

RESPONSE SUMMARY

AMENDMENT BYLAW NOS. 2800.02

☐ Approval Recommended for Reasons
Outlined Below

☒ Interests Unaffected by Bylaw

☐ Approval Recommended Subject to
Conditions Below

☐ Approval Not Recommended Due
to Reasons Outlined Below

Signature:  _____

Signed By: MARG COULSON

Agency: VILLAGE OF KOLBMEOS

Title: CAO

Date: MAY 16 / 22

Lauri Feindell

Additional Represent.
Board date: July 7, 2022

Subject: FW: IH Response - Bylaw Referral- Zoning Amendment Bylaw 2800.02 (X2022.007-Zone)

Agenda Item C.5
Mobile vendors

From: HBE <HBE@interiorhealth.ca>

Sent: May 25, 2022 12:23 PM

To: Colin Martin <cmartin@rdos.bc.ca>

Subject: IH Response - Bylaw Referral- Zoning Amendment Bylaw 2800.02 (X2022.007-Zone)

Hello Colin,

We received the above captioned referral. Typically we provide comments regarding potential health impacts of a proposal. More information about our program can be found at [Healthy Built Environment](#).

An initial review has been completed and we have no objections to the proposed amendments. Note the Food Premises Regulation would apply to all mobile food vendors. As such, each mobile food vendor must have IH approval and a Food Service Establishment Operating Permit unless they are only selling pre-packaged non-potentially hazardous foods (e.g. bagged confectionary).

If you have any questions, please feel free to email us back or call 1-855-744-6328 (Ext. 4).

Regards,

Anita

Anita Ely, CPHI(C) (she/her/hers)

Specialist Environmental Health Officer

HBE Intake EHO

Healthy Communities Healthy Families, Population Health

Interior Health

851 16 St. NE, Box 627

Salmon Arm, BC V1E 4N7

c: 250-253-3679

e: anita.ely@interiorhealth.ca

www.interiorhealth.ca



Interior Health

We recognize and acknowledge that we are collectively gathered on the traditional, ancestral, and unceded territories of the seven Interior Region First Nations, where we live, learn, collaborate and work together. This region is also home to 15 Chartered Métis Communities. It is with humility that we continue to strengthen our relationships with First Nation, Métis, and Inuit peoples across the Interior.

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June 13, 2022

File: 0280-30

Local Government File: X2022.007-ZONE

Colin Martin
Planning Services Clerk
Regional District of Okanagan-Similkameen
Via Email: planning@rdos.bc.ca

Dear Colin Martin:

Re: Amendment Bylaw No. 2800.02 to introduce new regulations and definitions for 'mobile vendors'.

Thank you for providing the Ministry of Agriculture and Food (ministry) staff the opportunity to comment on the draft amendment bylaw to allow mobile vendors in multiple zones.

Overall, ministry staff have few concerns with allowing mobile vendors, including food trucks, in agricultural zones given that the intent is to exclude eating and drinking establishments from the definition of 'mobile vendor'. The main concern would be that as currently worded the bylaw does not appear to address storage or the potential for long-term use in these zones, neither in the definition nor regulations. Storage of vehicles intended for mobile vending should not be a permitted use in agricultural zones and the Agricultural Land Reserve (ALR).

In addition, ministry staff strongly recommend contacting Agricultural Land Commission (ALC) staff regarding the requirement for non-farm use approval from ALC for mobile vendors in the ALR. It is our understanding that under certain circumstances, such as where it would be accessory to an agri-tourism operation or a gathering for an event, non-farm use approval from ALC may not be required. As currently worded the bylaw may place these operators in a difficult situation where RDOS requires ALC approval, but the ALC does not require an application or approval for this use.

If you have any questions, please contact us directly at the numbers and email addresses below.

Sincerely,



Alison Fox, P.Ag.
Land Use Agrologist
Ministry of Agriculture, Food
and Fisheries
Alison.Fox@gov.bc.ca
(778) 666-0566



Philip Gyug, P.Ag
Regional Agrologist
Ministry of Agriculture, Food
and Fisheries
Philip.Gyug@gov.bc.ca
Office: (250) 378-0573

Email copy: Liz Sarioglu, Acting Director of Policy and Planning, ALC.Referrals@gov.bc.ca



Penticton Indian Band
Natural Resources Department
841 Westhills Drive | Penticton, B.C.
V2A 0E8
Referrals@pib.ca | www.pib.ca
Telephone: 250-492-0411
Fax: 250-493-2882

Project Name:

X2022.007-ZONE: Mobile Vendor Zoning Review

Consulting Org Contact:

Planning RDOS

Consulting Organization:

Regional District of Okanagan Similkameen

Date Received:

Friday, May 13, 2022

File number:

B-20220513

June 17, 2022

Attention: Planning RDOS

Re: X2022.007-ZONE: Mobile Vendor Zoning Review

Invoice # -

We write regarding your failure to pay invoice to conduct a review to obtain additional information in the area of the above referral. To date, no payment has been received and we have therefore been unable to conduct a review of this referral; we must therefore put you on notice that we do not consent, agree or otherwise approve of the activity / development referred to by you in your letter to us dated May 13, 2022.

Invoice Number:

Subtotal Tax Total

Referral Processing \$ 500.00 \$ 0.00 \$ 500.00

Total \$ 500.00 \$ 0.00 \$ 500.00

INVOICE AMOUNT FOR PRELIMINARY OFFICE REVIEW \$500.00

The syilx/Okanagan Nation holds unextinguished aboriginal title to the land and resources within our traditional territory. The above-noted activity / development is within PIB's Area of Responsibility within syilx/Okanagan territory and as such, is subject to syilx/Okanagan title, jurisdiction, rights and interests, and PIB decision making and responsibility.

Over the last two decades, the Supreme Court of Canada has clarified the law respecting the rights of aboriginal people in British Columbia, which includes the Penticton Indian Band, syilx/Okanagan Nation. The Court has clarified that Aboriginal title continues to exist in British Columbia, and is protected by s. 35 of the Constitution Act, 1982.

In June 2014, the Supreme Court of Canada in the Tsilhqot'in case set out the following characteristics and implications of Aboriginal title:

- Aboriginal title is not limited to intensively used sites; it extends to lands physically occupied and lands over which Indigenous peoples exercised control. Regular use of territories for hunting, fishing, trapping and foraging, with an intention

and capacity to control the lands, grounds Aboriginal title.

- The Crown has no beneficial interest (the right to use, enjoy and profit from the economic development of lands) in Aboriginal title lands and resources; the beneficial interest is held by the Aboriginal title holding group. Allocations of Aboriginal title lands or resources to third parties are serious infringements of Aboriginal title.
- Aboriginal title includes the right to proactively use and manage the resources.
- Once Aboriginal title is “established”, the constitution prohibits incursions without the consent of the Aboriginal title holders unless the Crown can justify the infringement, which in turn requires a compelling and substantial public purpose as well as consistency with the Crown’s fiduciary duty to the Aboriginal title holders, requiring the involvement of the Aboriginal title holding group in decisions.
- Before Aboriginal title is “established”, the only way to ensure certainty is to obtain consent; in the absence of consent, the Crown must consult and accommodate. If consultation or accommodation is inadequate, the Crown decision can be suspended or quashed. Moreover, fulfilling the duty to consult and accommodate does not provide the certainty that consent provides; once Aboriginal title is established, the Crown may be required to cancel projects where there was no consent and the justification test noted above cannot be met.

Most recently, in November 2019, the province of British Columbia implemented the United Nations Declaration on the Rights of Indigenous Peoples which aims to emphasize the Indigenous peoples' rights to live in dignity, to maintain and strengthen Indigenous institutions, cultures and traditions and to pursue self-determined development, in keeping with Indigenous needs and aspirations. The United Nations Declaration on the Rights of Indigenous Peoples (“the Declaration”) recognizes and affirms:

- Article 3: Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
- Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.
- Article 8(2): States shall provide effective mechanisms for prevention of, and redress for: (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
- Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.
- Article 26(2): Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
- Article 32(2): States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources particularly in connection with the development, utilization or exploitation of minerals, water or other resources.

At this time there has been no reconciliation of our interests with those of the Province of British Columbia and Canada and no process in place to adequately recognize and negotiate co- existence or accommodation of our jurisdiction and title. The Province continues to act as though we have no beneficial interest or authority, and it takes for itself the revenues derived from our lands and resources. The payment of the referral fee is necessary in order for us to assess your proposal, assess potential impacts and determine whether it should be approved and if so, on what conditions. Because we are unable to undertake such an assessment, we must at this time advise you that we are opposed to your proposed development/activity.

limlāmt,

Madison Terbasket
Office Administrator
Penticton Indian Band
Natural Resources
email: referrals.clerk@pib.ca

work: (250) 492-0411

address: 841 Westhills Drive S 80 C 19
Penticton, British Columbia
Canada V2A 0E8

Lauri Feindell

From: ALC Referrals ALC:EX <ALC.Referrals@gov.bc.ca>
Sent: June 22, 2022 3:50 PM
To: Colin Martin
Subject: RE: Bylaw Referral- Zoning Amendment Bylaw 2800.02 (X2022.007-Zone)

Colin

This is to advise that operating a mobile food truck on ALR lands is not a permitted use in the ALR, and as such the ALC does not support the inclusion of "mobile Vendor" into the Agriculture zone – ALR.

The proposed amendment may be deemed inconsistent with the ALC Act/regulation and have no force and effect.

Regards

Martin Collins, ALC

From: Colin Martin <cmartin@rdos.bc.ca>
Sent: May 12, 2022 4:36 PM
To: McBurnie, Michael ALC:EX <Michael.McBurnie@gov.bc.ca>; 'Hbe@interiorhealth.ca' <Hbe@interiorhealth.ca>; Forbes, Christina D AFF:EX <Christina.Forbes@gov.bc.ca>; Kaleden Fire Chief <FCKaleden@rdos.bc.ca>; XT:Osoyoos, Town ENV:IN <tosoyoos@osoyoos.ca>; Naramata Fire Chief <NaramataFC@rdos.bc.ca>; 'tony.iannella.wvfd@ho9tmail.com' <tony.iannella.wvfd@ho9tmail.com>; 'okfallschief@gmail.com' <okfallschief@gmail.com>; AMFD Firechief <firechief@amfd.org>; XT:Oliver, Town ENV:IN <admin@oliver.ca>; 'referrals@fortis.bc.com' <referrals@fortis.bc.com>; 'clerk@keremeos.ca' <clerk@keremeos.ca>; 'jcvitko@sd53.bc.ca' <jcvitko@sd53.bc.ca>; 'sd67@sd67.bc.ca' <sd67@sd67.bc.ca>; 'frie@nethop.net' <frie@nethop.net>; 'kmg365@live.ca' <kmg365@live.ca>; 'apexfirerescue@gmail.com' <apexfirerescue@gmail.com>; 'ofdchief@oliver.ca' <ofdchief@oliver.ca>; 'fire@osoyoos.ca' <fire@osoyoos.ca>; 'fire@penticton.ca' <fire@penticton.ca>; 'rrobinson@summerland.ca' <rrobinson@summerland.ca>; Referral Apps REG8 FLNR:EX <ReferralAppsREG8@gov.bc.ca>; 'FBClands@fortisbc.com' <FBClands@fortisbc.com>; FLNR DOS Referrals CSNR:EX <FLNRDOSReferrals@gov.bc.ca>
Cc: Lauri Feindell <lfeindell@rdos.bc.ca>
Subject: Bylaw Referral- Zoning Amendment Bylaw 2800.02 (X2022.007-Zone)

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The Regional District of the Okanagan-Similkameen (RDOS) is seeking input from agencies whose interests may be affected by a rezoning application.

please find a referral for a Zoning Amendment Bylaw and a link to the application and referral documents. Please review and if you have any questions, please do not hesitate to contact me.

Once reviewed if you have any comments/concerns, please forward to planning@rdos.bc.ca before June 13, 2022.