



**BAYNES LAKE  
OFFICIAL COMMUNITY PLAN  
BYLAW NO. 2319, 2011**

*This is a consolidation of the Official Community Plan Bylaw and adopted bylaw amendments. The amendments have been combined with the original Bylaw for convenience only. This consolidation is not a legal document.*

*September 9, 2022*

Bylaw No. 2319 - Consolidation

<b>BYLAW AMENDMENTS</b>				
<b>Bylaw No.</b>	<b>Amend. No. / Yr.</b>	<b>Adopted</b>	<b>Short Citing</b>	<b>Legal Description Zoning</b>
2389	1/12	Nov. 2/12	Palmer Road / Bergman – Grymaloski)	Lot 3 Block 17 DL 132 KD Plan 1181 <b>MH to SM</b>
2480	2/13	<b>NPW Aug. 02/13</b>	Sharpe Road / Seaborn	<b>NPW</b> Lot A, DL 132, Plan 13924 <b>RR to SH</b>
2494	3/13	Jan. 10/14	Chief David Road / Feigs	Lot 10, Block 10, DL 132, Plan 1181 <b>MH to SH</b>
2523	4/14	Oct. 3/14	Sharpe Road / Seaborn	Lot A, DL 132, KD Plan 13924 <b>RR to SH</b>
2540	5/14	Oct. 3/14	Medical Marihuana / RDEK	Text Amendment
2764	6/17	April 7/17	Palmer Rd. / Satink	Lot 1, Block 17, DL 132, KD, Plan 1181 <b>MH to SH</b>
2821	7/17	Feb. 9/18	Saunders Rd. / Stout & Munro	Lot 2, Block 7, DL 132, KD, Plan 1181 <b>MH to SH</b>
2825	8/17	Feb. 9/18	North Star Rd. / Gonnely	Lot 2, Block 28, DL 132, KD, Plan 1181 <b>MH to SH</b>
2893	9/18	Feb. 8/19	Baynes Lake / Bevand	Lot 5, Block 21, DL 132, KD, Plan 1181 <b>MH to SH</b>
2910	10/19	Jun. 7/19	Baynes Lake / Abbott & Ernst	Part of Lot A, DL 132, KD, Plan 18136 <b>MH to SH</b>
2924	11/19	Jul. 5/19	Baynes Lake / McArthur	Lot 3, Block 20, DL 132, KD, Plan 1181 <b>MH to SH</b>
3017	12/20	Jan. 8/21	Kragmont / Williamson	Lot 4, Block 74, DL 132, KD, Plan 1181 <b>LH to SH</b>
3034	13/20	Apr. 9/21	Kragmont / Bergman, Grymaloski, Meidinger & Paul	Lot 3, Block 74, DL 132, KD, Plan EPP88991 <b>MH to SH</b>
3054	15/20	Jun. 4/21	Baynes Lake / McGowan & Robinson	Designation of Lot 6 Block 15 DL 132 KD Plan 1181 <b>MH to SH</b>
3073	16/21	Sept 3/21	Baynes Lake / Harris	Designation of Lot 4 Block 13 DL 132 KD Plan 1181 except parcel A (see 152950i) <b>MH to SH</b>
3079	17/21	Oct. 8/21	Baynes Lake / Arnold	Designation of Lot 4 DL 132 KD Plan NEP71940 <b>MH to SH</b>
3082	18/21	Oct. 8/21	Baynes Lake / Prevost	Designation of Lot 2 and Lot 3 Block 13 DL132 KD Plan 1181 <b>MH, C, CR to SH and C</b>
3090	19/21	Dec. 3/21	Baynes Lake / Soukoroff	Designation of Lot A DL 132 KD Plan NEP21105 <b>MH to SH</b>
3094	20/21	Dec. 3/21	Baynes Lake / Gonnely	Designation of Lot 2 Block 6 DL 132 KD Plan 1181 <b>MH to SH</b>
3120	21/22	Apr. 8/22	Waldo Cove Park / RDEK	Designation of Part of Parcel 1 (Explanatory Plan DD5116), DL 132, KD except Parcel 4 (Explanatory Plan 12486I) Sketch Plan 19594A <b>RR and CR to OSRT</b>  Designation of Parcel 1 (Reference Plan 77963I), Lot F DL132 KD Plan 1829 <b>RR to OSRT</b>  Designation of Lot E, DL 132, KD Plan 1829 <b>RR to OSRT</b>
3153	22/22	Aug. 12/22	Baynes Lake / 223398 Alberta Ltd & Volcano Ridge Inc	Designation of Lot 4 Block 6 DL 132 KD Plan 1181 <b>MH to SH</b>
3170	23/22	Aug. 12/22	Baynes Lake / Schulmeister	Designation of Lot 2 Block 19 DL 132 KD Plan 1181 <b>MH to SH</b>

Bylaw No. 2319 - Consolidation

<b>BYLAW AMENDMENTS</b>				
<b>Bylaw No.</b>	<b>Amend. No. / Yr.</b>	<b>Adopted</b>	<b>Short Citing</b>	<b>Legal Description Zoning</b>
3174	24/22	Sept. 9/22	Kragmont / Williamson	Designation of that portion of Lot 4 Block 74 DL 132 KD Plan 1181 <b>LH to SH</b>

**REGIONAL DISTRICT OF EAST KOOTENAY**

**BYLAW NO. 2319**

A bylaw to adopt an Official Community Plan for the Baynes Lake area.

WHEREAS the Board of the Regional District of East Kootenay deems it necessary to adopt an official community plan in order to ensure orderly development of the Baynes Lake area;

NOW THEREFORE, the Board of the Regional District of East Kootenay, in open meeting assembled, enacts as follows:

**1. Title**

This Bylaw may be cited as the "Regional District of East Kootenay – Baynes Lake Official Community Plan Bylaw No. 2319, 2011".

**2. Application**

This Bylaw is applicable to all land within the boundaries of the Baynes Lake plan area as shown on **Schedule B**.

**3. Organization**

The following attached schedules are incorporated into and form part of this Bylaw:

- (a) Schedule A – Policies
- (b) Schedule B – Plan Area
- (c) Schedule C – Agricultural Land Reserve
- (d) Schedule D – Land Use Overview
- (e) Schedule E – Land Ownership Overview
- (f) Schedule F – Interface Fire Hazard
- (g) Schedule G – Road Network Plan

**4. Severability and Enactment**

If any section, subsection, sentence, clause, phrase, map or schedule of this Bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder.

The Manager of Planning & Development Services, Manager of Building & Protective Services and Bylaw Enforcement Officer, and any other person authorized to assist the aforementioned persons are authorized to administer this Bylaw.

This Bylaw shall come into full force and effect on the final adoption thereof.

READ A FIRST TIME the 10<sup>th</sup> day of June 2011.

READ A SECOND TIME the 10<sup>th</sup> day of June 2011.

READ A THIRD TIME the 8<sup>th</sup> day of July 2011.

ADOPTED the 5<sup>th</sup> day of August 2011.

"Scott Manjak"  
CHAIR

"L. V. Crane"  
CORPORATE OFFICER

# Contents

<b>SCHEDULE A – POLICIES</b> .....	<b>1</b>
<b>1. INTRODUCTION</b> .....	<b>1</b>
1.1 Administration.....	1
1.2 Legal Framework.....	1
1.3 Plan Policies and Map Designations .....	2
1.4 Plan Process .....	2
1.5 Relationship to the Zoning Bylaw .....	2
1.6 Relationship to the Ktunaxa First Nation .....	2
1.7 Plan Area.....	2
(1) Baynes Lake .....	3
(2) Kragmont.....	3
<b>2. AREA HISTORY AND BACKGROUND</b> .....	<b>4</b>
2.1 History .....	4
2.2 Previous Plans and Policies .....	4
2.3 Recent Development.....	4
<b>3. GOALS OF THE OFFICIAL COMMUNITY PLAN</b> .....	<b>5</b>
<b>4. RESIDENTIAL LAND USE</b> .....	<b>6</b>
4.1 Background .....	6
4.2 Objectives.....	6
4.3 Policies.....	6
(1) General .....	6
(2) Baynes Lake .....	7
(3) Kragmont.....	7
<b>5. COMMERCIAL AND RECREATIONAL LAND USE</b> .....	<b>9</b>
5.1 Background .....	9
5.2 Objectives.....	9
5.3 Policies .....	9
<b>6. INDUSTRIAL LAND USE AND AGGREGATE RESOURCES</b> .....	<b>11</b>
6.1 Background .....	11
6.2 Objectives.....	11
6.3 Policies .....	11
<b>7. TEMPORARY LAND USE</b> .....	<b>12</b>
7.1 Background .....	12
7.2 Objectives.....	12
7.3 Policies .....	12
<b>8. UTILITIES, INFRASTRUCTURE, AND INSTITUTIONAL LAND USE</b> .....	<b>13</b>
8.1 Background .....	13
8.2 Objectives.....	13
8.3 Policies .....	13
<b>9. OPEN SPACE, RECREATION AND TRAILS</b> .....	<b>15</b>
9.1 Background .....	15
9.2 Objectives.....	15
9.3 Policies .....	15
<b>10. ENVIRONMENTAL CONSIDERATIONS</b> .....	<b>16</b>
10.1 Background .....	16
10.2 Objectives.....	16
10.3 Policies .....	16

<b>11. GREENHOUSE GAS (GHG) EMISSIONS REDUCTION AND CLIMATE CHANGE ..</b>	<b>18</b>
11.1 Background .....	18
11.2 Greenhouse Gas Reduction Target.....	18
(1) Objectives .....	18
(2) Policies.....	18
<b>12. AGRICULTURE.....</b>	<b>19</b>
12.1 Background .....	19
12.2 Objectives.....	19
12.3 Policies .....	19
<b>13. DEVELOPMENT CONSTRAINTS AND PUBLIC SAFETY .....</b>	<b>22</b>
13.1 Interface Fire Hazard and Public Safety.....	22
(1) Background .....	22
(2) Objective .....	22
(3) Policies.....	22
13.2 Floodplain Management and Geotechnical Hazard .....	23
(1) Background .....	23
(2) Objective .....	23
(3) Policies.....	23
<b>14. ARCHAEOLOGICAL AND CULTURAL RESOURCES .....</b>	<b>24</b>
14.1 Background .....	24
14.2 Objectives.....	24
14.3 Policies .....	24
<b>15. CROWN LAND MANAGEMENT.....</b>	<b>25</b>
16.1 Background .....	25
16.2 Objective .....	25
16.3 Policies .....	25
(1) General .....	25
(2) Kragmont.....	25
<b>16. IMPLEMENTATION .....</b>	<b>26</b>
161.1Background .....	26
16.2 OCP Amendments .....	26
16.3 Zoning Bylaw Amendments.....	26
<b>17. LAND USE DESIGNATIONS .....</b>	<b>27</b>
17.1 Residential Land Use .....	27
(1) R-SF, Residential Low Density .....	27
(2) SH, Small Holdings .....	27
(3) MH, Medium Holdings.....	27
(4) LH, Large Holdings .....	27
17.2 Rural Land Uses.....	27
(1) RR, Rural Resource .....	27
17.3 Commercial Land Uses .....	27
(1) C, Commercial .....	27
(2) CR, Commercial Recreation .....	27
17.4 Industrial Land Uses.....	27
(1) INST, Institutional.....	27
(2) ORST, Open Space, Recreation and Trails .....	27

## SCHEDULE A – POLICIES

### 1. INTRODUCTION

#### 1.1 Administration

The Baynes Lake Official Community Plan (OCP) is a long term strategic planning document intended to:

- reflect the collective vision of the community for the future;
- guide and direct land use decision making with respect to the change or conservation of land uses; and
- help create the conditions necessary for the orderly and efficient use of the community land base.

The OCP will be used and administered by the Board of Directors and Staff of the Regional District of East Kootenay (RDEK) to evaluate all future development proposals and changes in land use within the plan area. The plan does not commit the Regional District to specific projects or courses of action, however, all decisions made by the Regional District must be consistent with the plan.

The OCP is intended to provide guidance on land use and development issues within the plan area for a five to fifteen year period. During that time, however, the OCP may be amended to respond to a change in the needs of the community. Amendments may be initiated either by a property owner or the Regional District. All proposed amendments are subject to an application process, public hearing and approval by the Regional District Board and appropriate Provincial Ministries.

Once the OCP is adopted it will provide the Board with a planning framework and guideline to promote certainty in land use decision making. In approving the OCP, the Regional District Board has considered the interests of the individual landowners and residents within the plan area and balanced those interests with the needs of the community and region as a whole.

#### 1.2 Legal Framework

The OCP is adopted pursuant to the provisions of Part 26 of the *Local Government Act*, which states:

*An official community plan is a statement of the objectives and policies to guide decisions on land use planning and land use management, within the area covered by the plan, respecting the purposes of local government.*

In addition, an OCP must contain policy statements and map designations respecting the following:

- Residential development and housing needs over a period of at least five years;
- Commercial, industrial, institutional and other types of land uses;
- The location and area of sand and gravel deposits suitable for future extraction;
- Restrictions on the use of environmentally sensitive and hazardous lands;
- The approximate location and phasing of any major road and infrastructure systems;
- The location and type of present and proposed public facilities;
- Targets, policies and actions for the reduction of greenhouse gas emissions;

Land use and development within the plan area is also subject to all relevant provincial and federal legislation and regulations.

### 1.3 Plan Policies and Map Designations

The OCP contains goals, objectives and policies to provide direction for how the plan area should develop over time. The goals and objectives identify the land use issues and community vision. The policies address the issues and implement the vision. Policy statements are developed based on the consideration of balancing private and public interests. The policies within the OCP become the official position of the Regional District. Schedules attached to the OCP map the community's land use values and contain the map designations. The map designations apply the goals and policies identified within the plan area to each parcel to depict the desired range and pattern of future land use.

### 1.4 Plan Process

The intent of the planning process was to establish land use regulation in an unzoned portion of the Regional District. Two independent documents were developed concurrently within the planning process. The development of the Baynes Lake Official Community Plan and the South Country Zoning and Floodplain Management Bylaws were authorized by the Board in September 2009.

An introductory meeting was held in October to provide an opportunity for residents and property owners to learn about the planning process. An information newsletter and questionnaire was mailed to area property owners in October. An advisory group of 17 plan area residents and property owners was established in January 2010. Advisory group meetings were held throughout the planning process to assist in guiding the development of the documents. Four participatory workshops were held in spring and summer to provide an opportunity for residents and property owners to identify the community assets and future vision for the area. A third newsletter providing the results of the workshops was mailed in September. After the workshops, drafting of the OCP commenced. The draft policies were reviewed by the Advisory Group in December and presented to the community at Open Houses in February 2011 and again in May 2011 following revisions.

### 1.5 Relationship to the Zoning Bylaw

The land use designations contained within the OCP were assigned based on the goals and policies outlined within the OCP and in consideration of the current land uses. However, the land use designations may not match a parcel's zoning within the South Country Zoning & Floodplain Management Bylaw. This is because the OCP is a long range strategic planning document that identifies the preferred future land use, while the zoning bylaw usually recognizes the current land use. Development of the parcel may continue in accordance with the zoning of the property, however, any amendment to the zoning must be in conformity with the land use designation in the OCP.

### 1.6 Relationship to the Ktunaxa First Nation

The preparation of the OCP included consultation with the Ktunaxa Nation Council and the Tobacco Plains Indian Band in recognition of the land uses occurring and proposed in their traditional territory. The plan area is part of the traditional territory of the Ktunaxa Nation and Crown land within the plan area is under consideration within the on-going treaty process. In the future, some Crown land may be administered by the Ktunaxa Nation. The OCP contains policies to recognize the archaeological resources that are contained within the plan area and the need to conserve and mitigate any impacts on these resources.

### 1.7 Plan Area

The plan area is located in southeastern British Columbia in the Rocky Mountain Trench adjacent to Lake Kocanusa. The area is also commonly referred to as the "South Country". The boundary of the plan area is shown on **Schedule B**. The plan area has two residentially and recreationally developed subareas:



(1) **Baynes Lake**

The Baynes Lake subarea is comprised of both private and Crown land. The subarea is largely comprised of smaller acreages with a number of 2.0 ha parcels, some larger agricultural parcels that are still utilized for production, and a significant number of undeveloped, subdivided Crown land parcels utilized for grazing. Most of the subarea is within the Agricultural Land Reserve (ALR). Commercial development is limited to home based businesses and the Baynes Lake General Store.

(2) **Kragmont**

The Kragmont subarea is located approximately 6 km south of Baynes Lake and is comprised of approximately 30 parcels ranging in size from 0.2 to 6.0 ha. The subarea is entirely surrounded by Crown land and is within the ALR. The Kragmont area is referred to separately within this plan due to its geographic separation from Baynes Lake.

## **2. AREA HISTORY AND BACKGROUND**

### **2.1 History**

The Ktunaxa Nation has inhabited the area for more than 10,000 years. European settlement in the late 1800s led to the establishment of the current Indian Reserves. The South Country started seeing development and settlement in the early 1900's as a result of the completion of the Great Northern Railway (G.N.R.) in 1902 which ran from the US to the coal fields in the Crowsnest Pass. Baynes Lake had a G.N.R. rail station from 1904 to 1937. As a result of the rail line, the forest industry flourished resulting in the establishment of the Adolf Lumber Company sawmill on the east shore of Baynes Lake and the Baker-McNab Lumber Mill in Waldo in about 1907. The mills and other employment opportunities attracted a migration of settlers to the area.

Waldo was located approximately 3 km north of the mouth of the Elk River. It was initially a stopping point for river boats travelling upstream from Montana to Galbraith's Ferry (Fort Steele) and Wildhorse Creek. At its peak Waldo was home to the lumber mill, a grocery store, school house, general store/post office, garage and a cable suspension bridge providing access across the Kootenay River. In 1929 the entire town was almost destroyed by a fire which started near the lumber mill. Eventually the location was flooded by the creation of the reservoir for the Libby Dam.

Another small community, Krag, was located 1.5 km south of Waldo below the current Kragmont subdivision. The community was populated largely by European farmers and was also the location of the popular Krag Hotel. Krag was also covered by the floodwaters of the reservoir.

In the late 1960s construction of the Libby Dam in Montana started and was officially dedicated in 1975. The dam created Lake Koochanusa in 1973, an international lake created by the flooding of the Kootenay River valley. The damming of the Kootenay River flooded many of the valley bottom agricultural lands and farms resulting in significant property loss for those farmers and residents in the valley. Some of the displaced property owners moved into Baynes Lake on the much smaller 2.0 ha parcels.

### **2.2 Previous Plans and Studies**

The Regional Growth Strategy (RGS) was adopted by the Regional District in 2004. The RGS is a policy document that establishes principles for evaluating land use changes and developing community plans throughout the Regional District. The RGS vision statement encourages growth where it is socially, environmentally and economically sustainable and respects the character of each subregion. The RGS contains two types of policies: those that apply to the whole Regional District and those that reflect subregional planning objectives. The plan area is located within the Central Subregion.

### **2.3 Recent Development**

The plan area has seen significant growth pressure in recent years. Since 2000 approximately 23 new parcels have been created and 47 new dwelling units added to the plan area. The majority of the plan area is in the ALR; approximately 36 subdivision, non-farm use and exclusion applications have been made to the Agricultural Land Commission (ALC) since 2000.

In addition to residential growth, the plan area has seen an increase in recreational pressure. Nearly 50% of land owners who responded to the initial questionnaire were seasonal residents many of whom use their property for recreational purposes. The pressures have resulted in significant increases in seasonal recreational users on both private and Crown land.

### 3. GOALS

The OCP is a comprehensive land use document that establishes land use policies for the plan area. The goals and objectives have been developed through the plan process. The major goals of the OCP are:

- (1) Protect the integrity of Baynes Lake, Lake Kooconusa and all other surface and ground water resources.
- (2) Protect the rural character of the plan area.
- (3) Manage future development by encouraging high development standards that are compatible with adjacent land uses and that respect the natural environment.
- (4) Maintain the current level of residential development recognizing the demand for additional development opportunity.
- (5) Recognize and conserve the archaeological and cultural heritage resources contained within the plan area.
- (6) Establish criteria under which applications for exclusion or subdivision in the Agricultural Land Reserve (ALR) may be considered by the Regional District.
- (7) Encourage and support agriculture in the plan area through the protection of agricultural resources and promotion of opportunities for local food production, diversification and value added agricultural activities.
- (8) Manage recreational and resort development by ensuring compatibility with adjacent land uses and high development standards.
- (9) Encourage future commercial uses to be located in appropriate locations within the plan area.
- (10) Promote the incorporation of FireSmart principles into existing and new residential development.
- (11) Encourage Crown land management with respect to a range of social, environmental and resource values.
- (12) Manage existing and future development to reduce its impacts on wildlife and habitats.
- (13) Recognize and support the protection of environmentally sensitive areas and sensitive plant and animal species.
- (14) Encourage the reduction of greenhouse gas (GHG) emissions in the plan area.

## 4. RESIDENTIAL LAND USE

### 4.1 Background

The plan area is characterized predominantly by rural residential and recreational development on a range of parcel sizes. The properties are owned by both permanent and seasonal residents. The two residential nodes, Baynes Lake and Kragmont, consist mainly of single family dwellings and vacant parcels. Many of the parcels are occupied by seasonal recreational vehicles. In the Baynes Lake area there is one multiple family development project to serve the Baynes Lake seniors.

Protection of the rural character was identified as being of high importance during the consultation process. There was some limited support for additional residential development in the plan area. Pre-designation of parcels suitable for future subdivision was not completed during the development of the plan. While the preferred parcel size identified was 1.0 ha, the plan provides for the consideration of smaller parcel sizes on an individual basis. Applications will be considered in relation to criteria developed as a result of the consultation process.

During the consultation process concerns regarding existing land uses and their status once the proposed zoning bylaw is adopted were identified. Uses and siting that legally exist at the time of adoption and that do not conform to the Bylaw are considered legally non-conforming and are subject to section 911 of the *Local Government Act*.

### 4.2 Objectives

- (1) Recognize the current residential use of properties in the plan area.
- (2) Recognize the rural character of the plan area by ensuring future residential developments are compatible with adjacent land uses.
- (3) Support a range of residential accommodation types in the plan area.
- (4) Ensure that future developments do not compromise environmentally sensitive and heritage values.
- (5) Maintain the current level and rate of new residential development while recognizing the demand for additional residential properties in the plan area.

### 4.3 Policies

#### (1) General

- (a) Except for the Bayne Lake Seniors Housing development additional high density and multi-family (tri-plexes and larger) residential development is not supported in the plan area.
- (b) A range of housing options are permitted throughout the plan area, including secondary suites, duplexes, and secondary dwellings for farm hands. Housing types will be based on parcel sizes and zoning regulations. For parcels in the ALR, residential use must be consistent with the *Agricultural Land Commission Act* and regulations.
- (c) Property owners and occupiers are encouraged to utilize responsible outdoor lighting practices and implement dark sky principles. Responsible practices include utilizing full cutoff lighting, ensuring lights are properly aimed, not over-lighting by selecting energy efficient low wattage bulbs, and utilizing motion detection sensors if lighting is for security purposes. Property owners on the waterfront are encouraged to minimize the amount of lighting on the lakeshore side of their property, as light is reflected off of the water surface.

- (d) The sale of existing subdivided Crown land for residential purposes is generally supported. However, further subdivision of the parcels is not supported.
- (e) The permitted number and placement of recreational vehicles on residential property for personal use will be regulated through the zoning bylaw to minimize the conflict between the recreational and residential use of property in the plan area. Applications for additional recreational vehicles on residential property will not generally be supported.
- (f) Connection to an approved sewage disposal system under the Sewerage System Regulation of the Health Act is encouraged on any parcel on which a recreational vehicle is seasonally occupied or intended to be seasonally occupied, and where a recreational vehicle park is not a permitted use.

**(2) Baynes Lake**

- (a) Subdivision of parcels identified on **Schedule C** to create parcel sizes less than 1.0 ha are generally not supported. However, if applications to accommodate smaller parcel sizes are received they will be reviewed on an individual basis in relation to the following criteria:
  - (i) Compatibility of proposed development with existing and surrounding land uses and parcel sizes;
  - (ii) Proposed lot size and density;
  - (iii) Capability to provide onsite sewage disposal in accordance with provincial requirements;
  - (iv) Potential impact of the proposal on groundwater;
  - (v) Access to the development and proposed road networks;
  - (vi) Identification and mitigation of potential hazards (avulsion, flooding, wildfire & geotechnical);
  - (vii) Identification and mitigation measures for ecologically sensitive areas including riparian areas, wildlife habitats, and fish habitats;
  - (viii) Recognition and integration of opportunities to protect viewscapes including but not limited to building envelopes;
  - (ix) Where necessary, pre-application public consultation at the expense of the applicant; and
  - (x) Previous Regional District of East Kootenay and Agricultural Land Commission decisions.
- (b) In order to protect the ecological integrity of Baynes Lake, subdivision of properties abutting the lake is not supported.

**(3) Kragmont**

- (a) Subdivision of parcels identified on **Schedule C** to create parcels less than 1.0 ha in the Kragmont subarea is generally not supported. However, applications to accommodate smaller parcel sizes will be reviewed on an individual basis in relation to the following criteria:
  - (i) Compatibility of proposed development with surrounding land uses and parcel sizes;
  - (ii) Proposed lot size and density;
  - (iii) Capability to provide onsite sewage disposal in accordance with provincial requirements;
  - (iv) Potential impact of the proposal on groundwater;
  - (v) Access to the development and proposed road networks;
  - (vi) Identification and mitigation of potential hazards (avulsion, flooding, wildfire & geotechnical);
  - (vii) Identification and mitigation measures for ecologically sensitive areas including riparian areas, wildlife habitats, and fish habitats;

- (viii) Recognition and integration of opportunities to protect viewsapes including but not limited to building envelopes;
- (ix) Where necessary, pre-application public consultation at the expense of the applicant; and
- (x) Previous Regional District of East Kootenay and Agricultural Land Commission decisions.

## **5. COMMERCIAL AND RECREATIONAL LAND USE**

### **5.1 Background**

Commercial development in the plan area is currently limited to the Baynes Lake General Store and home based businesses. These commercial uses were recognized during the consultation process and were generally supported. New commercial development of a local nature was generally supported provided the use was appropriately located. The preference was to locate commercial uses in the existing developed node and away from the residential areas. As the area continues to grow consideration for tourism based commercial development may be necessary to fulfill emerging demands.

Within the plan area there are a number of recreational vehicle parks and campgrounds. While some of the developments have acquired the appropriate approvals, there are others that do not have the necessary development approvals. The lack of approvals and incompatibility with the adjacent land uses was a significant concern identified during the planning process. Lack of enforcement with regard to unauthorized recreational land use was also identified as a significant concern.

### **5.2 Objectives**

- (1) Support economic diversification opportunities through home based businesses.
- (2) Support limited local commercial development and direct it to designated areas within the plan area.
- (3) Provide for consideration of tourism based commercial development.
- (4) Direct resort recreational uses to appropriate locations within and outside the plan area.

### **5.3 Policies**

- (1) New small scale commercial development that provides additional local services in the bylaw area is generally supported.
- (2) Commercial development should be compatible with the rural character of the plan area. Large scale commercial and recreation commercial development is not supported in the plan area.
- (3) Commercial development is directed to the existing node at the Baynes Lake store location, on portions of District Lot 6235 located west of Jaffray-Baynes Lake Road and North of Baynes Lake Road, the four corners intersection of Jaffray-Baynes Lake Road and Kikomun Road, and developed commercial nodes outside the plan area.
- (4) Tourism based commercial land uses may be given consideration during the life of this plan. Applications will be considered on an individual basis in relation to the following:
  - (a) Demonstration that the proposal fulfills a need not currently being satisfied in the plan area.
  - (b) Proximity of the proposed development to existing developed nodes.
  - (c) Compatibility of the proposed development with surrounding land uses.
  - (d) Sewer and water servicing options.
- (5) Home based businesses that are consistent with the rural character of the plan area are supported provided that they comply with the zoning bylaw and operate at a scale that is accessory to the residential use.

- (6) Signage for commercial uses is encouraged to be placed so that scenic views are preserved. In order to maintain the rural character of the plan area, billboards are not supported.
- (7) The operation of recreational vehicle parks in the vicinity of Sundown Lane, south of Baynes Lake, is not supported.
- (8) ALR Non-farm Use applications and rezoning applications for the development of new recreational vehicle parks or the expansion of existing recreational vehicle parks will be considered in relation to the following information, which should be included as part of a comprehensive development plan submitted with the application:
  - (a) Compatibility of the proposed development with surrounding land uses;
  - (b) Access to the development and proposed road networks;
  - (c) Sewer and water servicing plans;
  - (d) Proposed density;
  - (e) Provision and dedication of open and green space, buffers and screening;
  - (f) Identification and mitigation of potential hazards (geotechnical, wildfire);
  - (g) Identification and mitigation measures for ecologically sensitive areas including riparian areas and wildlife habitats;
  - (h) Recognition and integration of opportunities to protect viewscales; and
  - (i) Waste management strategies (garbage and recycling).



## **6. INDUSTRIAL LAND USE AND AGGREGATE RESOURCES**

### **6.1 Background**

Within the plan area, identified industrial activities include sand and gravel and forest harvesting operations. During the public consultation process there was little support for new light industrial activities to be located within the plan area. The primary concern was the incompatibility between light industrial activities and neighboring residential uses.

### **6.2 Objectives**

- (1) Ensure that aggregate extraction activities are conducted in a manner that is compatible with adjacent land uses and the rural character of bylaw area.
- (2) Encourage new light industrial land uses to be accommodated within the nearest municipalities or developed industrial nodes.

### **6.3 Policies**

- (1) Proposed new sand and gravel extraction sites should be located in areas that are compatible with adjacent land uses.
- (2) The siting of sand, gravel, and mineral resource extraction activities in close proximity to residential areas is discouraged. The Province is encouraged to adjudicate applications fairly and with full public input. If an application is approved, appropriate mitigation measures should be applied in order to minimize impact on adjacent uses.
- (3) Resource extraction operations are encouraged to give due consideration to the preservation of scenic views in the bylaw area.
- (4) Sand and gravel operations are encouraged to utilize existing sites to their maximum extraction capacity prior to development of new sites.
- (5) The rehabilitation and reclamation of industrial and resource extraction sites upon cessation of activity is encouraged.
- (6) New industrial land uses are generally not supported in the plan area. Proposed light industrial uses should be directed to the nearest municipality or developed industrial nodes outside the plan area.

## **7. TEMPORARY LAND USE**

### **7.1 Background**

Within the plan area there may be a need to accommodate a temporary land use on a parcel not zoned for that purpose.

### **7.2 Objectives**

- (1) Provide an opportunity for temporary land use applications to be considered within the plan area.
- (2) Ensure that temporary land uses are compatible with adjacent land uses.

### **7.3 Policies**

- (1) Temporary Land Use Permits will be considered throughout the plan area.
- (2) An application for a temporary land use permit will be considered in relation to:
  - (a) demonstration that the use is temporary or seasonal in nature;
  - (b) compatibility with the existing land use;
  - (c) compatibility with surrounding land use;
  - (d) potential conflict with agricultural or resource based activities;
  - (e) potential conflict with residential land uses;
  - (f) potential impact on fish or wildlife habitat;
  - (g) provision of adequate servicing for water and sewage disposal;
  - (h) duration of the proposed temporary land use; and
  - (i) relevant policies within other sections of this plan.
- (3) The permit may be issued subject to conditions such as, but not limited to:
  - (a) the buildings or structures that may be used;
  - (b) the period of applicability of the permit;
  - (c) the area of use;
  - (d) required site rehabilitation upon cessation of the use; and
  - (e) other business operating conditions.

## 8. UTILITIES, INFRASTRUCTURE AND INSTITUTIONAL LAND USE

### 8.1 Background

The plan area has a number of institutional, community and public utility land uses. These include the Baynes Lake Community Hall, the Baynes Lake Fire Department, the RDEK transfer station, the seniors' housing development project, a park, a cemetery, and a church.

Solid waste in the plan area is managed in accordance with the Regional District's Solid Waste Management Plan. The solid waste is handled at the Regional District's Central Land Fill, the Baynes Lake Transfer Station and through the Regional District recycling program. The recycling program allows for recycling of cardboard, paper, tin, aluminum cans, numbered plastics and food-grade glass.

Sewer services in the plan area are provided through on-site sewage disposal systems. There are no sewer or water utilities within the plan area and none were contemplated during development of this plan.

The main transportation corridors in the plan area are the Jaffray-Baynes Lake Road, which leads north to Jaffray and southeast towards Fernie, and Kikomun Road, which leads east to Highway 3/93 near Galloway and crosses Lake Koocanusa. Also within the plan area are a number of developed secondary roads and undeveloped road rights-of-way and lanes. The major road network plan developed in consultation with the Ministry of Transportation and Infrastructure is shown on **Schedule G**.

### 8.2 Objectives

- (1) Promote responsible solid waste management and recycling practices.
- (2) Facilitate the identification of lands for community and institutional land uses.
- (3) Promote responsible on-site sewer system management.
- (4) Consider and maintain road network safety and efficiency for all new development.

### 8.3 Policies

- (1) The public is required to dispose of household waste at the Baynes Lake Transfer Station in a responsible manner. Waste other than household waste must be disposed of at the Cranbrook Transfer Station. Operating procedures for the transfer stations may be altered if the public does not comply with the requirements posted at the site.
- (2) Residents and visitors are encouraged to follow the principles contained in the Regional District Solid Waste Management Plan. Residents and visitors are encouraged to reduce the amount of solid waste produced by following the 3 R's: reduce, reuse, and recycle.
- (3) The Regional District recognizes that the placement of wireless communication facilities is under the jurisdiction of Industry Canada. However, their placement should be in accordance with the zoning bylaw.
- (4) As resources allow, the Regional District will explore opportunities for acquiring land in the vicinity of the Baynes Lake Community Hall to accommodate development of additional day-use parking.
- (5) Institutional land uses should be directed to the existing developed nodes such as the area around the Baynes Lake Community Hall and seniors' housing properties. Additional locations will be considered on a case-by-case basis.
- (6) The Baynes Lake Cemetery is recognized as an important institutional asset within the plan area. The ongoing management of the cemetery by a community group or society is supported.

- (7) No school facilities are anticipated within the projected 5 to 15 year time line considered within this plan.
- (8) Property owners and occupiers are encouraged to maintain their existing on-site septic systems. For new sewage disposal systems, owners and occupiers are encouraged to follow maintenance contracts in accordance with the appropriate Provincial regulations.
- (9) Applications for closure of undeveloped road right-of-ways should not prevent future opportunities for utilization of the right-of-way for access routes, trails or access to water.
- (10) The unauthorized use or closure of undeveloped road right-of-ways that provide public access to Baynes Lake and Lake Koochanusa is not supported. The Ministry of Transportation and Infrastructure is encouraged to enforce unauthorized uses or private occupation of these rights-of-way.
- (11) Highway mitigation measures to reduce wildlife mortality and the barrier effect, including highway design and public education are supported.

## **9. OPEN SPACE, RECREATION AND TRAILS**

### **9.1 Background**

The plan area offers a variety of recreational opportunities for residents and visitors. The ability to access these opportunities was identified as an important aspect for choosing to live or visit the plan area. Specifically, recreational assets that were given a high value were Baynes Lake, Lake Koochanusa and easily accessible Crown land.

While continued access to recreational opportunities was given a high priority, it was acknowledged that recreational activities should minimize their impact on the environment, and should not impact the overall quality of life for residents and visitors. A number of concerns relating to recreational use that were identified included the environmental damage caused by ATV's and other off-road vehicles, unregulated camping on Crown land and the lack of enforcement related to these issues. Safe non-motorized trail linkages in the community were also identified as a missing element within the plan area.

### **9.2 Objectives**

- (1) Ensure that policies necessary to support the creation of parks or recreation facilities are in place.
- (2) Ensure recreational activities are compatible with the rural character of the plan area.
- (3) Encourage responsible recreational use in the plan area.

### **9.3 Policies**

- (1) The continued operation of the Kikomun Provincial Park for short term camping and recreational use is supported.
- (2) At the request of area residents, the establishment of a service area to facilitate the creation of new park services is supported.
- (3) Future consideration of regional parks and trails must be in compliance with the goals and policies of the RDEK Regional Parks Plan. The expansion of existing parks, or the creation of new park services may require an amendment to the Parks Plan.
- (4) The establishment of a park service should include the ability for the Regional District to accept cash-in-lieu of parkland at the time of subdivision. Any monies raised from subdivision within a park service area would only be used for that service.
- (5) The development of a community trail network is supported.
- (6) Users of Crown land for recreation purposes are encouraged to act in a socially and environmentally responsible manner.
- (7) The Province is encouraged to enforce off-road motorized vehicle licensing regulations.
- (8) The establishment of additional public access points to Baynes Lake and Lake Koochanusa is supported.
- (9) The establishment of an Area B Regional Park on Crown land between the Kragmont subdivision and Lake Koochanusa is supported, subject to the Board supporting the necessary amendments to the RDEK Regional Parks Plan.

## **10. ENVIRONMENTAL CONSIDERATIONS**

### **10.1 Background**

The plan area is located in the Rocky Mountain trench and contains some unique physical landscape features including Baynes Lake, Lake Kooconusa and the adjacent ecosystems.

Lake Kooconusa is a reservoir spanning Canada and the US that was created by the damming of the Kootenay River by the Libby Dam in Montana. In addition to Lake Kooconusa, the plan area contains other significant water resources providing a range of values. Ground water aquifers, Baynes Lake, Surveyors Lake, Lake Kooconusa and other unnamed seasonal water bodies are used to meet the potable water, irrigation and recreational needs of residents and property owners in the plan area. These resources also provide important habitat for a variety of fish and wildlife species.

The upland ecosystem is generally characterized as being in the Ponderosa Pine biogeoclimatic zone with sizeable areas of native open grasslands. Prior to the creation of Lake Kooconusa these grasslands were much more extensive. The grassland ecosystems are home to a number of red and blue listed plant and animal species such as Wild Licorice, the Many-headed Sedge, Long-billed Curlew, Lewis's Woodpecker and the Badger. In addition, the grasslands provide habitat and winter forage for a variety of other wildlife species including Elk and Deer.

The consultation process indicated protection of environmental resources was considered of high importance. Specifically, the top issues identified were the protection of water resources, endangered and threatened plant and animal species and the retention of grassland and riparian ecosystems.

### **10.2 Objectives**

- (1) Recognize the importance of containing and controlling invasive plants and prevent their establishment.
- (2) Encourage the protection of water resources within the plan area.
- (3) Foster an awareness of the natural environment and encourage the protection of environmentally sensitive areas, wildlife species and habitats.
- (4) Encourage environmentally sensitive development and resource based activities.

### **10.3 Policies**

- (1) Property owners and occupiers are required to control and manage invasive plants in accordance with applicable Regional District bylaws and Provincial Acts and regulations.
- (2) Recreational users within the plan area are encouraged to inspect their ATVs, mountain bikes, boats and vehicles for invasive plants to assist in the prevention of the spread and establishment of these plants.
- (3) Property owners are encouraged to maintain and upgrade on-site septic systems in order to decrease potential nutrient loading and bacteriology inputs to both groundwater and surface water resources.
- (4) Water conservation is encouraged through the use of low volume fixtures, commonly accepted lawn watering practices, and native vegetation in landscaping.
- (5) Water quality and quantity monitoring in the plan area by local citizens, environmental organizations, and Federal or Provincial agencies is encouraged in order to establish a baseline and enable monitoring of the cumulative impacts of existing and future development. Options for financing such an initiative are undetermined at this time.
- (6) Development in the plan area must consider potential impacts on groundwater resources.

- (7) Property owners adjacent to water bodies or watercourses are encouraged to protect and conserve the natural riparian vegetation. Any land altering activities within a riparian area must comply with applicable provincial and federal legislation and regulations.
- (8) No person may carry out a work or undertaking that will cause the harmful alteration, disruption or destruction (HADD) of fish habitat unless it has been authorized by the Department of Fisheries & Oceans (DFO) and/or the Ministry of Environment. Works include but are not limited to:
  - (a) adding or removing fill;
  - (b) maintenance or construction of retaining walls, docks, boathouses, bank protection installations, marinas, groynes or breakwaters, or other structures within the foreshore;
  - (c) any activity that alters, disrupts or destroys fish habitat;
  - (d) removal of foreshore or riparian vegetation; and
  - (e) other significant works.
- (9) Greenways and corridors that promote connectivity for wildlife movement are encouraged.
- (10) Residents are encouraged to minimize the potential disturbance of wildlife by pets and domestic animals.
- (11) Property owners considering the use of wildlife fencing are encouraged to consider wildlife movement, habitat and access to water when determining fence placement.
- (12) Future land uses should not compromise the integrity of Badger and Long-billed Curlew habitats, sensitive grassland ecosystems, Class 1 and 2 ungulate winter range or other species-at-risk.
- (13) Ecosystem restoration, reclamation and enhancement initiatives by local citizens, environmental organizations, and Provincial and Federal jurisdictions are supported.
- (14) Residents and visitors accessing Crown land are encouraged to minimize impacts to grazing, habitat, wildlife and sensitive soils by restricting motorized use to existing trails.
- (15) Education programs such as Bear Aware, Bear Smart and Wildlife Collision Awareness are encouraged.
- (16) Initiatives to protect air quality in the bylaw area such as the conversion of inefficient wood burning appliances to high efficiency models and the implementation of smart burning principles are supported.

## **11. GREEN HOUSE GAS (GHG) EMISSIONS REDUCTION AND CLIMATE CHANGE**

### **11.1 Background**

Local governments are required to establish targets and identify specific policies and actions for the reduction of greenhouse gas emissions. Specific policies that address the targets will provide an opportunity to promote reductions in the consumption of energy and emission of greenhouse gases within the development through proactive land use, solid waste, and transportation planning.

The policies contained within this plan attempt to reflect the rural nature and character of the plan area. Residential, commercial and light industrial policies were drafted in order to maintain the rural atmosphere of plan subareas and to reflect the desires of the residents.

### **11.2 Greenhouse Gas (GHG) Reduction Target**

The Regional District has established a greenhouse gas reduction target of 17% below 2007 levels by 2020.

#### **(1) Objectives**

- (a) Recognize the need to plan for the reduction of greenhouse gas emissions and climate change.
- (b) Support policies and actions that will contribute to the RDEK's commitment for a 17% reduction in greenhouse gas emissions.

#### **(2) Policies**

- (a) Trail networks that provide for non-motorized transportation opportunities are supported.
- (b) The protection of existing forested areas and green spaces is supported.
- (c) The reduction of carbon emissions through the integration of energy efficient buildings that will maintain reduced emission levels and provide opportunities for technological upgrades throughout a building's lifespan is encouraged.
- (d) All development should consider opportunities to minimize the energy and resource requirements of buildings, structures, and landscaping by considering:
  - (i) utilization of passive solar energy through solar orientation;
  - (ii) integration of permeable or semi-permeable surfacing;
  - (iii) integration of landscape features such as xeriscaping and the use of native vegetation; and
  - (iv) utilization of storm water management features.
- (e) The integration of energy efficient and renewable energy infrastructure and utilities is strongly encouraged.
- (f) The reduction of carbon dioxide emissions generated from solid waste landfills through the diversion and reduction of solid waste is strongly encouraged.



## 12. AGRICULTURE

### 12.1 Background

With the exception of approximately 72 ha of private property and two parcels within Kikomun Creek Provincial Park, the remainder of the plan area is within the Agricultural Land Reserve (ALR). The use of land within the ALR must conform to those permitted by the *Agricultural Land Commission Act* and regulations.

Agriculture and forestry have played an important role in the Baynes Lake and South Country area. Current agricultural activities in the plan area include ranching, tree farming and some small scale food production. In the summer months Baynes Lake hosts a successful farmers market.

Consultation during the development of the plan indicated general support for small and larger scale agricultural operations in the plan area. However, since the area is also a recreational destination, finding a balance between protecting the agricultural values and providing opportunities to meet the demand for rural and recreational properties was identified.

### 12.2 Objectives:

- (1) Support agricultural activity in the bylaw area.
- (2) Outline conditions under which development in the ALR may be supported.
- (3) Minimize conflicts between agriculture and other land uses.

### 12.3 Policies:

- (1) Land in the ALR is generally designated and supported for agricultural use.
- (2) This plan recognizes the need to balance protecting agricultural land while providing for future community growth opportunities. Areas suitable for exclusion from the ALR were not identified during the development of the plan. However, in recognition of the increasing growth pressures and continued fragmentation of the land base, a block exclusion of lands from the ALR should be given consideration when one or more of the following thresholds have been met:
  - (a) A comprehensive review of the ALR lands has been conducted identifying areas suitable for exclusion;
  - (b) At the request from a block of residents or property owners; or
  - (c) The Agricultural Land Commission (ALC) has determined that maintaining the plan area in the ALR is no longer meeting the objectives of the Commission.
- (3) ALR subdivision is generally supported within the areas outlined on **Schedule C**. Applications will be considered in relation to the following:
  - (a) Compatibility with current and future adjacent land uses and potential conflict with agricultural or resource based activities;
  - (b) Agricultural suitability of the parcel;
  - (c) Consideration of the provisions outlined in section 4.3.
  - (d) Where applicable, information in the report from a qualified professional as required in section 12.3 (6); or
  - (e) Proposals consistent with section 12.3 (8).
- (4) To reduce the potential for negative impacts on agriculture and resource based activities, ALR subdivision and exclusion outside of the areas identified on **Schedule C** are generally not supported.

- (5) Despite section 12.3 (4) of this plan, applications for ALR subdivision of parcels not identified on **Schedule C** will be reviewed on an individual basis in relation to the following criteria:
- (a) Proposed minimum parcel sizes of not less than 2.0 ha;
  - (b) The proposed subdivision is designed to have the least impact on the agricultural suitability of the parcel, using a strategy such as clustering proposed parcels on land with limited agricultural capability;
  - (c) Consideration for consolidation of the remaining agricultural lands; and
  - (d) Where applicable, information in the report from a qualified professional as required in section 12.3 (6) of this plan.
- (6) ALR applications for exclusion, non-farm use, or subdivision of parcels 4.0 ha in size or larger must be accompanied by a report from a qualified professional unless an exemption from the requirement has been approved by the Regional District Board. The report must include the following:
- (a) Determination of the level of suitability and capability for both soil bound and non-soil bound agricultural production on the parcel including investigation of the terrain, soil, size, configuration and context of the agricultural lands; and
  - (b) Identification of the impact the proposal will have on the agricultural suitability and capability of the parcel, and agricultural operations in the surrounding area.

Applications will not be processed by Regional District staff until such time as the report has been submitted or an exemption has been granted. Requests for exemption must be provided in writing to the RDEK prior to making an application and should provide rationale for granting the exemption.

*Note: On August 7, 2020, Resolution 49314 was passed by the RDEK Board of Directors to issue a blanket exemption for the requirement to submit a report for all ALR applications. A report from a qualified professional (e.g. Agrologist report) is currently not required unless otherwise identified by RDEK staff.*

- (7) ALR applications for non-farm use or subdivision that meet one or more of the following criteria are exempt from the requirement to submit a report from a qualified professional as part of their application to the RDEK:
- (a) Applications to accommodate construction of a duplex or a secondary suite in a detached garage;
  - (b) Proposals consistent with the supported subdivisions in section 12.3 (8); or
  - (c) Reconsideration or alteration of a prior approval by the ALC.

An exemption is a condition of the Regional District review process only and does not exempt the applicant from any requirements imposed by the ALC as part of their consideration of the application or approval. All applications reviewed by the Commission are on an individual basis in regard to the ALC's mandate and may or may not be approved.

- (8) Application for subdivision in the ALR will generally be supported under the following conditions:
- (a) Homesite for a retiring farmer where the proposal is in compliance with the Agricultural Land Commission Homesite Severance Policy;
  - (b) Homesite for a family member pursuant to section 946 of the *Local Government Act* and where the proposed parcel is kept as small as possible and is located in an area which has the least impact on agriculture; or
  - (c) To improve agricultural suitability.
- (9) At the request of area residents and as resources allow, the RDEK supports a comprehensive review of the ALR boundaries for the plan area.

- (10) In order to encourage local decision making an ALR Delegation of Authority Agreement for the plan area is supported.
- (11) Buffers, including fencing, between properties on which agricultural use is being undertaken and adjacent properties will be established through zoning setbacks and other measures.
- (12) Farming operations are encouraged to explore alternative grazing practices to minimize adverse effects on plan area water resources and riparian areas.
- (13) Businesses which are complementary to agricultural operations such as farm gate sales and agri-tourism are generally supported, subject to compliance with ALR and zoning regulations.
- (14) Applications to amend the zoning bylaw to permit the utilization of recreational vehicles for accommodation accessory to agri-tourism may be supported where:
  - (a) The parcel is classified as farm under the *Assessment Act*;
  - (b) The accommodation is accessory to an agri-tourism use in accordance with the Agricultural Land Commission Act Regulation and policies;
  - (c) The total number of seasonal recreational vehicle spaces is limited to 10;
  - (d) The total developed area for the recreational vehicle sites is less than 5% of the parcel;
- (15) Agricultural operations are encouraged to diversify and specialize in agricultural niche markets including, but not limited to, organic and free range products.
- (16) Crown land utilized for agriculture is encouraged to be maintained for these purposes. The leasing or sale of Crown land for agricultural purposes is supported.
- (17) It is the responsibility of the ALC to enforce their regulations in relation to unauthorized land uses on ALR land within the plan area.
- (18) The cultivation of medical marihuana by licenced commercial producers is recognized as a potential agricultural use within the Plan area. Medical marihuana production facilities licenced under and operated in conformity with the federal Marihuana for Medical Purposes Regulations are generally supported within the ALR. Uses accessory to a medical marihuana production facility which are not considered to be farm use by the Agricultural Land Commission may require approval of a Non-Farm Use application.
- (19) Future applications for rezoning for medical marihuana production facilities outside of the ALR will generally not be supported.

BL 2540  
Oct. 3/14

## 13. DEVELOPMENT CONSTRAINTS AND PUBLIC SAFETY

### 13.1 Interface Fire Hazard and Public Safety

#### (1) Background

The expansion of rural development and recreational use in the plan area has increased the potential threat to the community from interface fire hazard. Generally, fire suppression efforts to protect developed areas have led to forest in-growth and an increase in fuel load resulting in a significant fire hazard rating for the plan area and surrounding land. Interface fire hazard ratings for the plan area are shown on **Schedule F**.

Within the plan area there are a number of public safety measures to promote a safe environment for residents and visitors. These measures include an RDEK fire protection service operated by the Jaffray-Baynes Lake Volunteer Fire Department, Enhanced 911, and the Regional District of East Kootenay Emergency Management Plan. The Regional District of East Kootenay Elk Valley and South Country Subregion (Area A and B) Emergency Management Procedures guide overall emergency response in the planning area.

#### (2) Objectives

- (a) Support local and regional ecosystem restoration initiatives to mitigate the risk of interface fire hazard.
- (b) Encourage the adoption and implementation of FireSmart principles and wildfire mitigation measures by property owners, occupiers and developers.

#### (3) Policies

- (a) Ecosystem restoration initiatives on Crown and private land to mitigate the risk of interface fire hazard are supported.
- (b) With support from area residents and as resources allow, the RDEK will consider the integration of development permit requirements for development within high interface fire hazard rated areas.
- (c) The use of fire rated building materials is strongly encouraged.
- (d) Applications for rezoning will be considered with respect to the following FireSmart principles, as appropriate to the nature of the application:
  - (i) Ability to integrate fire fuel modified areas including an area a minimum of 10 m in radius to be maintained clear of combustible material surrounding buildings and structures;
  - (ii) Integration and promotion of building materials that minimize the risk of fires starting or spreading;
  - (iii) Provision of a minimum of two vehicular access / egress routes to allow for simultaneous access for emergency equipment and evacuation of residents;
  - (iv) Availability of sufficient water capacity for firefighting activities;
  - (v) Compatibility of the proposed use in relation to the density and proximity of existing or proposed adjacent uses; and
  - (vi) The implementation of phasing or staging of development to minimize the interface fire risk.
- (e) Residents and visitors are required to comply with the provincial *Wildfire Act* and Wildfire Regulation.
- (f) The acquisition and utilization of resources and funding for emergency response planning and facilities to manage potential emergency situations is supported.

- (g) Residents are encouraged to ensure that their civic address is clearly posted, in good repair, and visible to assist emergency response personnel in locating the property.
- (h) Property owners accessing their properties via a panhandle are encouraged to keep the panhandle access free and clear of obstructions to facilitate emergency responder access.

## 13.2 Floodplain Management and Geotechnical Hazard

### (1) Background

Development in close proximity to Lake Koocanusa, Baynes Lake or any other water body or watercourse within the plan area requires careful consideration. In addition, watercourses in the plan area may be subject to flooding or terrain instability. As a result of the creation of Lake Koocanusa there are a number of topographic features with potential for geotechnical hazards. Development in areas that may be subject to flooding or geotechnical hazards should be avoided where feasible. If development is proposed in these hazard areas it should be undertaken in a safe manner under the direction of a qualified professional.

### (2) Objectives

- (a) Ensure public safety by discouraging development in flood prone areas.
- (b) Ensure public safety by discouraging development in areas subject to geotechnical hazards such as steep slopes, erosion and landslip.

### (3) Policies

- (a) Minimum setbacks and flood construction levels for development near the ordinary high water mark of water bodies and watercourses are established within the South Country Zoning & Floodplain Management Bylaw. All floodplain requirements must be met unless a site specific exemption has been granted by the Regional District.
- (b) All development within a floodplain or along a watercourse or water body, or potentially impacted by a site specific hydrologic hazard, such as flooding or channel avulsion, must ensure that adequate protection measures are incorporated into development designs. Specific geotechnical studies may be required as per section 56 of the *Community Charter*.
- (c) The development of land susceptible to flooding is discouraged. Lands susceptible to flooding should be used for parks, open space, recreation or agricultural uses.
- (d) Applications to vary the minimum usable site area requirements contained within the zoning bylaw will not generally be supported.
- (e) All development with a slope that is equal to or greater than 15%, susceptible to surface erosion, gulying, landslides or landslip must ensure that adequate protection measures are incorporated into development designs. Specific geotechnical studies prepared by a qualified professional may be required prior to issuance of a building permit as per section 56 of the *Community Charter*.
- (f) Lands with slopes in excess of 30% are subject to a geotechnical assessment and the registration of a covenant identifying the hazard and remedial requirements as specified in the geotechnical assessment.
- (g) The development of land greater than 15% slope, susceptible to erosion and land slip is discouraged. Land susceptible to erosion and landslip should be used for open space and passive recreation purposes.

## 14. ARCHAEOLOGICAL AND CULTURAL RESOURCES

### 14.1 Background

The plan area has an archaeological history extending back thousands of years through inhabitation and utilization of the land and its resources by the Ktunaxa. The plan area contains recorded archaeological sites and likely contains many unrecorded sites. The Province protects these sites, whether recorded or unrecorded, through the *Heritage Conservation Act*. The protection applies to both private and Crown land.

Knowledge of archaeological sites is gained through the Provincial database of recorded archaeological sites and through consultation with the Ktunaxa Lands and Resources Agency. An Archaeological Overview Assessment has not been completed for the plan area but contemplation of such an overview is supported within this plan.

### 14.2 Objectives

- (1) Preserve the archaeological and cultural resources of the plan area.
- (2) Recognize the potential for discovery of archaeological sites and artifacts during the development process.
- (3) Recognize the need for an Archaeological Overview Assessment for the plan area.

### 14.3 Policies

- (1) The preservation of historically significant sites such as the church and cemetery is supported.
- (2) Archaeological sites dating before 1846 are protected under the *Heritage Conservation Act* and must not be disturbed or altered without a permit from the Archaeology Branch.
- (3) Development in conflict with archaeological sites protected under the *Heritage Conservation Act* may be required to undertake an archaeological impact assessment as a condition of approval.
- (4) Developers are encouraged to engage a professional archaeological consultant prior to proceeding with land clearing and site grading to determine if an archaeological impact assessment is required to manage and mitigate the impact of the development on any known or unrecorded archaeological sites.
- (5) As part of the site planning and design of future developments the developer or property owner is encouraged to recognize and avoid the disturbance of identified archaeological sites.
- (6) Initiatives that protect archaeological sites and cultural resources within the plan area are supported.
- (7) Undertaking an Archaeological Overview Assessment (AOA) for the plan area is supported. The intent of the AOA is to identify areas with potential to contain archaeological sites and recognize known archaeological sites. Upon completion of the AOA the plan should be amended to integrate a schedule depicting the areas of archaeological potential.

## **15. CROWN LAND MANAGEMENT**

### **15.1 Background**

The purpose of the plan is to provide policy direction for the development of private land within the plan area. However, within the plan area there is a significant amount of Crown land. While the activities on these lands are not the jurisdiction of the RDEK it is recognized that these activities can have a significant impact on the local community. This plan contains statements regarding land use activities and management of Crown land that were identified during the development of this plan.

### **15.2 Objectives**

- (1) Support the management of Crown land in a manner that considers the social, environmental and economic needs of the plan area.

### **15.3 Policies**

#### **(1) General**

- (a) The Regional District encourages management of Crown land in an environmentally responsible manner that:
  - (i) protects surface water and groundwater sources;
  - (ii) manages forest ingrowth;
  - (iii) minimizes risk of interface fire and wildfire;
  - (iv) enhances wildlife habitat;
  - (v) protects viewscales and scenery;
  - (vi) protects ecological values, including waterfowl and fish and their corresponding habitat; and
  - (vii) maintains diverse plant communities by managing invasive and noxious plants.
- (b) Efforts to minimize conflicts between motorized and non-motorized recreation users of Crown land within the plan area are supported.
- (c) The sale of existing, subdivided Crown lands for residential or agricultural purposes within the plan area is generally supported. Further subdivision of the parcels is not generally supported.
- (d) Alienation of Crown land (lease or sale) within the plan area for resort recreational uses such as campgrounds and recreational vehicle parks is generally not supported. However, in order to help satisfy the demand the sale or lease of Crown land for commercial recreational development outside the plan area is generally supported.
- (e) The preservation of Lot 2, Block 14, Plan 1181, District Lot 132 Kootenay District Except Plan 7682 for community purposes is supported.
- (f) Enforcement of unauthorized land uses on Crown land is the responsibility of the appropriate Provincial Ministry.

#### **(2) Kragmont**

- (a) The acquisition of a license of occupation for the Crown land parcels between the Kragmont subdivision and Lake Kooconusa by the Kragmont Community Society for non-exclusive community use is supported.

## 16. IMPLEMENTATION

### 16.1 Background

The OCP sets out the broad objectives and policies of the Regional District for the Baynes Lake area. The plan does not provide all the tools to implement the specific directions contained within it.

Many of the policy statements contained within the plan are not the direct responsibility of the Regional District. In these cases, the OCP represents the Regional District's position with respect to the preferred course of action for other levels of government, public authorities or individuals.

### 16.2 OCP Amendments

In the future, plan amendments may occur in response to a change in the needs of the community or the objectives for development or conservation. Amendments may be initiated by the Regional District or by an application by a property owner. All amendments to the plan require a bylaw amendment as prescribed by the *Local Government Act*.

Upon application to amend the OCP the applicant shall demonstrate that the proposed development site(s) will have adequate access and infrastructure services and that they are able to sufficiently mitigate any hazardous site conditions such as soil erosion, flooding or interface fire.

To ensure that the OCP remains effective, relevant and responsive to the needs of the community, the OCP should periodically be reviewed to determine if the level of development that has occurred in the plan area, or a change in other conditions, necessitates that the plan be substantially amended or rewritten.

### 16.3 Zoning Bylaw Amendments

Parcels may be rezoned in conformity with the land use designations contained in **Schedule D**. The proposed zoning must also conform to the objectives and policies contained in the OCP.

The subject parcel(s) shall be developable and meet the requirements of the zoning bylaw.

The owner shall demonstrate that the proposed development site(s) will have adequate access and infrastructure services and will sufficiently mitigate any hazardous site conditions such as soil erosion, flooding or wildfire.



## 17. LAND USE DESIGNATIONS

The land use designations are meant to identify, in general terms, the type of land uses that are appropriate for the designated lands. Agricultural use is generally considered to be an appropriate use on all lands located within the Agricultural Land Reserve. Further detail regarding the intent of the land use designations is found below.

The land use designations are shown on **Schedule D**. Where a land use designation boundary is shown as following a highway or creek, the center line of such highway or creek shall be the land use designation boundary.

### 17.1 Residential Land Uses

- (1) **R-SF, Residential Low Density** includes single family residential subdivisions and duplexes.
- (2) **SH, Small Holdings** supports low density residential development with minimum parcel sizes in the range of 0.2 ha to 2.0 ha.
- (3) **MH, Medium Holdings** supports rural residential development of parcels 2.0 ha in size.
- (4) **LH, Large Holdings** supports rural residential development and rural resource land uses on parcels sizes in the range of 2.0 to 8.0 ha.

### 17.2 Rural Land Uses

- (1) **RR, Rural Resource** includes agricultural, rural residential, and rural resource land uses with parcel sizes 8.0 ha and larger. The RR designation also recognizes the use of these lands for public utility use, resource extraction, green space and recreation.

### 17.3 Commercial Land Uses

- (1) **C, Commercial** supports the range of local service and commercial land uses identified in the Zoning Bylaw.
- (2) **CR, Commercial Recreation** supports recreational vehicle parks, campgrounds and other similar recreation type land uses.

### 17.4 Institutional Land Uses

- (1) **INST, Institutional** includes such land uses as utilities, parks and playing fields, educational facilities, churches or places of assembly, and similar developments.
- (2) **OSRT, Open Space, Recreation and Trails** supports greenspaces, recreational amenities, agricultural use, local, regional and provincial parks and other protected areas, such as wildlife corridors.

This is Schedule A referred to in Bylaw No. 2319 cited as  
"Regional District of East Kootenay – Baynes Lake  
Official Community Plan Bylaw No. 2319, 2011."

"Scott Manjak"

Chair

"L.V. Crane"

Corporate Officer

July 8, 2011

Date