

PART 11

WILDFIRE RECOVERY OVERLAY

(A) Purpose of Overlay and Intention of Council

The purpose of this Overlay is to address the situation that has arisen as a result of the widespread destruction of properties within the Overlay Area, caused by the wildfire of May 2016.

The intention of Council is to establish a legal and land use planning framework for the Overlay Area that will provide certainty to owners whose properties were destroyed or damaged beyond repair, with respect to their available re-development options and the requirements they must meet to be assured of obtaining development approval to rebuild.

(B) Overlay Area

The Overlay Area consists of the areas shown within the heavy dotted black lines on the diagrams that are Schedule “A” to this Part 11.

(C) Application

This Part 11 applies only to lots or parcels of land within the Overlay Area that are zoned R1, R1M, R1P, R1S, or R2.

(D) Over-riding Effect of Overlay

Within the Overlay area and in respect of lots or parcels of land that are zoned as described in Section (C) above, the provisions set out in this Part 11 apply notwithstanding anything to the contrary in this Bylaw. The range of permissible residential uses on lots or parcels of land within the Overlay area that are zoned as described in Section (C) above are the uses set out in other provisions of this Bylaw unless modified explicitly by, or by necessary implication from, a provision of this Part 11. If there is an inconsistency or conflict between any provision of this Part 11 and any other provision of this Bylaw, the provisions of this Part 11 shall prevail within the Overlay area.

(E) **Interpretation of Terms**

In this Part 11:

(1) a reference to an application for a Development Permit means an application for which all necessary supporting information and documentation has been provided by the Applicant to the satisfaction of the Development Authority, and in respect of which the Development Authority has notified the Applicant in writing that the application is complete.

(2) In this Part 11 the term “Multi-Site Development” refers to a group of three or more contiguous lots upon which some or all of the Dwelling Units and Accessory Buildings (if any) are attached or semi-attached to each other and the total configuration of structures comprises a distinct Development separate and apart from any other Development outside the contiguous lot group;

(3) the term “Multi-Site Rebuilding Plan—pre-existing footprint” means a plan for rebuilding a Multi-Site Development in its entirety either just as it was immediately prior to the May 2016 wildfire, or with changes only to the location or size or configuration of any Accessory Buildings that were part of the pre-wildfire Multi-site Development;

(4) the term “Multi-Site Rebuilding Plan—new footprint” means a plan for rebuilding a Multi-Site Development in its entirety on the same group of contiguous lots or parcels of land as immediately prior to the May 2016 wildfire but with changes to location of property lines or footprints of Principal Buildings, or involving conversion of some or all of the Multi-Site Development to different types of residential use (for example, from townhomes to detached or semi-detached Dwelling Units).

For greater clarity and certainty: a Development Permit application to rebuild destroyed or damaged structures that ~~involves~~does not impact more than two lots or parcels of land or ~~residential dwellings, and includes~~Dwelling Units, will not be considered a Multi-Site Rebuilding Plan even though it may involve or include, without limitation: conversion of pre-wildfire townhouse developments to either single detached or semi-detached dwellings, ~~and/or~~ conversion of all or a portion of a block, street or neighborhood to one or more new residential uses that may involve new property lines or subdivisions ~~and/or different building footprints~~ or different types of residential uses

~~than~~ as compared to the property lines or subdivisions, building footprints or residential uses ~~existing~~ that existed immediately prior to the wildfire.

(F) All Uses Discretionary subject to specific Council direction in this Part

All land uses within the Overlay area are discretionary uses but the discretion of the Development Authority to refuse to issue a Development Permit, or to issue a Development Permit with conditions, is subject to the specific directions of the Council set out in Sections (G) through (I) of this Part.

(G) Council Direction to the Development Authority – all parts of the Overlay area

- (1) The Development Authority, in exercising its authority and discretion to make decisions on Development Permit applications for lots or parcels of land within the Overlay area, may impose site-specific conditions upon a Development Permit as it deems advisable to address technical, planning or land use issues that are unique to an individual property or to a limited number of individual properties, including a requirement to consolidate titles or obtain subdivision approval where appropriate.

- (2) The Development Authority shall not refuse to issue a Development Permit for a Single Detached Dwelling within the Overlay area, solely on the basis that the lot in respect of which the Development Permit is applied for is too narrow to meet the Development Regulations for such developments set out in other parts of this Bylaw. It is the intention of the Council that Single Detached Dwelling Developments that meet the setback requirements of this Bylaw shall be allowed within the Overlay area on lots that are 7.6 metres (25 feet) wide or wider.

(H) Council Direction to the Development Authority – R1 and R1M Zoning

An application for development approval to rebuild on a lot zoned R1 or R1M must be approved by the Development Authority, with or without conditions as described in Section (G) of this Part:

- (1) regardless of whether the proposed rebuild Development conforms to the development regulations set out in other provisions of this Bylaw, if the building footprint of the proposed rebuild Development is the same as the Development that existed on that lot immediately prior to the wildfire; or

- (2) provided that the proposed rebuild Development conforms to the development regulations set out in other provisions of this Bylaw, if the building footprint of the proposed Development is not the same as the Development that existed on that lot immediately prior to the wildfire.

(I) Council Direction to the Development Authority – R1P, R1S and R2 Zoning

(1) Rebuilding to pre-existing building footprints - not more than two lots

When an application for approval to rebuild on a lot zoned R1P, R1S or R2 is for a proposed Development that:

- (a) would have the same building footprint as the Development that existed on that lot immediately prior to the wildfire; and
- (b) is not part of a Multi-Site Rebuilding Plan

then a Development Permit with or without conditions as described in Section (G) of this Part 11 must be issued by the Development Authority regardless of whether the proposed Development conforms to the development regulations set out in other provisions of this bylaw, provided that:

- (c) the proposed rebuild Development would not be attached to another rebuild Development on an adjacent lot; or
- (d) if the proposed rebuild Development would be attached to only one other rebuild Development on an adjacent lot that meets conditions (a) and (b) of this subsection (I)(1), the Development Permits for the two rebuild Developments are being issued at the same time.

(2) Rebuilding to new building footprints - not more than two lots

When an application for approval to rebuild on a lot or lots zoned R1P, R1S or R2 is for a proposed Development that:

- (a) may or may not be on a lot or lots that formed part of a Multi-Site Development immediately prior to the wildfire;

~~(a)(b)~~ would not have the same building footprint as the Development or Multi-Site Development that existed on ~~that~~the lot or lots immediately prior to the wildfire; and

~~(b)(c) (b)~~ is not part of a Multi-Site Rebuilding Plan

then a Development Permit with or without conditions as described in Section (G) of this Part 11 must be issued by the Development Authority if the proposed Development conforms to the development regulations, including but not limited to, with respect to setbacks, height restrictions on buildings and fences, maximum density and on-site parking requirements, as set out in other provisions of this Bylaw, provided that:

~~(e)(d)~~ the proposed rebuild Development

- (i) would not be attached to another rebuild Development on an adjacent lot, or
- (ii) would be attached to only one other rebuild Development on an adjacent lot that meets conditions (a) and (b) of this subsection (I)(2) or of subsection (I)(1) and the Development Permits for the two rebuild Developments are being issued at the same time; and
- (iii) in the case of a proposed rebuild Development on a lot or lots that formed part of a Multi-Site Development immediately prior to the wildfire, would not in the opinion of the Development Authority ~~the proposed rebuild Development(s) would not~~ have the effect of removing all re-development options for any other lot or parcel of land that was part of the pre-wildfire Multi-Lot Development.

(3) Rebuilding to a Multi-Site Rebuilding Plan

(a) When ~~an~~ a Development Permit application for approval to rebuild on a lot zoned R1P, R1S or R2 is part of a Multi-Site Rebuilding Plan, ~~then a Development Permit--Pre-Existing Footprint, then a Development Permit or Development Permits for the Multi-Site Rebuilding Plan--Pre-existing footprint with or without conditions as described in Section (G) of this Part 11 must be issued by the Development Authority regardless of whether the proposed new Development conforms to the development regulations set out in other provisions of this bylaw.~~

~~(a)~~(b) When a Development Permit application for approval to rebuild on a lot zoned R1P, R1S or R2 is part of a Multi-Site Rebuilding Plan–New Footprint, then a Development Permit or Development Permits for the Multi-Site Rebuilding Plan–New Footprint with or without conditions as described in Section (G) of this Part 11 must be issued by the Development Authority, if:

~~(i)~~ Development Permit applications have been submitted in respect of all the lots or parcels of land included within the Multi-Site Rebuilding Plan;

~~(ii)~~ Development Permits for all of the lots or parcels of land included within the Multi-Site Rebuilding Plan are being issued simultaneously;

~~(iii)~~(i) the Multi-Site Rebuilding Plan–the Multi-Site Rebuilding Plan–New Footprint as a whole conforms to development regulations, including but not limited to, with respect to setbacks, height restrictions on buildings and fences, maximum density and on-site parking requirements, as set out in other provisions of this Bylaw; and

~~(iv)~~(ii) in the opinion of the Development Authority the proposed Multi-Site Rebuilding Plan–Development(s)–New Footprint would not have the effect of removing all re-development options for any lot or parcel of land that was part of the pre-wildfire Multi-Site Development but is not included within the Multi-Site Rebuilding Plan–New Footprint.

(J) General Provisions

(1) Voluntary Waiver of Claims

A development for which a Development Permit has been issued under this Part 11 may be commenced before the time period for appeal to the Subdivision and Development Appeal Board has expired, if

- (a) no appeal has been made by any person, including an appeal of conditions by the Development Permit holder; and

- (b) the Development Permit holder has executed and delivered to the Development Authority a Voluntary Waiver of Claims in the form set out in Schedule B to this Part 11.

(2) Public Notice Provisions

When a Development Permit has been issued under the provisions of either subsection (I)(~~12~~) or subsection (I)(~~23~~)(b) of this Part 11, then in addition to any other applicable notice provision the Development Authority shall ensure that notice of the Development Permit is posted to the Municipality's public website with a specific notation that the approved Development is not to the same building footprint as existed prior to the wildfire, and the notice shall remain on the Municipality's public website until the time for appeal to the Subdivision and Development Appeal Board has expired.