

# Report to Council



**Date:** May 28, 2018  
**File:** 1210-20  
**To:** City Manager  
**From:** Policy and Planning Department  
**Subject:** Implementing Agriculture Plan Policy Recommendations: PACKAGE 1 Bylaw Amendments OCP18-0003 and TA18-0002

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## **Recommendation:**

THAT Official Community Plan Text Amendment Application No. OCP18-0003 to amend Kelowna 2030 – Official Community Plan Bylaw No. 1500 as outlined in Schedule B attached to the report from Policy and Planning dated May 28, 2018 be considered by Council;

AND THAT Zoning Bylaw Text Amendment Application No. TA18-0002 to amend City of Kelowna Zoning Bylaw No. 8000 as outlined in Schedule C in the Report from Policy and Planning dated May 28, 2018 be considered by Council;

AND THAT Council considers the public process outlined in the report from Policy and Planning dated May 28, 2018, to be appropriate consultation for the purpose of Section 475 (1) and (3) of the Local Government Act;

AND THAT the Official Community Plan Text Amending Bylaw and the Zoning Text Amending Bylaw be forwarded to a Public Hearing for further consideration;

AND FURTHER THAT final adoption of the Zoning Text Amending Bylaw be considered subsequent to the approval of the Ministry of Agriculture and Ministry of Transportation and Infrastructure.

## **Purpose:**

To amend the Official Community Plan and Zoning Bylaw based on the recommended actions presented in the Agriculture Plan, endorsed August, 2017.

## **Background:**

Fifty-five percent of the Kelowna's land base is zoned for agriculture (38 per cent of the land base is in the Agriculture Land Reserve). This land is often at risk as it tends to be flat, affordable, geographically appealing and often well located, making it attractive for urban development.

Council has identified a priority to “preserve agricultural land”, a sentiment that is echoed strongly by the public.<sup>1</sup> The updated Agriculture Plan, endorsed by Council in August 2017, has a vision that *“Kelowna is a resilient, diverse, and innovative agricultural community that celebrates farming and values farmland and food producers as integral to our healthy food system, economy and culture.”* The Agriculture Plan provides a series of policy recommendations, that when implemented will help achieve Council’s priority in addition to promoting and celebrating the vital role of agriculture in Kelowna today, and for decades to come.

Two packages of bylaw amendments are being proposed that ensure the Agriculture Plan is influencing policy and regulations in a meaningful and impactful way to advance the vision of agriculture for our community. This first package provides a series of proposed amendments to implement many of the Agriculture Plan policy recommendations that provided clear, concise direction (note: Schedule A provides a list of Agriculture Plan recommendations being implemented with this package). The second package (a separate file but proceeding concurrently with this package) addresses the Agriculture Plan policy recommendations that required further investigation and to ensure “compliance with provincial standards.”

The proposed amendments as outlined in Schedule B (OCP amendments) and Schedule C (Zoning Bylaw amendments) align with provincial standards and best practices from across the province. The proposed amendments seek to achieve:

Goal	Proposed Amendments	Proposed Policy/Section
Preserve agricultural land	<p><u>OCP Amendments:</u></p> <ul style="list-style-type: none"> <li>• Restrict expansion of residential development and density outside the Permanent Growth Boundary</li> <li>• Protect and support the continued designation and use of agricultural land for agricultural purposes regardless of soil capabilities</li> </ul> <p><u>OCP Farm Protection DP Amendments:</u></p> <ul style="list-style-type: none"> <li>• Design residential footprints to maximize agriculture potential and limit negative impacts on the farm.</li> <li>• Locate structures for services related to the public near the road to maximize agricultural potential.</li> </ul> <p><u>Zoning Bylaw Amendments:</u></p> <ul style="list-style-type: none"> <li>• Require that mobile homes on farmland be occupied by the owner’s immediate family and located on non-permanent foundations.</li> <li>• Remove carriage house as a permitted use.</li> <li>• Increase minimum subdivision lot size in the ALR from 2.0 ha to 4.0 ha.</li> </ul>	<p>Policy 5.3.1</p> <p>Policy 5.33.6</p> <p>Chapter 15 Guideline 1.9 Chapter 15 Guideline 1.10</p> <p>Section 2.3.3 &amp; Section 11.1.4</p> <p>Section 9.5.b &amp; Section 11.1.3</p> <p>Section 11.1.5</p>

<sup>1</sup> A June 2016 survey, part of the development of Kelowna’s Agriculture Plan, showed that 95% of 563 respondents felt that policies to preserve farmland were important or very important. Note: these results are qualitative in nature as the survey was not a statistically valid random sample of all Kelowna citizens.

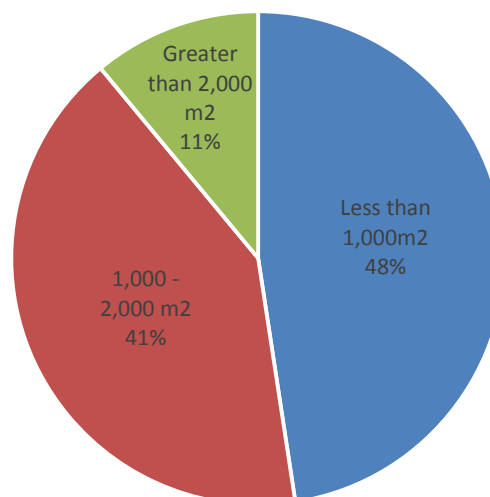
Goal	Proposed Amendments	Proposed Policy/Section
Preserve agriculture land cont'd	<u>Zoning Bylaw Amendments cont'd:</u> <ul style="list-style-type: none"> <li>Establish a maximum farm residential footprint size of 2,000 m<sup>2</sup></li> </ul>	Section 11.1.6
Reduce speculation and address challenge of increasing farmland value due to high cost capital inputs	<u>OCP Amendments:</u> <ul style="list-style-type: none"> <li>Restrict the expansion of sewer into agricultural areas (except in occurrences where to do so would compromise public health or the environment).</li> </ul>	Policy 7.22.2
Limit conflicts with agriculture	<u>OCP Amendments:</u> <ul style="list-style-type: none"> <li>Avoid uses of urban land adjacent to agricultural land by vulnerable populations (e.g. seniors, children)</li> </ul> <u>OCP Farm Protection DP Amendments</u> <ul style="list-style-type: none"> <li>Require statutory covenants on non-agricultural land through the development process</li> </ul>	Policy 5.33.9  Chapter 15 Guideline 1.7
Food system resiliency	<u>OCP Amendments</u> <ul style="list-style-type: none"> <li>Expand urban agricultural opportunities</li> </ul>	Policy 5.13.5

It is important to balance the residential needs of the farm with preserving as much land as possible for agriculture. As such, several of the proposed amendments address the 'residential footprint' (the portion of a lot that includes all structures, landscaping, driveways and parking areas associated with the principal dwelling<sup>2</sup>). The expansion and location of residential footprints and corresponding removal of farmland, is an issue that many communities have been grappling with across the province. This is also consistent with an increasing estate use of farmland causing agriculture property prices to increase beyond the reach of farmers.

Based on Ministry of Agriculture guidelines, Kelowna's Agriculture Plan recommends adopting a maximum farm residential footprint of 2,000m<sup>2</sup>, and is proposed in these amendments. **For context, the proposed residential footprint size is equivalent to more than 3.5 large urban residential lots (RU1).**<sup>3</sup> Further, it is proposed that the residential footprint

#### Residential footprint size on Kelowna ALR properties

(source: Ministry of Agriculture, 2014 Kelowna Agriculture Land Use Inventory, custom data run)



<sup>2</sup> Bylaw No. 8000, Zoning Bylaw. Section 2.3 General Definitions.

<sup>3</sup> Bylaw No. 8000, Zoning Bylaw. Section 13 Urban Residential Zones defines the minimum lot size for RU1, large lot housing as 550 m<sup>2</sup>.

size may be increased by up to 1,000m<sup>2</sup> for a mobile home for immediate family, where permitted. The Zoning Bylaw already allows for a separate footprint for temporary farm worker housing.

To put this into perspective, the 2014 provincial Agriculture Land Use Inventory for Kelowna showed that of the 1887 residences surveyed on ALR parcels, 89 per cent are within the 2,000m<sup>2</sup> proposed maximum. Between 2007 and 2014, however, the rate of construction of larger residential footprints increased, with 30 per cent of the 94 dwellings constructed on ALR land having a residential footprint greater than 2,000m<sup>2</sup>.<sup>4</sup> However, with larger footprints, higher prices are also being noticed.

Property	Parcel Size	Existing Residential Footprint ( <i>proposed 2,000 m<sup>2</sup></i> )	Price
Lakeshore Rd.	7.2 ha (17.8 acres)	17,200 m <sup>2</sup> (4.25 acres)	\$13,995,000
East Kelowna Rd.	8.1 ha (20 acres)	10,521 m <sup>2</sup> (2.6 acres)	\$4,650,000
Water Rd.	5.9 ha (14.5 acres)	9,712 m <sup>2</sup> (2.4 acres)	\$5,585,000
Todd Rd.	3.2 ha (7.85 acres)	8,094 m <sup>2</sup> (2 acres)	\$5,498,000
KLO Rd	14.2 ha (35 acres)	19,020 m <sup>2</sup> (4.7 acres)	\$6,800,000
Casorso Rd	3.7 ha (9.2 acres)	12,950 m <sup>2</sup> (3.2 acres)	\$12,998,000

*Note: prices will be influenced by size and design of home on property as well as the residential footprint which includes landscaping, pools, tennis courts, and driveways.*

Of ten BC municipalities surveyed, six have adopted a 2,000m<sup>2</sup> maximum farm residential footprint, one community is more restrictive, one community is less restrictive, and two others are in discussions with Ministry of Agriculture on the topic. With this in mind, the City of Kelowna's approach is balanced and defensible based on what is existing today and the development allowances in comparison with urban lots.

### Next Steps

Kelowna is one of four Farm Bylaw communities in the province and any amendments that may impact agriculture must be approved by the Minister of Agriculture prior to final adoption.

### Summary

In summary, these policy amendments represent the high priority, short term implementation actions from the recently endorsed Agricultural Plan. Package I includes policies that were specifically defined in the Agricultural Plan and underwent public review through that process. The proposed regulations are comprehensive, thoughtful and align with provincial standards. Through their implementation, they further Kelowna on the path to achieving the Agricultural Plan's vision as well as the Council Priority to 'Preserve Agricultural Land'.

### Legal/Statutory Authority:

*Local Government Act Part 14, Division 4 – Official Community Plans*

*Local Government Act Part 14, Division 4 – Zoning Bylaws*

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<sup>4</sup> Ministry of Agriculture, 2018. Kelowna Agriculture Land Use Inventory 2014 Custom Data Run.

**Legal/Statutory Procedural Requirements:**

*Local Government Act* Section 475 specifies that a local government must, during the development, repeal or amendment of an official community plan, provide one or more opportunities it considers appropriate for consultation with persons, organizations and authorities it considers will be affected. This consultation is required in addition to a required public hearing.

*Local Government Act* Section 552. As Kelowna is a regulated community under Section 552 of the *Local Government Act*, it must also receive approval by the Minister of Agriculture for any bylaw that has potential to impact agriculture. Furthermore, ministry staff have developed a number of Farm Bylaw Standards that address specific farming issues with which local governments are expected to comply.

Staff have reviewed the OCP amendments, and the package may move forward without affecting either the City's Financial Plan or Waste Management Plan.

**Existing Policy:**

- Agriculture Plan, endorsed August 2017
- Official Community Plan
  - Goal: Enable Healthy and Productive Agriculture. Promote healthy and productive agriculture through diverse strategies that protect farmlands and food production
  - Objectives:
    - 5.13 Increase local food production
    - 5.33 Protect and enhance local agriculture
    - 5.34 Preserve productive agricultural land

**External Agency/Public Comments:**

An engagement summary is provided in Schedule D.

*Agricultural Advisory Committee: January 25, 2018.*

Package 1 was presented for information to the Agricultural Advisory Committee on January 25, 2018. The resolution at that meeting was:

**Moved by Dominic Rampone/Seconded by Yvonne Herbison**

THAT the Agricultural Advisory Committee receives, for information, the Report from the Policy & Planning Department dated January 25, 2018 with respect to the draft directed amendments to Bylaw No. 10500, Kelowna 2030 Official Community Plan and Bylaw No. 8000, Zoning Bylaw based on the recommendations presented in the Agriculture Plan endorsed by Council in August 2017.

**Carried**

**ANEDOTAL COMMENTS:**

The Agricultural Advisory Committee commented that the engagement for the Agricultural Plan was very good, specifically, that the AAC appreciated the iterative process of the plan, and that there was follow up through the stages that kept the AAC informed. The Committee is excited to see the Plan come into action and believes that the policy has been developed to reflect the agricultural significance of Kelowna.

*Initial Discussion with BCFG, December 2017*

An initial meeting was hosted with the General Manager of BCFGA to identify areas of concern in implementing the Agriculture Plan policy recommendations being addressed in this bylaw amendment package. Overall, from the General Managers perspective, most of the recommendations were supported in principle or there were no objections.

*Package Amendment Referral – March 1 – April 6, 2018*

The application files for the required OCP and Zoning amendments were referred to the following organizations for comment (note: Package 2 was also referred at the same time):

- Ministry of Agriculture
- Agriculture Land Commission
- Central Okanagan Food Policy Council
- BC Fruit Growers Association
- Interior Health
- UDI – Okanagan Chapter
- RDCO
- Lake Country
- SEKID
- BMID
- GEID
- SOMID

Letters of comment were received from the following agencies (see Schedule E: for copies of the letters)

Agency forwarding letter	Comment summary	How concerns were addressed
Ministry of Agriculture	<ul style="list-style-type: none"> <li>• Provide clarity for septic systems in underground residential services being in residential footprint</li> <li>• Concerns of not meeting minimum height maximums for silos and grain storages</li> <li>• Farm residential footprint provisions to be located in Zoning Bylaw</li> </ul>	<ul style="list-style-type: none"> <li>• No change to policy made. Ministry of Agriculture quoted contradictory policies. This is in the DP Guidelines which allows for some flexibility.</li> <li>• Further phone call discussion with Ministry of Agriculture decided this was unnecessary as Kelowna doesn't have these buildings. In addition, Zoning Bylaw Section 6.6.1 excludes farm silos for the purpose of determining height.</li> <li>• Maximum size for footprint is in zoning bylaw but location is in DP Guidelines to allow flexibility to ensure farm potential can be maximized</li> </ul>
Agricultural Land Commission	<ul style="list-style-type: none"> <li>• Mobile home for immediate family may require ALC approval depending on circumstances</li> <li>• Support the amendments but may want to investigate a larger ALR subdivision lot size in the future.</li> </ul>	<ul style="list-style-type: none"> <li>• Regulation states "a second residential footprint may be registered on title up to 1,000 m<sup>2</sup> where permitted.</li> </ul>
Regional District	<ul style="list-style-type: none"> <li>• Support the amendments as they meet goals and policies of</li> </ul>	

Agency forwarding letter	Comment summary	How concerns were addressed
Central Okanagan and Central Okanagan Economic Development Commission	Regional Growth Strategy <ul style="list-style-type: none"> <li>Limit sewer extension and impact on agri-tourism</li> </ul>	<ul style="list-style-type: none"> <li>Agri-tourist accommodation removed as a use in 2016.</li> </ul>
Central Okanagan Food Policy Council	<ul style="list-style-type: none"> <li>Supports all proposed amendments</li> </ul>	
Interior Health	<ul style="list-style-type: none"> <li>Support amendments as they support community's food security</li> </ul>	
UDI – Okanagan Chapter	<ul style="list-style-type: none"> <li>Stipulation 'regardless of soil quality concern'</li> <li>Residential footprint within 60 meters of road to close</li> <li>Should support agri-tourism not remove "agri-tourist accommodation"</li> </ul>	<ul style="list-style-type: none"> <li>Having this allows land to be protected for future using soil-less mediums</li> <li>This provision is in the DP guidelines to allow flexibility to locate structure to maximize farm potential.</li> <li>Agri-tourist accommodation removed in 2016 this amendment clarifies wording</li> </ul>

The requirements for consultation under Section 475 of the *Local Government Act* have been addressed in the following way:

- Agriculture Plan engagement. As this package of amendments is based on clear, concise direction of the Agriculture Plan, extensive additional engagement was not completed, but rather the engagement that was done as part of the Plan was considered appropriate consultation to meet the requirements of *Local Government Act* Section 475. Agriculture Plan engagement included 3 open houses, 7 meetings with the AAC, 2 online surveys and 13 meetings with key stakeholders to develop the actions recommended in the Plan.
- January 25, 2018 application file was reviewed with the Agricultural Advisory Committee
- This package was circulated as part of standard referral process to stakeholders (see previous section for list) between March 1 and April 6, 2018.

Submitted by:

T. Guidi, Sustainability Coordinator

M. Steppuhn, Planner II

**Approved for inclusion:**



Danielle Noble-Brandt, Policy & Planning Dept. Manager

cc:

Divisional Director, Community Planning and Strategic Investments

Divisional Director, Corporate Strategic Services

Community Planning Department Manager

Development Engineering Manager

Utility Planning Manager

Building Inspections Supervisor

Community Planning Supervisor

Communications Advisor

Attachments:

Schedule A: Agriculture Plan Policy Recommendations Summary Table

Schedule B: OCP18-0003 Amendments to OCP Bylaw No. 10500 (Agriculture Plan Recommendations)

Schedule C: TA18-0002 Amendments to Zoning Bylaw No. 8000 (Agriculture Plan Recommendations)

Schedule D: Engagement summary for Agriculture Plan Policy Implementation Package 1

Schedule E: Comments and feedback from referral