

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 2 Bylaw Amendments OCP18-0004 and TA18-0003

Recommendation:

THAT Official Community Plan Text Amendment Application No. OCP18-0004 to amend Kelowna 2030 – Official Community Plan Bylaw No. 15000 as outlined in Schedule A attached to the report from Policy and Planning dated May 28, 2018 be considered by Council;

AND THAT Zoning Bylaw Text Amendment Application No. TA18-0003 to amend City of Kelowna Zoning Bylaw No. 8000 as outlined in Schedule B 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 Agriculture Plan recommendations to ensure compliance with provincial standards and to update buffer specifications along agricultural properties. Further, some amendments have been made to provide additional clarification on policies.

Background:

Endorsed in 2017, the Agriculture Plan provides a series of policy recommendations, that when implemented will help achieve Council's priority to "preserve agricultural land." Two packages of bylaw amendments are being proposed that ensure the Agriculture Plan is influencing policy and regulations in a meaningful and impactful way that advances the vision of agriculture for our community. The first package, which is proceeding concurrently, provides a series of amendments to implement the Agriculture Plan policy recommendations that provided clear, concise direction. This package focuses on Agriculture Plan recommendations that required further investigation and include:

- amendments to buffer requirements adjacent to agricultural land;
- amendments to align policy with provincial standards; and
- clarification of existing regulations for ease of understanding and implementation.

This package of amendments required additional research and consultation beyond that of the Agriculture Plan (note consultation is summarized in Appendix C). Further, the package provided clarification to a number of regulations including separation of secondary uses for those properties zoned A1 that are within the ALR and outside of the ALR. These clarification updates will increase the ease of understanding for property owners and staff.

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

Goal	Proposed Amendments	Policy
Ensure compliance between the A1 zone and provincial standards	<u>Zoning Bylaw Amendments</u> <ul style="list-style-type: none">• New land use definitions to align with ALC terminology including: Farm Retail Sales Stands (replacing 'Agricultural and Garden Stands').• Replace the single Kennels and Stables definition with two separate definitions as the first is a permitted non-farm use and the second is a permitted farm use.• Addition of stables as a principal use in the A1 zone, as they are a permitted farm use.• Revised secondary uses for ALR properties to align with ALC approved uses, and introduce language for secondary uses for non-ALR properties.• Update Greenhouses and Plant Nurseries accessory use size requirements (from 400 m² maximum to 150 m² maximum as established by ALR regulations)• Introduce a table of development regulations to provide clarity and to update requirements to align with provincial regulations.	Section 2.3.3 Section 2.3.3 Section 11.1.2 Section 11.1.3 Section 11.1.6 Section 11.1.6
Provide clarity on existing regulations	<u>OCP Farm Protection DP Guidelines</u> <ul style="list-style-type: none">• Provide clarity when a Farm Protection DP is required.	Chapter 15.1

Goal	Proposed Amendments	Policy
	<u>Zoning Bylaw Amendments</u> <ul style="list-style-type: none"> Revised definition for agriculture, agricultural structures, alcohol production facilities, greenhouses and plant nurseries, and immediate family. 	Section 2.3.3
Limit conflicts with agriculture	<u>OCP Farm Protection DP Amendments</u> <ul style="list-style-type: none"> Updates landscape buffer requirements to align with proposed Zoning Bylaw landscape amendments. <u>Zoning Bylaw Amendments</u> <ul style="list-style-type: none"> Revise landscape buffer requirements for land abutting ALR in accordance with Ministry of Agriculture Edge Planning Guidelines. 	Chapter 15 Guideline 1.3 Section 7.6.1 Table 7.1 Table 7.2
Ensure consistency	<u>OCP Farm Protection DP Amendments</u> <ul style="list-style-type: none"> Replace “agricultural and garden stands” with “farm retail sales stands” <u>Zoning Bylaw Amendments</u> <ul style="list-style-type: none"> Revise section 1.8.3 for home site severance lots to align with proposed footprint policies (30 % site coverage for lots under 0.4 ha). 	Chapter 15.2 Section 1.8.3

Notably, two of the proposed amendments, landscape buffers and separation of secondary uses for ALR and non-ALR properties are more complex and provide a bigger deviation from today’s current policy. As such, additional consultation was done to gather input on these recommendations as outlined in Schedule C: Engagement Summary.

Landscape buffers for properties abutting or adjacent to the ALR

With urban side land uses intensifying, the urban-rural interface is an area of possible land use conflict if not effectively managed, potentially straining relationships between farm and non-farm neighbours. A landscape buffer minimizes the effects of normal farm practices on urban activities through visual and spatial separation. The buffer provides benefits to non-agricultural parcels by protecting from dust and noise while also creating a barrier from agricultural spray practices. The landscape buffer also provides protection to the agricultural parcel by creating a physical barrier to agricultural practices as well as providing an appropriate transition between urban and farming areas.

The Zoning Bylaw currently requires a Level 5 landscape buffer, equivalent to a 3.0-meter-wide buffer, for all land abutting ALR land where non-farm uses exist. This buffer area is in addition to the required setback for rural and urban residential zones. The Agriculture Plan recommended to “update the Zoning Bylaw to reflect the vegetative buffer specifications as outlined in the Edge Planning White Paper” for properties abutting or adjacent to the ALR. Taking guidance from the Ministry of Agriculture’s Guide to Edge Planning, the proposed amendments for properties adjacent to ALR land include wider buffers (except for existing residential lots) and larger setback areas. It should be noted that buffers for residential uses on agricultural land are also recommended in the Farm Protection DP Guidelines.

A1 Secondary uses

Approximately 70 per cent of A1 properties are in the Agriculture Land Reserve. The provincial ALR regulation specifies permitted uses in the ALR and outlines requirements for farming on these properties when a secondary use such as a winery, processing or farm retail sales takes place. The Agriculture Land Commission (ALC) can enforce these regulations, including crop and volume requirements, while it is difficult for a local government to do so.

These proposed amendments distinguish the secondary uses that are permitted in the ALR and those that are permitted outside of the ALR for parcels zoned for A1 (Agriculture) providing a clear understanding of permitted uses. It should be noted that principal uses for all A1 lots remain the same, regardless of whether the A1 lot is in the ALR or not.

Maximum House Size

The farm house is essential to supporting agriculture in Kelowna, however increasing pressure for non-farm residential uses (e.g. estate homes) can increase the per acre value of farmland, increasing costs for farmers. The Agriculture Plan recommended to “investigate adopting a maximum home floor area based on Ministry of Agriculture guidelines.” Staff investigated including an amendment for a maximum home size of 500 m² (5,382 ft²) as data from the 2014 provincial Agriculture Land Use Inventory demonstrated that home size is increasing on ALR properties.¹ Engagement feedback on the proposed maximum house size varied greatly with some feeling the size was too restrictive and others feeling it was not restrictive enough. However, one big concern from farmers was the proposed maximum home size was too restrictive, especially for farmers who have multi-generational homes.

As Kelowna is a Farm Bylaw community, there is an expectation from the Ministry of Agriculture that bylaw amendments align with the Ministry’s Guide for Bylaw Development in Farming Areas. Staff initiated a discussion with the Ministry to investigate a possible agricultural home size maximum that deviated from the Ministry’s guidelines that would be a “right-fit” for Kelowna. The Ministry informed staff that they were reluctant to do so at this time. Residential uses in the ALR was one of the top input themes during the provincial ALR Revitalization engagement process,² and it is anticipated that there may be recommendations to address house size as part of this Revitalization process. For this reason, staff have not included a maximum home size for A1 properties in the package of amendments and will revisit this policy pending the outcome of the ALR Revitalization process later this fall (2018).

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 the bylaw’s final adoption.

Summary

In summary, these policy amendments represent the high priority, short term implementation actions for two of the Agriculture Plan’s recommendations as well as providing clarity for staff and the public to several other agricultural policies. This package puts in motion the intent of the Agriculture Plan into practice, demonstrating a commitment to follow through on results. The policies in Package 2 underwent public review as outlined in Schedule C: Engagement Summary. Further, the policies

¹ Ministry of Agriculture, 2018. Kelowna Agricultural Land Use Inventory, 2014 Special Data Run. Data showed that up to 2014, 93% of residences on ALR parcels in Kelowna are within 500m² maximum guideline. The data, however, showed that 30% of homes built between 2007 and 2014 on farmland exceeded this size.

² BC Government News, 2018. British Columbians have their say in revitalizing the ALR.
<https://news.gov.bc.ca/releases/2018AGRI0028-000836>

proposed respond to some of the concerns heard during the development of the Agriculture Plan including:

- “urban/farm conflicts can be an impediment to farming”;
- “buffers are required to reduce conflict”; and
- “farmers are uncertain of regulations”³.

Additionally, by updating the regulations to be more explicit and reader-friendly, it will increase the ease of understanding of allowable uses for property owners and prospective buyers. The proposed regulations are comprehensive, thoughtful and align with provincial standards. Through their implementation, they further Kelowna on the path to achieving the Agriculture Plan’s vision as well as Council’s 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

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
- Zoning Bylaw No. 8000
 - Section 7 – Landscaping and Screening (7.6 Minimum Landscape Buffers)
 - Section 11 – Agricultural Zones

External Agency/Public Comments:

An engagement summary is provided in Schedule C.

³ City of Kelowna, 2017. Agriculture Plan Engagement Summary.

Agricultural Advisory Committee: January 25, 2018

Package 2 was presented to the Agricultural Advisory Committee to obtain their recommendation on the proposed amendments outlined in the Package on January 25, 2018. The resolutions at that meeting were:

Moved by Dominic Rampone/Seconded by Pete Spencer

THAT the Agricultural Advisory Committee recommends that Council amend Zoning Bylaw No. 8000 to include the proposed new definitions and revisions of existing definitions as presented to the Committee dated January 25, 2018.

Carried

Moved by Yvonne Herbison/Seconded by Ed Schiller

THAT the Agricultural Advisory Committee recommends that Council amend Zoning Bylaw No. 8000 by separating the secondary uses for those A1 lots within the Agricultural Land Reserve and those A1 lots not in the Agricultural Land Reserve.

Carried

Moved by Pete Spencer/Seconded by Dominic Rampone

THAT the Agricultural Advisory Committee recommends that Council amend Zoning Bylaw No. 8000 to introduce a maximum gross floor area for a home of 500m² based on Ministry of Agriculture Standards.

Carried

Moved by Dominic Rampone/Seconded by Jeff Ricketts

THAT the Agricultural Advisory Committee recommends that Council revise the existing Zoning Bylaw Development Regulations for certainty and clarity in order to align with the Ministry of Agriculture Standards;

AND THAT the Agricultural Advisory Committee recommends that Council direct staff to re-examine the proposed heights, setbacks and other specifications for consistency and equity.

Carried

Moved by Yvonne Herbison/Seconded by Ed Schiller

THAT the Agricultural Advisory Committee recommends that Council amend Zoning Bylaw No. 8000 in order to revise the urban side buffer requirements as presented, to better align with the Ministry of Agriculture Edge Planning Guidelines.

Carried

Initial Discussion with BCFGA, 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 Manager's perspective, most of the recommendations were supported in principle or there were no objections. Suggestions were made for some of the actions as well as suggestions for engaging with BCFGA members.

Package Amendment Referral – March 1 – April 6, 2018

The application files for the required OCP and Zoning amendments were referred to the following organization for comment (note: Package 1 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 D for copies of the letters)

Agency forwarding letter	Comment summary	How concerns were addressed
Ministry of Agriculture	<ul style="list-style-type: none"> Encourage landscape buffers and minimum setbacks adjacent to ALR to be consistent with urban side criteria of Edge Planning Guide. Confirm child care is an approved ALC use Clarify that setback distances in table 11.1 are minimum Encourage to incorporate maximum setback distances 	<ul style="list-style-type: none"> Almost all of the setbacks and buffers align with Edge Planning. There is a reduction in requirements in setbacks for residential due to typical site constraints. <i>Note: as this is on the urban side these amendments do not require approval of the Ministry of Agriculture.</i> Followed up with the ALC and child care centre (minor) is allowed Table 11.1 updated to state minimum setback distances Not being incorporated as part of this amendment package.
Agricultural Land Commission	<ul style="list-style-type: none"> References to land “abutting the ALR” should be changed to “adjoining the ALR” as definition of “abutting” technically refers to “adjoining at the narrow end”. Buffer policy is highly appropriate Secondary uses permitted in the ALR from those outside the ALR appear very useful Proposed OCP amendments consistent with ALC policies 	<ul style="list-style-type: none"> Wording kept to “abutting the ALR” as the Zoning Bylaw defines abutting as “immediately contiguous to, or physically touching, and when used with respect to lots or sites means two that share a common property line.

Agency forwarding letter	Comment summary	How concerns were addressed
BC Fruit Growers Association	<ul style="list-style-type: none"> Clarification needed for on-farm processing definition to include storage In favour of proposed increase in vegetative buffer and in favour of secondary uses which enhance the agricultural product or contribute greater public understanding of agricultural operations. 	<ul style="list-style-type: none"> On-farm processing definition updated to reflect storage in association with processing
Regional District Central Okanagan and Central Okanagan Economic Development Commission	<ul style="list-style-type: none"> Support the amendments as they meet goals and policies of Regional Growth Strategy 	
Central Okanagan Food Policy Council	<ul style="list-style-type: none"> Supports all proposed amendments 	
Interior Health	<ul style="list-style-type: none"> Support amendments as they support community's food security 	
UDI – Okanagan Chapter	<ul style="list-style-type: none"> Limiting greenhouses to 75% of land before consideration of buffers is prohibitive Not sufficient consultation locally DP waive out allowance to exclude properties not deemed "farmable" 	<ul style="list-style-type: none"> 75% maximum site coverage was already established in current zoning bylaw See Appendix C for summary of engagement efforts Clarification of when a DP is required or exempted. <i>Note: Farm Protection DPs can be required on both agriculture and urban side properties.</i>

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

- Agriculture Plan engagement. 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

- February 21, 2018 Input gathered on house size, buffers and splitting A1 secondary uses during the Agriculture Rate Design Open House
- February 28 – March 31, 2018 engaged public on house size, buffers, and splitting A1 secondary uses on getinvolved.kelowna.ca.
- March 1 to April 16, 2018. Package was circulated as part of standard referral process to stakeholders (see list above).
- March 15, 2018 Agriculture Industry Group breakfast meeting to review and gather feedback on house size, buffers and splitting A1 secondary uses.
- Additional meetings with stakeholder groups and/or concerned residents.

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

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

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

Schedule D: Comments and feedback from referral