

Attachment A:

City of Kelowna Policies



1. City of Kelowna Agriculture Plan (2017)

Theme 1: Strengthening local policies and actions to protect agriculture.

Action 1.1c Restrict Non-Farm Uses. Only support non-farm uses in farm areas that have a direct and ongoing benefit to agriculture or meet essential requirements of municipal government.

Action 1.2d On agricultural lands, locate farm retail sales, wineries, cideries, breweries, distilleries, and any other structures and services related to the public that are defined as farm uses under the ALC Act near the road or entrance (or where geographically appropriate), in order to reduce the footprint and extent of services through the property with the intent of maximizing agricultural potential.

Theme 4: Fostering and sustaining farm business and farmland. Obtaining land is challenging. The cost of farmland in most regions of BC is prohibitive. Kelowna has some of the highest priced land.

2. Kelowna Official Community Plan (OCP)

Chapter 4: Future Land Uses

Resource Protection Area. Generally, land areas within this designation (whether they are within the permanent growth boundary or not) will not be supported for exclusion from the ALR or for more intensive development than that allowed under current zoning regulations, except in specific circumstances where the City of Kelowna will allow exceptions to satisfy civic objectives for the provision of park/recreation uses.

Permanent Growth boundary. Lands within the permanent growth boundary may be considered for urban uses within the 20 year planning horizon ending 2030. Lands outside the permanent growth boundary will not be supported for urban uses.

Chapter 5: Development Process

Objective 5.3 Focus Development to Designated Growth Areas

Policy .1 Permanent Growth Boundary. Establish a Permanent Growth Boundary as identified on Map 4.1 and Map 5.2. Support development of property outside the Permanent Growth Boundary for more intensive uses only to the extent permitted as per the OCP Future Land Use designations in place as of initial adoption of OCP Bylaw 10500, except as per Council's specific amendment of this policy. Resource Protection Area designated properties not in the ALR and outside the Permanent Growth Boundary will not be supported for subdivision below parcel sizes of 4.0 ha (10 acres). The Permanent Growth Boundary may be reviewed as part of the next major OCP update.

Agricultural Land Use Policies

Objective 5.33 Protect and Enhance Local Agriculture

Policy .1 Protect Agricultural Land. Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development, except as otherwise noted in the City of Kelowna Agriculture Plan. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size.

Policy .3 Urban Uses. Direct urban uses to lands within the urban portion of the Permanent Growth Boundary, in the interest of reducing development and speculative pressure on agricultural lands.

Policy .5 Agri-Tourism, Wineries, Cideries, Retail Sales. Support agri-tourism uses that can be proven to be in aid of and directly associated with established farm operations. Permit wineries, cideries and farm retail sales (inside and outside the ALR) only where consistent with existing ALC policies and regulations.

Policy .6 Non-Farm Uses. Support non-farm use applications on agricultural lands only where approved by the ALC and where the proposed uses:

- are consistent with the Zoning Bylaw and OCP;
- provide significant benefits to local agriculture;
- can be accommodated using existing municipal infrastructure;
- minimize impacts on productive agricultural lands;
- will not preclude future use of the lands for agriculture;
- will not harm adjacent farm operations.

3. Good Neighbor Bylaw No. 11500

Property Noise:

7.2 No owner or occupier of real property shall allow or permit such real property to be used so that noise or sound which emanates therefrom is liable to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of individuals or the public.

7.3 No person shall make, cause, or permit to be made or caused, noise or bass sound of a radio, television, player, or other sound playback device, public address system, or any other music or voice amplification equipment, musical instrument, whether live or recorded or live, whether amplified or not, in or on private property or in any public space or street in such a manner that is liable to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of individuals or the public.

8.5 Notwithstanding the provisions of this bylaw, a person may apply for and receive from the City a permit for a special event which in Council of the City of Kelowna's opinion is in the public interest, in which case the provisions of this bylaw shall be inoperable to the extent the activities constituting the special event are permitted.

Attachment B:

Provincial Regulations & Policies



1. *Agricultural Land Commission Act*

Purposes of the commission

6 The following are the purposes of the commission:

- (a) to preserve agricultural land;
- (b) to encourage farming on agricultural land in collaboration with other communities of interest;
- (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

2. *Agricultural Land Reserve Use, Subdivision and Procedure Regulation, Section 3(4)(k)*


(4) The following non-farm uses are permitted in an agricultural land reserve and must not be prohibited by a local government bylaw or, for lands located in an agricultural land reserve that are treaty settlement lands, by a law of the applicable treaty first nation government:

- (k) gathering for an event, if all of the following conditions are met:
 - (i) the farm must be located on land classified as a farm under the Assessment Act;
 - (ii) permanent facilities must not be constructed or erected in connection with the event;
 - (iii) parking for those attending the event must be available on the farm, but must not be permanent nor interfere with the farm's agricultural productivity;
 - (iv) no more than 150 people, excluding residents and employees of the farm, may be gathered on the farm at one time for the purpose of attending the event;
 - (v) the event must be of no more than 24 hours duration;
 - (vi) no more than 10 gatherings for an event of any type may occur on the farm within a single calendar year.

3. **Policy L-04 Activities Designated as Farm Use: Agri-tourism Activities in the ALR (excerpts)**

- The highest priority is the agricultural activity that takes place on the farm.
- The following are agri-tourism activities:
 - a tour of the farm, an educational activity or demonstration in respect of all or part of the farming operations that take place on the farm;
 - cart, sleigh and tractor rides on the land comprising the farm;
 - harvest festivals and other seasonal events on a farm for the purpose of promoting or marketing farm products produced on the farm.
- Agri-tourism uses that are not listed in the Regulation or do not meet the conditions established in the Regulation must make an application for non-farm use and seek approval from the Commission.

4. **Policy L-22 Activities Designated as a Permitted Non-Farm Use: Gathering for an Event in the ALR (see below)**

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|  <p>Agricultural Land Commission Act</p> | <p style="text-align: right;">Policy L-22 October 2016</p> <p style="text-align: center;">ACTIVITIES DESIGNATED AS A PERMITTED NON-FARM USE: GATHERING FOR AN EVENT IN THE AGRICULTURAL LAND RESERVE ("ALR")</p> |
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This policy is intended to assist in the interpretation of the [Agricultural Land Commission Act](#), 2002, including amendments as of September 2014, (the "ALCA") and BC Regulation 171/2002 ([Agricultural Land Reserve Use, Subdivision and Procedure Regulation](#)), including amendments as of August 2016, (the "Regulation"). In case of ambiguity or inconsistency, the ALCA and Regulation will govern.

REFERENCE:

Agricultural Land Commission Act, S.B.C. 2002, c. 36, Section 1.

Agricultural Land Reserve Use, Subdivision and Procedure Regulation (BC Reg. 171/2002), the "Regulation", Section 1(4) and Section 3(4).

Section 3(4) The following non-farm uses are permitted in an agricultural land reserve and must not be prohibited by a local government bylaw or, for lands located in an agricultural land reserve that are treaty settlement lands, by a law of the applicable treaty first nation government:

(k) gathering for an event, if all of the following conditions are met:

- i. the farm must be located on land classified as a farm under the [Assessment Act](#);*
- ii. permanent facilities must not be constructed or erected in connection with the event;*
- iii. parking for those attending the event must be available on the farm, but must not be permanent nor interfere with the farm's agricultural productivity;*
- iv. no more than 150 people, excluding residents and employees of the farm, may be gathered on the farm at one time for the purpose of attending the event;*
- v. the event must be of no more than 24 hours duration;*
- vi. no more than 10 gatherings for an event of any type may occur on the farm within a single calendar year.*

Section 1 (4) Definitions:

"gathering for an event" means a gathering of people on a farm for the purpose of attending

(a) a wedding, unless paragraph (c) (ii) applies,

(b) a music festival, or

(c) an event, other than

(i) an event held for the purpose of agri-tourism, or

(ii) the celebration, by residents of the farm and those persons whom they invite, of a family event for which no fee or other charge is payable in connection with the event by invitees.

Section 2(2.4) In subsections (2.1) to (2.3):

(f) gathering for an event, if the event is held only in the lounge referred to in paragraph (b) or the special event area referred to in paragraph (c) of this subsection, and, for this purpose, section 3 (4) (k) does not apply.

INTERPRETATION:

Gathering for an event is a permitted non-farm use in the Agricultural Land Reserve and must not be prohibited by a local government bylaw as long as the event meets the conditions set out in the Regulation.

No more than 150 people may be in attendance and the event must be less than 24 hours in duration.

A maximum of 10 events of any type are permitted within a calendar year on a farm. For example, 5 weddings, 2 music concerts and 3 art shows. Where more than one farm business is being operated from a farm, the maximum 10 events applies. It is recommended that a record of events be maintained by the farmer including type of event, date and number of attendees.

There is no requirement for these events to directly market or promote agricultural products grown on the farm and therefore are not considered agri-tourism events.

People hosting events must make every effort to avoid negative impacts to the use of agricultural land including but not limited to, damage to agricultural land and structures, noise that disturbs animals and livestock, trespass, vandalism, theft and blocking access to adjacent farm businesses.

Events may include weddings, private parties, corporate retreats, music concerts and concert series, music festivals, film and theatrical presentations, art shows, dance recitals, charitable and political fundraising events, dances, and sports events, so long as otherwise compliant with the Regulation. Any event that is not an agri-tourism event falls into this category.

The Regulation allows gathering for events in the ALR provided the land is assessed as “farm” under the *Assessment Act*. If the assessment changes, the use is no longer permitted. The farm may be comprised of one or several parcels of land owned or operated by a farmer as a farm business. The farm parcels should be contiguous or in the same general geographic area.

Permanent facilities must not be constructed or erected for any event activity. Permanent facilities include, but are not limited to: buildings or permanent structures, hard surface parking areas, concrete pads, structural foundations, retaining walls, permanent tents (erected for more than 90 days) and permanent alteration to the landscape (fill, gravel, berms, hills, dugouts, amphitheatres). The conversion of existing buildings and the construction associated with bringing them up to public assembly building code is also deemed as the construction or erection of a permanent facility. If permanent facilities are required, an application and approval of the Commission is necessary.

For the purposes of this policy, parking areas must not be permanent (asphalt, concrete, gravel, etc) and parking must not interfere with the farm's agricultural productivity. All vehicles visiting the farm for the event must be parked on site. To minimize impacting farm land, parking should be along field edges, adjacent to internal farm driveways and roads, and in farm yard areas or immediately adjacent to farm buildings and structures.

Personal family celebrations hosted by the farm owner where no fee is charged continue to be allowed.

This Policy does not apply to agri-tourism activities. See Related Policies.

As per subsection 2.4(f) of the regulation, these conditions do not apply to wineries, cideries, meaderies, breweries and distilleries if the event(s) is held only in the ancillary food and beverage service lounge that has been developed in compliance with section 2(2.4)(b) of the Regulation. Regulation section 3(4)(k) and associated restrictions apply if the event(s) are held outside the lounge area. This means wineries, cideries, meaderies, breweries and distilleries may host an unlimited number of events in their lounge area and an additional 10 events as per section 3(4)(k) held outside the lounge area.

Local governments have the authority to regulate events with regard to structures and building occupancy (including determining if an existing farm building is appropriate for a gathering or requires upgrades for public assembly), parking, lighting, hours of operation, health and safety, noise, access for police, fire and emergency vehicles, etc. Local governments have the authority to require permits for events.

Events in excess of the what is permitted under section 3(4)(k) require an application pursuant to section 20(3) of the Agricultural Land Commission Act and approval of the Commission.

TERMS:

family event means an event attended by

- (a) family members, and
- (b) close personal friends or close business associates of family members

family member with respect to a person means

- (a) parents, grandparents and great grandparents,
- (b) spouse, parents of spouse and stepparents of spouse,
- (c) brothers and sisters,
- (d) children or stepchildren, grandchildren and great grandchildren, and

(e) aunts, uncles, cousins, nephews and nieces

fee or other charge includes a gift in lieu of a fee or charge given in connection with the event

wedding means the ceremony of marriage or a marriage-like ceremony and/or the reception celebration

music festival means concert or concert series no more than 24 hours in duration

Unless defined in this policy, terms used herein will have the meanings given to them in the ALCA or the Regulation.

RELATED POLICY:

ALC Policy L-04 Activities Designated as a Farm Use: Agri-Tourism Activities in the ALR

ALC Policy L-03: Activities Designated as Farm Use: Wineries and Cideries in the ALR

ALR Policy L-21: Activities Designated as Farm Use: Brewery, Distillery and Meadery in the ALR

Attachment C:

Technical Comments



1. Building & Permitting Department

- Building Permit for change of use from garage to wine production and tasting facility to be completed.

2. Bylaw Services & Business Licensing

- A business License does not exist on the subject parcel. Business Licensing has been in contact with the applicant since Fall 2017 with regards to requiring a Business License. A Business License was applied for April 2018; it will not be issued until all Building and Permitting issues regarding the business are complete.

3. Development Engineering

- Adequate off-street parking must be provided based on the number of proposed event attendees.
- Emergency vehicle (fire truck) access needs to be maintained during the event.
- Note that the current residence appears to be outside of the existing fire hydrant coverage limits.

4. Fire Department

- If the venue is fenced, there are limitations based on exits provided in fencing. With the large size of the venue, the requested occupant load is permitted with the appropriate exiting.
- Should the venue utilize large tent structures for the event, the BC Fire Code does not permit open flame or smoking. There are many other limitations should those structures be used.
- The access to the building shall be maintained so as to be ready for use at all times by fire department vehicles.
- Vehicles shall not be parked to obstruct access by fire department vehicles and signs shall be posted prohibiting such parking.
- No cooking permitted under or close to tents.

5. Ministry of Agriculture

- The application for events on ALR to exceed (more than double) the size permitted in ALC Policy L-22 is significant deviation. The described benefits to agriculture promotion are weak.
- Fundraiser events do not fit the intent of Agri-Tourism activities ALC Policy L-04 despite local wines will be served.
- The events described may not themselves have negative impacts to agriculture and may be held for good causes, however consideration should be discussed regarding precedent. If approved this year, will they become annual events, and will other farms follow suit.
- Important that the City and ALC be consistent in decision and rationale for allowing Policy exceptions.
- Application should include a parking plan for 300 + guests.
- Application should address a communication plan for informing neighbours.

6. Regional District of Central Okanagan

- No comments received at time of writing.