

COMMITTEE REPORT



Date: December 9, 2021
RIM No. 1210-21
To: Agricultural Advisory Committee (AAC)
From: Development Planning Department
Subject: Regulatory Options for Second Dwellings in the ALR

1.0 Purpose

To consider options to regulate second dwellings on properties within the ALR.

2.0 Proposal

2.1 Background

On July 12th, 2021, the Province of BC introduced new legislation to allow increased housing flexibility within the ALR, which is intended to help both farmer and non-farmers support families and businesses. Effective December 31st, 2021, the new ALR Use Regulation permits property owners in the ALR to have an additional residence (e.g. carriage house, garden suite, manufactured home, etc.) conditional upon the size of the principal dwelling and the size of the property as outline below, without an application to the Agricultural Land Commission (ALC). Proposals that deviate from these restrictions will continue to be required to submit a Non-Adhering Residential Use Permit Application to the ALC.

- For properties up to 4oha and that have a principal dwelling that is less than 500m², a 90m² additional residence is permitted.
- For properties that are over 4oha, a second residence up to 186m² is permitted. There are conditions associated with the size of the principal dwelling.

The Provincial intent is that the additional residence can be used for several purposes including rental (long or short term), agri-tourism accommodation, family, or farm-help. There is no longer a requirement that the additional residence must be used by the landowner or immediate family members.

As the ALR Use Regulation allows local governments to regulate or prohibit residential uses within the ALR, provided that those regulations are not more permissive, a decision needs to be made on if and how these new regulations will be applied in Kelowna.

2.2 Residential Housing Regulations in Kelowna

On ALR properties, the City's current Zoning Bylaw regulations permit once principal dwelling up to 500m² (as defined by the ALC), which may include a secondary suite. A mobile home (9.0m wide) for immediate

family members is also permitted if the owner resides on the same lot. The mobile home must be removed when it is no longer occupied and the land is to be restored to a condition suitable for agricultural use.

Standard Development Regulations for setbacks, site coverage and height of dwellings apply. This Development Regulations within the A1 – Agriculture 1 zone can be seen below:

Use	Gross Floor Area	Front Yard Setback	Side Yard Setback	Rear Yard Setback	Height
Single-Family Dwelling	500m ²	6.0m	3.0m	10.0m	9.5m or 2 ½ storeys
Mobile Home	300m ² / max. 9.0m wide	6.0m	3.0m	10.0m	4.8m

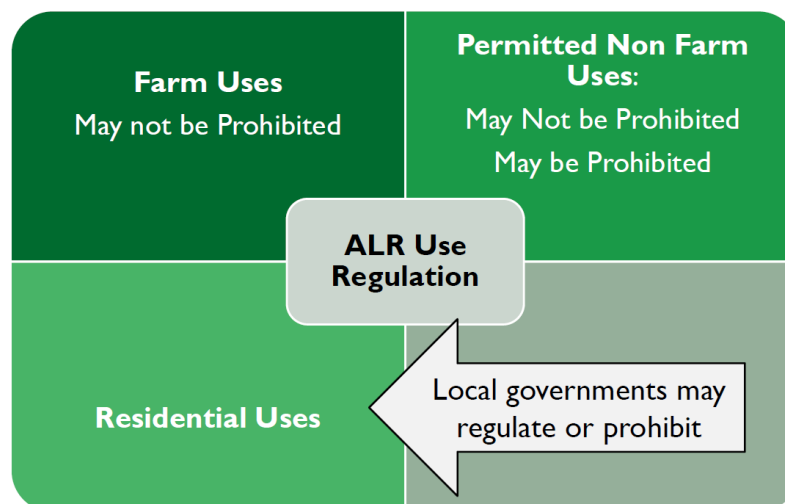
To best follow the policies of the ALC and Ministry of Agriculture, in regard to preserving agriculture and homeplating, Staff require a Farm Residential Footprint Covenant to be placed on Title for any new residential development. This covenant outlines a 2,000m² (0.2ha) area for residential uses, with an additional 1,000m² (0.1ha) for a mobile home. All new residential development will have to be contained within the defined covenant area. The mobile home must also be on a non-permanent foundation without basement excavation, and to qualify, the owner must also live on the same lot.

Property owners that vary from these regulations must apply for an ALC Non-Adhering Residential Use Permit Application, which is reviewed by Staff, the Agricultural Advisory Committee (AAC) and Council. If supported, the application is forwarded to the ALC for the final decision.

With the recent changes to the ALC regulations, grandfathering is permitted for any homes lawfully constructed by December 31st and they may retain in their size and footprint. For any manufactured home, they are not limited to owner or immediate family member after December 31st, 2021 but must stay same size and footprint.

2.3 Existing Considerations for Secondary Residences

Residential uses within the ALR are different than farm uses because local governments have the ability to decide how they want to regulate them.



There are several regulations the City has in place through policy or bylaws that can help formulate the City of Kelowna's approach to the new residential regulations.

Okanagan Basin Water Board (OBWB) - 1.0 Hectare Policy

The City's Zoning Bylaw and Subdivision, Development & Servicing Bylaw as well as the Okanagan Basin Water Board's Policies do not support the development of carriage houses on lots less than 1.0 hectare that rely on on-site sewage disposal. Since 2014, the Okanagan Basin Water Board (OBWB) has required grant recipients, including the City of Kelowna, to have bylaws in place restricting carriage houses to properties greater than 1.0 hectare or to properties with community sewer connections. As per the OBWB Sewage Facilities Assistance Grants' Terms of Reference, OBWB will only fund sewage infrastructure applications in communities that comply with its 1.0 Hectare Policy.

This policy has been built into the Zoning Bylaw under **Section 9.5b.3a**:

A carriage house shall be connected to a community sanitary sewer unless the lot is at least 1.0 ha and meets the requirements of the City and the Medical Health Officer for septic disposal capacity.

Since the ALC's new regulations for second dwellings would fall under the same size requirements, the OBWB 1.0 ha policy should be implemented to avoid conflict with any future funding opportunities.

Farm Residential Footprint Covenant

As mentioned in Section 2.2, the City of Kelowna requires Farm Residential Footprint covenants for all new residential buildings including additions to principal dwellings (exceeding 30m²) and mobile homes. This Farm Residential Footprint covenant allows the Approving Officer more discretion when permitting new residential development. The goal is to limit the residential driveway access to one, as well as create a defined Homeplate, so residential uses are spread throughout the site. This regulation has been defined in the Zoning Bylaw under **Section 11.1.6c**:

For lots 0.4ha and greater, a residential footprint must be registered on title for a residential development triggered by a Farm Protection Development Permit. The maximum residential footprint is 2,000m². A second residential footprint up to 1,000m² may be registered for a mobile home for immediate family members.

If a new residential policy allowing second dwellings is adopted, it would be sensible to adjust the above bylaw to require the Farm Residential Footprint covenant for all new residential development. The second dwelling would be required to be in a contiguous area with the principal dwelling and would instruct against having residential uses spread across the property.

Total Number of ALR Properties Affected

A GIS analysis of the City shows that there are 1946 properties that are either wholly or partially within the ALR. Total number of properties by size are as follows:

Property size	Number of properties
Less than 1 ha	617
1 ha to 40 ha	1296
Greater than 40 ha	33

Further GIS analysis showed that of the properties that are greater than one hectare, 299 parcels have two or more dwelling units (a dwelling unit can be a suite in a principal dwelling or it can be a separate secondary dwelling). The 2014 Provincial Agricultural Land Use Inventory showed that of the parcels greater than 1 ha, 173 of these had 2 or more homes on the property. This means that should the City choose to amend its bylaws to allow for some degree of increased residential flexibility, approximately 1000 parcels could be affected.

2.4 Regulatory Options

With the recent changes to the ALC Act and associated regulations, Staff are considering the following options to regulate secondary residences in the ALR. Staff outline three options below:

Option 1: Adopt new ALR regulations

The first option would be to permit additional residences in accordance with ALR Use Regulations for properties greater than 1.0ha in size. This would allow property owners to have 500m² principal dwelling with a secondary suite, as well as the 90m² additional residence. For properties over 40 ha, they would be permitted to build a second residence that is 186m². This would allow all of the housing forms permitted within the ALC regulations:

- Carriage Homes (garden suite or guest house)
- Accommodation above an existing structure
- Manufactured homes

This would allow property owners to have an increase in housing flexibility including rental income or small temporary farm worker residences without application to the ALC, however, this would be an increase in density outside of the Permanent Growth Boundary. There are also concerns that the additional residence may affect agricultural potential on the properties.

Option 2: Adopt some of the new ALR Regulations, with restrictions

This option would be to permit additional residences for properties greater than 1.0ha up to 90m² when the principal dwelling is less than 500m² regardless of the property size. This would allow only one secondary suite, either a secondary suite or an additional residence.

This would allow consistent regulations for all ALR properties and would be consistent with carriage house regulations for all zones. This would also allow for greater housing flexibility, however, the additional residence may affect agricultural potential and the residents may not be located near services and amenities in the City's urban centres.

Option 3: Restrict Second Residences

This option would restrict second residences to only allow for a principle dwelling with secondary suite.

This would potentially preserve agricultural capability on the land, however, it would be less permissive for property owners as it is now. This would allow for no opportunity for residential flexibility (including TFWH) unless approved through a site specific Text Amendment Application.

4.0 Development Planning

The upcoming change in provincial legislation is intended to support farmers and land owners within the ALR. The proposed housing flexibility would allow for a greater number of options for housing farming families, and farm workers.

Staff are aware that increasing residential densities outside of the Permanent Growth Boundary and in our agricultural areas will not meet several objectives outlined in the City's Official Community Plan (OCP) and Agricultural Plan. However, Staff also understand that allowing a second residence would allow aging in place or a home for immediate family members, and also could help new property owners with the increasing costs of owning a property. In addition to allowing options for farm workers which is in increasing demand for local agricultural producers and agricultural businesses. Potential impacts to agricultural land and capability from these changes can be partially mitigated through existing processes and regulations including the City's Farm Residential Footprint requirements. Limiting the development footprint of residential uses reduces the impact to productive agricultural lands.

Staff are seeking a recommendation from the Agricultural Advisory Committee to present options to Council regarding secondary residences in the ALR.

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Attachments:
Attachment A – City of Kelowna Policies