

REPORT TO COUNCIL TEXT AMENDMENT



Date: July 24, 2023
To: Council
From: City Manager
File No.: TA23-0006

1.0 Recommendation

THAT Zoning Bylaw Text Amendment Application No. TA23-0006 to amend the City of Kelowna Zoning Bylaw No. 12375 by changing Section 10 – Agriculture and Rural Residential Zones as identified in Schedule “A” and outlined in the Report from the Development Planning Department dated July 24, 2023 be considered by Council;

AND THAT final adoption of the Zoning Bylaw Text Amendment Bylaw be considered subsequent to the approval of the Ministry of Transportation and Infrastructure;

AND FURTHER THAT the Zoning Bylaw Text Amendment Bylaw be forwarded to a Public Hearing for further consideration.

2.0 Purpose

To amend the Zoning Bylaw A1 – Agriculture zone in order to change regulations for secondary residences within the Agricultural Land Reserve.

3.0 Development Planning

As part of *Council Priorities 2023-26 – Agriculture “Review the Agriculture Plan with respect to secondary uses”*, staff reviewed the agricultural plan, related bylaws and presented Council with options to help achieve Councils’ strategic objectives. The proposed text amendments are based on Council direction to align the A1 Agriculture Zone and secondary residence regulations with the provincial Agricultural Land Commission.

Staff are proposing to align the regulations directly with the ALC Act and Regulations with the exception of the 1.0 ha minimum of the Okanagan Basin Water Board requirements. This would include the following regulations and restrictions:

- Both one secondary suite (within the principal dwelling) and one carriage house/mobile home or suite within an accessory building will be permitted on a property;
- The property must be 1.0 ha in size or greater;
- All secondary residences must be located within the designated and covenanted residential footprint area as per the Official Community Plan (OCP) Farm Protection DP Guidelines;
- The maximum floor area of the secondary residences is 90 m² or 986 ft² for properties under 40.0 ha in size;
- The maximum floor area of the secondary residences is 186 m² or 2,002 ft² for properties over 40.0 ha in size;

- The maximum size of the principal dwelling must be 500 m² or less; and
- The secondary residence could not be subdivided, or strata titled.

The proposed changes would allow for a greater number of properties to be permitted for second dwellings in addition to an increased number of potential units on those properties. This would give even greater flexibility to agricultural property owners and producers. Additionally, this regulatory change adds rental housing options on farm properties which may indirectly support Council's Priority of Affordable Housing.

Potential impacts to agricultural land include increased pressure from added residential densities to smaller properties that may not be used primarily for agriculture. However, all second residence options would be required to be within the Farm Residential Footprints similarly to what is required now.

3.1 Background

In May 2022, staff brought forward a report to Council which reviewed options for second residences in the ALR based on provincial regulation changes. Staff recommended a balanced approach of adopting the changes to ALR regulations with further restrictions with the intent of protecting ALR land in the City. At that time, Council endorsed the option, and the changes were subsequently made in the new Zoning Bylaw 12375.

Province and Agricultural Land Commission

On July 12th, 2021, the Province 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 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 outlined 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.

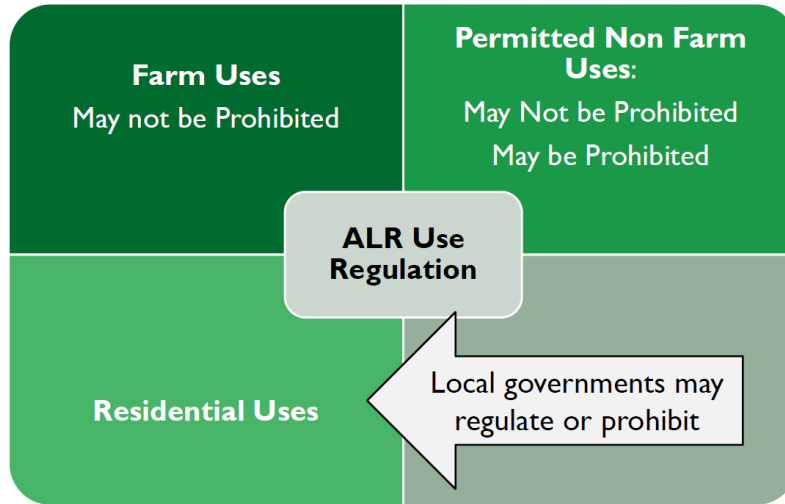
- For properties up to 40.0 ha and that have a principal dwelling that is less than 500 m², a 90 m² additional residence is permitted.
- For properties that are over 40.0 ha, a second residence up to 186 m² is permitted. There are conditions associated with the size of the principal dwelling.

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.

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 10.3 – Footnote .8:**

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

The City of Kelowna requires Farm Residential Footprint covenants for all new residential buildings including additions to principal dwellings (exceeding 50 m²). 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 10.5 – Footnote .1:**

For any lot 8,000 m² or greater in lot area, a residential footprint must be registered on title for any residential development triggered by a Farm Protection Development Permit. The maximum residential footprint is 2,000 m². A second residential footprint up to 1,000 m² may be registered for carriage houses.

If a new residential policy allowing second dwellings is adopted, it would be fair 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 1,946 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	1,296
> 2 ha (current minimum size for secondary residence)	1,087
Greater than 40 ha	33

GIS analysis shows that 1,329 parcels in the ALR are over 1.0 ha in size. This means that should the City choose to amend its bylaws to reduce the minimum size, approximately 1,329 parcels could be affected with 1.0 ha minimum, however a number of properties have two dwellings located on them already.

Given the approximate construction rate of carriage houses within the City’s urban areas (20-30 per year), it is estimated that about 25% or 332 units of the possible 1,329 would be constructed over a twenty-year period. It is anticipated that there may be 10-15 units built per year for the first few years of the policy. In the first eight months of the new regulations being adopted, one permit has been issued with an estimated 5-10 in varying levels of the process. Due to the limited number of units, it is not considered to have any additional servicing needs from the City.

4.0 Current Development Policies

4.1 Kelowna Official Community Plan (OCP)

Objective 8.1 Protect and preserve agricultural land and its capability	
Policy 8.1.1. Protect Agricultural Land	Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size. <i>The intent of the secondary residences is to directly support farming families and agricultural businesses. Residential footprint area requirements help mitigate residential impact on agricultural land.</i>
Policy 8.1.9 Farm Help Housing	As a first option, encourage farm help housing to be located within the Permanent Growth Boundary, providing access to amenities for workers. As a second option, accommodation for farm help on agricultural land on the same farm unit, where approved by the ALC, will be considered only when: <ul style="list-style-type: none"> • Agriculture is the principal use on the parcel; and • The applicant demonstrates that on-site housing for farm workers is necessary for the overall operation of the farm. The primary

		<p>consideration is whether the scale of the farm operation is large enough that permanent help is deemed necessary.</p> <p>Temporary farm working housing, such as bunkhouse accommodation on non-permanent foundations, is the preferred solution where farm worker housing is justified.</p> <p><i>Farm Help Housing is in increasing demand in the Okanagan, the flexibility to have a secondary residence for farm help directly supports the farming community.</i></p>
Policy Homeplating	8.1.10	<p>Locate buildings and structures, including farm help housing and farm retail sales areas and structures, on agricultural parcels in close proximity to one another and where appropriate, near the existing road frontage.</p> <p><i>The secondary residence would only be permitted within the designated residential footprint area which supports our homeplating policy direction.</i></p>

Objective 8.4 Stop urban sprawl into Rural Lands		
Policy Discourage Subdivision	8.4.2.	<p>Discourage further subdivision of properties outside the Permanent Growth Boundary.</p> <p><i>Subdivision of any secondary residence would not be permitted.</i></p>
Policy 8.4.3. Housing in Agricultural Areas		<p>Discourage additional residential development (both expansions and new developments) in areas surrounded by ALR and non-ALR agricultural lands. Secondary suites may be permitted in a permitted primary dwelling. Carriage houses may be considered on Rural Residential lands where the property is 1.0 hectares or greater and where proposal is consistent with the Farm Protection Guidelines outlined in Chapter 22: Farm Protection Development Permit Area.</p> <p><i>The proposed changes would be considered an extension of this policy and would allow for carriage house options on ALR land over 1.0 ha</i></p>

5.0 Application Chronology

Application Accepted: City Initiated
 Public Information Session: N/A
 Neighbourhood Notification Summary Received: N/A

Report prepared by: Wesley Miles, Planner Specialist
Reviewed by: Dean Strachan, Community Planning & Development Manager
Reviewed by: Terry Barton, Development Planning Department Manager
Approved for Inclusion: Ryan Smith, Divisional Director, Planning & Development Services

Attachments:

Schedule A: A1 – Agriculture - Text Amendments

For additional information, please visit our Current Developments online at www.kelowna.ca/currentdevelopments.