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CITY OF KELOWNA

**MEMORANDUM**

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**Date:** June 17, 2009  
**File No.:** 5040-20  
**To:** City Manager  
**From:** Community Planning Manager  
**Subject:** **Purpose-Built Rental Housing**

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**RECOMMENDATION:**

THAT section 8.1.31 of *Kelowna 2020* – Official Community Plan Bylaw No. 7600 be interpreted as outlined in the report of the Community Planning Manager dated June 17, 2009;

AND THAT a housing agreement will be required to be entered into between an owner and the City as part of the City's Purpose-Built Rental Housing policy;

AND THAT notice of the housing agreement will be registered under Section 905 of the Local Government Act to ensure that the building in question remains devoted to rental housing as well as indicating that no applications to stratify the building will be approved by the City.

AND THAT Council Policy 345 be amended as outlined in the report of the Community Planning Manager dated June 17, 2009;

AND FURTHER THAT Council direct staff to report back with additional appropriate policy changes to define contributions of purpose-built rental housing in return for density increases.

**BACKGROUND:**

That purpose built rental housing is in short supply is a well-known fact in most cities across Canada. This problem began in the late 1970s and 1980s when it first became possible to build multi-unit residential buildings and sell the individual dwellings<sup>1</sup> as condominium or strata-titled ownership. Building of rental housing became further restricted when federal taxation laws were changed that made it even less economically viable to build rental housing. The City has worked with other cities across Canada through the Federation of Canadian Municipalities (FCM) to conduct research and lobby for changes to improve the economics of building rental housing. It has also partnered with other cities, based on the research conducted through FCM for appropriate changes. These changes are identified in a Council resolution passed in 2007, attached as Appendix A to this report. The same message has been relayed more than once by the City of Kelowna and other cities to the federal government. More recently a letter was sent by the Mayor to the Premier (attached).

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<sup>1</sup> See David Hulchanski's report:

<http://www.chs.ubc.ca/archives/files/Rethinking%20Canada's%20Housing%20Affordability%20Challenge.pdf>



Kelowna's rental housing stock at the Census Metropolitan Area level only comprises 4,300 or 28.2% of 15,225 rented homes within purpose-built rental buildings of 3 or more units, based on the CMHC rental market survey and the Census of Canada. The remaining 71.9% of rental homes are found within secondary suites, rented houses, duplexes and strata-titled apartments that are rented until they can be sold or occupied by the owners. The latter represents high-priced rental supply and cannot be relied upon for long-term permanent rental housing. Due to the negative environment for building rental housing, the purpose built stock represents the minority of rental supply for most BC communities, with few exceptions. The BC proportion of rental supply in purpose built rental buildings of three or more units is 35.2% and Kelowna is low compared to most other communities.

When residential density is to be increased beyond what is allowed by the Official Community Plan (OCP), Section 8.1.31 (quoted later in this report) has always required that "*a portion of the proposed units are available for affordable, special needs or rental housing identified to be in short supply (guaranteed through a Housing Agreement)*". A number of other requirements must also be met. This policy has been consistently applied for many years, but applications for purpose-built rental housing in this situation are rare. Most proposals consist of owner-occupied housing.

The only new City direction in the last year is the Council Policy arising from the Coriolis work to quantify and define the housing contribution already required by the OCP. OCP policy 8.1.31 does read that *rental housing identified to be in short supply* qualifies as a legitimate reason to support such an amendment. Policy 8.1.31 requires that any housing accepted in compliance with this section must be secured by a housing agreement. Section 905 of the Local Government Act sets out a municipality's abilities to secure housing agreements and requires that notice of such agreements be registered at the Land Title Office.

Further clarification of the City's direction for purpose-built rental housing needs to be achieved by amending Council Policy 345 which governs OCP amendments that increase density to provide an exception for purpose-built rental housing. A council policy to reinforce the desire that purpose built rental housing obtained in return for increases in density will not be considered for strata-titling may also be appropriate. Also, as part of the current OCP review underway, OCP policy to state support for the provision of purpose-built rental housing as an amenity in return for density increases would be appropriate. Quantification of the amount of purpose built housing required is also an issue in need of clarification. It is recommended that a self-contained building should entirely consist of three or more units of purpose built rental housing in order to qualify, but in larger-scale developments with more than one building this may be more difficult to implement. At this point, the recommended direction conforms to the OCP so no immediate policy change is needed in order to move ahead and accept purpose built rental housing as an amenity secured by a housing agreement in return for density increases.

The first change that is recommended would be a change to Council Policy 345 to add clause 5, as set out below: Other changes will require further review and reporting back to Council.

5. *Notwithstanding the content of this Council Policy, in situations where a proposal that involves consideration of an increase in density under Section 8.1.31 of the Official Community Plan, and where a building or buildings consisting of 3 or more units of purpose-built rental housing is/are proposed, the City will accept that the purpose built rental housing is an amenity in return for the increase in density, provided the purpose-built rental housing is secured by a housing agreement, and that no strata-titling of such building(s) will be permitted by the City. Negotiations with the developer in purpose built rental housing proposals will be reported to Council prior to securing any housing agreement.*

**INTERNAL CIRCULATION TO:**

City Clerk / Legislative Services  
Land Use Management

**LEGAL/STATUTORY AUTHORITY:**

Local Government Act S. 904 & 905

**EXISTING POLICY:**

Strategic Plan

- Goal #3 - To foster the social and physical well-being of residents and visitors.
- Objective #4 – Realize construction of housing forms and prices that meet the needs of Kelowna residents.
  - Actions 3.4.1 and 3.4.2 – partnerships for housing

Official Community Plan – Chapter 8

**8.1.31 “Rezoning to Higher Densities.** *Consider supporting an OCP amendment and rezoning application for residential densities greater than those provided for on the Generalized Future Land Use Map 19.1 where a portion of the proposed units are available for affordable, special needs or rental housing identified to be in short supply (guaranteed through a Housing Agreement). To mitigate the neighbourhood impact of higher densities, it is important that:”*

- *supporting infrastructure and park land is sufficient to accommodate the proposed development (or the developer is prepared to upgrade the necessary infrastructure and park land); and*
- *the proposed densities do not exceed the densities provided for on Map 19.1 by more than one increment (e.g. medium density multiple units might be entertained where low-density has been provided for, and low-density multiple units might be entertained where single/two unit residential densities have been provided for); and*
- *the project be sensitively integrated into the surrounding neighbourhood, with no more than a one-storey height gain between the proposed development and the height permitted within land use designations assigned to adjacent parcels (Where the property being proposed for redevelopment is large, consideration may be given to providing greater heights at the centre of the property provided that the new building is sensitively integrated with the surrounding neighbourhood); and*
- *approval of the project not destabilize the surrounding neighbourhood or threaten viability of existing neighbourhood facilities (e.g. schools, commercial operations etc.). “*

*Considerations that were not applicable to this report:*

**FINANCIAL/BUDGETARY CONSIDERATIONS**  
**PERSONNEL IMPLICATIONS**  
**TECHNICAL REQUIREMENTS**  
**COMMUNICATIONS CONSIDERATIONS**  
**ALTERNATE RECOMMENDATION**  
**EXTERNAL AGENCY/PUBLIC COMMENTS:**  
**LEGAL/STATUTORY PROCEDURAL REQUIREMENTS:**

Submitted by:



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Theresa Eichler, Community Planning Manager

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Signe Bagh, MCIP, Director, Policy and Planning

Approved for Inclusion: JP

Attachment: -

Appendix A – Council resolution regarding federal changes needed for rental housing  
Mayor's letter of March 28, 2008  
Letter from Jay Wollenburg, of Coriolis Consulting  
Copy of Council Policy 345

Appendix A

THAT Council authorize a letter to be sent on behalf of the Mayor and Council to MLAs, MPs, Minister Monte Solberg, Minister Rich Coleman to recommend that action be taken to promote increased building of rental housing, as set out in the October 2004 Report from the Federation of Canadian Municipalities entitled "Moving Forward: Refining the FCM Recommendations for a National Affordable Housing Strategy" as follows:

- Offset the Goods and Services Tax on rental housing;
- Allow rental investors to qualify for the small business deduction;
- Restore the Capital Cost Allowance (CCA) 'pooling' to encourage capital reinvestment in new properties;
- Permit charitable receipts to be used toward the purchase price of existing rental properties by non-profit corporations (provides vender with a means to shelter part of tax liability and enables purchaser to complete purchase with less cash outlay. Non-profit ownership can preserve long term existing affordable units);
- Amend Section 38 of the (federal) Income Tax Act to provide equal the treatment to donations of land for the purpose of building affordable housing and homeless shelters as that provided in the case where land is donated for an environmental trust.

AND THAT a copy of the letter be forwarded to the Kelowna Chamber of Commerce for their information.



March 26, 2008  
File: 0430-20

Prime Minister Stephen Harper  
Office of the Prime Minister  
80 Wellington Street  
Ottawa  
K1A 0A2

Dear Mr. Prime Minister:

On behalf of Kelowna City Council I would like to express our disappointment regarding the lack of funding for housing in the recent federal budget.

Kelowna Council is also concerned regarding the lack of policy, for example, taxation to encourage the provision of rental housing.

We are facing a significant lack of affordable and rental housing in Kelowna and we are certainly not the only community in Canada with this concern. Affordable housing and homelessness are national issues. I receive many citizen pleas seeking help in finding adequate housing and I watch as this concern for the basic need of a roof over one's head consumes young and old alike.

I encourage you to support the Federation of Canadian Municipalities National Action Plan on Housing and Homelessness which was released on January 23, 2008. Local communities like Kelowna are initiating their own strategies but we need help from our provincial and federal representatives. Kelowna concurs with the seven priorities outlined in FCM's National Action Plan on Housing and Homelessness:

- Reduce chronic homelessness through a "housing first" model.
- Preserve and renew existing social housing assets.
- Preserve and improve existing relatively affordable stock.
- Expand and reform rental assistance programs.
- Stimulate new rental construction.
- Facilitate increased access to ownership for households at the margin.
- Manage place-based and neighbourhood effects, integrating housing strategies with urban planning, smart growth and neighbourhood redevelopment plans.

The full report, entitled, Sustaining the Momentum, is available on the FCM website at [www.fcm.ca](http://www.fcm.ca).

Kelowna and all municipalities in Canada, need a renewed long term federal commitment to ensuring that all Canadians have access to affordable housing, one of most basic and important needs.

I ask that Canada's Federal Government continue to support affordable housing and homelessness initiatives and help municipalities struggling with this issue by providing the funding and tools needed to address this concern effectively.

Sincerely,



Sharon Shepherd  
MAYOR

cc: Council  
Ron Mattiussi, City Manager  
Sandi Horning, City Clerk's Office  
Hon. James M. Flaherty, Minister of Finance  
Ron Cannan, Member of Parliament Okanagan-Lake Country  
Stockwell Day, Member of Parliament Okanagan-Coquihalla  
Gord Steeves, President, Federation of Canadian Municipalities  
Susan Gimse, President, Union of BC Municipalities  
Al Horning, MLA Okanagan-Lake Country  
Sindi Hawkins, MLA Kelowna-Mission  
Hon. Rich Coleman, BC Minister Responsible for Housing



# CITY OF KELOWNA

POLICY: 345  
PAGE: 1 of 2

## COUNCIL POLICY MANUAL

APPROVAL DATE: 2009/02/23  
RESOLUTION #: R166/09/02/23  
REPLACING #: New  
DATE OF LAST REVIEW: February 2009

**SUBJECT: Affordable Housing and Amenities or Cash-in-Lieu of Thereof – Interim Policy for Increased Density Resulting From Official Community Plan Amendment**

1. In cases where an amendment to the Official Community Plan (OCP) is required in order to permit an increase in density the City will require a contribution to affordable housing and / or public amenities, to be defined in negotiation between the City and the developer (amenities should be defined in the OCP) based on the following:
  - 1.1. Net lift in land value is the market value increase, based on the value of the property at its current OCP designation, compared to the market value that would result from re-designating the property to a higher density designation in the OCP.
  - 1.2. Total value of the contribution will be equivalent to 75% of the net lift in land value (after allowing for all land development costs associated with the rezoning) as determined by a professional analyst paid for by the applicant and meeting the approval of the City;
  - 1.3. The City's priority will be to require that the contribution would be in the form of affordable housing or public amenities provided on site representing the equivalent of 75% of the net lift in land value.
  - 1.4. Notwithstanding the above, where an application is in-stream prior to the date of initial adoption of this Policy, the value of the contribution will be based on 50% of the net lift in land value, as set out in 1.1 and 1.2, above.
  - 1.5. When determining the corresponding housing or amenity (as to be determined) is to be provided on site, 75 % of the increase in net floor area resulting from the bonus must be returned in the form of affordable housing units, meeting the City's definition of affordability set out in the OCP, and secured by a housing agreement;
  - 1.6. Notwithstanding 1.5, above, where an application is in-stream prior to the date of initial adoption of this Policy, the area of the affordable housing or amenity contribution to be provided on site will equal 50% of the increase in net floor area.
  - 1.7. Acceptance of cash-in-lieu of affordable housing or other amenities will be based on a report from a qualified professional providing compelling reasons why the provision of affordable housing and/or amenities on site is not feasible.
  - 1.8. The payment will be made at building permit or (at the developer's option) deferred to occupancy permit if the developer provides acceptable security such as an irrevocable letter of credit.
2. Any funds collected as cash-in-lieu of affordable housing will be directed to the Housing Opportunities Reserve Fund governed by By-law 8593.



# CITY OF KELOWNA

POLICY: 345  
PAGE: 2 of 2

## COUNCIL POLICY MANUAL

APPROVAL DATE: 2009/02/23  
RESOLUTION #: R166/09/02/23  
REPLACING #: New  
DATE OF LAST REVIEW: February 2009

**SUBJECT: Affordable Housing and Amenities or Cash-in-Lieu of Thereof – Interim Policy for Increased Density Resulting From Official Community Plan Amendment**

3. Any funds collected as cash-in-lieu of any other amenities be placed in a reserve fund governed by a By-law that defines the amenities and guides the use of the funds.
4. This policy is **an interim policy** to be applied until such time as Council has completed its review of the Official Community Plan.

**REASON FOR POLICY:** There is a need for a clear policy to guide the amount affordable housing or of cash-in-lieu thereof, in return for increases in density by amendment to the OCP. Council is frequently faced with development proposals for housing whereby there is an increase in density and a contribution of affordable housing is recommended in policy. However, there is no guidance for the amount of the contribution. In some cases the developer does not wish to provide affordable housing on the same site in return for the density bonus. There is a need for a clear policy to guide the amount of cash that should be contributed in lieu of providing affordable housing on site. The issue of affordable housing or other amenities, or cash-in-lieu thereof provided when density is increased is presently under review as part of the review of the Official Community Plan.

**LEGISLATIVE AUTHORITY:** Council Resolution: Local Government Act S. 904; Community Charter S. 188, 189

**PROCEDURE FOR IMPLEMENTATION:** Implemented as a return for increased density at the re-zoning stage when an Official Community Plan amendment is also needed to increase the density.

**VIA EMAIL**

10 June 2009

Ms. Theresa Eichler  
Community Planning Manager  
City of Kelowna  
1435 Water St., City Hall  
Kelowna, B.C.  
V1Y 5M3

Dear Ms. Eichler:

**Re: Affordable Housing Policy Applied to New Rental Housing Projects**

As a follow-up to the work I completed for the City of Kelowna on potential amenity contributions and affordable housing contributions from new development projects, you asked me to provide some suggestions for whether or how such contributions might apply to new rental housing developments.

I understand you are seeing some applications to obtain additional density (beyond the density contemplated in the existing OCP) in new rental housing projects. You are considering whether this additional density should be linked to an obligation for the developer to make an affordable housing contribution or cash-in-lieu.

The study I completed for the City suggested that the City should expect amenity contributions from projects receiving density increases because the extra density confers land value that should be shared by the City (which absorbs the impact of the additional development) and the developer. However, it is necessary to keep these points in mind:

- My analysis and recommendations are based on projects that will develop strata title residential units for sale. Strata title development is normally sufficiently profitable and normally supports enough land value that developers ought to be willing and able to make an affordable housing contribution in order to obtain additional density.
- Purpose-built rental housing in most cases is not as financially attractive to developers as strata title development for sale. In most cases, rental housing supports a lower land value, so the value of additional density will be much less in a rental project than a strata title project.

I have not produced a financial model for a new rental housing project in Kelowna, but I expect that such an analysis would show that new purpose-built rental does not support enough land value to allow a developer to make a significant financial or amenity contribution for more density.

I think it is also notable that many communities regard the development of purpose-built rental housing as being of itself an important element in an affordable housing strategy. The "contribution" associated with more density is the additional rental stock that this density allows.

I am aware of municipalities that are contemplating incentives for the development of new purpose-built rental including granting additional density, significantly reducing off-street parking requirements, lowering municipal fees and property taxes, and others. I would say the general climate in B.C. is to encourage and facilitate rental housing construction rather than to seek contributions from such projects.

I believe this situation is a result of these factors:

- There has been very little recent private sector purpose-built rental housing in BC, because it has not been financially attractive to developers.
- Notwithstanding the current economic downturn and weakening of the residential market, many communities perceive that there will continue to be a long term affordable housing problem in those communities that have high attractiveness for new residents and relatively limited land supply (due to terrain, natural features, ALR, and other factors).
- Rental housing (even if targeted at the upper part of the rental market) is viewed as a kind of affordable housing because it does not require a down payment and does not require qualification for a mortgage. Purpose-built rental is often built to a durable but less luxurious standard, also contributing to relative affordability. High-end rental units may not help moderate income people directly but can free up moderate units if people move up.

Based on these considerations, Kelowna could have different approaches to strata title versus rental projects:

- Strata title projects seeking additional density (above OCP) should make affordable housing contributions (or cash in lieu) or other amenity contributions, in accordance with City policy and based on the market land value of the additional density.
- Purpose-built rental projects seeking additional density should not be expected to make further affordable housing contributions provided the City has sufficient assurance that the units will remain rental. This approach could be changed if in the future, if the rental market is sufficiently financially strong to support amenity contributions but this will not happen unless construction costs come way down or rents go way up.

If new rental projects involve the demolition of existing rental units, the City might require the developer to assist tenants with relocation to comparable units as a condition of granting additional density.

In my view, it is entirely reasonable to have different policies for strata title and rental projects, because the development economics are so different.

I hope this is helpful. Please don't hesitate to call if you have any questions.

Yours truly,

**CORIOLIS CONSULTING CORP.**



Jay Wollenberg