

Memo



Date: December 1, 2009

To: City Manager

From: Community Sustainability Division

File No: TA09-0006 Applicant: City of Kelowna (Andrew Browne)

Purpose: Housekeeping amendments to the Zoning Bylaw No. 8000 with respect to general definitions, agri-tourist accommodation, and the A1 - Agriculture 1 zone.

Report Prepared by: Andrew Browne

1.0 RECOMMENDATION

THAT Text Amendment No. TA09-0006 to amend City of Kelowna Zoning Bylaw No. 8000 as outlined in Schedule "A" and Schedule "B" of the report of the Land Use Management Department dated December 1, 2009 be considered by Council;

AND THAT Text Amendment No. TA09-0006 be forwarded to a Public Hearing for further consideration.

AND FURTHER THAT Council direct staff to withhold support for agri-tourist accommodation uses and related licensing and approvals until final adoption of the text amendment application.

2.0 SUMMARY

Housekeeping amendments to the City of Kelowna Zoning Bylaw No. 8000 are proposed with respect to general definitions, agri-tourist accommodation, and the A1 - Agriculture 1 zone.

3.0 AGRICULTURAL ADVISORY COMMITTEE

At a meeting held on August 13, 2009, the Agricultural Advisory Committee passed the following recommendation:

THAT the Agricultural Advisory Committee support Application No. TA09-0006 for various housekeeping amendments to the A1 - Agriculture 1 zone of the Zoning Bylaw No. 8000 with respect to permitted uses and other regulations, by the City of Kelowna.

AAC comments from the meeting and over the past year were as follows:

- The proposed text amendments are consistent with discussions over the past few years and reflect persistent issues and concerns with agri-tourist accommodation.
- A number of pressing items/issues should be solved with these text amendments.
- The control of agri-tourist accommodation will be complaint based and that a permit process in the future may be considered.
- That RV sites were never appropriate for agri-tourist accommodation, and commonly they represent an abuse to the privilege of agri-tourist accommodation meant to be secondary and complimentary to the on-site agricultural activities.

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4.0 TECHNICAL COMMENTS

The Agricultural Land Commission (ALC), Ministry of Agriculture and Lands (MAL), Interior Health Authority, Building and Permitting Branch, and Policy & Planning Department all advised they have no objections to the proposed amendments.

Furthermore, it was noted that both the ALC and MAL encourage progressive approaches by local government to implement customized regulations that provide clarity and integrity to allowable agricultural uses. Providing this clarity is the responsibility of local government.

5.0 BACKGROUND

The MAL and ALC jointly authored the report '*The Agricultural Land Reserve and its Influence on Agriculture in the City of Kelowna*', excerpts of which are included here for background.

Agriculture is BC's third largest primary industry, generating \$2.4 billion annually in farm cash receipts and providing for approximately half of BC's food requirements.

By maintaining the ALR boundary and by regulating non-farm uses and subdivisions within its boundaries, the Agricultural Land Commission plays a key role in preserving farmland for agricultural development and enabling future agricultural expansion throughout British Columbia. Providing a stable land base ultimately leads to increased food security for the province's rising population.

Sustaining the best of the local farmland and supporting the activities of farming and ranching in the face of rapid population growth and associated urbanization has been a constant challenge. Even within active agricultural areas there is a diverse range of human and natural activities taking place which tend only to heighten the land use conflicts facing agriculture.

6.0 LAND USE MANAGEMENT DEPARTMENT COMMENTS

Land Use Management staff are proposing housekeeping amendments to the City of Kelowna Zoning Bylaw No. 8000 with respect to general definitions, agri-tourist accommodation, and the A1 - Agriculture 1 zone. The proposed amendments and their purposes are outlined briefly below. For the exact wording changes proposed, refer to Schedules "A" and "B," attached.

6.1 Greenhouses and plant nurseries

The definition for this use has been clarified and expanded to address the allowable uses and the scope of their operation to allow a higher degree of consistency.

6.2 Agri-tourist accommodation

Existing regulation for agri-tourist accommodation is minimal and outdated and does not work to adequately achieve the goals of the City, the Agricultural Advisory Committee, the agri-business community, the Ministry of Agriculture and Land, or the Agricultural Land Commission to preserve agricultural land and to preserve options for future agricultural opportunities.

Recent inquiries for and examples of this use have been overwhelmingly not consistent with the intended spirit of the agri-tourist accommodation use, as created by the ALC. A number of impacts and issues arise from illegitimate instances of this use, including: conflict of uses between RV users and practicing farmers, the conversion of RV campsites to permanent dwellings, and the dumping of untreated sewage in ditches and on-site, creating severe environmental and water contamination for abutting properties and City-owned property. Agri-tourist accommodation is intended by the ALC to compliment bona fide agricultural operations and promote on-farm products and activities.

The ALC permits municipalities to regulate or prohibit this use outright. These proposed amendments seek to preserve agri-tourist accommodation for legitimate farm operators while

restricting the more questionable instances of this use (particularly those occurring on smaller lots). Concerns previously expressed by the AAC have been incorporated into these proposed amendments.

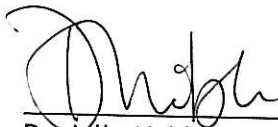
Proposed changes of note include:

- Establishing a minimum lot size for agri-tourist accommodation (previously the minimum was the same minimum as for the subdivision requirements of the A1 zone)
- The number of agri-tourist accommodation units is proposed to be proportional to lot area. Previously this proportionality was not a requirement, but has been utilized with success in other municipalities.
- Site coverage to be brought in line with ALC regulations.
- Setbacks and siting criteria have been established.
- Buffering and landscaping requirements have been established.
- Establishment of 'agri-tourist accommodation unit' definition for clarity.
- Restriction on number of recreational vehicles.
- Establishment of servicing criteria, with flexibility.

Considerable discussion and coordination has taken place over the past year between local municipalities, the RDCO, the Ministry of Agriculture and Lands, the Regional Resource Stewardship Agrolgist, and other external agencies such as the Interior Health Authority and the Agricultural Land Commission.

Staff have recently established a permit process for agri-tourist accommodation in order to screen for existing criteria, and this process will be adjusted pending the outcome of these text amendments. An accompanying checklist and information brochure are in production.

The recent increased interest by property owners in developing portions of their agricultural land as 10 stall RV campsites and the (currently) limited regulation surrounding these have necessitated improvements to the Zoning Bylaw in order to adequately protect agricultural land for future generations and to ensure compatibility with abutting land uses.

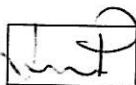


Danielle Noble
Manager, Urban Land Use

Approved for inclusion:

Jim Paterson

General Manager, Community Sustainability



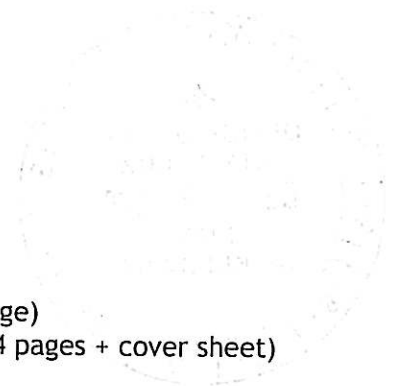
Attachment

Revised A1 - Agriculture 1 zone with changes shown

Schedules

Schedule "A" - Proposed Text Amendments to General Definitions (1 page)

Schedule "B" - Proposed Text Amendments to A1 - Agriculture 1 zone (4 pages + cover sheet)



Section 11 – Agricultural Zones

11.1 A1 – Agriculture 1 A1s – Agriculture 1 with Secondary Suite

11.1.1 Purpose

The purpose is to provide a zone for rural areas and agricultural uses as well as other complementary uses suitable in an agricultural setting. A maximum of one single dwelling house is permitted. In addition a secondary suite may be permitted when in accordance with relevant provisions of this bylaw including subsection 6.5 and 9.5

11.1.2 Principal Uses

The principal uses in this zone are:

- (a) agriculture
- (b) animal clinics, major where in existence prior to July 1st, 1998
- (c) aquaculture
- (d) greenhouses and plant nurseries
- (e) intensive agriculture
- (g) single dwelling housing
- (f) utility services, minor impact

11.1.3 Secondary Uses

The secondary uses in this zone are:

- (a) agricultural dwellings, additional
- (b) agri-tourist accommodation (for lots larger than or equal to 5.0 ha)
- (c) animal clinics, major
- (d) animal clinics, minor
- (e) bed and breakfast homes
- (f) care centres, intermediate
- (g) forestry
- (h) group homes, minor
- (i) home based businesses, major
- (j) home based businesses, minor
- (k) home based businesses, rural
- (l) kennels and stables
- (m) wineries and cideries
- (n) secondary suite (A1s only)

Comment [AB1]: New wording.

11.1.4 Buildings and Structures Permitted

- (a) one single detached house (which may contain a secondary suite in the A1s zone);
- (b) one mobile home;
- (c) permitted accessory buildings or structures (which may contain a secondary suite in the A1s zone).

11.1.5 Subdivision Regulations

- (a) The minimum lot width is 40.0 m.
- (b) The minimum lot area is 4.0 ha except the minimum lot area is 2.0 ha when located within the **Agricultural Land Reserve**. That Lot B, Section 34, Township 29, ODYD, Plan KAP66973 be exempted from the minimum lot area requirements of this zone for a period of 3 years, effective July 30, 2002

11.1.6 Development Regulations

- (a) The maximum site coverage is 10% for residential development (inclusive of agri-tourist accommodation), and it is 35% for agricultural structures except it may be increased to 75% for greenhouses with closed wastewater and storm water management systems. Comment [AB2]: New wording.
- (b) The maximum height is the lesser of 9.5 m or 2½ storeys, except it is 13.0 m for accessory buildings and 16.0 m for agricultural structures.
- (c) The minimum front yard is 6.0 m.
- (d) The minimum side yard is 3.0 m, except it is 4.0 m from a flanking street.
- (e) The minimum rear yard is 10.0 m, except it is 3.0 m for accessory buildings.
- (f) Notwithstanding subsections 11.1.6(c) to (e), confined livestock areas and/or buildings housing more than 4 animals, or used for the processing of animal products or for agricultural and garden stands, shall not be located any closer than 15.0 m from any lot line, except where the lot line borders a residential zone, in which case the area, building or stand shall not be located any closer than 30.0 m from the lot line.

11.1.7 Other Regulations

- (a) Notwithstanding subsection 11.1.4(b), when a home based business, rural involves the cutting and wrapping of wild game or any meat, the lot must have a minimum lot area greater than 0.33 ha.
- (b) Major animal clinics or kennels and stables shall not be located on parcels less than 2.0 ha.
- (c) **Agricultural and garden stands** selling only produce grown on the site or another site operated by the same producer do not have a maximum area. The maximum gross floor area of stands selling produce that is produced off-site shall be 50.0 m². For sites within the **Agricultural Land Reserve**, the maximum gross floor area of agricultural and garden sales for produce produced off-site or off-farm products shall be the lesser of one-third of the total floor area of the agricultural and garden sales stand or 100.0 m².
- (d) In addition to the regulations listed above, other regulations may apply, including, but not limited to, other sections of this Zoning Bylaw, and any applicable regulations or requirements of the **Land Reserve Commission**.

- (e) An "s" notation shown on Schedule "A" as part of the identified zone classification indicates that a **secondary use** in the form of a **secondary suite** is permitted on the properties so designated, subject to meeting the conditions of use of the zone. An "s" zoning classification on a property shall be established by rezoning the subject property to the "s" version of parent zone.
- (f) A **secondary suite**, in accordance with Section 9.5, may only be located within a single detached **dwelling** or an **accessory building** to a single detached **dwelling** which is no closer than 5.0 m to the principal **building**.
- (g) **Intensive Agriculture** uses shall be located only within those areas designated for Intensive Agricultural Use in accordance with Schedule "A" attached to this Bylaw.
- (h) A **mobile home** may be considered a **secondary suite** within an **accessory building** only in an A1s – Agricultural 1 with Secondary Suite zone, provided that if the lot is in the **Agricultural Land Reserve**, the mobile home is for use only by immediate family as defined by the **Agricultural Land Commission**.

Comment [AB3]: New wording.

11.1.8 Other Regulations – Agri-tourist accommodation

- a) **Purpose**
Agri-tourist accommodation shall be **accessory** and subordinate to a legitimate agriculture operation. The intent is to augment or subsidize and not to replace or exceed farm income.
- b) **Farm status**
As per *Agricultural Land Commission* regulation, all or part of the lot on which the use is located must be classified as a farm under the *Assessment Act*.
- c) **Site coverage**
Site coverage for **agri-tourist accommodation** shall not exceed 5% inclusive of buildings, landscaping, access, and servicing/sanitary facilities.
- d) **Minimum lot size**
Agri-tourist accommodation shall not be located on lots smaller than 5.0 ha in size.
- e) **Maximum number of agri-tourist accommodation units permitted**
For lots larger than or equal to 5.0 ha in size, **agri-tourist accommodation** shall be permitted according to this formula: 1 **agri-tourist accommodation unit** per hectare, rounded down to the nearest whole hectare, to a maximum of 10 units.
(For example, a lot 7.9 ha in size would be permitted 7 **agri-tourist accommodation units**.)

f) Recreational vehicles

Of the permitted number of agri-tourist accommodation units, no more than 5 shall be recreational vehicle sites or campsites. No structures are permitted at recreational vehicle sites or at campsites.

g) Bed & breakfasts

When a bed and breakfast is present on the lot, the number of agri-tourist accommodation units permitted shall be inclusive of the bed and breakfast use.

h) Location

Agri-tourist accommodation shall be located so as to minimize the impacts on arable land, recognizing that the use is intended to support agriculture and not replace it. All agri-tourist accommodation units shall be located within 30.0 m of the road frontage for the lot, or within 30.0 m of the principal dwelling, or a location acceptable to the Director of Land Use Management. No agri-tourist accommodation shall be permitted to be located within 10.0 m of any lot line other than the front lot line.

i) Buffering and landscaping

Access driveways for agri-tourist accommodation shall be water permeable (i.e. not asphalt or concrete) and a Level 5 Landscape Buffer is required at an affected property line to mitigate the impact of agri-tourist accommodation on abutting properties.

j) Servicing

Agri-tourist accommodation shall be serviced according to the requirements of the City of Kelowna, the Health Authority, and the water purveyor or Irrigation District having authority, including but not limited to the following:

- i. A sanitary dump facility is to be provided on the property if the agri-tourist accommodation includes recreational vehicles.
- ii. Water and sewer connections are not permitted for individual recreational vehicle sites.
- iii. Adequate bathroom facilities with hot and cold running water are required for agri-tourist accommodation campsites.

Comment [AB4]: New subsection organizing agri-tourist accommodation regulation.

Schedule "A"
Text Amendment No. TA09-0006 – Proposed Text Amendments

Zoning Bylaw No. 8000		
No.	Section	Proposed Text
1	§2.3.3 General Definitions	<p>GREENHOUSES AND PLANT NURSERIES means development used primarily for the raising <u>cultivation</u>, storage and sale of produce, bedding, household and ornamental plants, and trees, bushes, sod and related materials and may include the accessory sale of landscaping and gardening products and materials such as tools, soil, and fertilizers, provided that this accessory use is limited to 400 m² on the lot. This use does not include landscaping, excavating or soil processing businesses or operations.</p>
2	§2.3.3 General Definitions	<p>nil</p> <p>AGRI-TOURISM means any <u>agri-tourism activity</u> defined under the <u>Agricultural Land Commission Act</u> and related regulation or policy, as amended from time to time.</p>
3	§2.3.3 General Definitions	<p>AGRI-TOURIST ACCOMMODATION means the accommodation for tourists on a farm, orchard, or ranch <u>vineyard</u> in association with an <u>agri-tourism activity</u> which is subordinate and secondary to the main <u>principal agricultural use</u>. Typical uses include but are not limited to <u>guest ranches</u>; <u>seasonal farm cabins</u> inns, bed and breakfasts, and campsites/recreational <u>vehicle pads</u>-sites. Short term, in this instance, means the use of the accommodation by a tourist for not more than 30 days in a calendar year. Seasonal, in this instance, means the accommodation must not be available for use year-round (with the exception of <u>bed and breakfasts within a principal dwelling</u>).</p>
4	§2.3.3 General Definitions	<p>nil</p> <p>AGRI-TOURIST ACCOMMODATION UNIT means 1 recreational vehicle site, 1 campsite suitable for 1 camping party, 1 bedroom within a <u>seasonal farm cabin</u>, or 1 bedroom within a <u>dwelling</u> (including <u>bed and breakfasts</u>).</p>
5	§2.3.3 General Definitions	<p>nil</p> <p>SEASONAL FARM CABIN means a <u>small</u> (maximum 2 bedroom) <u>accessory structure</u> providing bathroom(s) and sleeping accommodation for tourists as a permitted <u>agri-tourist accommodation unit</u>. A seasonal farm cabin is not permitted to contain a kitchen or to be used as a <u>residence or dwelling</u>.</p>

SCHEDULE "B"

Proposed Text Amendments

A1 – Agriculture 1 zone

(4 pages + cover sheet)

Section 11 – Agricultural Zones

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A1s – Agriculture 1 with Secondary Suite

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- b) Farm status

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- c) Site coverage

Site coverage for **agri-tourist accommodation** shall not exceed 5% inclusive of buildings, landscaping, access, and servicing/sanitary facilities.
- d) Minimum lot size

Agri-tourist accommodation shall not be located on **lots** smaller than 5.0 ha in size.
- e) Maximum number of agri-tourist accommodation units permitted

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