

Memo



Date: December 18, 2009
To: City Manager
From: Community Sustainability Division
Purpose: Supplemental Report for TA09-0006
Report Prepared by: Andrew Browne

1.0 RECOMMENDATION

THAT Council receives for information the Supplemental Report of the Community Sustainability Division dated December 18, 2009 with respect to the information requested from Staff for TA09-0006;

AND THAT Bylaw No. 10269 (TA09-0006) receives initial consideration;

AND FURTHER THAT Bylaw No. 10269 (TA09-0006) be forwarded to a Public Hearing for further consideration.

2.0 COUNCIL DIRECTION

At the December 14, 2009 regular meeting of Council, the following resolutions were adopted:

THAT Council directs staff to provide further clarity regarding Text Amendment No. TA09-0006 to amend City of Kelowna Zoning Bylaw No. 8000 so that the requested changes to the Zoning Bylaw are more clearly defined;

AND THAT a supplemental report be forwarded to Council for further consideration.

3.0 SUPPLEMENTAL INFORMATION

Clarification and/or additional information is provided below to address the specific concerns that were expressed by Council.

3.1 Bed & Breakfasts

Bed and breakfasts are a permitted use in a wide variety of zones, including most residential zones and the A1 - Agriculture 1 zone. This proposed text amendment does not propose to change this in any way.

As per ALC regulation, however, where both agri-tourist accommodation and bed and breakfast uses are established, bed and breakfast bedrooms must be included when determining the unit count of agri-tourist accommodation.

For the sake of clarity, the proposed change to the definition of 'agri-tourist accommodation' has been revised to delete reference to the bed and breakfast use, and the proposed change to the definition of 'agri-tourist accommodation unit' has been reworded. A revised "Schedule A" can be found attached to this report.

3.2 Nonconforming agri-tourist accommodation

The City Clerk has advised that for existing agri-tourist accommodation uses, the cessation of operation over the winter for longer than 6 months would not result in a loss of non-conforming use protection provided that this is normal practice for the business. An active business license

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must be maintained, and grandfathered operators must meet the currently existing requirements established by the Agricultural Land Commission.

3.3 Clarification of uses permitted for a given lot size

A table has been provided to indicate what uses are permitted given a particular lot size. Note that this table is not exhaustive and only refers to uses that are associated with the proposed text amendment. For convenience, both hectares and acre conversions are provided; however, the Zoning Bylaw text will only refer to metric units.

This table has also been incorporated into the draft body of the A1 - Agriculture 1 zone.

Lot size, hectares (acres)	< 5.0 (< 12.4)	5.00 to 5.99 (12.4 to 14.8)	6.00 to 6.99 (14.8 to 17.3)	7.00 to 7.99 (17.3 to 19.7)	8.00 to 8.99 (19.7 to 22.2)	9.00 to 9.99 (22.2 to 24.7)	≥ 10.00 (≥ 24.7)
Bed and breakfast	✓	✓	✓	✓	✓	✓	✓
Agri-tourism	✓	✓	✓	✓	✓	✓	✓
Agri-tourist accommodation units *	✗	5 units	6 units	7 units	8 units	9 units	10 units
Recreational vehicle sites	✗	5 units	5 units	5 units	5 units	5 units	5 units

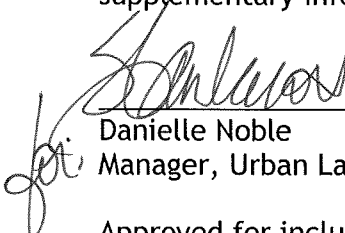
* Inclusive of recreational vehicle sites and bed and breakfast sleeping units, if present.

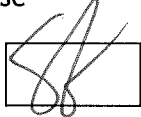
3.4 Clarification of changes / clearer formatting

Recognizing that Council does not receive colour copies, the proposed text changes have been more clearly identified with underlining for black-and-white legibility (attached).

3.5 Attachments from the presentation by the Regional Resource Stewardship Agrologist

In his presentation to Council on December 14, 2009, the Regional Resource Stewardship Agrologist from the Ministry of Agriculture and Lands provided handouts to Council as supplementary information and rationale, and they are attached for ease of reference.


Danielle Noble
Manager, Urban Land Use

Approved for inclusion: 
Shelley Gambacort
Director, Land Use Management

Attachments

Revised Schedule "A"

Revised Schedule "B"

Clarification of changes / clearer formatting (4 pages)

Handouts from the Regional Resource Stewardship Agrologist (7 pages)

Schedule "A" (as amended December 18, 2009)
Text Amendment No. TA09-0006 – Proposed Text Amendments

Zoning Bylaw No. 8000	
No.	Section
1	<p>GREENHOUSES AND PLANT NURSERIES means development used primarily for the raising and sale of produce, bedding, ornamental plants and related materials such as tools, soil, and fertilizers.</p>
2	<p>GREENHOUSES AND PLANT NURSERIES means development used primarily for the raising of produce, bedding, household, ornamental plants and related materials such as tools, soil, and fertilizers.</p>
3	<p>AGRI-TOURIST ACCOMMODATION means the seasonal availability of short term accommodation for tourists on a farm, orchard, or ranch which is subordinate and secondary to the main use. Typical uses include but are not limited to guest ranches, farm inns, bed and breakfasts, and campsites/recreational vehicle pads.</p>
4	<p>AGRI-TOURIST ACCOMMODATION UNIT means 1 recreational vehicle site, 1 campsite suitable for 1 camping party, 1 bedroom within a seasonal farm cabin, or 1 bedroom within a dwelling (including bed and breakfast sleeping units, if present).</p>
5	<p>SEASONAL FARM CABIN means a small (maximum 2 bedroom) accessory structure providing bathroom(s) and sleeping accommodation for tourists as a permitted agri-tourist accommodation unit. A seasonal farm cabin is not permitted to contain a kitchen or to be used as a residence or dwelling.</p>

SCHEDULE "B" (*Revised*)

Proposed Text Amendments

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)**

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.
- (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**.

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. A table is provided below for clarity.

Lot size (hectares)	< 5.0	5.00 to 5.99	6.00 to 6.99	7.00 to 7.99	8.00 to 8.99	9.00 to 9.99	≥ 10.00
Bed and breakfast	✓	✓	✓	✓	✓	✓	✓
Agri-tourism	✓	✓	✓	✓	✓	✓	✓
Agri-tourist accommodation units *	✗	5 units	6 units	7 units	8 units	9 units	10 units
Recreational vehicle sites	✗	5 units	5 units	5 units	5 units	5 units	5 units

* Inclusive of recreational vehicle sites and bed and breakfast sleeping units, if present.

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 sleeping units 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.

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 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 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

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

- 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.

Comment [AB5]: Purpose statement to clarify intent of the use.

- 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.

Comment [AB6]: Repeated from ALC regulation for convenience of public.

- c) Site coverage

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

Comment [AB7]: Repeated from ALC regulation for convenience of public.

- d) Minimum lot size

Agri-tourist accommodation shall not be located on lots smaller than 5.0 ha in size.

Comment [AB8]: New minimum lot size for the use.

- 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. A table is provided below for clarity.

Comment [AB9]: Establishes proportionality formula to link lot size and number of permitted units in a meaningful way.

Lot size (hectares)	< 5.0	5.00 to 5.99	6.00 to 6.99	7.00 to 7.99	8.00 to 8.99	9.00 to 9.99	≥ 10.00
Bed and breakfast	✓	✓	✓	✓	✓	✓	✓
Agri-tourism	✓	✓	✓	✓	✓	✓	✓
Agri-tourist accommodation units *	✗	5 units	6 units	7 units	8 units	9 units	10 units
Recreational vehicle sites	✗	5 units	5 units	5 units	5 units	5 units	5 units

* Inclusive of recreational vehicle sites and bed and breakfast sleeping units, if present.

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.

Comment [AB10]: Establishes specific limit on the number of recreational vehicles.

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 sleeping units of the bed and breakfast use.

Comment [AB11]: Repeated from ALC regulation for convenience of public.

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.

Comment [AB12]: Establishes siting criteria to limit the impact of the use on agricultural land.

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.

Comment [AB13]: Establishes buffering and landscaping requirements to ameliorate potential impacts on neighbours.

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 [AB14]: Flexible servicing criteria established in consultation with related departments and external agencies.