

# REPORT TO COUNCIL



**Date:** November 23, 2012  
**File:** 1200-30  
OCP12-0010 / BL 10746  
**To:** City Manager  
**From:** Long Range Planning Manager  
**Subject:** OCP 2030 Bylaw 10500 - Miscellaneous Amendments

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## Recommendation:

**THAT** Council receives, for information, the report from the Long Range Planning Manager dated November 23, 2012 with respect to proposed amendments to OCP 2030 Bylaw 10500;

**AND THAT** Bylaw No. 10746 being OCP12-0010 - Miscellaneous Amendments to the Kelowna 2030 Official Community Plan be considered by Council;

**AND THAT** after 1<sup>st</sup> reading Council directs staff to forward OCP Amendment Bylaw No. 10746 being an amendment to Bylaw No. 10500 Kelowna 2030 - Official Community Plan to the Agricultural Land Commission (ALC) for comments as per Local Government Act Section 882(3)(c);

**AND FURTHER THAT** Council direct staff to pursue the consultation process outlined in the report from the Long Range Planning Manger dated November 23, 2012 and report back to Council prior to scheduling OCP Bylaw No. 10746 to a Public Hearing.

## Purpose:

To proceed with an amendment to the OCP to change the Permanent Growth Boundary (PGB) to incorporate UBC properties within the PGB and to pursue other staff-initiated changes to land use designation definitions, mapping notes, temporary use permits, riparian management area language and policy to limit rural development outside the PGB.

## Background:

At the Council Meeting of May 30, 2011 the following resolution was adopted:

THAT Council directs staff, as part of the next set of staff-initiated Kelowna 2030 Official Community Plan Bylaw amendments, to hold further discussions with University of British Columbia staff with respect to the concerns raised by the representative of the University of British Columbia with respect to the University of British Columbia-Okanagan lands during the Kelowna 2030 Official Community Plan Public Hearing. (SR #197537)

A handwritten signature in black ink, appearing to be the initials "M" or "N" followed by a flourish.

## Staff Initiated Amendments

### a) Subdivision of land outside the PGB

Staff propose that the language in OCP 2030 related to the Resource Protection Area, mapping notes for the Permanent Growth Boundary, and Policy 5.3.1 Permanent Growth Boundary be amended to regulate large lot rural subdivisions on non-ALR land outside the PGB (See Attachment 1).

The previous OCP did not support subdivision of lands outside the Urban - Rural / Agricultural Boundary. That language was not carried forward to the new OCP and the potential for large lot rural subdivision could circumvent OCP objectives to contain urban growth, promote compact urban form and reduce sprawl.

### b) Provision for Agri-Businesses

There is an application before Council (third reading) to amend the OCP to allow a proposed Granville Island style market and Farmer's Market. That application proposes the creation of a new OCP land use designation called "Agri-Business" which would allow certain types of businesses in agricultural areas outside the PGB. A number of alternatives were considered. The new Agri-Business land use designation will make it easier for farming related businesses to set up shop while still requiring ALC approval.

It is proposed that OCP Policy 5.3.1 be amended to exempt sites designated as Agri-Business (See Attachment 1) from the requirement to adhere to land use designations as adopted by Council on May 30, 2011 given that the proposed Agri-Business designation did not exist at that time.

### c) Temporary Use Permits

It is proposed that Table 4.3 Temporary Use Permits (TUP) be removed and replaced with language that indicates where a TUP may be supported. A TUP will still require Council approval, but this change removes the need to amend the OCP to update the table every time Council wishes to grant a TUP. The proposed language provides the potential for a TUP inside the PGB on lands designated in OCP 2030 as Commercial, Education / Institutional, Industrial, Mixed Use or Public Service / Utility. The proposed language also provides for a TUP outside the PGB on Resource Protection Area designated lands with a stated time period considerably less than the maximum three (3) year time limit, but such uses will require approval from the Agricultural Land Commission for any properties in the ALR.

The specific properties identified in the table will be replaced by a Land Use Management process to provide notes on relevant properties indicating the time / expiry dates of any TUP's for tracking purposes and to ensure business licenses are not issued erroneously.

### d) Convenience Facility (Commercial)

It is proposed that the Single / Two Unit Residential (S2RES) designation and the legend of Map 4.1 Generalized Future Land Use be amended (see Attachment 1) to provide for convenience commercial uses as an integral part of residential neighbourhoods.

Convenience commercial sites would be based on the definition of Convenience Facility in Chapter 17 that limits locations to arterial or collector roads, limits the size of a facility and limits the proximity to other commercial centres. This proposed change would mean that low intensity convenience commercial development in residential areas could be approved without the need for an OCP amendment. Convenience commercial proposals would still require Council approval of a rezoning to C1 Local Commercial, including the associated public process, and a Development Permit.

#### e) Riparian Management Areas

Currently the OCP provides policy on the ability to vary the width of a Riparian Management Area (RMA) but that policy could benefit from further refinement to specify that any variation would be based on a “no net loss” approach. In addition, the current policy contains language on how such a variation would be processed that would be more suited for inclusion as part of the Natural Environment DP Guidelines.

#### UBC Related Amendments

In a letter dated July 26, 2011, lawyers for UBC notified the City that UBC felt they had sustained damages as a consequence of adoption of the OCP. The letter of intent cited a breach of the City’s duty of good faith and a breach of certain terms of the agreement for purchase of the lands from the City. Although the existence of UBC’s claim must be disclosed prior to any public hearing related to this OCP amendment, staff recommend that UBC’s notice not be considered an influencing factor in Council’s consideration of this report.

On-going discussions have been held with UBC staff throughout the balance of 2011 (beginning prior to the notice of claim letter) and into 2012 attempting to resolve UBC concerns related to language of the Resource Protection Area designation and the Permanent Growth Boundary (PGB). As the subject lands west of the current campus are in the Agricultural Land Reserve (ALR) there have also been discussions with Agricultural Land Commission (ALC) staff.

Staff propose that the Permanent Growth Boundary as indicated in Maps 4.1 and 5.2 be amended to include UBC properties west of the current campus inside the boundary (See Attachments 2 & 3). However, rather than remaining designated as Resource Protection Area, UBC has requested that the land use designation be returned to the Rural / Agricultural designation from the 2020 OCP.

The OCP does not support more intensive uses outside the PGB. There is no language saying that the OCP would support development on Rural / Agricultural or Resource Protection Area designated properties inside the PGB. In fact, both the Rural / Agricultural and Resource Protection Area designations specify that land will not be supported for exclusion from the ALR or for more intensive development than allowed under current zoning regulations. Staff recommend more detailed planning on the UBC (former Tutt Ranch) lands prior to considering any non-agricultural uses on site.

**Internal Circulation:**

Acting General Manager of Community Sustainability  
Council Services Supervisor  
Urban Land Use Manager  
Environment & Land Use Manager  
Subdivision Approving Officer

**Legal / Statutory Authority:**

Local Government Act Part 26: Division 2 - Official Community Plans, Sections 875 - 882.

**Legal/Statutory Procedural Requirements:**

Local Government Act Section 882(3) specifies that after first reading (and prior to Public Hearing) of an Official Community Plan bylaw the local government must, in sequence, consider the plan in conjunction with its financial plan and any waste management plan applicable. The local government must also refer the plan to the Agricultural Land Commission (ALC) for comment if the plan applies to land in an agricultural land reserve established under the Agricultural Land Commission Act.

**External Agency/Public Comments:**

As part of the OCP approval in 2011, Bylaw 10500 was referred to the ALC. In response to that circulation, the ALC expressed a desire to not see any ALR lands included within the PGB. The former Tutt Ranch lands acquired by UBC from the City are in the ALR.

UBC was made aware of the City's intention to move forward with a change to the PGB and retain the current designation of Resource Protection Area. In response UBC indicated that it would be their preference to have the lands returned to the Rural / Agricultural designation as it existed in the 2020 OCP, and that is what is now being recommended by staff.

**Communications Comments:**

Local Government Act Section 879 (1) specifies that a local government must, during the development, repeal or amendment of an official community plan, provide one or more opportunities it considers appropriate for consultation with persons, organizations and authorities it considers will be affected. This consultation is in addition to the required public hearing.

The requirement for consultation over and above the Public Hearing will be addressed by advertising in a local newspaper, posting information on the website and notification through e-subscribe, with contact information for the Long Range Planning Manager to field inquiries and comments. The results of that consultation will be provided to Council at the Public Hearing.

There are 19 properties included in this OCP amendment. All those properties are owned by the same owner (UBC). It is required that all property owners within 50m of the subject properties be notified in writing of the proposed OCP amendment. Staff propose to provide that notification as part of the formal Public Hearing process.

**Existing Policy:**

Kelowna OCP 2030 Bylaw 10500.

**Considerations not applicable to this report:**

**Financial/Budgetary Considerations:**

**Personnel Implications:**

**Alternate Recommendation:**

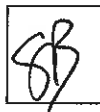
Submitted by:



Gary Stephen, Long Range Planning Manager  
Policy and Planning

**Approved for inclusion:**

Signe Bagh, Director of Policy & Planning



cc: Acting General Manager, Community Sustainability  
Council Services Supervisor  
Urban Land Use Manager  
Environment & Land Use Manager  
Subdivision Approving Officer

## Attachment 1

### Proposed OCP Amendments

1. Amend Chapter 4 - Resource Protection Area Designation (proposed wording is in underlined text; wording to be deleted in ~~strikethrough~~):

#### **Resource Protection Area (REP)**

Rural land preserved for agricultural, environmental and recreational purposes, including the ALR, other resource lands with environmental value and protected natural open spaces, including private open space, steeply sloped lands, Natural Environment/Hazardous Condition DP Areas, and other natural features such as watercourses, water bodies, wetlands, plant and wildlife habitat, and significant aesthetic value. Allowable uses would be agriculture / resource use including farming, forestry, wood lots and silviculture as well as public or private open space on lands considered environmentally sensitive or hazardous (steep slopes). Generally land areas within this designation (whether they are within the permanent growth boundary or not) will not be supported for exclusion from the ALR or for more intensive development than that allowed under current zoning regulations, except in specific circumstances where the City of Kelowna will allow exceptions to satisfy civic objectives for the provision of park/recreation uses. Non-ALR land outside the Permanent Growth Boundary will not be supported for any further parcelization. Minimum parcel size for ALR land is 2.0 ha and non-ALR land is 4.0 ha as indicated in the A1 Agricultural Zone of Zoning Bylaw 8000.

2. Amend Chapter 4 - Future Land Use to add a new designation for Rural / Agricultural (proposed wording is in underlined text):

#### **Rural / Agricultural (RUAG)**

Land within the Agricultural Land Reserve and other rural farm and non-farm lands where natural physical constraints or lack of services and utilities limit land use intensification. Generally land areas within this designation will not be supported for exclusion from the ALR or for more intensive development than that allowed under current zoning regulations, except in specific circumstances where the City of Kelowna will allow exceptions to satisfy civic objectives for the provision of industrial or park/recreation uses. Non-ALR lands will generally not be supported for development to parcel sizes less than 4.0 ha (10 acres).

3. Amend Chapter 4 - Single / Two Unit Residential (S2RES) Designation (proposed wording is in underlined text):

#### **Single / Two Unit Residential (S2RES)**

Single detached homes for occupancy by one family, single detached homes with a secondary suite, semi-detached buildings used for two dwelling units, modular homes, bareland strata, and those complementary uses (i.e. minor care centres, minor public services/utilities, convenience facility and neighbourhood parks), which are integral components of urban neighbourhoods. Suitability of non-residential developments within the neighbourhood environment will be determined on a site-specific basis. Non-residential developments causing increases in traffic, parking demands or noise in excess of what would typically be experienced in a low density neighbourhood would not be considered suitable.

4. Amend Chapter 4 - **Mapping Notes - Permanent Growth Boundary** (proposed wording is in underlined text):

**Permanent Growth Boundary (PGB)**

Lands within the permanent growth boundary may be considered for urban uses within the 20 year planning horizon ending 2030. Lands designated as Future Urban Reserve within the permanent growth boundary may be considered for urban uses beyond 2030. Lands outside the permanent growth boundary will not be supported for urban uses. Non-ALR land outside the Permanent Growth Boundary will not be supported for any further parcelization.

5. Amend Chapter 4 - **Temporary Use Permits (TUP)** (proposed wording is in underlined text; wording to be deleted in ~~strikethrough~~):

**Temporary Use Permits (TUP)**

In accordance with the Local Government Act (Sections 879 and 921), an Official Community Plan may designate areas where Council may consider allowing temporary uses, and may specify general conditions regarding the issuance of temporary use permits in those areas.

The temporary use designation is intended to apply to operations that are temporary in nature and the designation does not in itself permit specific uses on the designated sites. Within these areas, Council may, by resolution, issue a Temporary Use Permit and specify the conditions under which the temporary use be carried on. Upon the expiration of a Temporary Use Permit, the permitted uses revert to those outlined in the City of Kelowna Zoning Bylaw 8000.

Temporary Use Permits may be considered within the Permanent Growth Boundary (PGB) on all lands designated in OCP 2030 as Commercial, Education / Institutional, Industrial, Mixed Use or Public Service / Utility.

Temporary Use Permits outside the PGB may be considered on lands designated Resource Protection Area, with a stated time period considerably less than the maximum three (3) year time limit. A Temporary Use Permit on lands in the ALR will require the approval of the Agricultural Land Commission.

All Temporary Use Permits must conform to other policy direction in this OCP, including fit within the character of the neighbourhood and surrounding uses. Appropriate landscaping, screening and buffering will be included as conditions of the permit to protect adjacent land uses.

~~The properties listed below are hereby designated as Temporary Use Permit Areas:~~



**Table 4.3 Temporary Use Permits**

| Temporary Use Type  | Effective Dates   | Designated Permit Area   |
|---|---|--|
| Non-Accessory Parking use for a portion of the Church parking area. | Three years from date of issuance – November 15, 2014     | Legal Address:<br>Lot 1, District Lots 14 & 135, ODYD, Plan 34984 except Plans 35454 & KAP67299<br>Street:<br>3131 Lakeshore Road  |
| Automotive and minor recreation vehicle sales / rental.             | Three years from the date of issuance – February 21, 2015 | Legal Address:<br>Lot A, Section 35, Township 26, O.D.Y.D., Plan 6372, and<br>Lot B, Section 35, Township 26, O.D.Y.D., Plan 6372<br>Street: 3865 – 3867 Hwy 97 N<br>2170 Rutland Road N |
| Non-Accessory Parking Use for Temporary Gyro Beach Parking Area     | From final date of adoption until June 7, 2015            | Legal Address:<br>Lot 27, District Lot 14, ODYD, Plan 2078<br>Street: 3326 Lakeshore Road  |

- Amend Map 4.1 **Generalized Future Land Use** to extend the Permanent Growth Boundary to include UBCO properties west of the current campus as indicated in Attachment 2.
- Amend Map 4.1 **Generalized Future Land Use** by changing the legend for Single / Two Unit Residential (S2RES) (proposed wording is in underlined text):

**Single / Two Unit Residential (S2RES)**

(Associated uses: care centres; minor public services / utilities, convenience facility & neighbourhood park)

- Amend Policy 5.3.1 **Permanent Growth Boundary** (proposed wording is in underlined text; wording to be deleted in ~~strikethrough~~):

**Permanent Growth Boundary.** Establish a Permanent Growth Boundary as identified on Map 4.1 and Map 5.2. The City of Kelowna will support ~~Support~~ development of property outside the Permanent Growth Boundary for more intensive use only to the extent permitted as per the OCP Future Land Use designations in place as of initial adoption of OCP Bylaw 10500, except for Agri-Business designated sites or as per Council’s specific amendment of this policy. ~~Resource Protection Area designated properties not in the ALR and outside the Permanent Growth Boundary will not be supported for subdivision below parcel sizes of 4.0 ha (10 acres).~~ The Permanent Growth Boundary may be reviewed as part of the next major OCP update.

- Amend Map 5.2 **Permanent Growth Boundary** to extend the Permanent Growth Boundary to include UBCO properties west of the current campus as indicated in Attachment 3.



10. Amend Policy 5.15.10 **Varying Requirements** (proposed wording is in underlined text; wording to be deleted in ~~strikethrough~~):

**Varying Requirements.** Retain the option to vary the width of Riparian Management Areas to accommodate the maximum retention of desirable natural vegetation and wildlife habitat, ground formations, and water features through a “no net loss” approach. ~~Any proposed relaxation of stream setback widths, storm water requirements, erosion and sediment control requirements are to be referred to the City for review prior to filing the assessment report by a Qualified Environmental Professional (QEP) with the appropriate provincial ministry or agency. Within the Riparian Management Area (RMA), restoration of streamside vegetation may be a requirement of the development process.~~

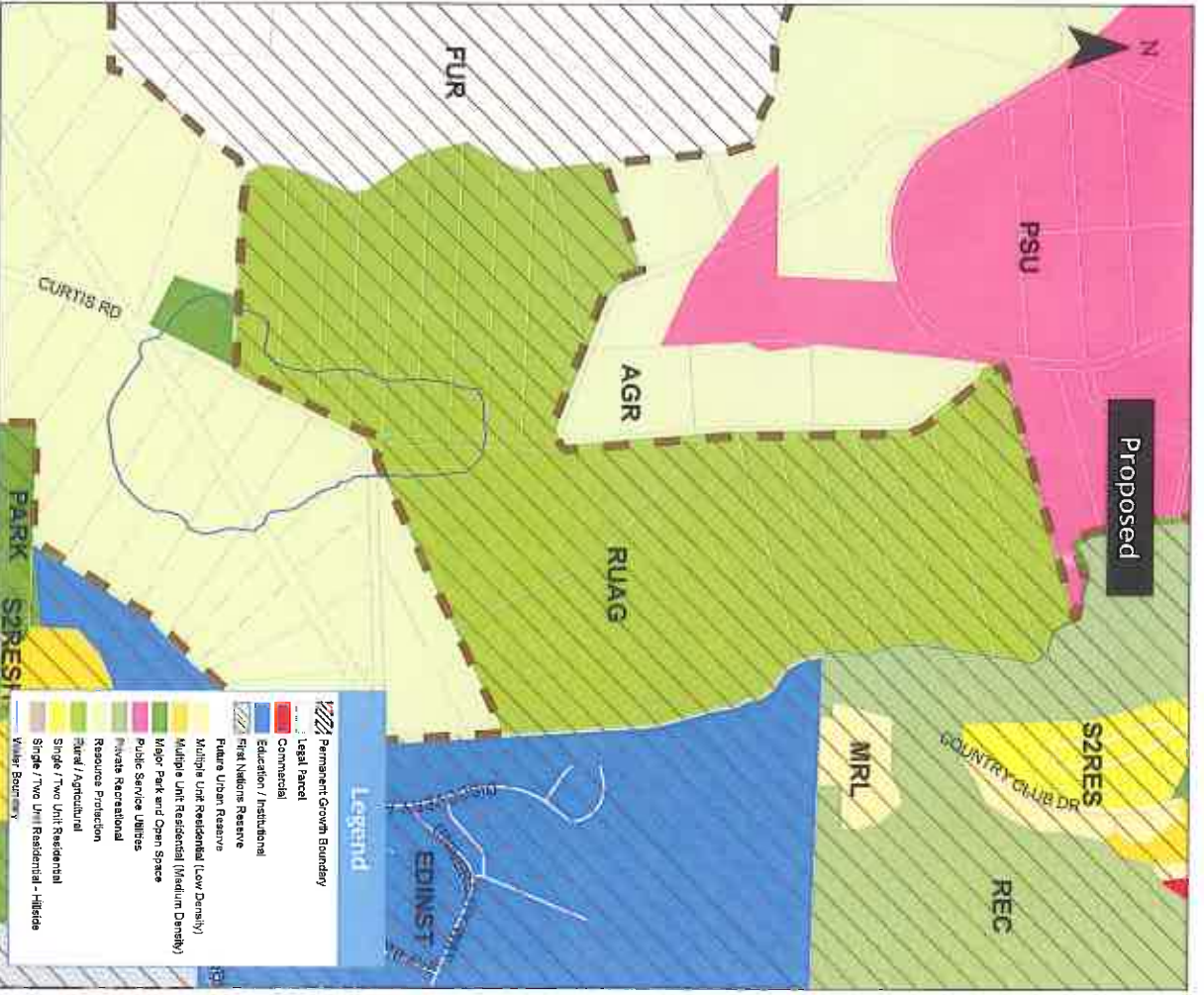
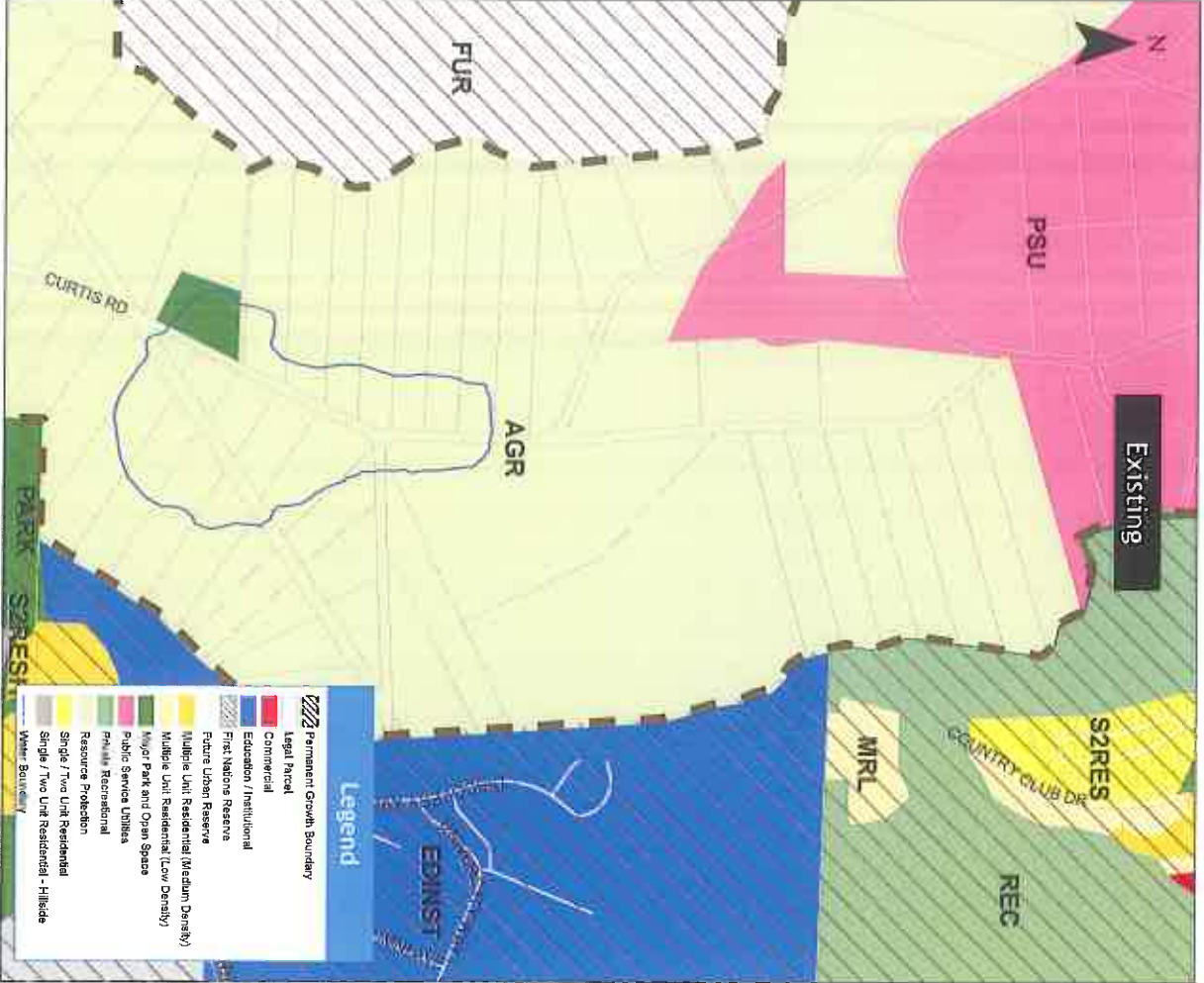
11. Amend Chapter 12 - **Natural Environment DP Guidelines - Guideline 12.3** (proposed wording is in underlined text; wording to be deleted in ~~strikethrough~~):

Applicants may apply to ~~flex~~ vary the width of the Riparian Management Areas listed in Table 12.1. The City will only consider supporting an application to flex vary in order to achieve “no net loss” and where an assessment report has been completed and provides recommendations in accordance with the Riparian Areas Regulation to protect the integrity of the riparian area. ~~Any proposed relaxation of stream setback widths, storm water requirements, erosion and sediment control requirements are to be referred to the City for review prior to filing the assessment report by a Qualified Environmental Professional (QEP) with the appropriate provincial ministry or agency. Within the Riparian Management Area (RMA), restoration of streamside vegetation may be a requirement of the development process.~~

12. Amend Chapter 12 - **Natural Environment DP Guidelines - Notes for Table 12.1** (proposed wording is in underlined text):

**Notes for Table 12.1**

1. Any watercourse not in this list is subject to the provincial acts and regulations.
2. Measured perpendicularly inland from the top of the bank, top of ravine or natural boundary, as applicable. RMA's apply to both sides of the stream.
3. Minimum RMA widths are intended to achieve “no net loss” when considering individual site conditions.



# Proposed OCP Land Use Amendments

## Bylaw #10746 - Attachment # 2

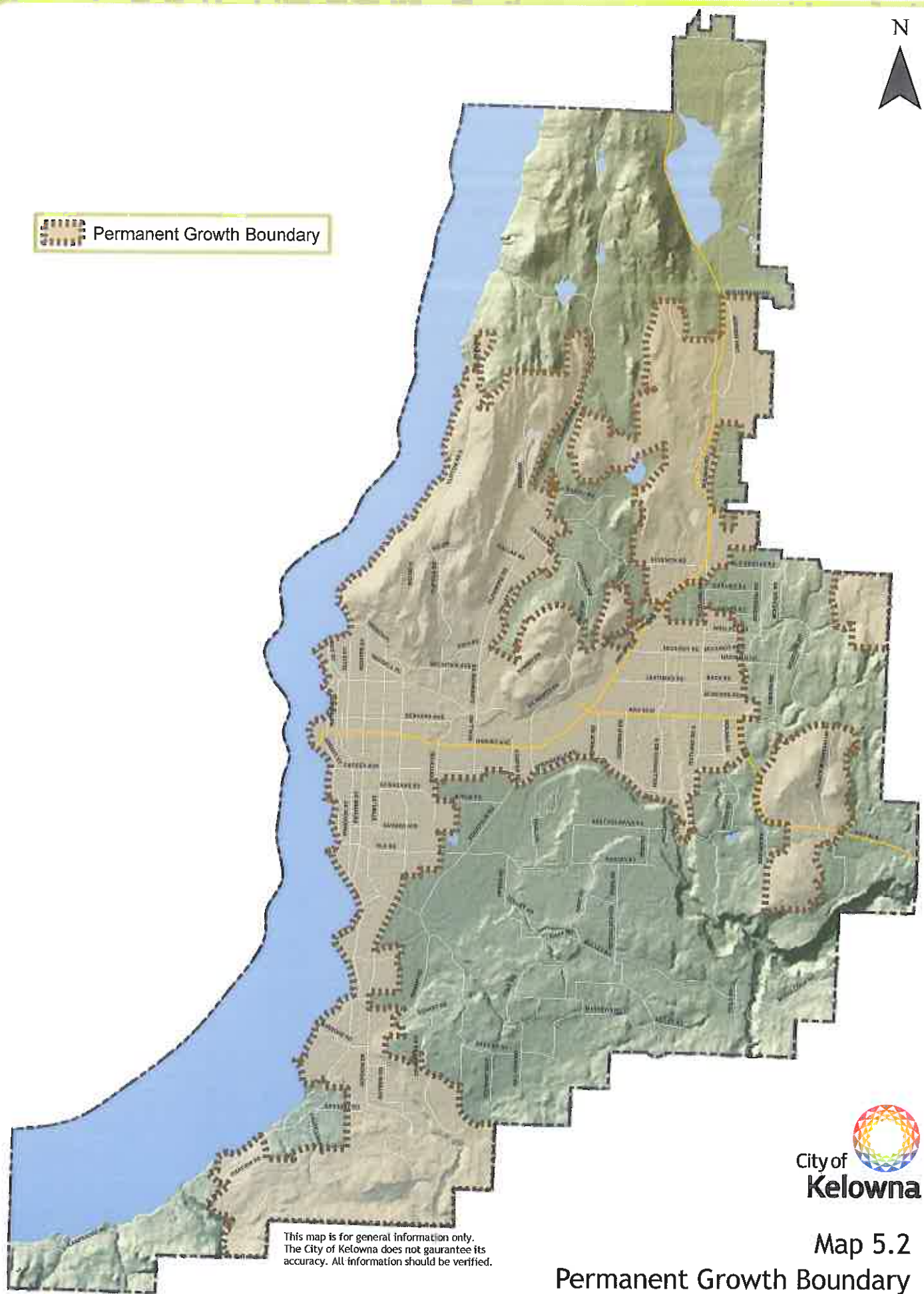
December 2012







 Permanent Growth Boundary



This map is for general information only.  
The City of Kelowna does not guarantee its  
accuracy. All information should be verified.



Rev. October/12



## Map 5.2 Permanent Growth Boundary

Official Community Plan 2030