

ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: B. Newell, Chief Administrative Officer

DATE: April 7, 2022

RE: OCP Bylaw Amendments – Electoral Areas “A”, “C”, “D”, “E”, “F”, “H”, & “I” (X2022.001-ZONE)

Administrative Recommendation:

THAT Bylaw No. 2569, 2022, being a bylaw to amend the Electoral Area “A”, “C”, “D”, “E”, “F”, “H”, and “I” Official Community Plan Bylaws to include policy statements which outline decision-making criteria with respect to the issuance of Temporary Use Permits (TUP) for temporary farm worker accommodation be read a first and second time and proceed to public hearing;

AND THAT the Board of Directors considers the process, as outlined in this report from the Chief Administrative Officer dated April 7, 2022, to be appropriate consultation for the purpose of Section 475 of the *Local Government Act*;

AND THAT, in accordance with Section 477 of the *Local Government Act*, the Board of Directors has considered Bylaw No. 2569, 2022, in conjunction with its Financial and applicable Waste Management Plans;

AND THAT the holding of a public hearing be scheduled for the Regional District Board meeting of May 5, 2022;

AND THAT staff give notice of the public hearing in accordance with the requirements of the *Local Government Act*.

Background:

At present, the Electoral Area OCP bylaws present a mix of policy directions regarding the provision of accommodation, specifically for farm labourers.

In Electoral Area “C”, support is expressed for the establishment of “housing for year-round farm help and seasonal farm workers”, while in Area “D” the Plan speaks to restricting the development of dwellings in the Agricultural Land Reserve (ALR) to single farm residences in order to avoid “a situation that encourages a proliferation of non-farm residential development.”

The Area “E” Plan speaks to supporting secondary dwelling applications in the ALR that are “reflective of the views of the farming community”, while the Area “F” & “I” Plans speak to supporting “second dwellings within the ALR where they are used to support agricultural activities and purposes (e.g., workers’ housing).” Both the Area “A” & “H” Plans are silent on the matter.

In support of these policy directions, all of the Electoral Area zoning bylaws contain flexible provisions for the development of accessory dwellings on Rural zoned parcels:

This zoning regulation was revised in 2017 as part of the Agriculture Zone Update and attempted to respond to federal government requirements mandating certain accommodation standards (i.e. floor area) for its foreign farm worker program. Prior to 2017, the floor area allowances for accessory dwellings could not be combined to make a larger dwelling unit.

Federal Seasonal Agricultural Worker Program (SAWP):

In late 2020 and early 2021, the Regional District received a number of referrals from the Agricultural Land Commission (ALC) regarding

PARCEL AREA	MAXIMUM NUMBER OF SECONDARY SUITES OR ACCESSORY DWELLINGS	MAXIMUM GROSS FLOOR AREA OF ALL SECONDARY SUITES AND ACCESSORY DWELLINGS PER PARCEL
Less than 8.0 ha	1	125 m ²
8.0 ha to 11.9 ha	2	250 m ²
12.0 ha to 15.9 ha	3	375 m ²
Greater than 16.0 ha	4	500 m ²

proposals seeking approval for accessory dwellings that exceeded current zoning regulations.

It is understood that these proposals were related to eligibility requirements comprised within the federal government’s Seasonal Agricultural Worker Program (SAWP); specifically:

Employers must provide TFWs [temporary farm workers] with adequate, suitable and affordable housing as defined by Canada Mortgage and Housing Corporation. Housing may be located on the farm or off-site. Employers must ensure that the occupancy rate for each unit does not exceed the maximum allowable occupancy rate. Employers must also ensure that sufficient accommodation is available for all TFWs. They also need to guarantee the number of accommodation places per approved housing from the date of arrival to the date of departure.

While the Board was generally supportive of these applications, Administration’s recommendations were informed by the existing zoning regulations and spoke against the proposals.

Temporary Use Permits:

To ensure the Regional District’s bylaws reflect the Board’s position on the provision of accommodation for farm labour, a policy regarding the use of Temporary Use Permits (TUPs) that is similar to the approach previously applied by the Board to vacation rentals has been prepared.

Section 493 of the *Local Government Act* authorizes local governments to issue temporary use permits, which may do one or more of the following:

1. allow a use not permitted by a zoning bylaw;
2. specify conditions under which the temporary use may be carried on;
3. allow and regulate the construction of buildings or structures in respect of the use for which the permit is issued.

Referrals:

Pursuant to Section 476 of the *Local Government Act*, the Regional District must consult with the relevant School District when proposing to amend an OCP for an area that includes the whole or any part of that School District. In this instance, School District No. 53, 58, and 67 have been made aware of the proposed amendment bylaw.

Pursuant to Section 477 of the *Local Government Act*, after first reading the Regional Board must consider the proposed OCP amendment in conjunction with Regional District's current financial and waste management plans. The proposed OCP amendment has been reviewed by the Public Works Department and Finance Department, and it has been determined that the proposed bylaw is consistent with RDOS's current waste management plan and financial plan.

Pursuant to Section 475 of the *Local Government Act*, the Regional District must consult with the Agricultural Land Commission (ALC) when proposing to amend an OCP which might affect agricultural lands in the Agricultural Land Reserve (ALR). Both the ALC and the Ministry of Agriculture have been made aware of the proposed amendment bylaws.

Public Process:

February 24, 2022 - a Public Information Meeting (PIM) was held electronically via Webex and was attended by five members of the public.

Bylaw No. 2569, 2022 was considered by the Electoral Area Advisory Planning Commissions (APCs). The following is a summary of the recommendations provided by the APCs:

APC	Date	Recommendation
Area "A"	2022-03-14	That the proposed amendment bylaw be supported.
Area "C"	2022-03-15	That the proposed amendment bylaw be supported.
Area "D"	2022-03-08	That the proposed amendment bylaw be supported.
Area "E"	2022-03-14	[No quorum]
Area "F"	2022-02-28	That the proposed amendment bylaw be supported.
Area "H"	2022-03-15	That the proposed amendment bylaw be supported.
Area "I"	2022-03-16	That the proposed amendment bylaw be supported.

The advertisement of the proposed amendments (via social media, the Regional District website, mass phone and email notification system, and notification of local agricultural cooperatives), the public meetings as well as formal referral to the agencies listed at Attachment No. 1, should be considered appropriate consultation for the purpose of Section 475 of the *Local Government Act*. As such, the consultation process undertaken is seen to be sufficiently early and does not need to further ongoing.

All comments received to date in relation to this application are included as a separate item on the Board Agenda.

Analysis:

As farm worker accommodation is not explicitly permitted in any zone across the Regional District Electoral Areas, a temporary use permit may be issued in order to permit the use, subject to certain conditions, for a specified length of time.

Given the potential impact that the construction of buildings or structures may have on the long-term viability of agricultural land, a temporary use permit is seen to provide an avenue for the Regional District to assess the initial and continued need for farm worker accommodation and the impact of the accommodation use on the land.

In order to assess whether a proposal to construct or place farm worker accommodation is appropriate, the Board may want to adopt standardized decision-making criteria through the introduction of a new policy statement under the "Agriculture" section of Electoral Area OCP bylaws.

Establishing clear, standardized criteria would provide clarity in terms of the types of supporting information which should be included with temporary use permit applications for farm worker accommodation. This could include information regarding the current farm operation, proposed number and roles of farm labourers, and the proposed nature of the accommodation units (i.e., siting, infrastructure, permanency, etc.).

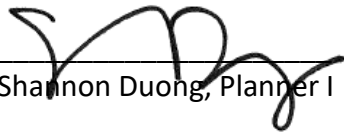
In order to mitigate the impacts of residential uses on agricultural parcels, it is further proposed that conditions be established to ensure that accommodation units are constructed or placed in such a way where they are temporary and/or may be easily removed from the property should the farm worker accommodation use cease.

Additionally, it is being proposed that certain conditions which may be applied to temporary use permits to ensure that they are restricted to farm worker accommodation use only be established.

Alternatives:

1. THAT Bylaw No. 2569, 2022, being a bylaw to amend the Electoral Area "A", "C", "D", "E", "F", "H", and "I" Official Community Plan Bylaws be denied.

Respectfully submitted:



Shannon Duong, Planner I

Endorsed By:



C. Garrish, Planning Manager

Attachments: No. 1 – Agency Referral List
No. 2 – Previous ALC Referrals

Attachment No. 1 – Agency Referral List

Referrals to be sent to the following agencies as highlighted with a , prior to the Board considering adoption of Amendment Bylaw No. 2959, 2022.

<input checked="" type="checkbox"/>	Agricultural Land Commission (ALC)	<input checked="" type="checkbox"/>	Fortis
<input checked="" type="checkbox"/>	Interior Health Authority (IHA)	<input checked="" type="checkbox"/>	City of Penticton
<input checked="" type="checkbox"/>	Ministry of Agriculture	<input checked="" type="checkbox"/>	District of Summerland
<input type="checkbox"/>	Ministry of Energy, Mines & Petroleum Resources	<input checked="" type="checkbox"/>	Town of Oliver
<input type="checkbox"/>	Ministry of Municipal Affairs & Housing	<input checked="" type="checkbox"/>	Town of Osoyoos
<input type="checkbox"/>	Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Ecosystem Section)	<input checked="" type="checkbox"/>	Town of Princeton
<input type="checkbox"/>	Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Archaeology Branch)	<input checked="" type="checkbox"/>	Village of Keremeos
<input type="checkbox"/>	Ministry of Jobs, Trade & Technology	<input checked="" type="checkbox"/>	Okanagan Nation Alliance (ONA)
<input type="checkbox"/>	Ministry of Transportation and Infrastructure	<input checked="" type="checkbox"/>	Penticton Indian Band (PIB)
<input type="checkbox"/>	Integrated Land Management Bureau	<input checked="" type="checkbox"/>	Osoyoos Indian Band (OIB)
<input type="checkbox"/>	BC Parks	<input checked="" type="checkbox"/>	Upper Similkameen Indian Band (USIB)
<input checked="" type="checkbox"/>	School District #53 (Areas A, B, C, D & G)	<input checked="" type="checkbox"/>	Lower Similkameen Indian Band (LSIB)
<input checked="" type="checkbox"/>	School District #58 (Area H)	<input type="checkbox"/>	Environment Canada
<input checked="" type="checkbox"/>	School District #67 (Areas D, E, F, I)	<input type="checkbox"/>	Fisheries and Oceans Canada
<input checked="" type="checkbox"/>	Central Okanagan Regional District	<input type="checkbox"/>	Canadian Wildlife Services
<input checked="" type="checkbox"/>	Kootenay Boundary Regional District	<input type="checkbox"/>	OK Falls Irrigation District
<input checked="" type="checkbox"/>	Thompson-Nicola Regional District	<input type="checkbox"/>	Kaleden Irrigation District
<input checked="" type="checkbox"/>	North Okanagan Regional District	<input checked="" type="checkbox"/>	Public Works (Water Areas C, D, E, F; Sewer Area D)
<input checked="" type="checkbox"/>	Fraser Valley Regional District		

Attachment No. 2 – Previous ALC Referrals

Electoral Area	Address	Proposal	Property Size	Number of Existing Dwellings	Administrative Recommendation	Board Decision
Electoral Area "C"	105 Park Rill	to construct a 156 m ² dwelling for farm worker housing	8.5 ha	1 single detached dwelling 1 accessory dwelling	to not "authorize" the application to proceed to the ALC	to "authorize" the application to proceed to the ALC
	7622 Highway 97	to construct farm worker housing	3.1 ha	1 single detached dwelling	to not "authorize" the application to proceed to the ALC	to "authorize" the application to proceed to the ALC
	376 Road 6	to construct a 256 m ² dwelling for farm worker housing	4.5 ha	1 single detached dwelling	to not "authorize" the application to proceed to the ALC	to "authorize" the application to proceed to the ALC
	363/373 Road 14	to construct a 39 m ² dwelling for farm worker housing	4.1 ha	1 single detached dwelling 1 accessory dwelling	to not "authorize" the application to proceed to the ALC	to not "authorize" the application to proceed to the ALC
	300 Road 20	to construct a 256 m ² dwelling for farm worker housing	4 ha	1 mobile home	to not "authorize" the application to proceed to the ALC	to "authorize" the application to proceed to the ALC
	5475 Sumac St	To construct a 335 m ² dwelling for farm worker housing	2.8 ha	1 single detached dwelling	to not "authorize" the application to proceed to the ALC	to "authorize" the application to proceed to the ALC

Electoral Area “E”	945 Old Main Rd	to remove and replace an existing farmhouse, service building and accessory dwelling located above the service building; a new 140 m ² accessory dwelling would be constructed above the new service buildings for farm worker housing	4.07 ha	1 single detached dwelling 1 accessory dwelling	to “authorize” the application to proceed to the ALC	to “authorize” the application to proceed to the ALC
	2185 Naramata Rd	to convert a vineyard worker cleanup space into a residence for a vineyard worker	2.5 ha	1 single detached dwelling	to “authorize” the application to proceed to the ALC	to “authorize” the application to proceed to the ALC
Electoral Area “H”	1029 Highway 5A	to construct accommodation above a barn for farm worker housing	9.58 ha	1 single detached dwelling	to “authorize” the application to proceed to the ALC	to “authorize” the application to proceed to the ALC