



March 10, 2022

File: 0280-30

Local Government File: X2022.001 - ZONE

Shannon Duong, Planner I
Regional District of Okanagan-
Similkameen Via Email:
planning@rdos.bc.ca

Dear Shannon Duong,

Re: Farm Labour Accommodation TUP Policies Amendment Bylaw No. 2956, 2022.

Thank you for providing the Ministry of Agriculture, Food and Fisheries (ministry) staff the opportunity to comment on new policy statements to establish standardized decision-making criteria to assess Temporary Use Permits (TUPs) for farm worker accommodations; establish conditions which may be applied to TUPs for farm worker accommodations; and introduce a new consistent supporting policy statement across Electoral Area Official Community Plan (OCP) bylaws to support agricultural activities and purposes.

Overall, the policies seem relatively consistent with the Minister's Bylaw Standard on Temporary Farm Worker Housing (TFWH) in the [Guide for Bylaw Development in Farming Areas](#). We have provided a few comments below on some adjustments that could be made to further meet industry needs. Our main concern, however, is that the TUP process is potentially onerous and time-consuming for industry, especially in light of the recent changes to the *Agricultural Land Commission Act* and Agricultural Land Reserve Use Regulation that would require most TFWH applications to receive a non-adhering residential use (NARU) approval from the Agricultural Land Commission (ALC).

While less onerous than a rezoning application in the short term, a TUP would need to be renewed on a regular basis and is an additional step for producers. We would prefer to see the proposed policies turned into regulations and incorporated into the zoning bylaw so that the use is allowed outright if certain conditions are met (parcel and farm unit size, farm status, etc.) This would also increase consistency across jurisdictional boundaries in the Okanagan as most other local governments in the region take this approach.

Agriculture – Policies

- While the move to support TFWH in buildings on non-permanent foundations is good in most cases, in some situations it may make sense for TFWH to be located above farm buildings. Is the intention that these circumstances will require a rezoning? We recognize that the TUP process is not ideal for permanent structures, which is another reason that we recommend that regulations be included in a zoning bylaw rather than using a TUP.
- The location of accommodation on a parcel statement appears to contain a typo in all instances where it appears. “Of within an existing” should perhaps read “or within an existing”. We presume the intention is the latter.

Temporary Use Permits - Policies

- We agree that accommodation should be restricted to farm labour only.
- The language also promotes the removal of dwellings when the permit lapses and is emphasizing structures that are easy to remove. Our comments above regarding the occasional need for permanent structures and the onerous process for farmers also apply here.

Minimum Farm Unit Size

- There does not appear to be a minimum farm unit size for TFWH. The Minister’s Bylaw Standard on TFWH recommends a minimum farm unit size of 4 ha (may be bundled over multiple smaller parcels). Many Okanagan local governments use 3.8 ha as this is a more traditional minimum lot size in many communities.

It is goal of ministry staff to try to achieve as much consistency of regulation as possible across jurisdictions. This is particularly important in the case of TFWH in the Okanagan, given that farm operations may consist of multiple parcels in multiple jurisdictions. We recommend that RDOS review other local government bylaws and approaches in the Okanagan in order to help achieve that consistency. Ministry staff are available to assist in this process.

If you have any questions, please contact us directly at the numbers and email addresses below.

Sincerely,



Alison Fox, P.Ag.
Land Use Agrologist
Ministry of Agriculture, Food
and Fisheries
Alison.Fox@gov.bc.ca
(778) 666-0566



Philip Gyug, P.Ag
Regional Agrologist
Ministry of Agriculture, Food
and Fisheries
Philip.Gyug@gov.bc.ca
Office: (250) 378-0573

Email copy: Michael McBurnie, ALC Regional Planner, Michael.McBurnie@gov.bc.ca



Agricultural Land Commission
201 – 4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000 | Fax: 604 660-7033

February 17, 2022

Reply to the attention of Michael McBurnie
ALC Planning Review: 52479
Local Government File: X2022.001-ZONE

Shannon Duong
Planner I, Regional District of Okanagan-Similkameen
sduong@rdos.bc.ca

Re: OCP Amendment Bylaw No. 2956 - Temporary Farm Labour Housing

Thank you for forwarding a draft copy of OCP Amendment Bylaw No. 2956 for review and comment by the Agricultural Land Commission (ALC). The following comments are provided to help ensure that the bylaw amendment is consistent with the purposes of the *ALC Act*, the Agricultural Land Reserve (ALR) General Regulation, the ALR Use Regulation, and any decisions of the ALC.

The bylaw amendment proposes to update the Electoral Area "A", "C", "D", "E", "F" & "I" Official Community Plan (OCP) Bylaws regarding Temporary Use Permits (TUPs) for farm worker accommodations.

ALC staff have two comments on the proposed bylaw amendment:

1. Regarding the paragraphs that say:
"Supports additional dwellings within the Agricultural (AG) designation where they are used to **support agricultural activities and purposes** (e.g., workers' housing)."

For land in the ALR, a primary and secondary residence is permitted under the ALR Use Regulation. For any additional residences beyond that, one of the key considerations is that the additional residence must be **necessary for a farm use** (per s. 25(1.1) of the ALC Act). This means that the need for the extra residence is supported by the size and intensity of the current agricultural farm operation, which is a higher threshold than simply supporting or being involved in the farm operation. ALC staff suggest considering similar wording to strengthen the requirement from simply supporting agriculture to being necessary for the farm operation. Of course, this requirement only applies to residences in the ALR beyond the permitted 500 m² principal residence and 90/186 m² secondary residence. Principal and secondary residences in the ALR (that meet the size limits) are not held to this standard.

2. There appears to be a typo in the (g)(i) paragraphs:
"is it to be sited on the least arable soils on a property **of** within an existing "farm

home plate" (i.e. that portion of a property where all residential and related buildings, structures and activities are clustered, thereby leaving the balance of the property for agricultural use)".

The ALC strives to provide a detailed response to all referrals affecting the ALR; however, you are advised that the lack of a specific response by the ALC to any draft provisions cannot in any way be construed as confirmation regarding the consistency of the submission with the ALCA, the Regulations, or any decisions of the Commission.

If you have any questions about the above comments, please contact the undersigned at 236-468-3246 or by e-mail (michael.mcburnie@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION



Michael McBurnie, Regional Planner

Enclosure: Referral of OCP Amendment Bylaw No. 2956 - Temporary Farm Labour Housing

CC: Ministry of Agriculture – Attention: Alison Fox

52479m1

Lauri Feindell

Subject: FW: Bylaw Referral - RDOS File No. X2022.001-ZONE - OCP Amendment - Electoral Areas "A", "C", "D", "E", "F", "H", & "J"
Attachments: Amendment Bylaw No. 2956 - Bylaw Referral Sheet.pdf

From: Referrals <Referrals@fortisbc.com>

Sent: February 9, 2022 10:19 AM

To: Planning <planning@rdos.bc.ca>

Subject: Bylaw Referral - RDOS File No. X2022.001-ZONE - OCP Amendment - Electoral Areas "A", "C", "D", "E", "F", "H", & "J"

Hello,

FortisBC Energy Inc. has reviewed the subject proposal and has no objections or concerns.

Mai Farmer
Property Services Assistant
Property Services



immediately and delete all copies of the message including removal from your hard drive. Thank you.

Lauri Feindell

From: Palm, Misty <Misty.Palm@interiorhealth.ca>
Sent: February 17, 2022 1:37 PM
To: Planning Group
Subject: File: X2022.001-ZONE

Hello Shannon,

The IH Healthy Community Development Team has received the above captioned referral from your agency. Typically we provide comments regarding potential health impacts of a proposal. More information about our program can be found at [Healthy Built Environment](#).

An initial review has been completed and we have no concerns associated with this referral. With that being said, as a best practice, we recommend temporary farm worker accommodation meet the housing standards set out in the [B.C. GUIDELINES FOR INDUSTRIAL CAMPS REGULATION \(gov.bc.ca\)](#).

If you have any questions, please feel free to contact me at 778-220-6967.

Kind regards,

Misty

Misty Palm, B.Tech. CPHI(C)

Environmental Health Officer – Healthy Communities Healthy Families

Interior Health

p: 250-851-7347

c: 778-220-6967

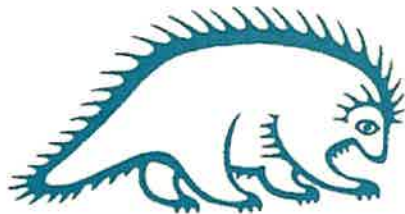
e: misty.palm@interiorhealth.ca

www.interiorhealth.ca



Interior Health

We recognize and acknowledge that we are collectively gathered on the traditional, ancestral, and unceded territories of the seven Interior Region First Nations, where we live, learn, collaborate and work together. This region is also home to 15 Chartered Métis Communities. It is with humility that we continue to strengthen our relationships with First Nation, Métis, and Inuit peoples across the Interior.



Okanagan Indian Band

12420 Westside Road • Vernon, BC, • V1H 2A4

Telephone: 250-542-4328 • Facsimile 250-542-4990

Email: okibreferrals@okanagan.org

“This correspondence will not be construed so as to to prejudice, limit, or derogate from any rights, claims or interests in respect of any Aboriginal title, rights and interests of Okanagan or Syilx Nation recognized and affirmed under Section 35 of the Constitution Act, 1982 and nothing in this letter indicates acceptance by Okanagan of federal or provincial Crown jurisdiction over or ownership of land, water or other resources within the Territory.”

Project Name:

RDOS OCP Amendment - Temporary Farm Labour Accommodation

FN Consultation ID:

Consulting Org Contact:

Chris Garrish

Consulting Organization:

[Regional District of Okanagan Similkameen](#)

Date Received:

Monday, February 7, 2022

Attention: Chris Garrish

The Territorial Stewardship Division would like to acknowledge receipt of the above referral. The Okanagan Indian Band has conducted a desk top review of the project and would like to keep informed of any additional changes. At this time the Okanagan Indian Band will be deferring this project to Penticton Indian Band, Osoyoos Indian Band and Lower Similkameen Indian Band for a more in depth review.

Regards,

Colleen Marchand

Director, Territorial Stewardship Division

250.542.7132 (office)

250.306.9796 (cell)

Colleen.Marchand@okanagan.org



Penticton Indian Band
Natural Resources Department
841 Westhills Drive | Penticton, B.C.
V2A 0E8
Referrals@pib.ca | www.pib.ca
Telephone: 250-492-0411
Fax: 250-493-2882

Project Name:

RDOS OCP Amendment - Temporary Farm Labour Accommodation

FN Consultation ID:

L-220207-X2022-001-ZONE

Consulting Org Contact:

Planning RDOS

Consulting Organization:

[Regional District of Okanagan Similkameen](#)

Date Received:

Monday, February 7, 2022

File number:

X2022.001-ZONE

March 9, 2022

Attention: Planning RDOS,

We are in receipt of the above referral. The proposed activity is located within syilx (Okanagan) Nation Territory and the Penticton Indian Band (PIB) Area of Interest. All lands and resources within the vicinity of the proposed development are subject to our unextinguished Aboriginal Title and Rights. The Penticton Indian Band has now had the opportunity to review the proposed activity. Our preliminary office review has indicated that although this is an administrative decision to update zoning bylaws, it represents a lengthy history of exclusion in the consultation and development of legislations, regulations and provincial processes over our lands. The bylaws and its objective was developed unilaterally without consultation or consent from the syilx(Okanagan) nation title holders. All lands and resources within syilx Territory are unceded.

The Crown or representatives of the crown have no beneficial interest (the right to use, enjoy and profit from the economic development of lands) in our Aboriginal title lands and resources; the beneficial interest is held by the syilx Nation. The legislation of our lands or resources to third parties are serious infringements on our Aboriginal title. The provincial government's consultation framework, land use referral policy and administrative system are insufficient to uphold our syilx interests in the land and resources within our traditional territory or to meet the fiduciary obligations of British Columbia.

Further more, in 2019, the province of British Columbia implemented the United Nations Declaration on the Rights of Indigenous Peoples which aims to emphasize the Indigenous peoples' rights to live in dignity, to maintain and strengthen Indigenous institutions, cultures and traditions and to pursue self-determined development, in keeping with Indigenous needs and aspirations. The UNDRIP states in article 32(2): States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. At this time,

At this time there has been no reconciliation of our interests with those of the Province of British Columbia and Canada and no process in place to adequately recognize and negotiate co- existence or accommodation of our title and jurisdiction. Compliance with provincial processes, legislation, regulations and requirements therefore does not ensure that our interests

are adequately accommodated. In addition, as proved by the 2014 Tsilhqot'in case, when the Crown allocates resources on Aboriginal title lands without the Indigenous peoples' consent, it commits a serious infringement of constitutionally protected rights that will be difficult to justify. The PIB cannot provide comment on this activity due to an insufficient level of engagement and consultation.

Please note that our participation in the referral and consultation process does not define or amend PIB's Aboriginal Rights and Title, or limit any priorities afforded to Aboriginal Rights and Title, nor does it limit the positions that we may take in future negotiations or court actions.

limlæmt,

Maryssa Bonneau
Referrals Coordinator
Natural Resources Department
Penticton Indian Band
W: 250-492-0411
C: 250-486-3241
Referrals@pib.ca

Lauri Feindell

Subject: FW: Bylaw Referral - RDOS File No. X2022.001-ZONE - OCP Amendment - Electoral Areas "A", "C", "D", "E", "F", "H", & "I"
Attachments: Amendment Bylaw No. 2956 - Bylaw Referral Sheet.pdf

From: RDCO Planning Services <planning@rdco.com>
Sent: March 9, 2022 9:24 AM
To: Planning Group <planning@rdos.bc.ca>
Subject: FW: Bylaw Referral - RDOS File No. X2022.001-ZONE - OCP Amendment - Electoral Areas "A", "C", "D", "E", "F", "H", & "I"

Good morning,

Thank-you for the opportunity to comment. RDCO staff have reviewed the application and have no comments.

Should you have questions, please contact Planning Services at 250-469-6227.

Sincerely,

Planning Services
Regional District of Central Okanagan
250-469-6227 | planning@rdco.com
Connect with us | rdco.com

Lauri Feindell

Subject: FW: Bylaw Referral - RDOS File No. X2022.001-ZONE - OCP Amendment - Electoral Areas "A", "C", "D", "E", "F", "H", & "I"

From: Maria Ciardullo <mciardullo@rdkb.com>

Sent: February 14, 2022 4:11 PM

To: Shannon Duong <sduong@rdos.bc.ca>

Subject: RE: Bylaw Referral - RDOS File No. X2022.001-ZONE - OCP Amendment - Electoral Areas "A", "C", "D", "E", "F", "H", & "I"

Hello,

The interests of the Regional District of Kootenay Boundary are unaffected by this proposal.

Regards,

 **Maria Ciardullo** | Senior Planning Secretary
mciardullo@rdkb.com | T: 250.368.0241

Regional District of Kootenay Boundary
Toll-free: 1.800.355.7352
Main: 250.368.9148
rdkb.com

Lauri Feindell

Subject: FW: Bylaw Referral - RDOS File No. X2022.001-ZONE - OCP Amendment - Electoral Areas "A", "C", "D", "E", "F", "H", & "I"

From: Jim Zaffino <jzaffino@rdos.bc.ca>
Sent: February 22, 2022 5:40 PM
To: Shannon Duong <sduong@rdos.bc.ca>
Subject: RE: Bylaw Referral - RDOS File No. X2022.001-ZONE - OCP Amendment - Electoral Areas "A", "C", "D", "E", "F", "H", & "I"

Hello Shannon

Thank you for the referral, this does not affect Finance, I have no issues

Sincerely,



Jim Zaffino • Manager of Finance
Regional District of Okanagan-Similkameen
Okanagan-Similkameen Regional Hospital District
101 Martin Street, Penticton, BC V2A 5J9
p. 250.490.4230 • tf. 1.877.610.3737 • f. 250.492.0063
www.rdos.bc.ca • jzaffino@rdos.bc.ca

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From: Andrew Reeder <areeder@rdos.bc.ca>

Sent: February 17, 2022 9:33 AM

To: Shannon Duong <sduong@rdos.bc.ca>

Cc: Judy Burton <jburton@rdos.bc.ca>; Janice Johnson <jjohnson@rdos.bc.ca>; Liisa Bloomfield <lbloomfield@rdos.bc.ca>; Christopher Garrish <cgarrish@rdos.bc.ca>; Mark Petry <mpetry@rdos.bc.ca>

Subject: RE: Bylaw Referral - RDOS File No. X2022.001-ZONE - OCP Amendment - Electoral Areas "A", "C", "D", "E", "F", "H", & "I"

Thanks Shannon,

At this point in time we are seeing abuses in the use of our services in our curbside refuse and recycling, sewer and water. Most recently we have seen abuses in the Cawston area where residents were placing more refuse than their regulatory limit at the curb. They were complaining that we weren't picking up their refuse and when we investigated, it turns out that they have only been paying for one residential service where multiple housing units were present. Its quite possible that these were pickers cabins.

All new housing units temporary or otherwise will need to follow our user fees bylaw and we will need to obtain notification of a housing change. I'm not clear if controls are currently in place to ensure that we are receiving notices for the construction of pickers cabins. Would you please clarify whether or not the temporary housing will have the billing controls in place. While this may not affect your bylaw it may affect your Board report if new provisions need to be considered.

The temporary housing proposed can be multiple unit housing. Onsite provisions for commercial pickup for refuse recycling will need to be considered in these cases. We are reviewing whether or not we can make these requirements of our next iteration of our Solid Waste Management Plan scheduled to proceed in 2022. I understand that OCP documents must reflect provisions within the SWMP. The aforementioned is good practice anyway.

I hope this helps,

Andrew

Lauri Feindell

Subject: FW: Bylaw Referral - RDOS File No. X2022.001-ZONE - OCP Amendment - Electoral Areas "A", "C", "D", "E", "F", "H", & "I"

From: Janice Johnson <jjohnson@rdos.bc.ca>

Sent: February 17, 2022 8:14 AM

To: Shannon Duong <sduong@rdos.bc.ca>

Subject: RE: Bylaw Referral - RDOS File No. X2022.001-ZONE - OCP Amendment - Electoral Areas "A", "C", "D", "E", "F", "H", & "I"

Hi Shannon,

With additional accommodations, they may need to be paying for additional curbside.
Otherwise, no further comments.

Regards,

Janice Johnson
RDOS SWM Coordinator
250.490.4144
jjohnson@rdos.bc.ca

RESPONSE SUMMARY

BYLAW NO. 2956, 2022

Approval Recommended for Reasons Outlined Below

Interests Unaffected

Approval Recommended Subject to Conditions Below

Approval Not Recommended Due to Reasons Outlined Below

Signature: 

Signed By: Alex Krause

Agency: Thompson-Nicola Regional District

Title: Manager of Planning Services

Date: February 14, 2022

RESPONSE SUMMARY

BYLAW NO. 2956, 2022

- Approval Recommended for Reasons Outlined Below Interests Unaffected
- Approval Recommended Subject to Conditions Below Approval Not Recommended Due to Reasons Outlined Below

Approval recommended for Reasons Outlined Below:

1. Agricultural uses will be continued on the majority of the property.
2. The proposal seeks to provide a standardized decision-making criterion to help address the much needed temporary accommodations for seasonal workers.

Signature:  _____

Agency: Town of Osoyoos

Date: March 8, 2022

Signed By: Gina MacKay
Title: Director of Planning and Development