

Township of
Langley



Est. 1873

REPORT TO MAYOR AND COUNCIL

PRESENTED: APRIL 27, 2015 - REGULAR AFTERNOON MEETING
FROM: COMMUNITY DEVELOPMENT DIVISION
SUBJECT: REVIEW OF TOWNSHIP BYLAWS AFFECTING THE ALR

REPORT: 15-37
FILE: 6480-028-001

RECOMMENDATION:

That Council direct staff to bring forward amendments to bylaws affecting the Agricultural Land Reserve for consideration.

EXECUTIVE SUMMARY:

On July 28, 1997, the Minister of Agriculture, under the authority of a provincial Order-In-Council, by regulation, applied certain sections of the Local Government Act to the Township of Langley, making the Township one of four 'regulated' municipalities in British Columbia. This has the effect of prohibiting Council from: a) exercising its zoning powers in the Agricultural Land Reserve (ALR); and b) adopting bylaws that would restrict the operation of a farm business, unless approved by the Minister.

The regulations further require the Township to review its bylaws affecting the ALR in order to identify provisions that would be inconsistent with Minister's standards. In 2001 a process to review Township's bylaws that affect lands in the ALR was initiated, in collaboration with the Ministry of Agriculture and the Agricultural Land Commission. The purpose of the review was to comply with the regulations by examining regulations affecting agriculture in the ALR and determining where such can be amended to be made compatible with the standards established by the Minister of Agriculture; and strengthen farming.

While discussions with the Ministry of Agriculture are on-going, the technical part of the review has been completed, revealing several inconsistencies between the Township's bylaws and provincial farm standards. A number of changes are being considered to bring the Township's zoning provisions, as well as requirements of other bylaws, into conformity with the standards. The changes do not include adoption of all the provincial standards, as in some cases agreement has been reached to change some of the provisions to better suit Langley's unique situation.

The issues in the review are complex, and some of them, including setbacks and size of residential buildings and provisions for intensive agriculture in the Salmon River Uplands area, are still under consideration. However, major proposed changes are summarized in this report. To reduce potential nuisance problems along the urban/ALR interface, edge planning provisions are being considered. This would include Zoning Bylaw provisions on the ALR side and development permit provisions on the urban side, both of which will cover land within 300m of the urban/ALR edge.

A complete package of bylaws, as discussed in this report, is currently expected to be presented to Council for consideration later this spring, unless otherwise directed. Recognizing the number of residents potentially impacted and the complexity of the bylaw amendments proposed, a public education/consultation effort will be recommended if Council decides to proceed with the bylaws.

PURPOSE:

To provide Council with information on the review of Township bylaws affecting the ALR.

BACKGROUND/HISTORY:

Farming is a major activity and economic development generator in the Township. Farming has a long history in Langley, starting with the Hudson Bay Farm in Milner established in the early 1830's. About 75% of the land in the Township is located in the ALR and designated for farm purposes. In the 2011 census, Langley had 1,360 farms (almost 50% of the farms in the region) and the third largest economy in the province, based on annual farm gate receipts of \$277 million.

The community supports agriculture. In a 2011 telephone survey of 1,400 residents, farming was identified as either "Very" or "Somewhat" important by 95% of urban and 96% of rural respondents. Fully 100% of urban respondents felt that local food production should be encouraged.

The Township values agriculture and is committed to preserve and enhance it. The Sustainability Charter provides a policy framework to integrate and balance competing community expectations. It has a goal to preserve the agricultural land base for food production, which is regarded as a key component of a sustainable community. The Langley Official Community Plan (currently at third reading) recognizes the importance of agricultural land and its role in securing local food resources and providing a base for a thriving industry. To that end, the Rural Plan protects the agricultural lands, preserves larger lot sizes and reinforces of much of the land as ALR.

The Agricultural Viability Strategy identifies ways the Township can proactively support agricultural development leading to more local food production, more full-time employment, and more sustainable development as envisioned in the Sustainability Charter. These policy instruments have been put in place with extensive community engagement and guidance of the Agricultural Advisory Committee.

In 1996, the provincial government enacted the Farm Practices Protection (Right to Farm) Act, to protect farmers using normal farm practices from nuisance lawsuits and nuisance bylaws of local governments. The Act also established a process to resolve concerns and complaints. Under the Act a local government cannot use zoning to prohibit or restrict the use of land for a farm business unless the local government receives the approval of the Minister of Agriculture. A zoning restriction affecting agriculture may result in legal action against a municipality and a finding that the bylaw provisions do not have effect in some situations.

On July 28, 1997, under authority of a Provincial Order-In-Council, the Township became a 'regulated' municipality pursuant to Section 918 of the Local Government Act which prohibited the Township from adopting bylaws that restrict the use of the land for farming without the approval of the Minister.

In June 1999, two bylaws related to mushroom composting were approved by the Minister. These bylaws prohibited on-farm mushroom composting in a 500m area along the ALR boundary abutting an urban area or a portion of the Salmon River Uplands and established storm and waste water management requirements for mushroom farms and on-farm mushroom composting. At that time the Minister and Township signed a memorandum of understanding outlining the conditions "*where the temporary 500m setback of on-farm mushroom composting operations, established in Bylaw Nos. 3771 and 3795, can be removed*".

In 2001, the Ministry of Agriculture, Agricultural Land Commission (ALC) and the Township signed a tri-party Agreement to support, assist and participate in a review of the Rural Plan and Zoning Bylaw. The purpose of the review is to examine policies and regulations affecting agriculture in the ALR and determine where they can be updated to strengthen farming by reflecting evolving farming practices. Where necessary and appropriate, the Rural Plan would be made consistent with the ALC Act and the Zoning Bylaw would be made compatible with the standards established by the Minister of Agriculture, pursuant to the Local Government Act and the Farm Practices Protection ("Right-to-Farm") Act.

DISCUSSION/ANALYSIS:

The technical part of the review was essentially completed in 2007; but discussions to address some outstanding issues are ongoing. Discussions have revealed several inconsistencies with provincial regulations and farm standards. A number of changes are being considered to bring the Township's zoning provisions into conformity with the standards. The changes do not include adoption of all the provincial standards, in some cases agreements have been reached to change some of the provisions to better suit Langley's unique situation.

Proposed Changes

The issues in the review are complex, and some of them are still being discussed. The major changes are summarized below.

Zoning Bylaw Changes

- **Creation of a single agricultural zone to encompass all lands within the ALR**
 - all ALR lands, including lands currently zoned for Commercial, Industrial or other uses would be rezoned to one Agricultural Zone;
 - a use existing on the date of adoption of the bylaw would be permitted if it was permitted by the current Zoning Bylaw, the property was occupied for that use on the date that the amendment bylaw is adopted and it received a building permit;
 - current minimum lot size will continue to be recognized, however, subdivision is subject to ALC approval
- **Incorporation of provincial agricultural related definitions**
 - including definition of all residences within ALR as farm residences (for zoning, not assessment or taxation purposes);
- **Inclusion of maximum building setbacks for existing and new farm residences and maximum size for existing and new farm residential footprints:**
 - to reduce the conflict between residences located a long distance from roads and farm operations (while this provision is still subject of discussions with the MoA, the implications are that some existing residences would become legally non-conforming with respect to building setbacks);
- **New riparian area protection setbacks from watercourses for buildings;**
- **Easing of regulations or elimination of overly restrictive regulations, such as:**
 - greenhouse landscaping regulations that are in conflict with provincial standards;
 - locational restrictions for fur farms, feedlots and mushroom composting operations,
- **Provision for cogeneration facilities (i.e. combined heat and power engines), kennels, subject to conditions and locational restrictions;**
- **Provision for on-farm processing, storage, direct farm marketing, product preparation, or soilless medium preparation, on-farm composting and compost sales facilities (with conditions);**

Edge Planning Provisions

To reduce potential nuisance problems along the urban/ALR interface, edge planning provisions are being considered as part of the proposed changes. This would include Zoning Bylaw provisions on the ALR side and development permit provisions on the urban side, both of which will cover land within 300m of the urban/ALR edge.

ALR side zoning regulations would restrict the scale of agricultural activities on ALR lands within 300m of the Urban/ALR edge by:

- Setting limits on the number of animals on different types of farm operations;
- Establishing minimum setbacks from the Urban/ALR edge for buildings, structures and farm operation uses;
- Regulating orientation of exhaust fans to be either parallel to, or away from, the Urban/ALR edge;
- Establishing farm management practices to reduce the impact of normal farm practices, e.g. greenhouse lighting; manure management; and on-farm composting management;
- Implementation of regulations, within 8 years of bylaw adoption, for liquid manure application on crops and grassland to be by sub-canopy deposition method only;
- Implementation of regulations, within 10 years of bylaw adoption, for lighting restrictions for greenhouses; and
- Providing for small scale farm exemptions and some exemptions for unique situations.

On the urban side, development permit provisions are proposed to be enacted along the urban/ALR boundary (similar provisions have been adopted in Willoughby). These provisions would require developers to secure and/or install:

- landscape buffering and agricultural awareness signage along the ALR;
- no-build restrictive covenants for principal buildings within 15m (industrial, commercial or institutional) or 30m (residential) from the ALR edge;
- no-build restrictive covenants for accessory buildings within 6m (industrial, commercial or institutional) or 15m (residential) from the ALR edge; and
- land title notification regarding the proximity of the ALR and the potential for disturbances/nuisances from normal farm practices.

Other proposed Bylaw Amendments

Amendments to the Rural Plan, Feedlot Control and Fur Farm Control Bylaws will be necessary to achieve consistency with the other proposed bylaw amendments.

In addition, the Ministry is proposing an amendment to Bylaw No. 3771 to remove the 500m wide setback for on-farm mushroom composting operations along the ALR boundary abutting urban areas or parts of the Salomon River Uplands. As noted above, this provision was instituted in Bylaw No. 3711 and approved by the Minister in 1999. At the time of adoption of Bylaw No. 3771, the Township formalized an agreement with the Ministry that included conditions for the removal of the 500m setback, *when the following conditions are met:*

- 1) *A mushroom composting operation that meets the Ministry of Environment's conditional exemption regulation is established in the Greater Vancouver Regional District or the Fraser Valley Regional District; and*

- 2) *The mushroom composting operation referred to above operates for 3 years without receiving an order issued to it by the Ministry of Environment or the Greater Vancouver Regional District Air Quality Control Department.”*

A mushroom composting operation has been established in Abbotsford that the Ministry feels meets the above criteria.

Outstanding Issues

There are a couple of outstanding issues that are still being discussed with the Ministry.

Setbacks and Farm Residential Footprints

Ministry standards would require all farm residential buildings to be located within 60m of the front property line to allow as much of the property as possible to be used for agriculture. Dwellings built in the middle or to the rear of the lots reduce farming options on the subject property and adjacent properties and can cause potential conflicts with farming on those properties. The Ministry's setback standards will impact some existing dwellings, making them non-conforming with respect to building setbacks. Options are being discussed with the Ministry to relax some of the standard provisions in Langley to reduce the number of non-conforming dwellings. However, there will still be many rural dwellings that cannot conform to the setbacks.

Salmon River Uplands Area

Potential farm regulations in the Salmon River Uplands area are being explored to reduce the impact of intensive farming operations on residences. This is a suburban residential area of one acre lots, not an urban area, so the edge planning provisions can't be applied. Staff is discussing the possibility of a farm management area with a lesser scale and intensity of agriculture for land immediately adjacent to this area.

Memorandum of Understanding

During the course of the review, several items were identified for future action to complement or refine the changes currently in progress. These are still being discussed with the Ministry, but are expected to be outlined in a memorandum of understanding between the parties for consideration in the future. Some of the primary provisions that the memorandum of understanding is expected to include are related to implementation of Urban/ALR Edge Planning management, bylaw enforcement, nutrient management over sensitive aquifer areas and any remaining unresolved issues.

Summary

Adoption of the proposed bylaws would recognize the importance of agriculture to Langley and provide updated zoning regulations for the agricultural industry that will allow it to operate more efficiently. The updated provisions comply with Provincial regulations and are less likely to be legally challenged. The edge planning provisions will reduce potential conflicts along the Urban/ALR boundary. The bylaws would also recognize the existing non-agricultural uses in the rural area and provide protection for the adjacent urban areas and environmentally sensitive areas.

As part of the consideration of adoption of the amendments Council may wish to request deregulation under Section 903 (5) of the Local Government Act. The Township, could request that the Order-In-Council be amended to repeal that portion of the regulation that requires Ministerial approval for amendments to the zoning bylaw; and retain the ability of the Township to pass farm bylaws, with the consent of the Minister.

Next Steps

A complete package of bylaws, as discussed in this report, is expected to be presented later this spring for Council's consideration. Ministry of Agriculture staff and could be present at that meeting.

Recognizing the large number of owners potentially impacted and the complexity of the bylaw amendments proposed, a public education/consultation effort will be recommended if Council decides to proceed with the bylaws. Opportunities for review and comment from the Agricultural Advisory Committee and the Urban Development Institute will also be provided.

Applicable Policies:

Sustainability Charter

The subject bylaws complement the Township's Sustainability Charter's vision to "protect our people and properties" and "respect our rural character and rural heritage".

Official Community Plan and Rural Plan

The bylaws support a goal of the OCP (currently at third reading) to promote agriculture and enhance farm viability. They also support the goals of the Rural Plan to enhance agricultural viability through recognition and protection of the diverse agricultural lands, preservation of larger lot sizes and encouragement of the agricultural industry. Some amendments to the Rural Plan will be necessary to ensure a better fit to address the Township's unique character related to urban/ALR edge planning.

Tri Party Agreement

Consistent with the tri-party agreement the subject bylaws satisfy in a significant way the purpose of the subject review, which in part states that:

"It is understood that the purpose of the review is to examine existing policy and regulations affecting agriculture in the ALR, to determine where the policy and regulations can be amended to strengthen farming in a manner that takes rural, environmental and urban interests into account..."

Agricultural Viability Strategy

The subject bylaws complement the Township's Agricultural Viability Strategy and specifically focus on two of its main strategy areas, namely:

- "providing a secure agricultural land base", by:
 - supporting the protection of agricultural land for agricultural purposes;
 - encouraging agricultural use of land zoned for agriculture;
 - providing edge planning where the ALR abuts urban/ALR land; and
 - supporting building setbacks (maximum and minimum) and residential building footprint guidelines on agricultural land.

- “supporting farmer use of best farm management practices”, by:
 - providing nutrient management plan requirements for farmers meeting specified manure thresholds and located over very high aquifer vulnerability aquifers; and
 - providing farm management requirements within urban/ALR edge planning area, to help reduce potential nuisance complaints from neighbouring land owners.

Cost and Resource Allocations:

Adoption of the subject bylaws is anticipated to have increased work load implications for the Township, including:

- staff education;
- a public education program;
- preparation of an annual monitoring report (to assess ongoing effectiveness and integrity of the edge planning regulations and management area regulations;
- anticipated increase in development variance permits, regarding:
 - riparian setbacks for farm buildings; and
 - new residential setback maximums and regulations for residential footprints.
- increased property use inspections, mediations, bylaw enforcement and complaint resolutions, regarding application farm standards; and
- future work program implications identified in the draft memorandum of understanding with the Ministry.

Respectfully submitted,

Paul Crawford
MANAGER, LONG RANGE PLANNING
for
COMMUNITY DEVELOPMENT DIVISION