



Corporate Report

NO: R019

2005

COUNCIL DATE: February 7,

REGULAR COUNCIL

TO: Mayor & Council **DATE: February 2,
2005**

**FROM: General Manager,
Planning and Development** **FILE: 3900-30-12000
6880-20-75**

**SUBJECT: Provincial Act and Regulations Regarding Farm and
Non-Farm Uses - Recommended Changes to the
Zoning By-law**

RECOMMENDATION

It is recommended that Council:

1. Receive this report as information;
2. Approve text amendments to Surrey Zoning By-law, 1993, No. 12000, as documented in Appendix I attached to this report, to reflect the provisions of the *Agricultural Land Commission Act*, S.B.C. 2002, c. 36 and the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*, B.C. Reg. 171/2002; and
3. Authorize the City Clerk to bring forward the necessary amendment by-law for the required readings and to set a date for the related public hearing.

INTENT

The purpose of this report is to obtain Council approval for amendments to Surrey Zoning By-law, 1993, No. 12000 (the "Zoning By-law"), regarding farm-related uses and other land uses within the Agricultural Land Reserve (the "ALR") in Surrey. These amendments are necessary as a result of changes to provincial legislation. The ALR legislation now specifies farm uses within the ALR, which local government may regulate, but not prohibit and other land uses within the ALR which local government may prohibit. The amendments to the Zoning By-law provide for consistency between the Zoning By-law and this new provincial legislation, and also updates the Zoning By-law to reflect current City policy directions.

BACKGROUND

The *Agricultural Land Commission Act*, S.B.C. 2002, c. 36 (the "Act") and the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*, B.C. Reg. 171/2002 (the "Regulation") replaced the *Land Reserve Commission Act*, S.B.C. 1999, c. 14, the *Agricultural Land Reserve Act*, R.S.B.C. 1996, c. 10, the *Soil Conservation Act*, R.S.B.C. 1996, c 434 and all regulations under those acts.

In addition to introducing numerous procedural and administrative revisions, the new legislation clarified the range of land uses that are permitted within the ALR. Most significantly, uses within the ALR have been classified into two categories:

- Farm uses which may be regulated by local government, but not prohibited; and
- Non-farm uses that local governments may regulate or may prohibit.

To provide for consistency with provincial legislation, the City's Zoning By-law requires some changes in relation to the by law's definitions and some changes to the provisions in the General Agriculture (A-1) and Intensive Agriculture (A-2) Zones, as well as other zones which provide for agricultural uses. These include the One-Acre Residential (RA), Commercial Recreation (CPR), Golf Course (CPG) and Marina (CPM) Zones. In addition, some minor grammatical and editorial "house keeping" changes are also being proposed.

At a workshop held on October 2, 2003, the City's Agricultural Advisory Committee (the "AAC") reviewed the new **Act** and **Regulation** in detail and made recommendations regarding proposed amendments to the City's Zoning By-law. On October 7, 2004 the AAC reviewed draft proposed changes to the Zoning By-law and made further recommendations, all of which have been incorporated into the amendments recommended in this report. On December 3, 2004, the AAC ratified the final draft of the proposed amendments to the Zoning By-law, which are documented in Appendix I.

DISCUSSION

Permitted Farm Uses

Section 1(1) of the *Act* defines "farm use", generally as:

"an occupation or use of land for farm purposes, including farming of land, plants and animals and any other similar activity designated as farm use by regulation, and includes a farm operation as defined in the Farm Practices Protection (Right to Farm) Act".

The *Regulation* specifically lists those activities designated as farm uses which are permitted within the ALR and provides that these uses may be regulated by local government.

The following tables summarize the amendments that are proposed to the City's Zoning By-law. The rationale for these proposed amendments is discussed later in this section.

Permitted Farm Uses

The *Regulation* lists farm uses which cannot be prohibited, but may be regulated, most of which are subject to certain conditions, as follows:

ALR Uses	Currently Permitted in the Surrey Zoning By law	Proposed Zoning By-law amendments for consistency with <i>Act/Regulation</i>
farm retail sales	Yes 93 m ² max. floor area	<ul style="list-style-type: none"> • Add sale of dressed meats/poultry packaged off-site. • Reduce threshold from 100% farm product to 50% of sales area to

		feature farm product.
licensed wineries and cideries	Yes	<ul style="list-style-type: none"> Minor editorial changes.
processing farm products	Yes	<ul style="list-style-type: none"> Reduce threshold from 100% to 50% of product which must be produced by the same farm operation.
land development works (eg. drainage channels, driveways, etc) required for farm operation	Yes	<ul style="list-style-type: none"> Part of Right-to-Farm Act.
agri-tourism	Yes	<ul style="list-style-type: none"> Add a new definition of "agri tourism". Add agri-tourism use to A-1 & A-2 Zones.
horse riding, training and boarding	Yes	<ul style="list-style-type: none"> Add use to A-1 & A-2 zones. Currently only permitted in large-lot residential zones (RA-G, RH-G, RF-G)
application of fertilizers, mulches, soil amendments, soil conditioners, compost and bio-solids	No	<ul style="list-style-type: none"> Add definition for "soil amendment". Add use to A-1 & A-2 Zones.
compost production/storage - 100% for use on farm.	No	<ul style="list-style-type: none"> Add definition for "compost".
<ul style="list-style-type: none"> construction, maintenance and operation of farm buildings timber production/agro-forestry removal/placement of soil for permitted farm uses 	Yes	<ul style="list-style-type: none"> No change.

Permitted Land Uses (Non-farm)

The *Regulation* also lists activities permitted as non-farm uses within the ALR that may be regulated or may be prohibited by a local government by-law. These uses, most of which are subject to certain conditions, are listed in the following table, along with proposed Zoning By-law amendments related to each use:

ALR Uses	Currently Permitted by the Zoning By-law	Proposed Zoning By-law amendments for consistency with <i>Act/Regulation</i>
agri-tourism accommodation on a farm	Yes	<ul style="list-style-type: none"> Add new definition based on ALC definition. Add to A-1 & A-2 Zones.
pet kennels, breeding or boarding facilities	Yes	<ul style="list-style-type: none"> Minor editorial change.
airstrip or helipad	Yes	<ul style="list-style-type: none"> Minor editorial changes.
<ul style="list-style-type: none"> a secondary suite within a single family dwelling one manufactured home home occupations 	Yes	<ul style="list-style-type: none"> No change.

<ul style="list-style-type: none"> • bed and breakfast • conservation, passive recreation, heritage, wildlife and scenery viewing, with or without an open land park • education and research activities • water collection and associated infrastructure • production of biological products for pest management • road construction/widening within dedicated right-of-way • soil research or testing • a temporary sawmill • gravel extraction under 500 cubic metres • subsurface infrastructure within rights-of-way • telecommunications equipment • drainage or irrigation infrastructure • construction, maintenance & operation of buildings & structures for permitted non-farm uses • removal/placement of soil for permitted non-farm land uses 		
<p>compost production - 50% for use on farm</p>	<p>No</p>	<p>No change - 100% of compost produced on the farm must be used on that farm.</p>

Zoning By-law Review

Staff has reviewed the Zoning By-law to determine where amendments are necessary to reflect the permitted farm and non-farm land uses contained in the **Regulation**. A number of amendments are required. Approximately 86% of the land within the ALR in the City of Surrey is zoned either A-1 (85.4%) or A-2 (0.6%) and these two zones were most directly affected by the new **Act** and **Regulation**. However, a number of other zones within the Zoning By-law permit agricultural uses as well.

Agriculture and horticulture uses are defined in the Zoning By-law, as follows:

Agriculture means the use of land for the growing of crops or the raising of livestock.

Horticulture means the cultivation of the ground for the purpose of growing fruits, vegetables, plants or flowers, including non-soil bound operations such as hydroponics.

These uses are permitted, subject to various conditions, in the following eight zones: General Agriculture Zone (A-1), Intensive Agriculture Zone (A-2), Agro-Industrial Zone (IA) and in the One-Acre Residential Zone (RA), on lots that are 2 hectares (5 acres) in area or larger, Half-Acre Residential Zone (RH), Commercial Recreation Zone (CPR), Golf Course Zone (CPG) and Marina Zone (CPM).

Proposed Zoning By-law Amendments

The following is a summary of the proposed amendments to the Zoning By-law.

Farm Retail Sales

The **Regulation** designates farm retail sales as a farm use if all of the farm product offered for sale is produced on the farm or at least 50% of the retail sales area is limited to the sale of farm products produced on the farm and the total area used for the retail sale of all products, both indoors and outdoors, does not exceed 300 square metres (3,200 square feet).

The RA, A-1 and A-2 zones permit the display and sale of products, provided they are grown on the same lot or in British Columbia and are limited to food and horticultural products, excluding dressed fowl or poultry, butchered meat and preserved food; the display and sales area does not exceed a maximum floor area of 93 square metres (1,000 square feet); and the product is located within a building.

In comparing Surrey's Zoning By-law provisions with the conditions specified in the **Regulation**, the AAC recommended:

1. Retaining the maximum floor area for display and sales at 93 square metres, rather than increasing it to 300 square metres;
2. Allowing for the sale of retail agricultural and/or horticultural products produced off-site; and
3. Allowing for the sale of dressed fowl or poultry, butchered meat and preserved food as long as the product is dressed, butchered and preserved off-site.

Processing of Farm Products

The **Regulation** designates the processing of farm products as a farm use, if at least 50% of the farm product is produced on the farm or is feed required for farm production purposes. The A-1 and A-2 Zones allow the processing of farm products (identified as "primary processing"), but require that 100% of the product be grown on the farm on which the processing is taking place. The AAC recommended that both zones be modified to harmonize with the **Regulation's** 50% threshold.

Agri-Tourism

The **Regulation** defines "agri-tourism" as a tourist activity, service or facility accessory to land that is classified as a farm under the **Assessment Act**. Agri-tourism, other than accommodation, is designated as a farm use by the Regulation if it is temporary and seasonal and promotes or markets farm products grown, raised or processed on the farm. The A-1 and A-2 Zones allow agricultural and horticultural education, along with conservation and other uses, provided that the buildings or structures cover no more than 10% of the lot on which they are located. The AAC recommended that a new definition of "agri-tourism" should be added to the Zoning By-law and that agri-tourism be added as a permitted use in both the A-1 and A-2 Zones. Agri-tourism is proposed to be defined as:

"a tourist-oriented activity, service and/or facility promoting products grown, raised and/or processed on the same farm operation upon which they are grown, raised and/or processed and occurring on land classified as farm under the Assessment Act, R.S.B.C. 1996, c. 20".

Horse Riding, Training and Boarding

The **Regulation** designates horse riding, training and boarding facilities as a farm use if there are not more than 40 permanent stalls and the facility is not a licensed racetrack. While equestrian facilities are permitted within the open space set aside in the Acreage Residential Gross Density Zone (RA-G), the Half-Acre Residential Gross Density Zone (RA-G) and the Single Family Residential Gross Density Zone (RF-G), the A-1 and A-2 Zones do not have a specific reference to equestrian uses.

The keeping or boarding of horses has generally been interpreted as an agricultural use. As such, the AAC has recommended that horse-riding, training and boarding be added as a permitted use in the A-1 and A-2 Zones to provide clarity regarding these types of equestrian facilities and activities. To reflect existing activities within the RA Zone, horse-boarding was added as an accessory use.

Kennels

The **Regulation** permits the breeding of pets or operating a kennel or pet boarding facility in the ALR. The A-1 and A-2 Zones allow kennels, subject to a maximum site coverage of 10%. Kennels are specifically classified in the Zoning By-law as either commercial or hobby kennels and are regulated by the Surrey Kennel Regulation By-law, 1969, No. 3050. While both commercial and hobby kennels are permitted in the A-1 and A-2 Zones, they are not clearly identified within the permitted uses section of either zone. The AAC agreed that these zones should be amended by specifying that commercial and hobby kennels are permitted uses in each zone.

Composting

The **Regulation** permits the production, storage and application of Class A compost in compliance with the **Waste Management Act and Health Act, Organic Matter Recycling Regulation**, BC Reg. 18/2002, if at least 50% of the compost measured by volume is used on the farm on which it is produced. Except for prohibiting mushroom manure growing, Surrey's Zoning By-law is silent on composting. In consultation with the AAC, it is recommended that composting be recognized as a permitted use, subject to the processing of compost being limited to only agricultural waste materials emanating from the farm

operation. New definitions in the Zoning By-law for "compost" and "soil amendment" are being recommended, as indicated below, and "soil amendment" is being added as a permitted use in the A-1 and A-2 Zones:

Compost

means a product with all of the following properties:

- (a) it is a stabilized earthy matter having the properties and structure of humus;
- (b) it is beneficial to plant growth when used as a *soil amendment*;
- (c) it is produced by composting; and
- (d) it is derived only from organic matter.

Soil Amendment

means the application of any or some combination of the following for the purpose of enhancing the soil capability of a *farm operation*:

- (a) *compost* or bio solids from *agricultural* or *horticultural* waste produced on a *farm operation* for application on the same *farm operation*; or
- (b) fertilizers, manure, mulches, or soil conditioners.

Surrey Zoning By-law, 1979, No. 5942 ("Zoning By-law No. 5942")

A few properties within the ALR are still zoned under Zoning By-law No. 5942. Zoning By-law No. 5942 has not been addressed in this report. Rather, during 2005, staff will forward a Corporate Report to Council, complete with recommendations that will initiate a process to rezone these agricultural properties to an appropriate zone under Zoning By law No. 12000.

The recommendations of the AAC have been incorporated in the proposed amendments to the Zoning By-law, as documented in Appendix I.

Legal Services has reviewed the proposed amendments and has no concerns.

CONCLUSION

Based on the above, it is recommended that Council approve text amendments to the Zoning By-law, as documented in Appendix I attached to this report, to reflect the provisions of the *Agricultural Land Commission Act*, S.B.C. 2002, c. 36 and the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*, B.C. Reg. 171/2002, and authorize the City Clerk to bring forward the necessary amendment by-law for the required readings and to set a date for the related public hearing.

The proposed amendments to the Zoning By-law will enhance agriculture-related economic opportunities

in the City and will demonstrate the City's continued commitment to supporting its agricultural business sector.

Murray Dinwoodie
General Manager
Planning and Development

LP/kms/saw

Attachment

Appendix I

Proposed Amendments to Surrey Zoning By-law, 1993, No. 12000

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Appendix I

Proposed Amendments to Surrey Zoning By-law, 1993, No. 12000

The following amendments are proposed to Surrey Zoning By-law, 1993, No. 12000, as amended:

1. Part 1 — Definitions

(a) Insert the following new definitions in alphabetical order:

"Agricultural Land Commission Act/Regs/Orders

means the Agricultural Land Commission Act, S.B.C. 2002, c. 36, the Agricultural Land Reserve Use, Subdivision and Procedure Regulation. B.C. Reg. 171/2002, and Orders of the Agricultural Land Commission, as amended.

Agri-tourism

means a tourist oriented activity, service and/or facility promoting products grown, raised and/or processed on the same *farm operation* upon which they are grown, raised and/or processed and occurring on land classified as farm under the Assessment Act, R.S.B.C. 1996, c. 20, as amended.

Compost

means a product with all of the following properties:

- (a) it is a stabilized earthy matter having the properties and structure of humus;
- (b) it is beneficial to plant growth when used as a *soil amendment*;
- (c) it is produced by composting; and

- (d) it is derived only from organic matter.

Soil Amendment

means the application of any or some combination of the following for the purpose of enhancing the soil capability of a *farm operation*:

- (a) *compost* or bio solids from *agricultural* or *horticultural* waste produced on a *farm operation* for application on the same *farm operation*; or
- (b) fertilizers, manure, mulches, or soil conditioners."
- (b) In the definition for *Agricultural Land Reserve*, delete the words "Agricultural Land Commission Act, R.S.B.C. 1979, c. 9" and insert "*Agricultural Land Commission Act/Regs/Orders*".

2. **Part 10 — General Agriculture Zone (A-1)**

- (a) Subsection B.4.(b) - delete the words "Agricultural Land Commission Act" and insert "*Agricultural Land Commission Act/Regs/Orders*";
- (b) Subsection B.7.(d) - delete the word "or";
- (c) Subsection B.7.(e) - delete the word "*Kennels*," and insert "*Kennels Commercial*";
- (d) Subsection B.7.(e) - add the following after subsection B.7.(e):
- "(f) *Kennels-Hobby*; or
- (g) *Agri-tourism*.";
- (e) Subsection B.7. - delete the words "and further provided that the above uses in this Section shall be subject to the approval of the Agricultural Land Commission if the *lots* are within the *Agricultural Land Reserve* (ALR).";
- (f) Subsection B.7. – insert the following and renumber subsection B. accordingly:
- "8 Horse-riding, training and/or boarding facility provided:
- (a) there are not more than 40 stalls; and/or
- (b) it does not include a racetrack licensed by the British Columbia Racing Commission.";
- (g) Subsection B.8.(a) — Delete in its entirety and insert the following:

"(a) Display and retail sale of products provided all of the following are satisfied:

- i. all of the products offered for sale shall be produced by the ***farm operation*** or at least 50% of the floor area for product sales and display shall be limited to product produced by the ***farm operation***;
- ii. products offered for sale shall be limited to ***agricultural*** and/or ***horticultural*** products and shall exclude dressed fowl or poultry, butchered meat and/or

preserved food unless dressed, butchered or preserved off-site;

- iii. the cumulative maximum floor area for the display and sale of products shall not exceed 93 square metres [1,000 sq. ft.];
- iv. all products offered for sale and related displays shall be located entirely within a **building**; and
- v. products offered for sale and related displays shall be an **accessory use** to a **single family dwelling** and the **agricultural** and/or **horticultural** use of the **lot**."

- (h) Subsection B.8.(b)i. — Delete the words "Agricultural Land Commission Act" and insert "*Agricultural Land Commission Act/Regs/Orders*";
- (i) Subsection B.8.(b)ii. — Delete the words "Agricultural Land Commission Act" and insert "*Agricultural Land Commission Act/Regs/Orders*";
- (j) Subsection B.8.(c) — Delete in its entirety and insert the following:
 - "(c) *Primary processing* of products provided at least 50% of the product being processed shall be produced by the same *farm operation* or is feed required for the *farm operation*";
- (k) Subsection B.8.(d) — Substitute "9" with "10";
- (l) Subsection B.8.(e) — Delete the second occurrence of "and";
- (m) Subsection B.8.(f) — Delete the period at the end of the sentence and insert "; and";
- (n) Insert the following at the end of subsection B.8.:
 - "(g) *Soil amendment*.";
- (o) Subsection F. Yards and Setbacks table, first column, second use beginning with "Buildings for Uses Permitted Under Sections B.1, ..." — Substitute "8" with "9.";
- (p) Subsection F. Yards and Setbacks table, first column, third use described as "*Kennels*" — Insert "*-Commercial, Kennels-Hobby, Horse-riding, training and/or boarding*" after "*Kennels*";
- (q) Subsection F. double asterisk footnote — Insert "and B.7.(f)" after "B.7(e)".
- (r) Subsection G.1. — Substitute "8" with "9 of this Zone";
- (s) Subsection L.8. — Insert "*-Commercial and Kennels-Hobby*" after "*Kennels*";
- (t) Subsection L.11. — Delete in its entirety and insert the following:
 - "11. Unless prohibited or further regulated in this Zone, By-law, or other By laws, activities and *uses* on lands located in the *Agricultural Land Reserve* shall be in accordance with the *Agricultural Land Commission Act/Regs/Orders*, where applicable.";
- (u) Subsection L.13. — Delete the words "Agricultural Land Commission Act" and insert "*Agricultural Land Commission Act/Regs/Orders*".

3. **Part 11 — Intensive Agriculture Zone (A-2)**

(a) Subsection B.1. — Delete in its entirety and insert the following:

"1. All uses permitted in Section B., except B.3., of Part 10 General Agriculture Zone (A-1) of this By-law.";

(b) Subsection B.5. — Delete in its entirety;

(c) Subsection F. Yards and Setbacks table, first column, second use beginning with "Buildings for Uses Permitted Under Sections B.1, ..." — Substitute "8" with "9.";

(d) Subsection F. Yards and Setbacks table, first column, third use described as "**Kennels**" — insert "**-Commercial, Kennels-Hobby**, Horse-riding, training and/or boarding" after "**Kennels**";

(e) Subsection F., double asterisk footnote — Add "and B.7.(f)" after "B.7.(e)";

(f) Subsection L.8. — Insert "**-Commercial and Kennels-Hobby**" after "Kennels";

(g) Subsection L.11. — Delete in its entirety and substitute with:

"11. Unless prohibited or further regulated in this Zone, By-law, or other By-laws, activities and uses on lands located in the *Agricultural Land Reserve* shall be in accordance with the *Agricultural Land Commission Act/Regs/Orders*, where applicable.";

(h) Subsection L.13. — Delete the words "Agricultural Land Commission Act" and insert "**Agricultural Land Commission Act/Regs/Orders**".

4. **Part 12 — One-Acre Residential Zone (RA)**

(a) Subsection B.3. — Delete in its entirety and insert the following:

"3. Where the **lot** is 2 hectares [5 acres] or more, **agricultural** and **horticultural** uses.";

(b) Subsection B.6.(a) — Delete the second occurrence of the word "and";

- (c) Subsection B.6. (b) — Substitute the period with ";";
- (d) Subsection B.6. — Insert the following after subsection B.6.(b):
 - "(c) Horse-boarding; and
 - (d) Display and retail sale of products provided all of the following are satisfied:
 - i. all of the products offered for sale shall be produced by the **farm operation** or at least 50% of the floor area for product sales and display shall be limited to product produced by the **farm operation**;
 - ii. products offered for sale shall be limited to **agricultural** and/or **horticultural** products, and shall exclude dressed fowl or poultry, butchered meat and/or preserved food unless dressed, butchered or preserved off-site;
 - iii. the cumulative maximum floor area for the display and sale of products shall not exceed 93 square metres [1,000 sq. ft.];
 - iv. all products offered for sale and related displays shall be located entirely within a **building**; and
 - v. products offered for sale and related displays shall be an **accessory use** to a **single family dwelling** and the **agricultural** and/or **horticultural** use of the **lot**."

5. **Part 44 — Commercial Recreation Zone (CPR)**

- (a) Subsection B.6. — Delete the words "Agricultural Land Commission Act, R.S.B.C. 1979, c. 9" and insert "**Agricultural Land Commission Act/Regs/Orders**";
- (b) Subsection L.8. — Delete in its entirety and substitute with:
 - "8. Unless prohibited or further regulated in this Zone, By-law, or other By-laws, activities and *uses* on lands located in the *Agricultural Land Reserve* shall be in accordance with the *Agricultural Land Commission Act/Regs/Orders*, where applicable."

6. **Part 45 — Golf Course Zone (CPG)**

- (a) Subsection B.4. — Delete the words "Agricultural Land Commission Act R.S.B.C. 1979, c. 9" and insert "***Agricultural Land Commission Act/Regs/Orders***";
- (b) Subsection L.9 — Delete in its entirety and substitute with:

"9. Unless prohibited or further regulated in this Zone, By-law, or other By-laws, activities and *uses* on lands located in the *Agricultural Land Reserve* shall be in accordance with the *Agricultural Land Commission Act/Regs/Orders*, where applicable."

7. **Part 46 — Marina Zone (CPM)**

- (a) Subsection B.3. — Delete the words "Agricultural Land Commission Act R.S.B.C. 1979, c. 9" and insert "***Agricultural Land Commission Act/Regs/Orders***";
- (b) Subsection L.9. — Delete in its entirety and substitute with:

"9. Unless prohibited or further regulated in this Zone, By-law, or other By laws, activities and *uses* on lands located in the *Agricultural Land Reserve* shall be in accordance with the *Agricultural Land Commission Act/Regs/Orders*, where applicable."