



# City of Richmond

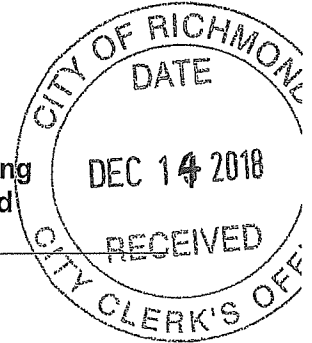
## Memorandum Planning and Development Division Policy Planning

**To:** Mayor and Councillors  
**From:** Barry Konkin  
Manager, Policy Planning

**Date:** December 12, 2018  
**File:** 08-4105-01/2018-Vol 01T

James Cooper,  
Director, Building Approvals

**Re:** **Bill 52 - *Agricultural Land Commission Amendment Act, 2018* and Building Permits; Additional Farm Dwelling; Withholding of a Building Permit; and Considerations for the December 17, 2018 Public Hearing**



### Purpose

The purpose of this memorandum is to provide Council with information regarding the recently-approved changes to the *Agricultural Land Commission Act* (Bill 52); and implications for Building Permit approvals. Further, this memorandum also provides Council with information on a recently submitted Building Permit Application for an additional residence for farm workers, a potential withholding of a building permit application, and considerations for the December 17, 2018 Public Hearing.

### Bill 52 – *Agricultural Land Commission Amendment Act*

On November 27, 2018, Bill 52 (*Agricultural Land Commission Amendment Act, 2018*) was given Third Reading and Royal Assent. This legislation:

- establishes a maximum single family house size of 500m<sup>2</sup> (5,382 ft<sup>2</sup>) in total floor area for land located within the Agricultural Land Reserve (ALR); and
- revises the regulation to remove an additional dwelling for farm employees as an outright permitted use.

It is anticipated that the amendments to the *Agricultural Land Commission Act* will come into force in early 2019 when the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* is amended through an Order-in-Council. An information update from the ALC is attached (Attachment 1).

Any proposal for a dwelling larger than 500m<sup>2</sup> (5,282 ft<sup>2</sup>), or for an additional dwelling on a property within the ALR, would require a non-farm use application to be reviewed and endorsed by Richmond Council and if endorsed, approved by the Agricultural Land Commission (ALC) upon enactment of the amended *Agricultural Land Commission Act*.

### Building Permit Grandfathering Provisions of the Revised *Agricultural Land Commission Act*

Prior to Third Reading of Bill 52, an amendment to the Bill was moved by the Minister of Agriculture to establish a 'grandfathering' period for in-stream building permits for land in the

ALR, where the proposed dwelling would be greater than 500m<sup>2</sup> (5,382 ft<sup>2</sup>). If the property owner has a lawfully issued Building Permit from the City, the property owner would have to demonstrate sufficient commencement of construction prior to November 5, 2019 if they wish to proceed. Ministry of Agriculture staff have advised City staff that for the purposes of the amended *Agricultural Land Commission Act*, the commencement of construction is defined as the completion of all concrete foundation work required for the house.

There is no 'grandfathering' period in the revised *Agricultural Land Commission Act* for building permit applications for an additional dwelling for farm workers in the ALR. In those cases, the property owner would have to hold a lawfully issued Building Permit from the City and demonstrate sufficient commencement of construction (concrete foundation poured) prior to the amendments to *Agricultural Land Commission Act* coming into force, which is expected to be in the first quarter of 2019.

### **Bylaws 9965, 9966, 9967 and 9968 – Proposed Zoning Amendments for Principal Dwellings in the AG1 and RS1/F-G Zones**

On November 6, 2018, staff were directed by Richmond City Council to prepare bylaw amendments for residential development in the ALR. The proposed bylaws would do the following:

1. Bylaw 9965 would amend the Agriculture (AG1) zone to limit the maximum size of a house, including garage and residential accessory buildings, to 400 m<sup>2</sup> (4,305 ft<sup>2</sup>).
2. Bylaw 9966 would amend the Agriculture (AG1) zone to:
  - a. revise the maximum area of the farm home plate to 1,000 m<sup>2</sup> (10,763 ft<sup>2</sup>) for lots equal to or greater than 0.2 ha (0.5 acre);
  - b. revise the maximum number of storeys for a house from 2 ½ to 2 storeys and reduce the maximum building height for a house from 10.5 m (34.4 ft.) to 9.0 m (29.5 ft.); and
  - c. introduce a farm house footprint regulation which would limit the maximum farm house footprint to 60% of the maximum house size permitted for the property in the AG1 zone.
3. Bylaw 9967 would amend the definition of 'Farm home plate' to include the entire sewerage septic system, including septic tanks and fields, within the farm home plate.
4. Bylaw 9968 would amend the Single Detached (RS1/F-G) zones in the ALR to limit the maximum size of a house to 400 m<sup>2</sup> (4,305 ft<sup>2</sup>).

### **Implications for Building Permits**

The 400 m<sup>2</sup> maximum house size limit being considered at the December 17, 2018 Public Hearing, together with the amended *Agricultural Land Commission Act*, create a number of scenarios for Building Permits that are already issued but no construction has begun, and for Building Permits that have not been issued, but are under staff review.

For Building Permits that have been issued permitting construction of a house larger than 400 m<sup>2</sup> (4,305 ft<sup>2</sup>), construction activity must start within 180 days of permit issuance to maintain the validity of the building permit. An application for extension is possible, but an extension will not be granted if a change in zoning regulations has taken place after permit issuance, and the project is not in compliance with the new regulation.

Building Permits that are ‘in-stream’ and under staff review, for a house size greater than the 400 m<sup>2</sup> (4,305 ft<sup>2</sup>) size limit being considered by Council, and greater than the new ALC Act limit of 500m<sup>2</sup> (5,282 ft<sup>2</sup>), must be issued prior to the enactment of the amended *Agricultural Land Commission Act* in order to proceed. As stated above, the enactment date will be the date the ALR Regulation is amended, which is expected in the first quarter of 2019.

Table 1 below provides a summary of the various implications to Building Permits.

**Table 1: Building Permit Implications Table**

| <b>Building Permit Implication Timeline</b>   | <b>House size between 400m<sup>2</sup> and 500m<sup>2</sup></b>   | <b>House size greater than 500m<sup>2</sup></b>   | <b>Additional house for farm workers</b>   |
|---|---|---|--|
| Submitted prior to November 14, 2018 (withholding resolution)                                 | <ul style="list-style-type: none"> <li>No impact</li> </ul>   | <ul style="list-style-type: none"> <li>No impact</li> </ul>   | <ul style="list-style-type: none"> <li>No impact</li> </ul>                                    |
| Submitted prior to Council adoption of house size bylaws (late 2018) – subject to withholding | <ul style="list-style-type: none"> <li>New applications are reviewed by Council</li> <li>If BP already issued, no impact</li> </ul> | <ul style="list-style-type: none"> <li>New applications are reviewed by Council</li> <li>If BP already issued, no impact</li> </ul> | <ul style="list-style-type: none"> <li>No impact</li> </ul>                                    |
| Prior to the enactment of <i>Agricultural Land Commission Act</i> (first quarter of 2019)     | <ul style="list-style-type: none"> <li>No impact</li> </ul>   | <ul style="list-style-type: none"> <li>BP must be issued</li> </ul>   | <ul style="list-style-type: none"> <li>BP must be issued and construction has begun</li> </ul> |
| Prior to November 5, 2019   | <ul style="list-style-type: none"> <li>No impact</li> </ul>   | <ul style="list-style-type: none"> <li>Construction must have begun</li> </ul>  | <ul style="list-style-type: none"> <li>Would require Council and ALC approval</li> </ul>       |
| Following November 5, 2019  | <ul style="list-style-type: none"> <li>No impact</li> </ul>   | <ul style="list-style-type: none"> <li>Would require Council and ALC approval</li> </ul>  | <ul style="list-style-type: none"> <li>Would require Council and ALC approval</li> </ul>       |

**Implications for Issued Building Permits for a Principal Dwelling Prior to Construction**

To date, there are 28 issued Building Permits from the City, where construction has not commenced, to construct a principal single family dwelling within the ALR which would exceed the new Provincial house size limit of 500 m<sup>2</sup> (5,382 ft<sup>2</sup>). Those property owners would have to complete site preparation work, including removing any pre-load, and demonstrate that concrete foundations have been poured before November 5, 2019. If these conditions can be met, the house size would be grandfathered and construction would be allowed to proceed. If the concrete foundation work is not complete by November 5, 2019, staff will complete a site inspection, and if warranted, issue a stop work order and cancel the Building Permit application.

**Implications for In-Stream Building Permit Applications for a Principal Dwelling**

To date, there are 25 Building Permit applications still under staff review for single family principal dwellings in the ALR which exceed the 500 m<sup>2</sup> (5,382 ft<sup>2</sup>) house size limit. These applications were all received prior to Council’s withholding resolution which took effect on November 14, 2018.

For these applications, the property owner would be required to have a lawfully issued Building Permit from the City prior to the enactment date of the amendments to the *Agricultural Land Commission Act*. If a Building Permit is issued before the enactment date, the owner would have to complete all site preparation work, including pre-load, and have concrete foundation work completed prior to November 5, 2019 in order to proceed.

With a typical pre-load period of 6 to 8 months, there is potential for some of these in-stream permits to miss the November 5, 2019 deadline. In those cases, the owner could re-submit their Building Permit application to be consistent with all Provincial enactments, as well as the requirements of Richmond Zoning Bylaw 8500, or submit a non-farm use application for review by Council, and approval of the ALC. Should the 400 m<sup>2</sup> (4,305 ft<sup>2</sup>) size limit being considered by Council be adopted, a rezoning to allow a larger principal dwelling on a site-specific basis would also be required.

**Building Permit Application for Additional Dwelling for Farm Workers – 14791 Westminster Highway**

Council adopted amendments to the AG1 zone in June 2018 to allow one additional dwelling provided that:

- the property is 8.0 ha (20 acres) or greater;
- a signed statutory declaration is submitted by the owner of the property;
- the need for the additional dwelling is justified by a certified professional Agrologist;
- the maximum floor area of the house is not greater than 300 m<sup>2</sup> (3,229 ft<sup>2</sup>); and
- the maximum area of the additional farm home plate is not greater than 500 m<sup>2</sup> (6,458 ft<sup>2</sup>).

In addition, the amendments to the *Agricultural Land Commission Act* revises the ALC regulations to remove an additional dwelling for farm employees as an outright permitted use. However this regulation has not yet been enacted.

A building permit application for an additional dwelling for farm workers of 300 m<sup>2</sup> (3,229 ft<sup>2</sup>) for the property located at 14791 Westminster Highway was submitted on November 7, 2018. After detailed staff review and consultation with Legal Services, this building permit application has been cancelled, as the application is incomplete. The applicant did not provide the required statutory declaration attesting to the agricultural use of the property, and no agrologist's report justifying the additional dwelling has been provided.

With the amendments to *Agricultural Land Commission Act* given Royal Assent, Council may wish to direct staff to remove the zoning provisions allowing an additional dwelling for farm workers in Richmond Zoning Bylaw 8500. If so desired, an appropriate wording is:

the January 14, 2019 Regular Council meeting to

\* (1) Staff be directed to bring back bylaws to amend the City's Official Community Plan Bylaw 9000 and the Richmond Zoning Bylaw 8500 to remove the provisions for an additional dwelling for farm workers on AG1 lots located within the Agricultural Land Reserve

These amendments will ensure that the City's Zoning Bylaw and Official Community Plan are consistent with the Provincial legislation. A land owner would still be able to make a non-farm use application to Council and the Agricultural Land Commission (ALC) to allow an additional dwelling for farm workers. Should a non-farm use be endorsed by Council and approved by the

6041418 (2) that staff be directed to withhold building permits for additional farm dwellings on AG1 lots located in the ALC under Section 403 and bring forward the ALC to conflict with by-laws in preparation

ALC, a rezoning application to allow the additional dwelling on a site-specific basis would also be required.

### **Withholding of a Building Permit – 11131 Granville Avenue**

On November 6, 2018, Council also passed a resolution to implement a withholding resolution of all building permit applications that would be contrary to the bylaw being prepared, in this case to limit the maximum permitted house size to 400 m<sup>2</sup> (4,305 ft<sup>2</sup>). A building permit for a principal dwelling on the property at 11131 Granville Avenue that would be contrary to the bylaw under consideration was submitted on December 7, 2018. A detailed review of the permit application has confirmed that the design submitted is for a principal dwelling with a floor area of 560 m<sup>2</sup> (6,027 ft<sup>2</sup>), which exceeds the maximum size permitted on the lot of 500 m<sup>2</sup> (5,382 ft<sup>2</sup>) as per the AG1 Zone. As the permit application is non-compliant with the Richmond Zoning Bylaw 8500, the permit application has been cancelled, and a Council resolution to withhold the permit is not required.

### **Public Hearing Considerations**

It is anticipated that there will be considerable public input at the December 17, 2018 Public Hearing on the proposed bylaws for agricultural house regulations. As described on Page 2 of this memorandum, there are 4 bylaws for house regulations being considered at the Public Hearing.

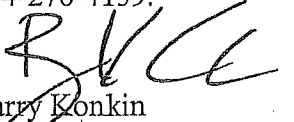
The Deputy Municipal Clerk has advised that the house size limit in Bylaws 9965 and 9968 – to further regulate house size on properties AG1 and RS1/F and RS1/G respectively, currently at 400 m<sup>2</sup> (4,305 ft<sup>2</sup>) – cannot be changed at the Public Hearing, as the house size limit is included under the density provisions of the Bylaw. Any change to the house size limit would require an additional Public Hearing.

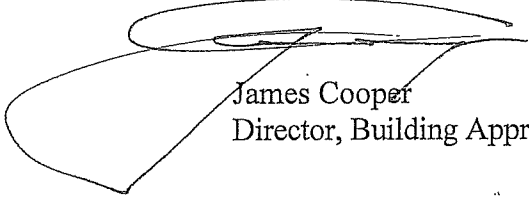
The content of the other 2 bylaws – Bylaw 9966 for farm home plate size and house footprint limit and Bylaw 9967 to require the septic tank and field to be located within the farm home plate – could be amended following the Public Hearing, if Council so desired.

### **Conclusion**

Staff will continue to monitor the implementation of the amendments to the *Agricultural Land Commission Amendment Act*, and will provide Council with an update on the effective date of the legislation and the amendments to the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*.

If you have any questions, please contact either Mr. Cooper at 604-247-4606 or Mr. Konkin at 604-276-4139.

  
Barry Konkin  
Manager, Policy Planning

  
James Cooper  
Director, Building Approvals

BK:cas

pc: SMT

Wayne Craig, Director of Development

Att. 1: ALC Information Update: Bill 52 – 2018 Agricultural Land Commission Amendment Act



Agricultural Land Commission  
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Tel: 604 660-7000  
[www.alc.gov.bc.ca](http://www.alc.gov.bc.ca)

## **Dec. 4, 2018 – ALC Information Update: Bill 52 – 2018 Agricultural Land Commission Amendment Act**

This ALC information update is to inform local governments, land owners and the general public.

### **General Summary:**

Bill 52 has received Royal Assent **but will not have force and effect until new ALR Regulations are adopted**. The Provincial Government is currently working on these ALR Regulations. The ALC anticipates that they will be adopted next year.

### **Housing Questions:**

If your proposed primary house is more than 500m<sup>2</sup> (5,382 sq ft), the following grandfathering provisions may apply:

#### **Primary Residence:**

To have a primary residence (1<sup>st</sup> house) larger than 500 m<sup>2</sup> grandfathered, you must have:

1. Received your building permit before the new ALR Regulations are adopted (if building permits are required where you live); AND
2. Construction of the foundation or alteration is substantially begun by November 5, 2019.

#### **Additional Residence (ie. 2<sup>nd</sup> House):**

To have your additional residence grandfathered, you must have:

1. Received your building permit before the new ALR Regulations are adopted (if building permits are required where you live); AND
2. Construction of the Foundation or alteration is substantially begun before the new ALR Regulations are adopted.

Until new Regulations are adopted, the ALC is not able to confirm if a project will meet the grandfathering conditions. This update is intended only to provide information with respect to the timing of the amendments to the ALC Act.

Please refer to the exact language of Bill 52 (3<sup>rd</sup> Reading) on the Legislative Assembly of BC's website: <https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/41st-parliament/3rd-session/bills/progress-of-bills>