

# CITY OF VICTORIA

## Committee of the Whole Report

**Date:** September 23, 2008      **From:** Cameron Scott, Planner, Community Planning  
**Subject:** Urban Agriculture – Home Occupation Regulation Changes

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### Executive Summary

The purpose of this report is to investigate changes to Schedule D: Home Occupations (of the Zoning Regulation Bylaw #80-159) with respect to urban agriculture.

The direction to investigate this item originates from a July 24, 2008 Neighbourhood Planning Program Renewal staff report to Council, that presented community-identified, urgent, short-term neighbourhood planning issues. As a result of this report, Council directed staff to prepare a report recommending changes to home occupation regulations, specifically regarding urban agriculture. This direction builds upon a March 22, 2007 Council resolution which stated the City's general support and encouragement of urban agriculture.

Oak Bay has recently been through a similar process, modifying their regulations in response to urban agriculture. Their approach was to add urban agriculture as a secondary use in residential zones, with a size limit of 95 m<sup>2</sup> placed on the area that could be cultivated.

The major potential issues associated with permitting urban agriculture as a home occupation are impacts on neighbouring properties and reduced tax revenue for the City. By classifying urban agriculture as a home occupation, it becomes embedded within an existing regulation that has language which addresses impacts on adjacent properties and controls the size and scale of operations. The City's ability to modify farm tax rates provides a mechanism to control and limit potential tax implications. A provision to permit two individuals to participate in this particular home occupation would help to further encourage local food production and demonstrate the City's leadership on this issue. It is intended that larger scale urban agriculture activities and broader food security issues will be examined in the *Official Community Plan Review and Update*.

### Recommendation

1. That Council direct the City Solicitor to prepare the Zoning Regulation Bylaw amendments to include urban agriculture in the list of permitted uses in Schedule D: Home Occupations of the Zoning Regulation Bylaw #80-159, with a provision to allow for up to two people to engage in urban agriculture as a home occupation;
2. That Council direct the Finance Department to include in its Revenue and Tax Policy that farm tax rates will be set at a rate so taxes paid by properties achieving farm status will be comparable to what the property would have paid if it were assessed as residential.

Respectfully submitted,

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## 1. Purpose

The purpose of this report is to investigate changes to Schedule D: Home Occupations (of the Zoning Regulation Bylaw #80-159) with respect to urban agriculture.

## 2. Background

This report is a result of Neighbourhood Planning Program Renewal meetings which, among other things, sought to identify issues that were relevant to multiple neighbourhoods, and were identified by community members as urgent items that could be addressed in the short term.

As part of addressing these short-term issues, on July 24, 2008, it was moved:

*“That Council direct staff to prepare a report recommending changes to the home occupation regulations, specifically regarding urban agriculture.”*

The intention here is to investigate some regulatory changes that will help enable urban agriculture in the short term, with broader policy issues associated with urban agriculture and local food production being addressed through planning processes such as the *Official Community Plan Review and Update*.

This report also builds upon a March 22, 2007 Council resolution that:

*“Supports in principle the concept of urban agriculture as a valuable community resource and will work to collaborate with the community, neighbouring municipalities and Capital Region District to support and encourage urban agriculture where possible”.*

This examination of urban agriculture has also come up as a result of residents beginning to examine backyard gardening on a commercial scale. This raises a number of regulatory, tax and impact issues. The District of Oak Bay has addressed this issue by allowing urban agriculture as a secondary use in their single family residential zones, with conditions limiting garden size to 95m<sup>2</sup>, limiting production to fruits and vegetables, and prohibiting artificial lighting, on-site sales and greenhouse production. These conditions are intended to ensure the properties do not achieve farm tax status and have limited neighbourhood impacts.

## 3. Issues

While there are a host of complex issues that relate to urban agriculture, this report has a narrow focus of examining home occupation regulations. The topic of urban agriculture will be examined comprehensively through other projects, including the *Official Community Plan Review and Update*.

### **Enabling Urban Agriculture & Local Food Production**

The above-mentioned March 22, 2007 Council resolution in support of urban agriculture, in combination with community desire for local food production, necessitates the investigation of ways to enable and support local food production in the City of Victoria.

### **Tax Revenue Implications**

A major potential issue associated with urban agriculture is the potential tax implications of properties obtaining farm tax status. Any property under 8000 m<sup>2</sup> (two acres), that produces \$10,000 in farm gate income, can receive farm classification from BC assessment. This could result in lower tax revenues for the City of Victoria.

### **Impacts on Adjoining Residents**

Agricultural uses have the potential to produce externalities that have a negative impact on neighbouring properties. Any changes that are made to regulations need to ensure mechanisms are in place to deal with any potentially negative impacts.

## **4. Analysis**

### **Enabling Urban Agriculture & Local Food Production**

Modifying home occupation regulations to include urban agriculture represents a step towards acknowledging and addressing the importance of local food production. In regulating urban agriculture, the City has to be careful to not over-regulate something that it wants to support. A major evaluation of urban agriculture policies and regulations will need to occur at the City-wide and regional scale in other processes such as the *Official Community Plan Review and Update*.

### **Tax Revenue Implications**

The expansion of urban agriculture in the City of Victoria needs to carefully consider tax impacts. The transitioning of properties from residential to farm status could result in a decline in property tax revenues for the City. Similar concerns in Oak Bay resulted in a number of restrictions being imposed to ensure the \$10,000 threshold for farm status was not achieved. These restrictions included limiting production to vegetables and fruits and limiting the size of garden area.

Once farm status is achieved, all land associated with farming, including the land occupied by the farmer's dwelling (but not the dwelling itself), is classed as agricultural and valued solely based on soil capability, and whether or not it is cultivated and irrigated. The assessment value is dramatically lower for agricultural land, with the highest value in School District #61 being \$2,460 per acre.

The City of Victoria does not have any properties that have farm status; therefore, there is the potential to establish farm tax rates at a desired level. The farm tax rate could be set high enough to garner revenue that is comparable to a residential assessment. Oak Bay has utilized this approach and set their farm tax rate approximately 800 times greater than their residential tax rate (2648.893 vs. 3.179). A farm tax rate change could either be implemented immediately or brought in as a response, if properties begin to gain farm classification.

### **Impacts on Adjoining Residents**

Backyard gardening is already extensively practiced throughout the City with limited conflicts with adjacent properties. By addressing urban agriculture within the context of home occupation regulations, regulatory language is already in place to deal with off-site impacts. These include

restrictions on noxious or offensive uses and signage, as well as a residency requirement. As well, it is proposed that urban agriculture will be defined in the home occupation regulations as the production of fruits and vegetables, further minimizing potential impacts on adjacent properties.

#### **4.a. Options**

Options are available to address both urban agriculture as a use and the potential tax implications:

Use:

- That Council add urban agriculture to the list of permitted uses in Schedule D: Home Occupations of the Zoning Regulation Bylaw #80-159;
- That Council add urban agriculture to the list of permitted uses in Schedule D: Home Occupations of the Zoning Regulation Bylaw #80-159, with a provision to allow for up to two people to engage in urban agriculture as a home occupation;
- That Council receive the report for information and defer changes to home occupation regulations for urban agriculture to the *Official Community Plan Review and Update*.

Tax Implications:

- That Council direct staff to monitor tax implications of properties obtaining farm status;
- That Council include in its Revenue and Tax Policy that farm tax rates will be set at a rate so that taxes paid by properties achieving farm status will be comparable to what the property would have paid if it were assessed as residential.

#### **4.b. Resource Impacts**

Resource impacts to implement the recommendations are:

- Staff time to modify Schedule D: Home Occupations of the Zoning Regulation Bylaw #80- 159 to include urban agriculture;
- Staff time for modify the farm tax policy.

#### **4.c. Conclusions**

City Council has adopted a resolution supporting urban agriculture. Changes to the home occupation regulations represent the first step in a process of evaluating, analyzing and enabling urban agriculture in the City. By permitting urban agriculture as a use within the home occupation regulations, issues of impacts on neighbours and scale of the operation are addressed by pre-existing provisions. A provision to permit two individuals to participate in this particular home occupation will help to further encourage local food production and demonstrate the City's leadership on this issue.

Given the size of most typical residential properties in the City and restrictions contained within the home occupation regulations, there is not a high likelihood that properties will achieve the \$10,000 of income needed to apply for farm status. However, tools are available to modify tax rates to ensure impacts on the tax base are minimized. Therefore, it is recommended that staff

monitor the situation to ensure that the City's tax base is not adversely impacted.

A more in-depth exploration of urban agriculture and local food production will occur through the *Official Community Plan Review and Update*. Future analysis will need to examine the commercial aspects of urban agriculture, mechanisms for encouraging and providing incentives for local food production, and an investigation of the broader issues of food security.

## **5. Recommendations**

1. That Council direct the City Solicitor to prepare the Zoning Regulation Bylaw amendments to include urban agriculture in the list of permitted uses in Schedule D: Home Occupations of the Zoning Regulation Bylaw #80-159, with a provision to allow for up to two people to engage in urban agriculture as a home occupation;
2. That Council direct the Finance Department to include in its Revenue and Tax Policy that farm tax rates will be set at a rate so taxes paid by properties achieving farm status will be comparable to what the property would have paid if it were assessed as residential.