



Council Report

For the Meeting of July 28, 2016

To: Council **Date:** July 14, 2016
From: Jonathan Tinney, Director, Sustainable Planning and Community Development
Subject: Growing in the City – Part 2: Proposed Bylaw Amendments to Support Small-Scale Commercial Urban Food Production

RECOMMENDATION

That Council:

1. Give first reading to Bylaw No.16-063, Official Community Plan Bylaw, 2012, Amendment Bylaw (No.15).
2. Consider the proposed Official Community Plan Bylaw Amendment to be consistent with the Municipality's financial plan and the solid waste management plan.
3. Direct staff to undertake consultation prior to the Public Hearing to consult with those affected by the proposed amendment to the Official Community Plan as required under Section 475(1) of the *Local Government Act*.
4. Consider consultation under Section 475(2)(b) of the *Local Government Act* and determine that no referrals are necessary with the Capital Regional District Board, Councils of Oak Bay, Esquimalt and Saanich, the Songhees and Esquimalt First Nations, the School District Board, and the provincial and federal governments and their agencies due to the nature of the proposed amendments.
5. Give second reading to Official Community Plan Bylaw, 2012, Amendment Bylaw (No.15).
6. Refer Official Community Plan Bylaw, 2012, Amendment Bylaw (No.15), for consideration at a Public Hearing.
7. Give first and second reading to Zoning Regulation Bylaw, Amendment Bylaw (No.1072).
8. Refer Zoning Regulation Bylaw, Amendment Bylaw (No.1072), for consideration at a Public Hearing.
9. Give first and second reading to Business Licence Bylaw, Amendment Bylaw (No.31).
10. Refer Business Licence Bylaw, Amendment Bylaw (No.31) for consultation under Section 59 of the *Community Charter*.
11. Give first, second and third reading to Sign Bylaw, Amendment Bylaw (No.13).
12. Give first, second and third reading to Pesticide Use Reduction Bylaw, Amendment Bylaw (No.1).
13. Give first, second and third reading to City Streets and Traffic Bylaw, Amendment Bylaw (No.6).

EXECUTIVE SUMMARY

The purpose of this report is to present Council with a series of proposed amendments to City regulations to better support small-scale commercial urban food production, as part of the "Growing in the City" project. These include proposed amendments to the *Zoning Regulation Bylaw*, *Business Licence Bylaw*, *Sign Bylaw*, *Streets and Traffic Bylaw*, *Official Community Plan Bylaw* and *Pesticide Use Reduction Bylaw*, to:

- define small-scale commercial urban food production
- allow small-scale commercial urban food production in all zones
- restrict loading of delivery trucks
- allow off-site retail sales
- allow on-site retail sales through farm stands
- limit odours, noise and light pollution
- exempt certain rooftop greenhouses from height calculations and floor space ratio calculations
- exempt small-scale commercial food production from requiring a development permit for landscaping
- allow permanent farmer's market signage
- allow boulevard gardening
- prohibit pesticide uses which constitute noxious or offensive business practices within the context of small-scale commercial urban food production.

These proposed amendments are in response to Council's direction that staff prepare regulations to support small-scale commercial urban food production at its meeting on February 25, 2016.

The 'Growing in the City' project is a year long initiative to update and expand policies, regulations and guidelines to support urban food production in the City of Victoria. The project will deliver six related initiatives intended to advance key directives in the City's *Official Community Plan* and 2015 – 2018 *Strategic Plan* towards a more sustainable local food system:

1. An inventory of City-owned land for community food growing.
2. A review and update of the Community Gardens Policy.
3. Voluntary guidelines for food production in multi-unit, mixed use developments and other types of housing.
4. Guidelines for food-bearing trees on City-held lands.
5. A review of City regulations and policies to explore the opportunity for, and implications of, supporting expanded small-scale commercial urban agriculture.
6. A final version of the Boulevard Gardening Guidelines.

The regulatory changes proposed in this report have been developed to address initiative five, described above.

The City of Victoria recognizes urban gardening and food production as a valuable community activity that contributes to health and well-being, positive social interaction, connection to nature, environmental education, increasing healthy and diverse ecosystems, neighbourhood building, and food security. Small-scale commercial urban food production, which involves the production of food products for sale, provides household and neighbourhood-scale economic opportunities and supports the region's food production and restaurant sectors .

PURPOSE

The purpose of this report is to bring forward amendments to the Official Community Plan Bylaw (OCP), Zoning Regulation Bylaw, Sign Bylaw, Pesticide Use Reduction Bylaw and Business Licence Bylaw for Council's consideration in order to support small-scale commercial urban food production.

BACKGROUND

The City of Victoria recognizes urban gardening and food production as a valuable community activity that contributes to health and well-being, positive social interaction, connection to nature, environmental education, increasing healthy and diverse ecosystems, neighbourhood building, and food security. Small-scale commercial urban food production, which involves the production of food products for sale, provides household and neighbourhood-scale economic opportunities and supports the region's food production and restaurant sectors.

The 'Growing in the City' initiative updates and expands policies, regulations and guidelines to support urban food production in the City of Victoria. The project will deliver six related initiatives intended to advance key directives in the City's *Official Community Plan* and *2015 – 2018 Strategic Plan* towards a more sustainable local food system:

1. An inventory of City-owned land for community food growing.
2. A review and update of the Community Gardens Policy.
3. Voluntary guidelines for food production in multi-unit, mixed use developments and other types of housing.
4. Guidelines for food-bearing trees on City-held lands.
5. A review of City regulations and policies to explore the opportunity for, and implications of, supporting expanded small-scale commercial urban agriculture.
6. A final version of the Boulevard Gardening Guidelines.

The regulatory changes proposed in this report have been developed to address initiative five, a review of City regulations and policies to explore the opportunity for, and implications of, supporting expanded small-scale commercial urban agriculture.

Official Community Plan and Food Production

Victoria's *Official Community Plan* (OCP) supports a shift towards a more sustainable urban food system, including expanded opportunities for small-scale commercial urban agriculture and other food-related economic development. Given Victoria's small land base and the City's commitment to accommodating a significant amount of the region's population growth, the use of land for food production should be balanced with the City's objectives for new housing and development. Food production will be supported on private lands where it is safe, suitable and compatible with density and other urban place guidelines in the OCP (17.10).

Specific to commercial urban agriculture, the City's OCP directs the City to:

- 17.14. Explore expanded small-scale commercial urban agriculture through a review of policy and regulations to consider the opportunities for, and implications of:
 - 17.14.1. Enabling infrastructure and human resources needed to support small-scale commercial urban agriculture as a home occupation.
 - 17.14.2. Using residential accessory buildings for commercial agricultural purposes.
 - 17.14.3. Allowing commercial urban agriculture uses, including greenhouses, in

commercial and industrial zones.

On February 25, 2016 at Council's regular meeting, Council unanimously passed the following motions:

" 'Growing in the City' – Part 1: Urban Food Production on City-Owned Lands:

It was moved by Councillor Isitt, seconded by Councillor Loveday, that Council:

1. Adopt the revised Community Gardens Policy (2016);
2. Approve the land inventory of City-owned property for community food production and report back to Council with revised map on an annual basis;
3. Endorse a new Urban Food Tree Stewardship pilot program with planting undertaken as a joint initiative involving city staff and residents;
4. Adopt the revised Boulevard Gardening Guidelines, and instruct staff to prepare associated bylaw amendments.

'Growing in the City' – Part 2: Regulatory Amendments to Support Small-Scale Commercial Urban Farming:

1. Prepare a Zoning Regulation Bylaw amendment to:

- a. Add "commercial agriculture" as a defined use to include the production of fruits, vegetables, flowers, fibre, seeds, nuts, seedlings, herbs, eggs and honey;
- b. Allow the production of compost and soil amendments for retail purposes in industrial zones only;
- c. Exclude products regulated by the Controlled Drug and Substances Act from the definition of commercial urban agriculture;
- d. Permit commercial urban agriculture in all zones, provided it is not noxious or offensive to neighbours or the general public by reason of emitting unreasonable levels of odour, noise or artificial lighting;
- e. Remove the reference to urban agriculture as a home occupation;
- f. Define farm stand as a container which holds, shelves or otherwise displays products of commercial agriculture for retail purposes outdoors;
- g. Allow partially enclosed farm stands up to 1.85 m² and 3.35m in height in all zones;
- h. Permit farm stands in front yards only, set back at least 0.6m from the lot line;
- i. Permit farm stands to sell raw, unprocessed plant products, eggs and honey only;
- j. Require that farm stand products be grown on-site;
- k. Permit the sale of products of commercial agriculture in all zones, regardless of whether retail use is permitted, provided it is done at a farm stand (or in accordance with another permitted use);

- l. Require stands to be removed if not in use for more than seven days;
 - m. Limit the hours of operation of a farm stand to between 7 am and 8 pm on a weekday or Saturday, and from 10 am - 8 pm on a Sunday or holiday;
 - n. Allow no more than one farm stand per property;
 - o. Define greenhouse as a glass or clear translucent structure used for the cultivation or protection of plants;
 - p. Exempt rooftop greenhouses from the calculation of total floor area, height or storeys;
 - q. Do not permit rooftop greenhouses in low-density residential zones or on multi-unit developments with fewer than four units;
 - r. Specify that a rooftop greenhouse must not exceed 3.35m in height and 28m² or 50% of the building's rooftop area, whichever is less.
2. Prepare a Business Licence Bylaw amendment to:
- a. Require a business licence for commercial urban agriculture for off-site retail purposes;
 - b. Require a business licence for on-site farm stand sales;
 - c. Offer the option of a three-month farm stand business licence for \$25 or a year-long licence for \$100;
 - d. Permit the loading of commercial urban food production products into a delivery truck one time per day, between 7 a.m. and 8 p.m. on a weekday or Saturday; and between 10 a.m. and 8 p.m. on Sunday or a holiday.
3. Prepare an Official Community Plan Amendment Bylaw to:
- a. Amend policy 17.10 to clarify that urban agriculture should be subservient to the density, built form, place character and use objectives in the Official Community Plan;
 - b. Exempt commercial and non-commercial urban agriculture from requiring a development permit for the alteration of land, unless the installation is being constructed in association with a building, structure or other landscape features that requires a development permit.
4. Prepare a Sign Bylaw amendment to allow permanent signage for outdoor markets on City property.
5. Prepare a Pesticide Regulation Bylaw to prohibit the use of pesticides for commercial urban food production, including on industrial, commercial and institutional properties.
6. Prepare outreach materials and design examples for food production in multi-unit, mixed-use developments and other types of housing.
7. Prepare information for applicants on siting, appearance and design considerations to encourage compatibility of commercial urban agriculture operations, including rooftop greenhouses, farm stands and operations on vacant lands, with other land uses.
8. Prepare information materials to communicate requirements and responsibilities for commercial urban agriculture and farm stands.

9. Implement a process to monitor and evaluate the effectiveness and benefits of the proposed regulatory changes and report to Council after two years on the effectiveness of the changes, and recommend any adjustments that might be warranted.”

ISSUES & ANALYSIS

This report proposes a series of bylaw changes intended to support the expansion of small-scale commercial urban food production in the City of Victoria. The proposals were supported by Council at its meeting on February 25, 2016 and take a balanced approach by introducing regulatory changes that support small-scale commercial urban food production with limits to minimize negative impacts on neighbouring properties.

The goal of the proposed amendments is to support small-scale commercial urban food production to a degree which is compatible with other urban land uses, particularly in residential and commercial areas.

The February 25, 2016 Council motion directed staff to prepare a Pesticide Regulation Bylaw “to prohibit the use of pesticides for commercial urban agriculture use, including on industrial, commercial and institutional properties”. Staff have implemented this by bringing forward bylaw amendments which prohibit those pesticide uses which constitute noxious or offensive business practices within the context of small-scale commercial urban food production. If a person wants to use a pesticide for small-scale commercial urban food production, they are limited to those which are permitted for residential uses (and by Provincial legislation) unless they obtain a permit from the City.

It should also be noted that the products regulated by the *Controlled Drug and Substances Act* e.g. Cannabis (Marihuana) are not excluded from the definition of small scale commercial urban food production. They are contained within the definition, but are not permitted to be produced as part of this use, pursuant to the new Schedule L Regulations.

In addition, staff have also updated the term used in connection with the proposal and purpose of the project to “small-scale commercial urban food production” in order to be more consistent with language and the policy intent of the OCP.

OPTIONS & IMPACTS

Recommended by staff:

- Provide first and second reading to the proposed OCP Amendment Bylaw, and refer to a Public Hearing for further consideration; and
- Provide first and second reading to Zoning Regulation Bylaw and Business Licence Amendment Bylaw, and refer to a Public Hearing for further consideration; and
- Provide first, second and third reading to the amendments to the Sign Bylaw, Pesticide Use Reduction Bylaw, and the City Streets and Traffic Bylaw and allow an opportunity for public comment.

This option would continue to support Council's previous direction from February 25, 2016, (Attachment 5) and will allow Council to receive additional feedback through a Public Hearing prior to Council's consideration and decision.

2015 – 2018 Strategic Plan:

The recommended option is consistent with Objective 8: Enhance Public Spaces, Green Spaces and Food Systems, including the following actions:

2015 Actions:

- Develop long-term policies for food security and boulevard gardening, including an inventory of City-owned land for food production and improved coordination of food systems resources and initiatives in the City.
- Allocate existing resources in Parks and other departments to implement food security initiatives.

2016 Actions:

- Introduce new partnerships with citizens and groups to increase food cultivation on public and private land.

Impacts to Financial Plan:

Implementing the regulatory amendments associated with the recommended option will be completed using staff time and are not anticipated to result in impacts to the Financial Plan.

Permitting farm stands and small-scale commercial urban food production will require staff time for processing new Business Licence Applications. This will be met by existing staff capacity. New licences will generate nominal, incremental revenue.

The proposed regulations for small-scale commercial urban food production may create additional enforcement needs. While it is difficult to estimate how many people will be interested in establishing small-scale urban food production operations and the associated enforcement costs, it is anticipated that the impact will be low. Additional resource needs will be reviewed as part of the two year review.

Official Community Plan Consistency Statement:

The proposed amendments support the OCP's objectives for a more secure and sustainable urban food system. The proposed amendments seek to balance the desire for more small-scale commercial urban food production with restrictions that will limit potential impacts on adjacent land uses. The encouragement for small-scale urban food production needs to consider the City's growth targets for new housing and development.

Local Government Act:

Section 475 (Consultation during OCP Development)

Section 475 of the *Local Government Act* requires the Municipality to provide one or more opportunities it considers appropriate for consultation with persons, organisations and authorities it considers will be affected in addition to the public hearing. Should Council choose to provide First Reading to the OCP amendment bylaw, staff recommend sending a letter to Community Associations and posting the draft bylaws on the City website prior to the Public Hearing.

Section 477 (Adoption Procedures)

Section 477 of the *Local Government Act* states that the Municipality must, following First Reading of the OCP amendment bylaw, consider the plan in conjunction with its financial plan and waste management plan. Staff have reviewed this requirement and do not have any concerns.

CONCLUSIONS

There is a strong desire by Victoria residents and urban farmers to enable and expand small-scale commercial urban food production within the city. The proposed regulatory changes in this report are anticipated to remove barriers to allow small-scale commercial urban food production operations, while imposing some restrictions to minimize the scale and potential negative impacts on neighbouring properties.

Respectfully submitted,



Brian Green
Senior Planner
Community Planning Division



Jonathan Tinney, Director
Sustainable Planning and Community Development

Report accepted and recommended by the City Manager: _____

Date: _____


July 22, 2016

List of Attachments

- Attachment 1: Official Community Plan Bylaw, 2012, Amendment Bylaw (No.15)
- Attachment 2: Zoning Regulation Bylaw, Amendment Bylaw (No.1072)
- Attachment 3: Business Licence Bylaw, Amendment Bylaw (No.31)
- Attachment 4: Sign Bylaw, 1992, Amendment Bylaw (No. 13)
- Attachment 5: Pesticide Use Reduction Bylaw, Amendment Bylaw (No.1)
- Attachment 6: Streets and Traffic Bylaw, Amendment Bylaw (No. 6)
- Attachment 7: February 25, 2016 Committee of the Whole Report Part 1 and Part 2.