

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee

From: Gregg Barrett
Director, City Planning and City Planner

Subject: Amend Section 4.11 (Household Sales) in Zoning By-law Z-1
City of London

Public Participation Meeting on: July 15, 2020

Recommendation

That, on the recommendation of the Director, City Planning and City Planner, the following actions be taken with respect to the application by the City of London relating to a City-wide review to permit the sale of agricultural products grown on a premises:

- (a) the proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting on July 21, 2020 to amend Zoning By-law No. Z.-1, in conformity with the Official Plan, to amend Section 4.11(Household Sales) to permit the sale of agricultural products.

Executive Summary

Purpose and Effect of Recommended Action

The proposed zoning by-law amendment would amend Section 4.11 (Household Sales) of Zoning By-law Z-1 to allow residents to sell produce grown on their properties within the Urban Growth Boundary up to 20 times a year. This will implement actions identified in the Urban Agriculture Strategy, adopted by Council in November 2017, to make locally grown food more readily available to the general public.

Rationale of Recommended Action

1. The recommended amendment to Zoning By-law Z.-1 is consistent with the Provincial Policy Statement (2014).
2. The recommended amendment to Zoning By-law Z.1 conforms to the 1989 Official Plan and to The London Plan, including the policies of the Food Systems chapter, and provides for appropriate uses on these sites.
3. The recommended amendment to Zoning By-law Z-1 will allow sales of agricultural products from premises that have a dwelling unit.
4. The zoning by-law amendment helps implement one of the goals of the Urban Agriculture Strategy to make fresh produce more available to the general public.

The recommended amendment to Zoning By-law Z.-1 will allow the sale of agricultural products grown on properties located within the Urban Growth Boundary to be sold by residents on the property.

Analysis

1.0 Relevant Background

In the Farmland Place Type (The London Plan) and Agriculture designation (1989 Official Plan), which are applied outside the Urban Growth Boundary, retail sales of produce grown on the farm is allowed as an accessory use and normally takes the form of a roadside stand at the entrance to the farm. Farm markets, which sell a broader range of produce grown exclusively on the farm at a larger scale, and Farm Food Products Market, which sell a broader range of goods not necessarily grown on the farm also provide for direct retail sales.

The distribution of food that is grown within the Urban Growth boundary, is organized into three categories that include Farmers' Markets, Local Food Procurement and Direct Food Sales. These categories are described in the Urban Agriculture strategy and were identified by the community, through the preparation of that strategy. The first category, farmers' markets, provide opportunities where small-scale local growers and regional farmers can sell food and increase the accessibility of nutritious, fresh, healthy food for residents. The Urban Agriculture Strategy identified 12 farmers' markets in London. These are located on properties where retail sales are permitted, and include venues such as Covent Garden Market, Masonville Mall and Western Fair.



The second category, local food procurement encourages the purchasing of locally grown food by City organizations and businesses.

The third category is Direct Food Sales. This refers to opportunities for small-scale urban farmers to sell their produce directly to the public. The purpose of the recommended amendment is to support direct food sales in accordance with the Urban Agriculture Strategy.

2.0 Urban Agriculture Strategy

The Urban Agriculture Strategy was adopted by Council in November 2017. The Strategy identified five broad categories: growing, processing, distribution, food loss and recovery and education and connection as the basis of the Strategy. Under each category, community-identified priorities were described, and a series of actions were identified for these priorities. For each action, roles were identified for each of the partners (urban agriculture community, other organizations and City).

Under the Distribution/Direct Food Sales Section the specific action in the Strategy is to *“Investigate bylaw issues related to food sales on private property and community gardens.”* The Urban Agriculture Strategy identifies three possible options to increase Direct Food Sales; 1) Farmgate sales where produce grown on the property is sold at a

small stand, similar to a farm market in the agricultural area, 2) selling produce grown at community gardens on-site, and 3) broadening the definition and regulations for household/garage sales to allow homeowners to sell produce grown on the property more than twice a year.

The first option has been addressed through a zoning by-law amendment approved by Council on November 26, 2019 which added a new definition of “Farm Gate Sales” and added that use as a permitted use in the Urban Reserve (UR) Zone in Zoning By-law Z-1.

The second option has been discussed with Parks and Recreation staff, the sale of produce from community gardens. In reviewing this opportunity, it was determined that the sales of produce from community gardens would be inconsistent with the community garden principles and guidelines. Guideline #1802 states that it is prohibited to “*sell produce or flowers from the garden; however they may be traded or exchanged with other Gardeners.*” It is intended that there can be informal sharing of food between growers for individual use and consumption. These garden plots are individually used and are intended for personal use, not retail or commercial use.

However, there is an opportunity to allow the sale of produce on a temporary basis in City-owned parks. Part 4.1 of the Parks and Recreation Area By-law PR-2 describes “Activities prohibited-subject to approval”. Among those activities, it is prohibited to “*sell refreshments or other merchandise to the public;*” without approval. Approval can be granted from the Managing Director – Parks and Recreation, or a designate, taking into account a number of factors. Each request is considered on a case-by-case basis. As the temporary sales of agricultural products could be permitted in city parks subject to approval, no amendments to the by-law would be required.

3.0 Recommended Amendment

This zoning by-law amendment specifically addresses the last option for Direct Food Sales within the “distribution” category of the Strategy.

In Zoning By-law Z-1, Household Sales (or Garage Sales) are permitted in association with any dwelling unit twice per year, not to exceed two days in duration. The sale of produce grown on a property that includes a dwelling unit had been determined to fall within the definition of a household sale, and was therefore subject to the limitations on frequency and duration of a household sale.

In discussions with By-law Enforcement, it was determined that no changes to the by-law would be required to allow the sales of produce grown on the property because what can be sold at a Household Sale is not defined, in other words, direct sale of food is permitted up to two times a year already. There is concern, however, that the limitation of only two sales per year is not consistent with the objective of the Urban Agriculture Strategy to support direct food sales on private property, as the wide variety of what could be grown and sold from a private garden could likely require more than two sales in a season. In addition, the harvesting of various fruits and vegetable happens at different times over a long period of time and this restriction may hinder the sale of some produce.

The recommended amendment to Section 4.11 (Household Sales) is to exempt the sale of agricultural produce grown on the property from maximum requirement of two sales per year, and to allow up to 20 such sales a year. This number of permitted sales would provide the opportunity to sell agricultural products grown on the premises through the growing season (mid-May to mid-October). These sale would still be limited to no more than two consecutive days, as is the case for household sales currently. The revised Section is included in the attached amendment.

The recommended amendment is consistent with Sections 1.1.5 (Building Strong Healthy Communities) and 2.3 (Wise Use and Management of Resources/Agriculture) of the 2014 Provincial Policy Statement.

City staff and the urban agricultural community are still reviewing the possibility of mobile markets, small-scale markets, neighbourhood market permits and food trucks to increase public access to fresh food.

4.0 Public Comments

The Notice of Application was sent February 5, 2020 and Londoner notice was provided on February 6, 2020. The City of London website also had the proposed amendment posted.

In response there were no comments received supporting or objecting to the proposed amendment.

5.0 Conclusion

The proposed zoning by-law amendment would amend Section 4.11 (Household Sales) of Zoning By-law Z-1 to allow residents to sell produce grown on their properties up to 20 times per year. This will implement actions identified in the Urban Agriculture Strategy, adopted by Council in November 2017, to make locally grown food more readily available to the general public.

The recommended amendment to Zoning By-law Z.-1 is consistent with the Provincial Policy Statement (2014). The recommended amendment to Zoning By-law Z.1 conforms to The London Plan, including the policies of the Food Systems chapter, and provides for appropriate uses on these sites.

Prepared by:	W.J. Charles Parker, MA Senior Planner, Planning Policy
Submitted by:	Justin Adema, MCIP, RPP Manager, Planning Policy
Recommended by:	Gregg Barrett, AICP Director, City Planning and City Planner
Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from Planning Services	

July 3, 2020

Appendix A

Bill No. (number to be inserted by Clerk's Office)
2020

By-law No. Z.-1-18_____

A by-law to amend Section 4.11 of By-law No. Z.-1 to allow residents to allow residents to sell agricultural products grown on properties up to 20 times per year.

WHEREAS the Corporation of the City of London has applied to rezone the entire City, as set out below;

AND WHEREAS this rezoning conforms to the Official Plan;

THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

- 1) Section 4.11 (Household Sales) of the General Provisions is amended by deleting the existing Section and replacing it with the following:
 -) No household sale shall be permitted except where a premises has a dwelling unit, and there shall not be more than two household sales per annum at one location and no such sale shall exceed two consecutive days in duration. The sale of agricultural products grown on the premises shall be permitted where the premises has a dwelling unit and there shall be not more than 20 household sales per annum at one location and no such sale shall exceed two consecutive days in duration.

This By-law shall come into force and be deemed to come into force in accordance with Section 34 of the *Planning Act, R.S.O. 1990, c. P13*, either upon the date of the passage of this by-law or as otherwise provided by the said section.

PASSED in Open Council on July 21, 2020.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – July 21, 2020
Second Reading – July 21, 2020
Third Reading – July 21, 2020