

Bulletin: Land Use Contracts



Bulletin # 18-02
Created: August 31, 2018

This bulletin is for informational purposes only. Please be sure to consult the relevant City of Kelowna Bylaw.

Purpose

To reference the history of Land Use Contracts and provide insight on the strategy for eliminating Land Use Contracts.

What is a Land Use Contract?

A Land Use Contract is an agreement between a local government and a land owner that provided the land owner with development rights over and above what was allowed under current zoning. LUCs were used in the 1970's but their use ended November 15, 1978. LUCs supersede any subsequent bylaw dealing with land use and development including: Zoning Bylaws, Development Cost Charge Bylaws, Subdivision, Development and Servicing Bylaw No. 7900, and Development Permits. Before 2014 the only way an LUC could be eliminated was through a discharge process by the land owner.

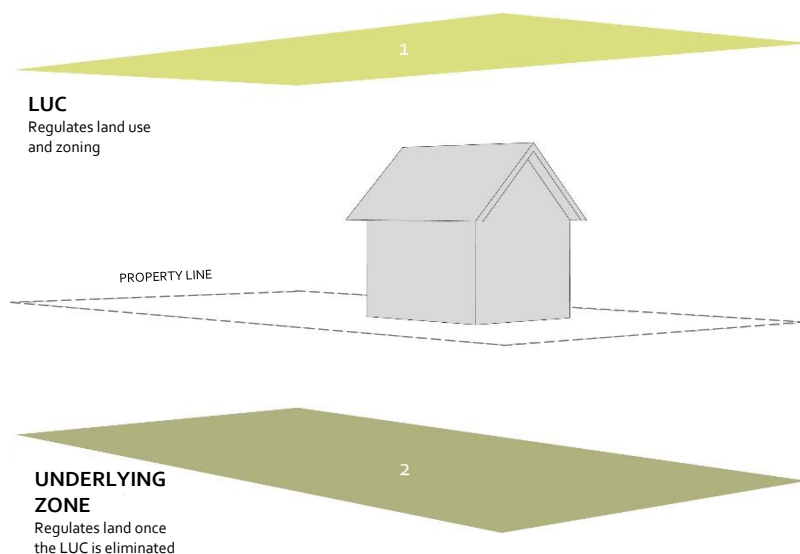
What is happening now?

The Local Government Act was amended in 2014 to address LUCs. Municipalities were given a way of eliminating LUCs without the owner(s) consent through a termination process. Discharging and terminating an LUC both have the same process except that Land Use Contract terminations (unlike LUC discharges) do not apply when Council adopt the bylaw. Terminations require a one-year grace period as outlined by the Local Government Act. According to the Local Government Act, as of June 30th 2024 all land use contracts will be eliminated. Therefore, land use contracts will remain in force until that date unless terminated early by the municipality or discharged by the property owner. However, by June 20th 2022, local governments must have appropriate zoning regulations to replace land use contracts upon their termination (termination enactment cannot occur after June 30th 2022) as not all properties have the appropriate underlying zoning.

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LUCs and Zoning

If a property sits within the boundaries of an LUC, all land use regulations are defined in the LUC. However, all properties in Kelowna have been assigned a zone from the Zoning Bylaw No. 8000, including those properties that are governed by LUCs. The term “underlying zone” is used to refer to the zone assigned to a property that is regulated by an LUC. Although all properties regulated by LUCs have underlying zoning, the underlying zone has no effect on the land uses, density or building siting until the LUC is terminated or discharged. Once the LUC has been discharged or terminated the underlying zoning for the property automatically comes into effect.



Notification ¹

According to Council Notification Policy #367 and to the Development Application Procedures Bylaw #10540, when a LUC termination, that does not require a rezoning is processed, notices, such as mail outs, will only be sent to affected properties. However, when a rezoning is required properties within 50m of the LUC termination and rezoning will receive notices unless the termination includes 10 or more properties. In addition, all LUC terminations will require notification signage as per Section 9.14 Notice of Termination in the Local Government Act:

Local governments must provide notice to each owner that the termination of land use contract is occurring and must provide notice of what the new zoning regulations apply to the land. The notice must state the bylaw becomes “in force” one year following the date of the bylaw adoption and inform the owner of their right to apply to the Board of Variance for an extension of the “in force” date.

Strategy for Eliminating Land Use Contracts

The City will be terminating as many land use contracts as possible before 2022 because performing all the public hearings related to zoning changes and notifications at once would be overwhelming and would cause administration issues. There are currently 73 Land Use Contracts still active that effect 702 properties (See Table No. 2). Therefore, Staff will be bringing bundles of Land Use Contracts to Council every year in order to complete terminations of all remaining LUCs by 2022.

Council approved the Strategy for Eliminating Land Use Contracts on September 12, 2016. To view the full report (<https://kelownapublishing.escribemeetings.com/filestream.ashx?DocumentId=3290>)

The table below outlines the remaining Land Use Contracts as of August 2018.

CATEGORY	# OF LAND USE CONTRACT	# OF PROPERTIES AFFECTED
Commercial / Industrial	23	83
Multi-family / Two-family	21	43
Single Family	19	305
Public / Institutional	3	3
Mixed Use	1	1
TOTAL	67	435