

LIDSTONE & COMPANY  
BARRISTERS AND SOLICITORS

MEMORANDUM

**TO:** Clients  
**FROM:** Sara Dubinsky and Ian Moore  
**DATE:** March 12, 2019  
**RE:** ALR Updates

---

**I. FEBRUARY 22, 2019 AMENDMENTS TO AGRICULTURAL LAND COMMISSION ACT AND REGULATIONS**

**(Authored by Sara Dubinsky)**

On February 22, 2019, via Order in Council No. 067, the Province brought into force a number of amendments to the *Agricultural Land Commission Act* (the "**ALCA**"), and split the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* into two regulations: the *Agricultural Land Reserve Use Regulation* (the "**Use Regulation**") and the *Agricultural Land Reserve General Regulation* (the "**General Regulation**"). Summaries of these Regulations are set out below.

The ALC website contains links to frequently asked questions about the updates, as well as a new information bulletin regarding residences in the ALR. Several ALC land use policies and one information bulletin are now listed as "under review" and are no longer accessible via links from the ALC policies and bylaws page.

**A. ALCA**

Restrictions on approving non-farm uses, buildings, and subdivisions remain in the updated ALCA. The ALCA also contains further size and siting regulations that must be adhered to for principal residences. Going forward, ALR parcels are permitted a maximum of one residence (unless additional dwellings are approved by the ALC), and a principal residence cannot exceed 500 square metres without a variance or ALC approval.

A second notable change in the updated ALCA is the repeal of Zone 1 and Zone 2. The amendments to the ALCA also further distinguish between farm use, non-farm use, residential use, and soil or fill use.

## **B. Use Regulation**

The Use Regulation classifies uses and activities as follows:

1. Part 2 contains farm uses that may not be prohibited by local governments, except via farming area bylaws;
2. Part 3, Division 1 contains permitted non-farm uses that *may not* be prohibited by local governments;
3. Part 3, Division 2 contains permitted non-farm uses that *may* be prohibited by local governments;
4. Part 4 regulates residential uses; and
5. Part 5 regulates soil and fill uses.

Farm uses include: non-residential structures, driveways, utilities, and land development works that are necessary for farm use; cannabis production that is outdoors, soil based, or in a qualifying pre-existing structure; forestry; storing, processing, and selling farm products; agri-tourism; and alcohol production. These uses must meet the stipulated criteria in order to qualify as designated farm uses.

Permitted non-farm uses that likewise cannot be prohibited include parks and gatherings for events.

Permitted, but prohibitable non-farm uses include keeping animals; home occupation uses; infrastructure uses; aggregate removal; and producing storing and applying compost.

A maximum of one secondary suite is permitted and must be located in the principal residence. Additional residences are only permitted where each of the following criteria are met:

1. There is only one additional residence;
2. The residence was a pre-existing structure, constructed in accordance with all applicable enactments - including local government bylaws;
3. The size, siting and use of the structure complied with the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* as at February 21, 2019; and
4. The size and siting are not altered after February 22, 2019, unless certain exemptions are met.

Sleeping accommodation for agri-tourism and tourists is also permitted in specified circumstances, as is removal of soil and placement of fill.

### C. General Regulation

The General Regulation contains further rules governing permitted activities (such as types of subdivision that are permitted), but predominantly consists of the procedural requirements for filing applications, broken down by type of activity, as follows:

1. Part 4: Transportation and utility uses;
2. Part 5: Permitted subdivisions;
3. Part 6: Government and ALC initiated proposals for inclusion/exclusion from the ALR;
4. Part 7: Landowner applications for exclusion from the ALR;
5. Part 8: Requirements for meetings to determine landowner exclusion applications;
6. Part 9: Landowner applications for inclusion in the ALR;
7. Part 10: Use and subdivision applications;
8. Part 11: General requirements including regarding record keeping, notice of decisions, fees and penalties.

### II. BILL 15: *AGRICULTURAL LAND COMMISSION AMENDMENT ACT, 2019*<sup>1</sup>

(Authored by Ian Moore)

On March 7, 2019 the Government introduced into the legislature Bill 15, *Agricultural Land Commission Amendment Act, 2019* (the “New Act”). Building on the amendments and new regulations described above, the New Act, if passed, will make a number of changes to the ALC and ALR of relevance to local governments. These include:

1. The current governance model of regional panels will be replaced by a single commission that will be appointed, other than the chair, by the Minister in consultation with the chair and on the basis of both merit and regional representation. (*See section 3 of the New Act.*)
2. The Chair will have new flexibility to appoint panels of commission members to determine certain applications. The composition of panels can be based application topic, technical expertise, administrative region (note: the current regional panels will become administrative regions), and any other criteria the chair may determine. (*See section 9 of the New Act.*)

---

<sup>1</sup> See <https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/41st-parliament/4th-session/bills/first-reading/gov15-1> for the full bill.

3. The commission will be obligated to take into account new decision-making criteria, namely:
  - a. “the size, integrity and continuity of the land base of the agricultural land reserve;” and
  - b. “the use of the agricultural land reserve for farm use.”

*(See section 5 of the New Act.)*

4. An applicant must give notice to the ALC before registering an SRW at the LTO. *(See section 13 of the New Act.)*
5. Local governments are no longer empowered to enter into an agreement with the ALC to “exercise some or all of the commission's power to decide use or subdivision applications with respect to agricultural land within the jurisdiction of the local government.” Importantly, all existing agreements will be terminated with no consequence to the commission or the Province. *(See sections 17 and 40 of the New Act.)*
6. Exclusion applications will only be able to come from local governments, First Nations governments, or the Province, and the owner’s consent will no longer be needed in order to exclude land from the ALR. *(See section 19 of the New Act.)*
7. In certain circumstances, local governments will no longer need to collect a portion of applicable application fees on behalf of the ALC. *(See section 24 of the New Act.)*
8. The application procedures for applications that both need to be reviewed by a local government and do not need to be reviewed by a local government have been clarified. *(See section 24 of the New Act.)*
9. The CEO of the ALC will be empowered to file remediation orders in the LTO. Notably, remediation orders filed in the LTO will be binding on future owners of the land. *(See section 30 of the New Act.)*
10. There will be a 90-day limit for requesting reconsideration of a decision on an application. Notably, this 90-day limit will also apply to persons affected by a decision made prior to the coming into force of section 23 of the New Act. *(See sections 23 and 41 of the New Act.)*