

 <p>Agricultural Land Commission Act</p>	<p style="text-align: right;">Policy L-03 October 2016</p> <p style="text-align: center;">ACTIVITIES DESIGNATED AS FARM USE: WINERIES AND CIDERIES IN THE AGRICULTURAL LAND RESERVE ("ALR")</p>
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This policy is intended to assist in the interpretation of the [Agricultural Land Commission Act, 2002](#), including amendments as of September 2014, (the "ALCA") and BC Regulation 171/2002 ([Agricultural Land Reserve Use, Subdivision and Procedure Regulation](#)), including amendments as of August 2016, (the "Regulation"). In case of ambiguity or inconsistency, the ALCA and Regulation will govern.

REFERENCE:

Agricultural Land Commission Act S.B.C. 2002 c.36

(1) "Farm use" means an occupation or use of land for farm purposes, including farming of land, plants and animals and any other similar activity designated as farm use by regulation, and includes a farm operation as defined in the [Farm Practices Protection \(Right to Farm\) Act](#).

Agricultural Land Reserve Use, Subdivision and Procedure Regulation (BC Reg. 171/2002), Sections 2 (1.1), (2.1) and 2 (2.4) and Section 1 (1).

Section (1.1) *The activities designated under this section as farm uses for the purposes of the Act must not be prohibited*

(a) *by any local government bylaw except a bylaw under section 552 of the [Local Government Act](#), or*

(b) *by a law of the applicable treaty first nation government, if the activity is undertaken on treaty settlement lands.*

Section 2(2.1) *A winery or cidery, and ancillary uses, are designated as farm uses for the purposes of the Act if*

(a) *at least 50% of the farm product used to make the wine or cider produced each year is grown on the farm on which the winery or cidery is located, or*

(b) *the farm on which the winery or cidery is located is more than 2 ha in area and at least 50% of the farm product used to make the wine or cider produced each year is grown*

(i) *on the farm, or*

(ii) *both on the farm and on another farm located in British Columbia that provides that farm product to the winery or cidery under a contract having a term of at least 3 years.*

Section 2(2.4) *In subsections (2.1) to (2.3):*

"ancillary use" *means the following activities carried out at a brewery, cidery, distillery, meadery or winery:*

(a) *processing, storing and retail sales of beer, cider, spirits, mead or wine*

- produced by the brewery, cidery, distillery, meadery or winery;
- (b) the operation of a food and beverage service lounge, if the area of the lounge does not exceed 125 m² indoors and 125m² outdoors;
- (c) selling an alcoholic beverage other than one produced by the brewery, cidery, distillery, meadery or winery if the alcoholic beverage
- (i) is sold as a single serving in a lounge referred to in paragraph (b) or a special event area operated in accordance with a special event endorsement under section 18 of the [Liquor Control and Licensing Regulation](#), B.C. Reg. 244/2002, and
 - (ii) is intended to be consumed immediately;
- (e) cooking classes, if
- (i) the class is held in a food premises within the meaning of the [Food Premises Regulation](#) that has been constructed, and is being operated, in compliance with that regulation, and
 - (ii) the service of food is permitted under a manufacturer license issued under the Liquor Control and Licensing Act;
- (f) gathering for an event, if the event is held only in the lounge referred to in paragraph (b) or the special event area referred to in paragraph (c) of this subsection, and, for this purpose, section 3 (4) (k) does not apply.

"brewery", "cidery", "distillery", "meadery" and "winery" mean a brewery, cidery, distillery, meadery or winery, as applicable, that is licensed under the [Liquor Control and Licensing Act](#) to produce beer, cider, spirits, mead or wine.

Section 1 (1) **"farm product"** means a commodity that is produced from a farm use as defined in the Act or designated by this regulation.

Section 3(4) The following non-farm uses are permitted in an agricultural land reserve and must not be prohibited by a local government bylaw or, for lands located in an agricultural land reserve that are treaty settlement lands, by a law of the applicable treaty first nation government:

- (k) gathering for an event, if all of the following conditions are met:
- i. the farm must be located on land classified as a farm under the **Assessment Act**;
 - ii. permanent facilities must not be constructed or erected in connection with the event;
 - iii. parking for those attending the event must be available on the farm, but must not be permanent nor interfere with the farm's agricultural productivity;
 - iv. no more than 150 people, excluding residents and employees of the farm, may be gathered on the farm at one time for the purpose of attending the event;
 - v. the event must be of no more than 24 hours duration;

- vi. *no more than 10 gatherings for an event of any type may occur on the farm within a single calendar year.*

Section 1 (4) Definitions:

“gathering for an event” means a gathering of people on a farm for the purpose of attending

(a) a wedding, unless paragraph (c) (ii) applies,

(b) a music festival, or

(c) an event, other than

(i) an event held for the purpose of agri-tourism, or

(ii) the celebration, by residents of the farm and those persons whom they invite, of a family event for which no fee or other charge is payable in connection with the event by invitees.

INTERPRETATION:

The winery/cidery must be licensed under the *Liquor Control and Licensing Act* of British Columbia in all activities associated with the winery or cidery.

Both a British Columbia licensed winery and a British Columbia licensed cidery are designated by the Regulation as farm uses, and as such, may not be prohibited by a local government bylaw, except a farm bylaw approved by the Minister of Agriculture under Section 552 of the *Local Government Act*.

The Regulation designates as a farm use licensed wineries and cideries in the ALR, provided at least 50% of the farm product (fruit) used to make the wine or cider is grown on the farm on which the winery or cidery is located. The farm may be comprised of one or several parcels of land owned or operated by a farmer as a farm business. The parcel on which the winery or cidery is located must be on, contiguous to or in the same general geographic area of the land growing the farm product. There is no requirement to grow product on the parcel on which the winery or cidery is located

If the farm is greater than 2 hectares, the 50% farm product must include farm product grown on the farm and may include farm product purchased under a minimum 3 year contract from another BC farm. Multiple farm parcels (owned/leased and operated) may be combined to meet the greater than 2 hectare farm size.

For further clarification, the farm on which the winery or cidery is located must be growing a minimum of 2 hectares of farm product and utilizing the farm product to make the wine or cider in order to purchase fruit under contract from another BC farm.

The 50% threshold is measured by the quantity (measured by volume or weight) of farm product processed calculated on an annual basis.

Retail sales of alcohol produced on the farm, tours and food and beverage service lounges are allowed as an ancillary use provided they are ancillary to the otherwise operating winery or cidery. Ancillary means supplementary or secondary to the primary land use of growing an agricultural crop (grapes and other fruit).

A food and beverage service lounge is allowed up to a maximum area of 125m² indoors and 125m² outdoors. The outdoor area of 125m² includes patio space and landscaped

areas but does not include areas set aside for picnicking. Picnicking is also allowed as an ancillary use. However, picnicking is not an extension of the patio. It is an open air portion of the farm where visitors can eat food (brought in or purchased) and enjoy wine or cider from the farm if the winery or cidery has a picnicking endorsement from LCLB. The 125m² floor space area is roughly equivalent to a seating capacity of 65 persons in the lounge or on the patio. Thus the maximum capacity is potentially a total of 130 persons, where both indoor and outdoor seating are provided. However, the person or patron capacity remains subject to the limits and conditions established by the general manager under the [Liquor Control and Licensing Act](#). The threshold area specified in the Regulation for the lounge does not include the tasting room, washrooms or kitchen facilities.

For the purposes of this policy, a food and beverage service lounge is an establishment serving food and liquor that has a “lounge endorsement” to the manufacturer license issued under the *Liquor Control and Licensing Act*. An application and approval of the Commission is required for a restaurant with a food primary license.

The sale of a limited amount of alcoholic beverages other than those produced by the winery or cidery is allowed as an ancillary use if they are sold as a single serving in the lounge and are consumed immediately. Please refer to Liquor Control and Licensing Regulations for further details.

Tasting or the free offering or sale of product samples is considered part of the tour activity and is part of the designated farm use.

Cooking classes in kitchens that are operating in compliance with the Food Premises Regulation and take place in a food and beverage service lounge permitted under the manufacturer license under the *Liquor Control and Licensing Act*.

Gathering for an event regulation restrictions set out in section 3(4)(k) do not apply if the event is taking place in an ancillary food and beverage service lounge that has been developed in compliance with section 2(2.4)(b) of the Regulation. Regulation section 3(4)(k) (gathering for an event) and associated restrictions apply if the event(s) are held outside the lounge area, including in special event areas. This means wineries and cideries may host an unlimited number of events in the lounge area and an additional 10 events as per section 3(4)(k) held elsewhere on the farm.

Events in excess of the what is permitted under section 3(4)(k) require an application pursuant to section 20(3) of the Agricultural Land Commission Act and approval of the Commission.

Local governments have the authority to regulate wineries and cideries by setting a maximum building and/or floor area or maximum site coverage and setbacks. Local governments may also regulate with regard to health and safety, parking, lighting, hours of operation, noise, access for police, fire and emergency vehicles and so on.

Uses that do not meet the threshold established in the Regulation for wineries or cideries, or associated uses require an application to and approval of the Commission in order to be undertaken.

TERMS:

food and beverage service lounge means an establishment serving alcohol in addition to food, that has a “lounge endorsement” to their license issued under the *Liquor Control and Licensing Act*.

Unless defined in this policy, terms used herein will have the meanings given to them in the ALCA or the Regulation.

RELATED POLICY:

ALC Policy L-21 *Activities Designated Farm Use: Brewery and Distilleries and Meadery*

ALC Policy L-04 *Activities Designated as Farm Use: Agri-tourism Activities in the ALR*

ALC Policy L-22 *Gathering for an Event in the ALR*