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Updated: **August, 2004**.

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**B.C. Reg. 171/2002**

## **AGRICULTURAL LAND RESERVE USE, SUBDIVISION AND PROCEDURE REGULATION**

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## PART 1 - INTERPRETATION

### Definitions and interpretation

1 (1) In this regulation:

“**Act**” means the *Agricultural Land Commission Act*;

“**aggregate**” includes sand, gravel, crushed stone, quarry rock and similar materials used in the construction and maintenance of civil and structural projects;

“**agroforestry**” means a land use that involves deliberate retention, introduction or mixing of trees or other plants in crop and animal production systems to provide an economic return;

“**agri-tourism**” means a tourist activity, service or facility accessory to land that is classified as a farm under the *Assessment Act*;

“**applicant**” includes a reference to the agent of the applicant;

“**aquaculture**” has the same meaning as under the *Fisheries Act*;

“**compost**” means a product that is

- (a) a stabilized earthy matter having the properties and structure of humus,
- (b) beneficial to plant growth when used as a soil amendment,
- (c) produced by composting, and
- (d) derived only from organic matter;

“**farm**” means an occupation or use, for farm purposes, of one or several parcels of land or tenured areas of Crown land;

“**farm product**” means a commodity that is produced from a farm use as defined in the Act or designated by this regulation;

“**immediate family**” means, with respect to an owner, the owner’s

- (a) parents, grandparents and great grandparents,
- (b) spouse, parents of spouse and stepparents of spouse,
- (c) brothers and sisters, and
- (d) children or stepchildren, grandchildren and great grandchildren;

“**jurisdictional area**” means,

- (a) in relation to a local government, the land over which that government has legislative authority,
- (b) in relation to a treaty first nation government, the treaty settlement lands for that first nation, and
- (c) in relation to a pre-treaty first nation government, the proposed treaty settlement lands for that first nation;

“**managed organic matter**” means Class A or Class B biosolids or Class B compost as those things are defined in the Organic Matter Recycling Regulation, B.C. Reg. 18/2002;

“**newspaper**” has the same meaning as in section 5 of the *Local Government Act*;

“**parcel**” means land that is the subject of a single indefeasible title under the *Land Title Act*;

**“pre-treaty first nation government”** means a first nation government referred to in paragraph (b) of the definition of “first nation government” in section 1 of the Act;

**“sleeping unit”** means

- (a) a bedroom or other area used as a bedroom in a cabin, dwelling or accessory building, and
- (b) a tent or recreational vehicle on a campsite;

**“soil amendment”** means compost, manure, mulches, fertilizer and soil conditioners;

**“treaty first nation government”** means a first nation government referred to in paragraph (a) of the definition of “first nation government” in section 1 of the Act.

- (2) Nothing in this regulation is to be interpreted as relieving an owner, an applicant or an approving officer from complying with any other enactment, bylaw or decision of a responsible authority that may apply, including zoning, subdivision and any other legislation.

## PART 2 — PERMITTED USES

### Activities designated as farm use

- 2 (1) For the purposes of subsection (2) (b), **“ancillary use”** means any of the following activities carried on at a British Columbia licensed winery or cidery:
  - (a) processing, storage and retail sales;
  - (b) tours;
  - (c) a food and beverage service lounge, if the area does not exceed 125 m<sup>2</sup> indoors and 125 m<sup>2</sup> outdoors,
- (2) The following activities are designated as farm use for the purposes of the Act and may be regulated but must not be prohibited by any local government bylaw except a bylaw under section 917 of the *Local Government Act* or, if the activity is undertaken on treaty settlement lands, by a law of the applicable treaty first nation government:
  - (a) farm retail sales if
    - (i) all of the farm product offered for sale is produced on the farm on which the retail sales are taking place, or
    - (ii) at least 50% of the retail sales area is limited to the sale of farm products produced on the farm on which the retail sales are taking place and the total area, both indoors and outdoors, used for the retail sales of all products does not exceed 300 m<sup>2</sup>;
  - (b) a British Columbia licensed winery or cidery, and an ancillary use, if the wine or cider produced and offered for sale is made from farm product and
    - (i) at least 50% of that farm product is grown on the farm on which the winery or cidery is located, or
    - (ii) the farm that grows the farm products used to produce wine or cider is more than 2 ha in area, and, unless otherwise authorized by the commission, at least 50% of the total farm product for processing is provided under a minimum 3 year contract from a farm in British Columbia;

- (c) storage, packing, product preparation or processing of farm products, if at least 50% of the farm product being stored, packed, prepared or processed is produced on the farm or is feed required for farm production purposes on the farm;
  - (d) land development works including clearing, levelling, draining, berming, irrigating and construction of reservoirs and ancillary works if the works are required for farm use of that farm;
  - (e) agri-tourism activities, other than accommodation, on land that is classified as a farm under the *Assessment Act*, if the use is temporary and seasonal, and promotes or markets farm products grown, raised or processed on the farm;
  - (f) timber production, harvesting, silviculture and forest protection;
  - (g) agroforestry, including botanical forest products production;
  - (h) horse riding, training and boarding, including a facility for horse riding, training and boarding, if
    - (i) the stables do not have more than 40 permanent stalls, and
    - (ii) the facility does not include a racetrack licensed by the British Columbia Racing Commission;
  - (i) the storage and application of fertilizers, mulches and soil conditioners;
  - (j) the application of soil amendments collected, stored and handled in compliance with the Agricultural Waste Control Regulation, B.C. Reg. 131/92;
  - (k) the production, storage and application of compost from agricultural wastes produced on the farm for farm purposes in compliance with the Agricultural Waste Control Regulation, B.C. Reg. 131/92;
  - (l) the application of compost and biosolids produced and applied in compliance with the Organic Matter Recycling Regulation, B.C. Reg. 18/2002;
  - (m) the production, storage and application of Class A compost in compliance with the Organic Matter Recycling Regulation, B.C. Reg. 18/2002, if all the compost produced is used on the farm;
  - (n) soil sampling and testing of soil from the farm;
  - (o) the construction, maintenance and operation of farm buildings including, but not limited to, any of the following:
    - (i) a greenhouse;
    - (ii) a farm building or structure for use in an intensive livestock operation or for mushroom production;
    - (iii) an aquaculture facility.
- (3) Any activity designated as farm use includes the construction, maintenance and operation of a building, structure, driveway, ancillary service or utility necessary for that farm use.
- (4) Unless permitted under the *Water Act* or the *Waste Management Act*, any use specified in subsection (2) includes soil removal or placement of fill necessary for that use as long as it does not
- (a) cause danger on or to adjacent land, structures or rights of way, or
  - (b) foul, obstruct or impede the flow of any waterway.

- (5) The removal of soil or placement of fill as part of a use designated in subsection (2) must be considered to be a designated farm use and does not require notification except under section 4.

**Permitted uses for land in an agricultural land reserve**

- 3 (1) The following land uses are permitted in an agricultural land reserve unless otherwise 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 first nation government:
- (a) accommodation for agri-tourism on a farm if
    - (i) all or part of the parcel on which the accommodation is located is classified as a farm under the *Assessment Act*,
    - (ii) the accommodation is limited to 10 sleeping units in total of seasonal campsites, seasonal cabins or short term use of bedrooms including bed and breakfast bedrooms under paragraph (d), and
    - (iii) the total developed area for buildings, landscaping and access for the accommodation is less than 5% of the parcel;
  - (b) for each parcel,
    - (i) one secondary suite within a single family dwelling, and
    - (ii) one manufactured home, up to 9 m in width, for use by a member of the owner's immediate family;
  - (c) a home occupation use, that is accessory to a dwelling, of not more than 100 m<sup>2</sup> or such other area as specified in a local government bylaw, or treaty first nation government law, applicable to the area in which the parcel is located;
  - (d) bed and breakfast use of not more than 4 bedrooms for short term tourist accommodation or such other number of bedrooms as specified in a local government bylaw, or treaty first nation government law, applicable to the area in which the parcel is located;
  - (e) operation of a temporary sawmill if at least 50% of the volume of timber is harvested from the farm or parcel on which the sawmill is located;
  - (f) biodiversity conservation, passive recreation, heritage, wildlife and scenery viewing purposes, as long as the area occupied by any associated buildings and structures does not exceed 100 m<sup>2</sup> for each parcel;
  - (g) use of an open land park established by a local government or treaty first nation government for any of the purposes specified in paragraph (f);
  - (h) breeding pets or operating a kennel or boarding facility;
  - (i) education and research except schools under the *School Act*, respecting any use permitted under the Act and this regulation as long as the area occupied by any buildings or structures necessary for the education or research does not exceed 100 m<sup>2</sup> for each parcel;
  - (j) production and development of biological products used in integrated pest management programs as long as the area occupied by any buildings or structures necessary for the production or development does not exceed 300 m<sup>2</sup> for each parcel;
  - (k) aggregate extraction if the total volume of materials removed from the parcel is less than 500 m<sup>3</sup>, as long as the cultivatable surface layer of soil is salvaged, stored on the parcel and available to reclaim the disturbed area;

- (l) force mains, trunk sewers, gas pipelines and water lines within an existing dedicated right of way;
  - (m) telecommunications equipment, buildings and installations as long as the area occupied by the equipment, buildings and installations does not exceed 100 m<sup>2</sup> for each parcel;
  - (n) construction and maintenance, for the purpose of drainage or irrigation or to combat the threat of flooding, of
    - (i) dikes and related pumphouses, and
    - (ii) ancillary works including access roads and facilities;
  - (o) unpaved airstrip or helipad for use of aircraft flying non-scheduled flights;
  - (p) the production, storage and application of Class A compost in compliance with the Organic Matter Recycling Regulation, B.C. Reg. 18/2002, if at least 50% of the compost measured by volume is used on the farm.
- (2) Nothing in subsection (1) (a) is to be interpreted as permitting the conversion of a building into strata lots by an owner.
- (3) If a use is permitted under subsection (1) (k) it is a condition of the use that once the extraction of aggregate is complete, the disturbed area must be rehabilitated in accordance with good agricultural practice.
- (4) The following land uses are permitted in an agricultural land reserve:
- (a) any
    - (i) ecological reserve established under the *Ecological Reserve Act* or by the *Protected Areas of British Columbia Act*,
    - (ii) park established under the *Park Act* or by the *Protected Areas of British Columbia Act*,
    - (iii) protected area established under the *Environment and Land Use Act*,
    - (iv) wildlife management area established under the *Wildlife Act*, or
    - (v) recreation reserve established under the *Land Act*;
  - (b) dedication or upgrading of an existing road with vehicular access and use declared to be a public highway under section 4 of the *Highway Act*;
  - (c) road construction or upgrading within a dedicated right of way that has a constructed road bed for vehicular access and use;
  - (d) if the widening or works does not result in an overall right of way width of more than 24 m, widening of an existing constructed road right of way for
    - (i) safety or maintenance purposes, or
    - (ii) drainage or flood control works;
  - (d.1) widening an existing constructed road right of way to ease one curve;
  - (e) establishing as a forest service road
    - (i) an existing road under the *Forest Act*, or
    - (ii) a new road in a managed forest;
  - (f) increasing the right of way width of a forest service road by up to 4 m if the widening does not result in an overall right of way width of more than 24 m;
  - (g) railway construction, upgrading and operations on an existing railbed within a dedicated right of way, including widening of an existing railway right of

way if the widening does not result in an overall right of way width of more than 30 m;

- (h) surveying, exploring or prospecting for gravel or minerals if all cuts, trenches and similar alterations are restored to the natural ground level upon completion of the surveying, exploring or prospecting;
  - (i) surface water collection for farm use or domestic use, water well drillings, connection of water lines, access to water well sites and required rights of way or easements;
  - (j) soil research or testing as long as the soil removed or fill placed is only in an amount necessary for the research or testing.
- (5) Any permitted use specified in subsection (1) or (4) includes the construction, maintenance and operation of buildings, structures, driveways, ancillary services and utilities necessary for that use.
- (6) Unless permitted under the *Water Act* or the *Waste Management Act*, any use specified in subsection (1) or (4) includes soil removal or placement of fill necessary for that use as long as the soil removal or placement of fill does not
- (a) cause danger on or to adjacent land, structures or rights of way, or
  - (b) foul, obstruct or impede the flow of any waterway.

### **PART 3 – SOIL REMOVAL AND PLACEMENT OF FILL**

#### **Notification requirements for specified farm uses**

- 4 (1) The removal of soil and placement of fill for the following farm uses are exempt from the requirement to file an application under section 20 of the Act if the requirements in subsections (2), (3) and (4) are met:
- (a) the construction, maintenance and operation of a greenhouse on an area of land if the area occupied by the greenhouse is greater than 2% of the area of the parcel;
  - (b) the construction, maintenance and operation of a farm building or structure, for use in an intensive livestock operation or for mushroom production, if the area occupied by the farm building or structure is greater than 2% of the area of the parcel;
  - (c) the construction, maintenance and operation of an aquaculture facility if the area occupied by the aquaculture facility is greater than 2% of the area of the parcel;
  - (d) the construction, maintenance and operation of a composting facility for the production of Class A compost as defined in the Organic Matter Recycling Regulation, BC Reg. 18/2002 or compost from agricultural waste, if the area occupied by the facility is greater than 2% of the area of the parcel;
  - (e) a turf farm.
- (2) An owner must notify the commission and the applicable local government or treaty first nation government of the owner's intent to remove soil or place fill for the uses described in subsection (1) at least 60 days before engaging in the intended use by filing with the commission a notice in a form acceptable to the commission.



- (3) If the chief executive officer requests additional information on the extent and method of soil removal or placement of fill within 30 days of receipt of the notice under subsection (2) it must be provided by the owner of the land in the form of an amended notice within 30 days of receipt of the request.
- (4) The owner must comply with the restrictions on the use and the terms and conditions for the conduct of that use of agricultural land ordered by the chief executive officer under section 20 (5) of the Act provided that the order is made within 30 days of a notice under subsection (2) or within 45 days of an amended notice under subsection (3).
- (5) If the owner does not agree to the restrictions on the use or the terms and conditions ordered by the chief executive officer, the owner may apply to the commission for permission for a non-farm use under section 20 (3) of the Act.

**Notification requirements for specified non-farm uses**

- 5 (1) The removal of soil and placement of fill are exempt from the requirement to file an application under section 20 of the Act as long as the requirements in subsections (2), (3) and (4) are met and the removal or placement is for one or more of the following uses:
  - (a) aggregate extraction if the total volume of material removed is more than 500 m<sup>3</sup>;
  - (b) peat extraction;
  - (c) placer works including the exploration, development and production of placer minerals as defined in the *Mineral Tenure Act*;
  - (d) the construction, maintenance and operation of a composting facility for the production of managed organic matter.
- (2) The owner must notify the commission and the applicable local government or treaty first nation government of the owner's intent to remove soil or place fill for the uses described in subsection (1) at least 60 days before engaging in the intended use by filing with the commission a notice in a form acceptable to the commission.
- (3) If the chief executive officer requests additional information on the extent and method of soil removal and reclamation within 30 days of receipt of the notice under subsection (2) it must be provided in the form of an amended notice within 30 days of receipt of the request.
- (4) The owner must comply with the restrictions on the use and the terms and conditions for the conduct of that use of agricultural land ordered by the chief executive officer under section 20 (5) of the Act provided that order is made within 30 days of a notice under subsection (2) or within 45 days of an amended notice under subsection (3).
- (5) If the owner does not agree to the restrictions on the use or the terms and conditions ordered by the chief executive officer, the owner may apply to the commission for permission for a non-farm use under section 20 (3) of the Act.

## PART 4 - APPLICATIONS FILED DIRECTLY WITH THE COMMISSION

### Transportation and utility use applications

- 6 Unless permitted under sections 2 and 3, a person must file an application under section 34 (6) of the Act directly with the office of the commission and in a form acceptable to the commission for any of the following uses:
- (a) widening of an existing road right of way;
  - (b) construction of a road within an existing right of way;
  - (c) dedication of a right of way or construction of any of the following:
    - (i) a new or existing road or railway;
    - (ii) a new or existing recreational trail;
    - (iii) a utility corridor use;
    - (iv) a sewer or water line other than for ancillary utility connections;
    - (v) a forest service road under the *Forest Act*;
  - (d) the new use of an existing right of way for a recreational trail.

### Notice of application under section 34 (6) of the Act

- 7 A person who applies to the commission under section 34 (6) of the Act must notify the owners of the land involved in the proposal using a form acceptable to the commission.

### Notice of decision to be given to local government

- 8 Before issuing an order under the Act with respect to an application made under section 6, the commission may request comments and information from the applicable local government or treaty first nation government and the commission must inform the local government or treaty first nation government of its decision.

## PART 5 – PERMITTED SUBDIVISIONS

### Application of this Part

- 9 This Part applies to a plan of subdivision, all or part of which consists of land in an agricultural land reserve.

### Subdivision approval

- 10 (1) Despite section 18 (b) of the Act, an approving officer under the *Land Title Act*, the *Local Government Act*, or the *Strata Property Act* or a person who exercises the powers of an approving officer under any other Act may authorize or approve a plan of subdivision without the approval of the commission if the proposed plan achieves one or more of the following:
- (a) consolidates 2 or more parcels into a single parcel by elimination of common lot lines;
  - (b) resolves a building encroachment on a property line and creates no additional parcels;
  - (c) involves not more than 4 parcels, each of which is a minimum of 1 ha, and results in all of the following:
    - (i) no increase in the number of parcels;

- (ii) boundary adjustments that, in the opinion of the approving officer, will allow for the enhancement of the owner's overall farm or for the better utilization of farm buildings for farm purposes;
    - (iii) no parcel in the reserve of less than 1 ha;
  - (d) establishes a legal boundary along the boundary of an agricultural land reserve.
- (2) An approving officer who declines to authorize or approve a plan must give notice of that decision to the person who made the application.
- (3) A person who receives a notice under subsection (2) may apply to the commission with respect to the proposed subdivision.

**Certification and deposit of approved plan**

- 11 (1) If an approval is granted under section 10, the approving officer must
- (a) endorse on the plan a certificate acceptable to the commission, and
  - (b) provide a copy of the approved plan to the commission.
- (2) If the requirements of subsection (1) (a) are met, a registrar of titles under the *Land Title Act* may accept the endorsed plan for deposit.

**PART 6 – GOVERNMENT APPLICATIONS AND COMMISSION PROPOSALS FOR INCLUSION TO OR EXCLUSION FROM RESERVE**

**Form of application or proposal**

- 12 (1) An application of a local government or a treaty first nation government to the commission under section 17 or 29 of the Act must be in a form acceptable to the commission and be accompanied by
- (a) a report of any public hearing conducted under section 17 (2) or 29 (2) of the Act,
  - (b) any additional public comments, and
  - (c) any other supporting material the commission may require.
- (2) If the commission acts on its own initiative under section 17 or 29 of the Act
- (a) the proposal of the commission must include information and any other supporting material the commission considers necessary, and
  - (b) the commission must send a copy of the proposal and supporting material to the applicable local government or treaty first nation government.

**Copy of application must be sent to affected government**

- 12.1 If a local government or a treaty first nation government makes an application under section 17 or 29 of the Act in respect of land within that government's jurisdictional area, a copy of the application must also be sent by the applicant to the following:
- (a) if the land to which the application relates is adjacent to the jurisdictional area of a different local government or treaty first nation government, that different local government or treaty first nation government;
  - (b) each local government or treaty first nation government whose interests, the applicant believes, will be affected by the application.

### **Notice of application**

- 12.2 (1) Before making an application under section 17 (1) or 29 of the Act, the applicant must give notice of the application by posting on the land to which the application relates, on a sign measuring at least 60 cm by 120 cm and positioned at the midpoint of the boundary of that land that is adjacent to a constructed road right of way if one exists,
- (a) a copy of the signed application, and
  - (b) a copy of a notice of application in a form acceptable by the commission.
- (2) Despite subsection (1), if the requirements of that subsection are not practical, the notice may be given in an alternative means acceptable to the commission.

### **Notice of public hearing**

- 13 (1) The commission, local government or treaty first nation government holding a public hearing required by section 17 (2) or 29 (2) of the Act must publish a notice of hearing in accordance with this section.
- (2) The notice of hearing must be published in at least 2 issues of a newspaper published or circulated in the municipality, regional district or treaty settlement lands within which the land to which the application relates is located, with the last of these publications appearing not less than 3 days and not more than 10 days before the date of the hearing.
- (3) The notice of hearing must
- (a) state the time and place of the public hearing,
  - (b) identify in a general manner the land affected, but need not use the legal description of the land affected,
  - (c) state in general terms the intent of the application, and
  - (d) state when and where a copy of the application may be inspected.

### **Procedure at public hearing**

- 14 (1) At a public hearing under section 17 (2) or 29 (2) of the Act, all persons must be afforded an opportunity to be heard on matters related to the application.
- (2) The public hearing may be adjourned from time to time.
- (3) A member of the commission, local government or treaty first nation government who was not present at the public hearing may vote on the application if an oral or written report of the hearing has been given to the member.
- (4) The commission, local government or treaty first nation government holding the public hearing may, without further notice, allow amendment to the proposed application to give such effect as it considers fit to accommodate representations made at the hearing.

## **PART 7 - OWNER APPLICATIONS FOR EXCLUSION FROM RESERVE**

### **Form and filing of application**

- 15 (1) An exclusion application under section 30 of the Act must be in a form acceptable to the commission and must be filed,

- (a) if the exclusion application is one referred to in section 34 (3.1) of the Act, with the commission, or
  - (b) in any other case, with the applicable local government or treaty first nation government.
- (2) An exclusion application must be accompanied by the following when submitted for filing under subsection (1):
- (a) an original copy of each advertisement required under section 16 (1) (a), as published with the date of publication clearly indicated;
  - (b) a photograph clearly indicating the manner in which the notice was posted under section 16 (1) (b);
  - (c) a signed statement by the owner of the land stating
    - (i) the name and address of each person served under section 16 (1) (c),
    - (ii) the date of service, and
    - (iii) the manner of service.

**Notice of application**

- 16 (1) Before filing an exclusion application under section 15 (1), an owner must give notice of the exclusion application by doing all of the following:
- (a) publishing a notice of the exclusion application in at least 2 issues of a newspaper published or circulated in the municipality, regional district or treaty settlement lands within which the land to which the exclusion application relates is located, not less than 7 days and not more than 14 days apart, inclusive of the day of publication;
  - (b) posting on the land that is the subject of the exclusion application, on a sign measuring at least 60 cm by 120 cm and positioned at the midpoint of a boundary of that land that is adjacent to a constructed road right of way if one exists,
    - (i) a copy of the signed exclusion application, and
    - (ii) a copy of the notice of exclusion application;
  - (c) serving, personally or by registered mail, a copy of the signed exclusion application and a copy of the notice of exclusion application on each owner of land, in an agricultural land reserve, that
    - (i) shares a common boundary with the land for which the exclusion application is being made, or
    - (ii) is separated by a public road right of way from the land for which the exclusion application is being made.
- (2) Each advertisement under subsection (1) (a) and copy of the notice posted under subsection (1) (b) must be in a form acceptable to the commission.
- (3) Despite subsections (1) and (2), if the requirements of those subsections are not practical, the notice may be given in an alternative means acceptable to the commission.
- (4) If an owner of land who files an exclusion application under section 15 (1) receives a response to a notice given under this section, the owner must,
- (a) if the application was filed with the commission under section 15 (1) (a), forward a copy of the response to the commission, or

- (b) if the application was filed with a local government or treaty first nation government under section 15 (1) (b), forward a copy of the response to that local government or treaty first nation government.

**Copy of exclusion application must be sent to government for adjacent land**

- 16.1 If land to which an exclusion application filed under section 15 (1) relates is in one jurisdictional area but shares a common boundary with another jurisdictional area, the applicant must, promptly after filing the exclusion application under section 15 (1), send a copy of the exclusion application to the local government or first nation government for that second mentioned jurisdictional area.

**When local government or treaty first nation government can consider exclusion application**

- 17 A local government or treaty first nation government with which an exclusion application is filed under section 15 (1) (b) must not consider that exclusion application under section 30 (4) of the Act until 14 days after all relevant documents have been published, posted and served under section 16 of this regulation.

**Local government or treaty first nation government must consider exclusion application**

- 18 Promptly after an owner making an exclusion application to which section 15 (1) (b) applies has complied with sections 15 and 16, the local government or treaty first nation government with which the exclusion application is filed under section 15 (1) (b) must consider the exclusion application under section 30 (4) of the Act.

**Procedure to authorize resolution under section 30 of the Act**

- 19 If an exclusion application is filed under section 15 (1) of this regulation and section 30 (4) or (4.1) of the Act applies, further proceedings must not be taken unless,
- (a) in the case of an exclusion application to which section 30 (4) of the Act applies, the local government with which the exclusion application is filed passes the resolution referred in section 30 (4) of the Act authorizing the exclusion application, or
  - (b) in the case of an exclusion application to which section 30 (4.1) of the Act applies, the treaty first nation government with which the exclusion application is filed passes the law referred in section 30 (4.1) of the Act authorizing the exclusion application.

**Public information meetings**

- 20 If an exclusion application is filed under section 15 (1) of this regulation, the commission or the local government or first nation government in whose jurisdictional area is located the land to which the exclusion application relates may hold a public information meeting with respect to that exclusion application.

**Local government or first nation government forwards exclusion application**

- 21 (1) Subject to section 19, within the applicable time limit under subsection (2) of this section, the local government or first nation government in whose jurisdictional area is located the land to which an exclusion application relates must send to the commission all of the following:
- (a) the exclusion application, including the materials required under section 15 (2) and copies of responses as a result of a notice under section 16;

- (b) its comments and recommendations required under section 34 (4) of the Act in a form acceptable to the commission;
  - (c) a certified copy of any resolution required under section 30 (4) of the Act or of any law required under section 30 (4.1) of the Act;
  - (d) a report of the public information meeting if one is held;
  - (e) the comments, in any, of a local government or first nation government to which the exclusion application has been sent under section 16.1 of this regulation;
  - (f) any other information it wants the commission to consider concerning the exclusion application.
- (2) The time limit for sending materials under subsection (1) is
- (a) 90 days after receipt of the exclusion application, if a public information meeting is held under section 20, and
  - (b) 60 days after receipt of the exclusion application in all other cases.

## **PART 8 - PROVISIONS FOR MEETINGS TO DETERMINE APPLICATIONS FOR EXCLUSION**

### **Notice of commission meeting**

- 22 (1) A meeting of the commission to determine an exclusion application under section 30 of the Act must be held at a time and at a place designated by the commission and may be adjourned from time to time.
- (2) Not more than 30 days before a meeting required under subsection (1) of this section, the commission must give written notice of the time and place of the meeting to all of the following:
- (a) the applicant;
  - (b) the local government or first nation in whose jurisdictional area is located the land to which the exclusion application relates;
  - (c) if the commission considers it advisable, the owners of the land located adjacent to the land that is the subject of the exclusion application.
- (3) The notice of the meeting must do all of the following:
- (a) state the time and place of the meeting;
  - (b) identify the land that is subject of the exclusion application;
  - (c) state the purpose of the exclusion application;
  - (d) state the time and place at which the exclusion application and the documents relating to the exclusion application may be inspected.

### **Applicant to be given access to relevant information**

- 23 (1) The commission must cause to be delivered to the applicant, by registered mail or personal service, including electronic mail
- (a) a copy of the exclusion application, except for the information supplied by the applicant, and
  - (b) a copy of any other information related to the exclusion application for consideration at the meeting.

- (2) At the request of the applicant but subject to the *Freedom of Information and Protection of Privacy Act*, the commission must allow the applicant to inspect all relevant documents in the custody of the commission relating to the exclusion application.

**Procedure at commission meeting**

- 24 For the purpose of the meeting, the commission may do one or more of the following:
- (a) hear representations from the applicant;
  - (b) accept written submissions or any other form of evidence even though it may not be evidence in a court of law;
  - (c) hear representations, evidence and opinions of any person present or represented at the meeting, and of the local government or first nation government in whose jurisdictional area is located the land to which the exclusion application relates, that, in the opinion of the commission, are relevant to the exclusion application.

**Commission to notify applicant of evidence presented**

- 25 (1) This section applies if evidence is presented at the meeting and a statement or summary of that evidence has not been sent to the applicant.
- (2) If the applicant is present at the meeting, the commission may
- (a) hear further representations in respect of the additional evidence, or
  - (b) adjourn the meeting to enable the applicant to answer that evidence.
- (3) If the applicant or applicant's agent is not present at the meeting, the commission must notify the applicant by registered mail, electronic mail or personal service of
- (a) the additional evidence presented at the meeting, and
  - (b) the time within which the additional evidence may be answered.

**PART 9 - OWNER APPLICATIONS TO INCLUDE LAND IN RESERVE**

**Application by owner**

- 26 (1) If an owner's land is not included in a land reserve plan, the owner may apply under section 17 (3) of the Act to have the land designated as part of an agricultural land reserve.
- (2) An inclusion application under section 17 (3) of the Act must be in a form acceptable to the commission and must be filed,
- (a) if the inclusion application is one referred to in section 34 (3.1) of the Act, with the commission, or
  - (b) in any other case, with the applicable local government or treaty first nation government.

**Copy of inclusion application must be sent to government for adjacent land**

- 26.1 If land to which an inclusion application filed under section 26 (2) relates is in one jurisdictional area but shares a common boundary with another jurisdictional area, the applicant must promptly after filing the inclusion application under section 26 (2) send a copy of the inclusion application to the local government or first nation government for that second mentioned jurisdictional area.



### **Public information meetings**

- 27 If an inclusion application is filed under section 26 (2), the commission or the local government or first nation government in whose jurisdictional area is located the land to which the inclusion application relates may hold a public information meeting with respect to that inclusion application.

### **Local government or first nation government submission to commission**

- 28 (1) Within the applicable time limit under subsection (2), a local government or first nation government in whose jurisdictional area is located the land to which an inclusion application relates must send to the commission all of the following:
- (a) the inclusion application and any supporting information it wants the commission to consider;
  - (b) its comments and recommendations required under section 34 (4) of the Act in a form acceptable to the commission;
  - (c) its comments, if any, of a local government or first nation government to which the inclusion application has been sent under section 26.1 of this regulation.
- (2) The time limit for sending materials under subsection (1) is
- (a) 90 days after receipt of the inclusion application, if a public information meeting is held under section 27, and
  - (b) 60 days after receipt of the inclusion application in all other cases.

## **PART 10 - APPLICATIONS FOR NON-FARM USE OR SUBDIVISION OF AGRICULTURAL LAND**

### **Application must be filed with local government or treaty first nation government**

- 29 (1) An owner of agricultural land who wishes to use that land for a non-farm use or who wishes to subdivide that land may apply for permission under section 20 or 21 of the Act.
- (2) An application under section 20 or 21 of the Act must be in a form acceptable to the commission and must be filed,
- (a) if the application is one referred to in section 34 (3.1) of the Act, with the commission, or
  - (b) in any other case, with the applicable local government or treaty first nation government.
- (3) Subsections (1) and (2) do not apply to applications for transportation or utility uses filed with the commission under section 6 of this regulation.

### **Sections 19 and 21 apply**

- 30 Sections 19 and 21 of this regulation apply to an application for permission for a non-farm use under section 20 (3) of the Act or an application for subdivision under section 21 (2) of the Act, and, for that purpose, in sections 19 and 21 of this regulation as they apply to that application,
- (a) a reference to an exclusion application must be read as a reference to the application for permission for a non-farm use or for subdivision, as the case may be, and

- (b) a reference to section 30 (4) or (4.1) of the Act must be read as a reference to section 25 (3) or (3.1) of the Act.

**Commission meeting**

- 31 (1) If it considers it necessary or advisable, the commission may hold a meeting with respect to any application filed under section 29.
- (2) A meeting to determine an application under subsection (1) may be held at a time and place designated by the commission and may be adjourned from time to time.

**PART 11 - GENERAL**

**Commission must give notice of decision**

- 32 The commission must inform the applicant, the applicable local government or first nation government and, if applicable, the appropriate registrar of titles and the British Columbia Assessment Authority if the commission
  - (a) includes and designates land under section 17 of the Act,
  - (b) grants permission for a non-farm use or a subdivision under section 25 of the Act, or
  - (c) excludes land or grants permission for a non-farm use or subdivision under section 29 or 30 of the Act.

**Fees**

- 33 (1) The prescribed application fees are as follows:
  - (a) for permission under section 20 or 21 of the Act for a use or subdivision of agricultural land to which section 4 does not apply, \$600;
  - (b) for permission under section 29 or 30 of the Act for the exclusion of land from the reserve, \$600;
  - (c) for permission under section 34 (6) of the Act for applications filed directly with the commission, \$400.
- (2) The prescribed portion of the application fee that a local government or first nation government may retain for the purposes of section 35 (1) of the Act is \$300 for an application
  - (a) for exclusion under section 29 or 30 of the Act, or
  - (b) for use or subdivision under section 20 or 21 of the Act.
- (3) The prescribed times for the purposes of section 35 (1) (b) of the Act are at a time that occurs on or before March 31, June 30, September 30 and December 31 of each year.
- (4) The prescribed portion of an application fee that may be remitted by the commission to a local government or first nation government for the purposes of section 35 (5) of the Act is \$200.

**Mapping**

- 34 (1) The agricultural land reserve boundary must be represented and maintained by the commission on land reserve plans using technology, standards and security procedures the commission considers appropriate.

- (2) The prescribed times for updating land reserve plans are at a time that occurs on or before January 31, April 30, July 31 and October 31 of each year.

#### **Penalties**

- 35 (1) Before the chief executive officer levies a penalty under section 54 of the Act, the chief executive officer must consider all of the following:
  - (a) any contravention of a similar nature by the person;
  - (b) the gravity and magnitude of the contravention;
  - (c) whether the contravention was deliberate, repeated or continuous;
  - (d) whether there was an economic benefit derived by the person from the contravention;
  - (e) the person's cooperativeness and efforts to correct the contravention;
  - (f) the degree to which the contravention detrimentally affected or impaired the agricultural capability of the land or its suitability for farming.
- (2) The penalty which the chief executive officer may levy is in the complete discretion of the chief executive officer, but must not exceed \$100 000 for any single contravention.
- (3) The maximum penalty which the chief executive officer may levy for a second or subsequent contravention is double the amount of the penalty levied for the first contravention.
- (4) If the chief executive officer levies a penalty against an owner of agricultural land under section 54 of the Act, the chief executive officer must give the owner a notice setting out all of the following:
  - (a) the nature of the contravention;
  - (b) the amount of the penalty;
  - (c) the date by which the penalty must be paid;
  - (d) a description of the owner's right to appeal the penalty.

#### **Delivery of order under section 50, 52 or 54 of the Act**

- 36 If the commission, chief executive officer or an official issues an order under section 50, 52 or 54 of the Act, the order must be delivered by registered mail or personal service.

#### **Administrative appeals**

- 37 (1) A person who is the subject of a determination, decision or order under section 50, 52, or 54 (1) of the Act may appeal the determination, decision or order by delivering to the commission a written notice of appeal in a form acceptable to the commission.
- (2) The notice of appeal under subsection (1) must include the grounds for the appeal and the relief requested and must be delivered to the commission not more than 60 days after the written determination, decision or order is personally served on the person.
- (3) The commission may establish procedures for the conduct of appeals including rules for the eligibility of intervenors, the admission of evidence and the form and content of written submissions.

- (4) The commission must hold a hearing to consider the appeal.
- (5) The commission must make a decision promptly after the hearing and serve copies of the written decision on the parties and any intervenors.

**Powers of commission, chief executive officer and designated official**

- 38 Under this regulation, if the commission, chief executive officer or a designated official is empowered to establish a condition or requirement, the commission, chief executive officer or designated official is also empowered to establish the manner and timing for carrying out the condition or requirement.

**Delegation to authorities**

- 39 The oil and gas commissioner appointed under the *Oil and Gas Commission Act* is prescribed as a public officer for the purposes of section 26 (1) (b) of the *Agricultural Land Commission Act*.