



APPLICANT INFORMATION PACKAGE

for exclusion, inclusion, subdivision or non-farm use applications under the Agricultural Land Commission Act

TOPICS

What type of application can I make?

How do I make an application?

Are there requirements for notice of my application?

How does the Commission make a decision?

What is agricultural land?

Can my application be reconsidered or appealed if it is refused?

Sample sketch

Appendix - Forms for Notice of Application

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Applicant Information Package

What Type Of Application Can I Make?

There are four types of applications that a land owner may choose to make. They are:

1. Include land into the Agricultural Land Reserve (ALR) (*Section 17(3) of the ALCA*)
There is no application fee.
2. Exclude land from the ALR (*Section 30(1) of the ALCA*)
The application fee is \$600.00.
3. Subdivide land within the ALR (*Section 20(2) of ALCA*)
The application fee is \$600.00.
4. Use land in the ALR for non-farm purposes (*Section 20(3) of ALCA*)
The application fee is \$600.00.

All four types of applications require the land owner to complete an **Application by Land Owner** form. Note: For non-farm use applications involving placement of fill or removal of soil, the land owner must complete an **Application for Non-farm Use to Place Fill or Remove Soil** form.

How Do I Make An Application?

STEP 1 *Plan Your Application*

Make an inquiry to your local government (*i.e.*, Municipality, Regional District, or Islands Trust) to:

- identify local government policies on agricultural land preservation and other regulations and policies relevant to your proposal
- inquire if other approvals may be also be required
- decide on the type of application you wish to make:
- identify if there are requirements for publicizing a notice of your application
- obtain the maps of your property required for the application.

STEP 2 *Complete Your Application Form*

Complete the **Application by Land Owner** following the instructions on the form.

- Refer to the **“Applicant’s Information Package”** for helpful information, particularly the sample sketch and the factors the Commission considers in making its decision.

Ensure required documents are attached:

- Certificate of Title
- map or sketch showing the details requested on the application form
- proof you have completed the notice of your application (if required)
(Refer to the *Applicant’s Information Package* for information on the notice requirements under the heading “Are There Requirements For Notice Of My Application?”)
- agent authorization (if using an agent).



Applicant Information Package

STEP 3 Submit Your Application

Send the completed application, additional documents and fee:

- to the local government office (fee payable to the local government).

STEP 4 The Local Government Considers Your Application

The Local Government receives your application and:

- ensures your application is complete and all documents are included
- completes a local government report
- may refer your application to various committees
- may hold a public information meeting
- must refer your application to its Board or Council for recommendations and comments
- if the land is zoned for agriculture or farm use, or if your proposal requires a bylaw amendment, the Board or Council decides whether to allow your application to proceed to the Commission. If authorization is not granted, your application proceeds no further and the local government returns a portion of the application fee to you.
- if authorization is granted, the application process continues.

STEP 5 The Commission Makes A Decision On Your Application

The Commission receives your application and:

- assigns a file # to your application
- sends a letter to you which acknowledges receipt, identifies the staff person handling your file, and estimates the approximate time for a decision (A copy is sent to the local government.)
- prepares a Summary Report and forwards a copy for your review
- holds a meeting, if you are applying for exclusion, to allow you to present your proposal
- may hold a meeting if you are applying for inclusion, subdivision or non-farm use.
- may view your property
- may refer your application to various agencies for comments and recommendations
- decides on your application and advises you in writing of the decision. (A copy is sent to the local government.) It is the policy of the Commission not to communicate decisions verbally in advance of issuing the written decision.

Note: If your application is successful, approval of the local government and other authorities may also be necessary. Approval of the Commission does not imply that other approvals or permits will be granted.

Are There Requirements For Notice Of My Application?

If you are applying to **exclude** land from the ALR (under section 30(1) of the *Agricultural Land Commission Act*), you are required to provide notice of your application to the public. (See Sections 15 & 16 of the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*.)

As the applicant, you are responsible for ensuring the notice requirements are fulfilled prior to filing your application with the local government and for all costs arising from providing the notice. The following information outlines the steps to take in providing notice of your application.

1. Advertise the application.

- Your application must be advertised on two separate occasions not less than 7 or more than 14 days apart, in a newspaper in general circulation in the municipality or regional district where the property under application is located.
- The wording of the notice must be as specified in the Regulations. (*Refer to the form in the Appendix.*)

2. Serve a signed copy of the application and the notice to all registered owners of land in the ALR that share a common boundary with the property under application, including owners of property separated by a public road.

Remember, it is the registered owner of the property that must be served the notice and this may not necessarily be the occupant. Your local government office may be able to help you determine who the registered owners are that must be served notice of your application.

3. Post a sign on the land.

- The sign must display enlarged copies of the notice and the application covering a minimum area of 60 cm x 120 cm.
- The wording of the notice is to be the same as the newspaper advertisement notice.
- The sign must be placed at the midpoint of the property along a public road, so that it is visible from the road and so that vegetation does not hide it from view.

The purpose of the sign is to identify the property so that any person reading the notice in the newspaper or any person served a notice of your application can confirm the location.

4. Publish, post and serve the notice at least 14 days prior to the local government acting on the application.

5. Submit proof that you have met the notice requirements by including with your application:

- an original copy of each notice advertisement in the local newspaper with the date of publication clearly noted,
- a signed statement declaring the names and addresses of the adjacent property owners served, the date of service and the method of service (*refer to the form in the Appendix*), and
- a photograph which clearly shows the sign posted on the property.

6. Forward any responses that you may receive on your application to the local government as soon as they are received so that this information may be considered with your application.

The notice specifies that comments are to be forwarded to the local government office but in the event that you receive any comments, you must send them on to the local government office.

How Does The Commission Make A Decision?

This information is to help applicants view their proposals through the eyes of the Commission.

What Is the ALR?

The Agricultural Land Reserve can be thought of as a provincial zone in which agriculture is recognized as the priority use. Farming is encouraged and non-agricultural uses are controlled.

The ALR includes private and public lands that may be farmed, forested, or vacant land. Some ALR blocks cover thousands of hectares, while others are small pockets of only a few hectares.

In total, the ALR comprises those lands within the province that have the potential for agricultural production.

The Commission has a mandate to maintain a permanent farm land reserve. A guiding principle is that if the Agriculture Land Reserve is to be maintained in the long term, it cannot be endlessly eroded by encroachment of non-farm uses and subdivisions or by deleting land from the ALR.

In making a decision on an application, the Commission must consider a number of interrelated factors. It reviews the variables that it considers relevant to the application and weighs the likely impact of the proposal against the long-term goal of preserving agricultural land. The Commission begins by looking at the specific property and proposal. It then looks at the proposal in relation to surrounding lands, related agricultural concerns, and community planning objectives. Finally, the picture is broadened further to consider the provincial interest.

THE LAND RESOURCE

In arriving at its decision, the Commission considers the agricultural potential of the parcel and the agricultural potential of surrounding lands.

One measure of agricultural potential is the Canada Land Inventory Agricultural Capability rating system, which is based on the range of crops that can be grown. Other parameters of agricultural potential are suitability for specific crops, productivity, and homogeneity or integrity of the farming community, both present and future. (*For further information on the agriculture capability rating system, see the Commission's pamphlet entitled "What is Agricultural Land?"*)

RELATED AGRICULTURAL CONCERNS

Will the proposal benefit agriculture?

Is the proposed use supportive of agriculture or in conflict with it?

Will the proposal permanently damage the physical capability of the land for agricultural use?

How do the existing and proposed parcel sizes relate to the type of agriculture in the area?

Are there physical restrictions that significantly interfere with farm use of the property?



Applicant Information Package

What effect or impact would the proposal have on existing or potential agricultural use of surrounding lands?

- Would the proposal create conflicts in terms of noise, dust, odours, trespass, etc.?
- Would the proposal generate demand for urban-type services such as sewer and water?
- Would the proposal necessitate construction of new roads or widening of existing roads?

Does the proposal include any measures to reduce potential impact on surrounding lands?

Can the proposal be modified or should conditions be imposed to reduce potential negative impacts?

AREA CONCERNS

How do surrounding uses and parcel sizes affect use of the property for farm purposes?

Does the proposal meet the regional and community planning objectives for the area? For example, will the proposal require a change to the present zoning or the Official Community Plan?

Given a documented need for the proposal, can it be accommodated outside the ALR?

Are there land use issues the Commission could address to encourage or improve the agricultural use of the land or area?

What are the recommendations of the local government, advisory committees and other stakeholders?

Has funding been provided to improve the agricultural infrastructure in the area?

OTHER CONSIDERATIONS

The Commission's decisions are oriented towards maintaining a permanent farm land reserve. The following factors, while carefully considered, will not necessarily determine the outcome of an application:

- present use
- existing parcel size
- local government zoning and land use bylaws
- personal circumstances.

For instance, a 2-hectare parcel that is not providing a full-time farm income does not, for that reason alone, qualify for exclusion or non-farm use or subdivision. Similarly, while an applicant may propose to subdivide land to a parcel size permitted by local zoning, the Commission may feel that the size restricts agricultural options and, consequently, the long-term preservation of agricultural lands. In other instances, the Commission must weigh an applicant's personal circumstances such as estate settlements, desires to subdivide parcels for children and other similar desires against its legislated responsibility to preserve agricultural land.

The Commission does not consider current market conditions to be a determining factor in its decisions.

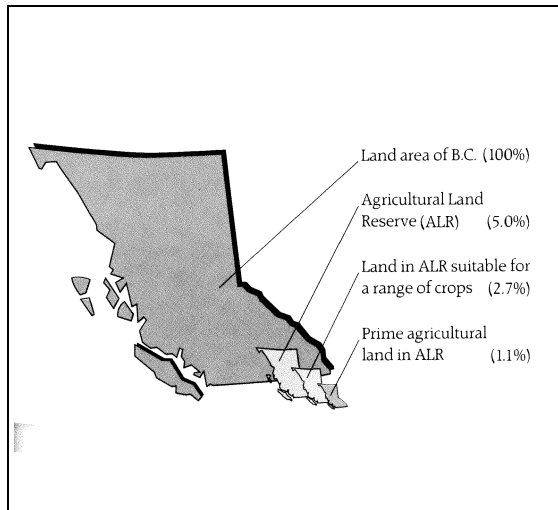
PROVINCIAL INTEREST

Does the proposal comply with the goals of the *Agricultural Land Commission Act*?

*The goal of the Agricultural Land Commission is:
to preserve British Columbia's agricultural lands for present and future use; and
to encourage the establishment and maintenance of B.C.'s farms and farming community.*

What Is Agricultural Land?

Less than 5% of our province is suitable for farming. Some of the best agricultural lands are in narrow valley bottoms, where they must compete with other uses, such as housing, industry, transportation, recreation, and wildlife habitat. Agricultural Land Reserves preserve BC's limited amount of farmland to insure that we can meet our present and future food needs.



One measure of agricultural potential is the Land Capability Classification System for Agriculture in British Columbia. Where this mapping is not available, the Commission will use the Canada Land Inventory (CLI) mapping. Both systems identify land according to its potential and limitations for agriculture using a rating system of Class 1 to 7.

The classification systems are based on climate and soil characteristics as well as on consideration of topography, drainage, and other landscape characteristics but are not based on the current use of the land.

The best agricultural lands are rated Class 1 because they have the ideal climate and soil to allow a farmer to grow the widest range of crops. Class 7 is considered non-arable, with no potential for soil bound agriculture. As the class numbers increase from Class 1 to Class 7, the range of crops decreases. Associated with each class is a subclass that describes limitations such as topography, stoniness, soil moisture deficiency, low fertility, etc.

However, the ratings give no indication of the yield of individual crops. For example, for a particular crop, some Class 4 lands may produce higher yields than Class 3 or 2 but the range of crops for Class 4 is narrower than for Class 3 or 2. Similarly, a higher-numbered class does not necessarily mean lower quality agricultural land. Some of these lands are highly suitable for specialty crops. For instance, some blueberry and cranberry lands in Richmond are rated Class 5 but represent unique soils that are highly prized for blueberries and cranberries. The forage lands in west-central BC, which are an integral part of beef farming in that area, are Class 5. In the southern interior, the natural grasslands, unique in North America, are rated as Class 6, but are important to the ranching industry.

Thus, the Commission looks not only at the agriculture capability ratings but also may take into account factors related to productivity, yield, suitability, etc.



Applicant Information Package

The land capability classification for agriculture has two main components; the capability class and the capability subclass. The *class* identifies potential for agriculture. The *subclass* identifies limitations or special management practices needed to improve the soil.

AGRICULTURE CAPABILITY CLASSES

Class 1 land is capable of producing the very widest range of crops. Soil and climate conditions are optimum, resulting in easy management.

Class 2 land is capable of producing a wide range of crops. Minor restrictions of soil or climate may reduce capability but pose no major difficulties in management.

Class 3 land is capable of producing a fairly wide range of crops under good management practices. Soil and/or climate limitations are somewhat restrictive.

Class 4 land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

Class 5 land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

Class 6 land is important in its natural state as grazing land. These lands cannot be cultivated due to soil and/or climate limitations.

Class 7 land has no capability for soil bound agriculture.

AGRICULTURE CAPABILITY SUBCLASSES

| | | | |
|-------|--|-------|--|
| A & M | soil moisture deficiency | N | salinity |
| C | adverse climate | P | stoniness |
| D | undesirable soil structure | R | shallow soil / bedrock outcroppings |
| E | erosion | T | topography |
| F | low fertility | S & X | cumulative and minor adverse characteristics |
| I | inundation (flooding by streams, etc.) | | |

The land capability classification usually gives land two ratings: unimproved and improved. *Unimproved* ratings describe the land in its native condition without any improvements to the soil. *Improved* ratings indicate the land's potential once the appropriate management practice identified by the subclass, such as irrigation, stone removal or drainage, has been implemented.

Can My Application Be Reconsidered Or Appealed If It Is Refused?

Reconsideration of an Application

Section 33 of the *Agricultural Land Commission Act* provides an applicant with the opportunity to submit a request for reconsideration.

- S.33 (1) On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that*
- (a) evidence not available at the time of the original decision has become available,*
 - (b) all or part of the original decision was based on evidence that was in error or was false.*
- (2) The commission must give notice of its intention to reconsider a decision under subsection (1) to any person that the commission considers is affected by the reconsideration.*

A revised proposal does not constitute new information and will not be considered as a basis for reconsideration.

The time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter.

Any person affected by the decision (i.e., not necessarily the applicant) may request reconsideration of an application.

A request for reconsideration and the reasons must be made in writing.

The Commission, on its own initiative, may also reconsider a decision if there is new information not previously considered or if the information was in error or false.

The Commission must notify any person it considers affected by its decision to reconsider an application.

Appeal Provisions

There are no appeal provisions except on a question of law or excess of jurisdiction to the Supreme Court.

The remedies of the *Judicial Review Procedures Act* apply to all applications.

SAMPLE SKETCH

You must submit a plan or sketch with your application showing specific information. The sketch may be drawn freehand by yourself or drawn by a professional but in either case it must show all of the information requested on the application form.

Show the area under application with all the existing uses, the location of all buildings and the main physical features

Show the location of the photographs

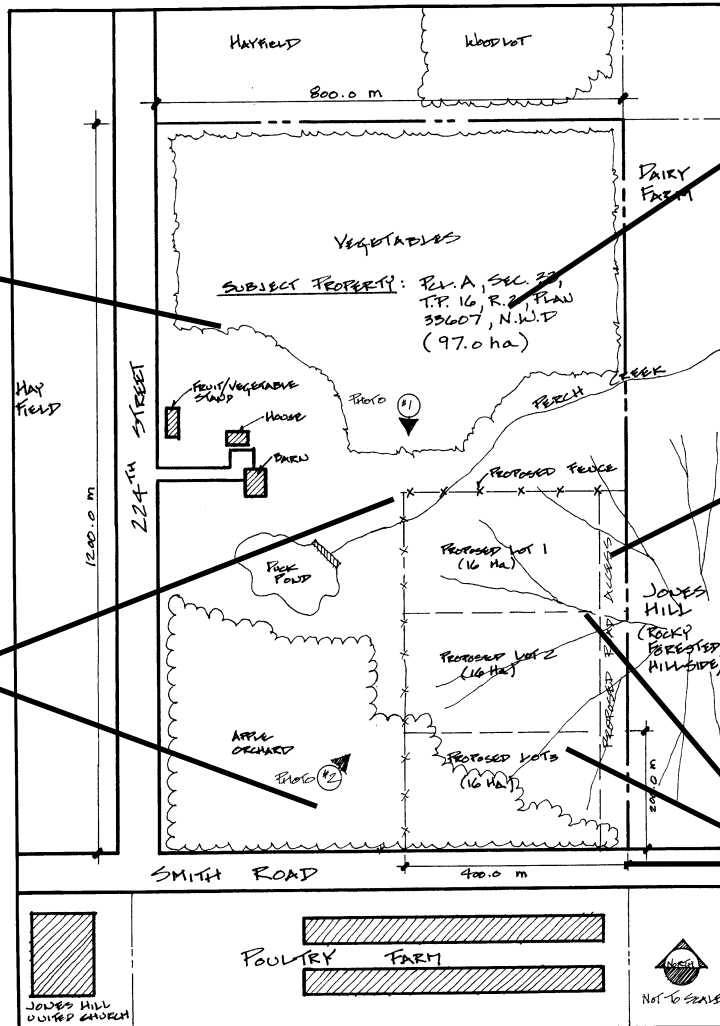
Indicate the parcel under application

Show any measures to reduce impact on agricultural lands

(In this example, fencing the proposed lots from the farm and locating the access road on poorer soils away from the farm activities is proposed.)

Show the proposal (This example shows a proposed 3 lot subdivision with the dimensions and size of each lot and the proposed access road.)

Show the location of buildings and uses on adjacent lands





NOTICE OF EXCLUSION APPLICATION REGARDING LAND IN THE AGRICULTURAL LAND RESERVE

I,(full name, or names, of registered owner)

of(mailing address)

intend on making an application pursuant to Section 30(1) of the *Agricultural Land Commission Act* to exclude from the **Agricultural Land Reserve** the following property which is legally described as,

.....(legal description from the title certificate)

and located at(street address if applicable).

Any person wishing to express an interest in the application may do so by forwarding their comments in

writing to,

..... (name and mailing address of the local government)

by, (14 days from the date of final publication)



Appendix - Applicant Information Package

PROOF OF SERVING NOTICE

AS REQUIRED BY SECTION 16 OF THE AGRICULTURAL LAND RESERVE USE, SUBDIVISION AND PROCEDURE REGULATION

I (full name of declarant)
of (mailing address)
do solemnly declare that a copy of the notice of application and a copy of the signed application as required by Section 16 of the Agricultural Land Reserve Procedure Regulation
for land legally described as
..... was served on the following owners of land:

Table with 4 columns: NAME AND ADDRESS, LEGAL DESCRIPTION OF LAND, DATE OF SERVICE, HOW SERVED: (Registered mail or delivered)

And I make this solemn declaration believing it to be true and correct to the best of my knowledge.

.....
(Signature of declarant)

.....
(Date)

IMPORTANT - AN APPLICATION FILED UNDER SECTION 30 OF THE AGRICULTURAL LAND COMMISSION ACT MUST INCLUDE A COPY OF THIS STATEMENT COMPLETED IN FULL, AND SIGNED AND DATED BY THE PERSON WHO SERVED THE NOTICE.