

# Housing Legislation in the ALR

July 16, 2024

In 2023, the B.C. Government introduced several new statutes to create more housing for people in B.C., including the *Housing Supply Act*, *Short-Term Rental Accommodations Act*, *Housing Statutes (Residential Development) Amendment Act* and *Housing Statutes (Transit Oriented Areas) Amendment Act* (the “Housing Statutes”). The Housing Statutes do not expressly refer to, or expressly exclude, the Agricultural Land Reserve (“ALR”); however, the *Agricultural Land Commission Act* (“ALCA”) is paramount to the Housing Statutes and there are no changes to the ALCA or its regulations. This document provides guidance for local governments and the public on how the Housing Statutes apply to the ALR.

## 1. Housing Supply Act

The [Housing Supply Act](#) (“HSA”) provides the B.C. Minister of Housing the ability to establish targets for the availability and affordability of housing in specific communities. The HSA does not have primacy over the ALCA and does not direct housing developments into the ALR as a strategy to meet its targets. If land in the ALR is proposed for housing development, the Agricultural Land Commission (the “Commission” or “ALC”) must continue to consider agriculture under [section 6 of the ALCA](#).

## 2. Small Scale Multi Unit Housing

The [Housing Statutes \(Residential Development\) Amendment Act](#), i.e., Small Scale, Multi-Unit Housing (“SSMUH”) legislation was introduced to encourage more small-scale, multi-unit housing for people in B.C. The SSMUH legislation requires local governments to allow multiple residential units on a parcel subject to criteria and exceptions. In particular, SSMUH legislation aims to allow more small scale, multi-unit housing in ‘restricted zones’ which are land use zones that are restricted to single-family dwellings or duplexes.

The SSMUH legislation does not apply in certain circumstances that may coincide with the ALR such as rural land use bylaws and Islands Trust.

Where the SSMUH does apply to an ALR parcel, the following considerations must be taken into account.

The ALCA and the ALR Use Regulation already permit up to three residential units on an ALR parcel:

- a principal residence up to 500 m<sup>2</sup> total floor area,
- a secondary suite within that principal residence, and
- an additional residence up to 90 m<sup>2</sup> total floor area for parcels 40 ha or less, or up to 186 m<sup>2</sup> for parcels larger than 40 ha.

The ALR Use Regulation allows all of the above; however, the SSMUH differentiates between areas where a local government *may* allow all or some of the above housing in the ALR, and areas where a local government *must* allow all of the above residential units. A local government cannot permit more housing

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on an ALR parcel than what is permitted by the ALCA and ALR Use Regulation regardless of the SSMUH legislation (i.e., a bylaw may not allow up to 6 units on an ALR parcel). Any bylaw that permits more housing than what is permitted by the ALCA and ALR Use Regulation is of no force and effect to the extent of inconsistency. The SSMUH also refers to several different types of possible multi-unit housing; however, duplexes, triplexes, townhomes, etc. are not permitted in the ALR. In addition, bare land stratas and “building” stratas are a form of subdivision and are not permitted outright in the ALR, and as such, ALC permission is required (see [ALC Information Bulletin 09: Subdivision and Plans that Cause Subdivision in the ALR](#)).

## **A. Where a local government *may* restrict or allow a secondary suite or additional residence in the ALR**

Where the SSMUH legislation does not apply, local governments may continue to allow neither, one, or both the secondary suite and/or additional residence.

## **B. Where a local government *must* allow a secondary suite or an additional residence in the ALR**

If the ALR parcel is in a certain type of ‘restricted zone’, a local government *must* allow at least a secondary suite or an additional residence. See section [481.3\(3\) of the LGA](#).

## **C. Where a local government *must* allow a suite and an additional residence in the ALR**

If the ALR parcel is in another type of ‘restricted zone’, and the parcel is smaller than 4,050 m<sup>2</sup> (~1 acre) or in a zone which has a minimum lot size of less than 4,050 m<sup>2</sup> for the purposes of subdivision, a local government must allow both a secondary suite and additional residence *if* the ALR parcel is:

- partly or wholly within an urban containment boundary established by a regional growth strategy, or
- is within an urban containment boundary established by an Official Community Plan and in a municipality with a population greater than 5,000, or
- is within a municipality with a population greater than 5,000 that does not have an urban containment boundary.

See section [481.3\(4\) of the LGA](#) as well as s. 481.4, which also sets out certain additional exemptions.

Landowners should seek guidance from their local government on whether the SSMUH legislation applies to their property, whether their property is within a ‘restricted zone’ within the ALR, and how many dwellings are permitted for that specific property.

More information on SSMUH and the ALCA can be found in section 7.1 of the [Provincial Policy Manual & Site Standards: Small Scale, Multi-Unit Housing](#).

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## **3. Short Term Rentals Accommodations Act**

Effective May 1, 2024 the *Short Term Rental Accommodations Act* ("STRAA") limits short-term rentals of certain residences, in certain areas of B.C. The STRAA was introduced to regulate short-term rentals and encourage long-term rentals to address B.C.'s housing crisis.

The ALCA and ALR Use Regulation permit a principal residence, a suite within that principal residence, and an additional residence subject to criteria. A local government may prohibit or permit the suite and/or additional residence per the SSMUH legislation (see Section 2 above). Depending on where the property is and whether it includes farmland (BC Assessment Class 9), the STRAA may allow the use of a lawful principal residence including the secondary suite and/or an additional residence in the ALR for short-term rental accommodation subject to criteria.

A parcel in the ALR is subject to the ALCA and ALR Use Regulation and may also be subject to restrictions or exemptions from the STRAA. However, the STRAA does not exempt a landowner from complying with the ALCA and ALR Use Regulation with respect to Tourist Accommodation and Agri-Tourism Accommodation.

Landowners should seek guidance from their local governments on whether the STRAA applies to their property and potential restrictions.

More information on the STRAA can be found at [Overview: B.C.'s short-term rental accommodations legislation](#).

More information on permitted tourist and agri-tourism accommodation in the ALR can be found in the ALC's [Information Bulletin 06: Tourist and Agri-Tourism Accommodation in the ALR](#).

## **4. Transit Oriented Areas**

The *Housing Statutes (Transit Oriented Areas) Amendment Act* facilitates high-density mixed-use development within walking distance to certain transit services. If a transit-oriented area overlaps with the ALR, the transit-oriented densities and regulations do not apply to ALR lands.

## **5. Areas Without Zoning Bylaws**

Note that some areas of the province do not have zoning bylaws. The absence of local zoning bylaws does not relieve a landowner from complying with the restrictions in the ALCA and ALR Use Regulation. In other words, a landowner must not exceed what the ALCA and ALR Use Regulation provide for, regardless of whether any zoning bylaws apply to their property, without seeking and obtaining approval from the Commission first. For example, an ALR parcel that is not subject to a zoning bylaw may construct a maximum of a principal residence including a secondary suite within the principal residence, and a permitted additional residence in accordance with the ALCA and ALR Use Regulation. If a local government chooses to introduce a zoning bylaw to an area in the ALR that is presently without a zoning

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bylaw, it will need to comply with the new requirements of the SSMUH legislation.

## 6. Urban Agricultural Interface

The ALC encourages residential densification in areas outside of the ALR and for local governments to mitigate impacts of housing development near the ALR by employing strategies from the ALC and Ministry of Agriculture and Food (“MAF”) [Subdivision Near Agriculture: A Guide for Planners and Approving Officers in B.C.](#) and the MAF [Guide to Edge Planning: Promoting Compatibility Along Agricultural Urban Edges](#). Although the *Provincial Policy Manual & Site Standards: Small-Scale, Multi-Unit Housing* document encourages local governments to implement modest setbacks in an effort to accommodate additional density on the urban side, edge planning for parcels adjacent to the ALR that are actively farmed or may be farmed in the future, is still critically important to mitigate conflict between urban and agricultural land uses. At the residential/agricultural interface, farmers often experience trespass, property and equipment vandalism, crop damage and theft, livestock harassment, and litter. Residential neighbours may be impacted by odour, noise, dust, flies, spray drift, and other disturbances resulting from farm practices. Edge planning such as fencing, buffering, and setbacks on the residential side of the ALR boundary are long-standing land use tools to promote compatibility, shared health, safety, and peaceful enjoyment, as well as a farmer’s right to farm under the *Farm Practices Protection (Right to Farm) Act*.

**Have more questions about the Housing Statutes?** Contact the Ministry of Housing [PLUM@gov.bc.ca](mailto:PLUM@gov.bc.ca)

**Have more questions about housing in the ALR?** Contact the ALC [ALCBurnaby@Victoria1.gov.bc.ca](mailto:ALCBurnaby@Victoria1.gov.bc.ca)