



**RESIDENTIAL FLEXIBILITY IN THE ALR:
Frequently Asked Questions**

June 2022

BACKGROUND: On December 31, 2021, changes to the residential uses permitted in the ALR Use Regulation came into force and effect.

This *Residential Flexibility in the ALR Frequently Asked Questions* document provides interpretation and clarification of the regulations and details any positions formally adopted by the Commission.

Refer to [ALC Information Bulletin 05 Residences in the ALR](#) for a more detailed interpretation of the *Agricultural Land Commission Act* and the ALR Use Regulation.

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GENERAL

Q1: What are the new regulations for residential flexibility?

[Order in Council 438/2021](#), which was released on July 12, 2021 and will amend Part 4 of the Agricultural Land Reserve Use Regulation, provides for new regulations for residential uses in the ALR based on property size and the size of the existing principal residence which will be effective December 31, 2021.

On a property 40 ha or less, where there is a principal residence of 500 m² or less, one 90 m² additional residence may be permitted, subject to local government bylaws or First Nation Government laws.

On a property larger than 40 ha, where there is a lawfully constructed principal residence*, one 186 m² additional residence may be permitted, subject to local government bylaws or First Nation Government laws.

*a lawfully constructed principal residence refers to a residence that pre-dates the legislative changes made on February 22, 2019 under Bill 52 or a residence larger than 500 m² as approved by the ALC and constructed with appropriate authorizations. [Back to Top](#)

Q2: How were the new regulations decided?

The Ministry of Agriculture, Food and Fisheries in January 2020 publicly proposed its policy direction to increase residential flexibility in the ALR, as described in the [Ministry of Agriculture Policy Intentions Paper: Residential Flexibility in the ALR](#). Subsequently, the Ministry undertook consultation with interested local governments and received public feedback to assist in further developing the policy options outlined in the Intentions Paper. A summary of the feedback was provided in the [What We Heard Report](#). [Back to Top](#)

Q3: When do the new regulations take effect?

December 31, 2021. [Back to Top](#)

Q4: What was the Ministry of Agriculture, Food and Fisheries' intention with the new regulations?

In the Ministry's July 12, 2021 [News Release](#) associated with [Order in Council 438/2021](#), the policy intention behind the regulation changes was described. In short, the changes are intended to provide farmers and non-farmers in the ALR the opportunity to have a small secondary residence. [Back to Top](#)

PRINCIPAL OR EXISTING ADDITIONAL RESIDENCES

Q5: How is total floor area calculated to confirm the size of an existing residence?

Local government and First Nation Government staff may use existing building plans, where available, to confirm the size of an existing residence. If building plans are not available, the local government or First Nation Government will have to work with the applicant to get the necessary information to confirm the existing residence size. [Back to Top](#)

Q6: If there is an existing 9 m wide manufactured home and a principal residence, is an additional residence permitted?

No. The proposed additional residence would be the third residence and must be applied for through a Non-Adhering Residential Use (NARU) application to the ALC. In considering the application, the Commission cannot grant permission for the third residence unless it is necessary for farm use. [Back to Top](#)

Q7: If I have a principal residence and farm worker accommodation, can I have an additional residence?

No. Farm worker accommodation is considered a residence. The proposed additional residence would be the third residence and must be applied for through a Non-Adhering

Residential Use (NARU) application to the ALC. In which case, the Commission must consider whether the residence is necessary for farm use. [Back to Top](#)

Q8: Can I convert an existing residence that is larger than 90/186 m² into a 90/186 m² residence?

Not without applications to the ALC. The conversion of a larger residential structure by declaring portions of the structure uninhabitable requires an application to the ALC. For example, if you have a 125 m² house and you are proposing to make 35 m² uninhabitable, an application to the Commission would be required. [Back to Top](#)

Q9: Can I convert a portion of a structure that is larger than 90/186 m² into a 90/186 m² residence?

It depends. The conversion of an existing structure like a barn to now include a 90/186 m² residence may be permitted if the residence portion is on the second storey or if there is a clear separation between the residence and the remaining structure. For example, that might be accomplished with a fire wall and no internal access between the residential and non-residential areas. [Back to Top](#)

Q10: Can a local government restrict a principal residence size to less than 500 m²?

Yes, residential uses under the ALR Use Regulation may be further restricted and/or prohibited by a local government or First Nation Government. [Back to Top](#)

Q11: For parcels over 40 ha with no residence currently on it, does the 500 m² principal residence size restriction still apply?

Yes, any principal residences constructed after February 22, 2019 must be 500 m² or less, except where approved through application by the ALC. [Back to Top](#)

Q12: Where there is a legal, existing residence larger than 500 m², is a new additional residence permitted?

You must first consider the size of the parcel.

If the property is less than 40 ha, then no. A new additional residence is only permitted on such properties if the principal residence has a total floor area of 500 m² or less.

If the property is larger than 40 ha, then yes, subject to local government bylaws or First Nation Government laws. The principal residence must be lawfully constructed* to have an additional residence.

*a lawfully constructed principal residence refers to a residence that pre-dates the legislative changes made on February 22, 2019 under Bill 52 or a residence larger than 500 m² as approved by the ALC and constructed with appropriate authorizations. [Back to Top](#)

90 M² OR 186 M² ADDITIONAL RESIDENCES

Q13: What types of residences meet the requirements of the new regulations?

As outlined in the Ministry's [News Release](#), examples of flexible housing options permitted under the regulation include, but are not limited to:

- garden suites, guest houses or carriage suites
- accommodation above an existing building
- manufactured homes*
- permitting a principal residence to be constructed in addition to a manufactured home that was formerly a principal residence*

*After December 30, 2021, the size of a new manufactured home that is an additional residence must not exceed the applicable limit of either 90 or 186 m² unless the necessary authorizations have been received by December 30, 2021 as s. 32 (3) of the ALR Use Regulation read on December 30, 2021:

- (3) An additional residence that is a manufactured home and that is not a pre-existing residential structure is permitted if
- (a) the manufactured home is 9 m or less in width,
 - (b) the manufactured home is used only by the owner or any of the following persons who are related within the meaning of subsection (4):
 - (i) a person who is the owner's
 - (A) parent, grandparent or great grandparent,
 - (B) sibling, or
 - (C) child, grandchild or great grandchild;
 - (ii) the owner's spouse, or a person who is a parent of the owner's spouse,
 - (c) all required authorizations to locate the manufactured home on the agricultural land are granted before December 31, 2021, and
 - (d) the size and siting of the manufactured home is not altered after December 31, 2021, unless permitted under section 25 or 45 of the Act.

The type of housing may be further restricted and/or prohibited by local government bylaw or First Nation Government laws. [Back to Top](#)

Q14: How is total floor area calculated to confirm the size of an additional residence?

Total floor area (TFA) of the additional 90 or 186 m² residence permitted in the ALR Use Regulation (if permitted by local government bylaw or First Nation Government law), pursuant to Commission Resolution No. 086N/2021, is measured to the outer surface of

exterior walls including corridors, hallways, landings, foyers, staircases, stairwells, enclosed balconies, enclosed porches or verandas, basements, attached garages and unenclosed carports ([Commission Resolution No. 096N/2022](#)) as part of the total floor area, with the following exceptions:

- (a) attached garages are excluded from the total floor area calculation if the additional residence occupies the second storey above a one storey garage, and
- (b) attics, with attic meaning the unfinished space between the roof and the ceiling of the top storey of a building or between a partial wall and a sloping roof. This exception only applies if this unfinished space is created by the use of roof trusses. The unfinished attic space created by the use of attic trusses or rafters in the construction of a residence is not excluded from the calculation of total floor area ([Commission Resolution No. 095N/2022](#)), and
- (c) crawl spaces ([Commission Resolution No. 094N/2022](#)).

“**crawl space**” means an unfinished space below the first floor with a vertical height of less than 1.8 metres pursuant to [Commission Resolution No. 094N/2022](#)

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Q15: Can the additional residence be used for farm worker accommodation?

Yes, the additional residence may be used for farm worker accommodation. Only one additional residence is permitted, so it cannot be divided up into multiple separate units or suites which would constitute multiple residences. As in other cases, the additional residence must also be permitted by the local government or First Nation Government.

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Q16: Can the additional residence be used as a short-term vacation rental?

Yes, the additional residence may be used for a short-term vacation rental. Only one additional residence is permitted, so it cannot be divided up into multiple separate units or suites which would constitute multiple residences. As in other cases, the additional residence must also be permitted by the local government or First Nation Government.

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Q17: After December 31, 2021, can a 9 m wide manufactured home be placed during the construction/renovation of a principal residence on an interim basis?

No. Unless necessary authorizations have been received by December 31, 2021, a 9 m wide manufactured home cannot be placed as an additional residence (temporary or permanent) as the size exceeds 90/186 m². A 9 m wide manufactured home is typically

around 205 m². A Non-Adhering Residential Use (NARU) application to the ALC would be required. [Back to Top](#)

Q18: Can the principal residence and additional residence sizes be manipulated to fall within the total areas permitted for residential uses (e.g., a 510 m² residence and an 80 m² residence)?

No. A principal residence must not exceed a total floor area of 500 m², and an additional residence must not exceed a total floor area of 90 or 186 m², depending on the property size. [Back to Top](#)

TOTAL FLOOR AREA

Q19: How is total floor area calculated for these additional residences?

The ALC's definition for **"total floor area"** (TFA) of the additional 90 or 186 m² residence permitted in the ALR Use Regulation (if permitted by local government bylaw or First Nation Government law), pursuant to Commission Resolution No. 086N/2021, is measured to the outer surface of exterior walls including corridors, hallways, landings, foyers, staircases, stairwells, enclosed balconies, enclosed porches or verandas, basements, attached garages and unenclosed carports (Commission Resolution **No. 096N/2022**) as part of the total floor area, with the following exceptions:

- (a) attached garages are excluded from the total floor area calculation if the additional residence occupies the second storey above a one storey garage, and
- (b) attics, with attic meaning the unfinished space between the roof and the ceiling of the top storey of a building or between a partial wall and a sloping roof. This exception only applies if this unfinished space is created by the use of roof trusses. The unfinished attic space created by the use of attic trusses or rafters in the construction of a residence is not excluded from the calculation of total floor area (**Commission Resolution No. 095N/2022**), and
- (c) crawl spaces (**Commission Resolution No. 094N/2022**).

"crawl space" means an unfinished space below the first floor with a vertical height of less than 1.8 metres pursuant to **Commission Resolution No. 094N/2022**.

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Q20: Can an additional residence have a basement and garage?

The Ministry of Agriculture's policy intention is that these additional residences be like carriage houses, garden suites and guest houses which don't commonly have basements and garages associated with them.

The ALC's definition of total floor area for an additional residence does allow for a basement and/or attached garage or unenclosed carport, but they count towards the total floor area (i.e. are included in the 90 m²/186 m² calculation). [Back to Top](#)

Q21: Is the 90 m²/186 m² a total floor area or building footprint?

Total floor area. [Back to Top](#)

SECONDARY SUITES

Q22: Can I have a secondary suite in the additional residence?

No. Section 31 of the ALR Use Regulation permits only a single secondary suite in the principal residence, where a local government bylaw permits or First Nation Government law allows. [Back to Top](#)

Q23: If there is a secondary suite in a principal residence, does a property still qualify for an additional residence?

Yes, subject to the total floor area requirements and local government bylaws or First Nation Government laws. [Back to Top](#)

Q24: Can a local government restrict a secondary suite use within a principal residence?

Yes, residential uses under the ALR Use Regulation may be further restricted and/or prohibited by a local government or First Nation Government. [Back to Top](#)

RESIDENTIAL ACCESSORY STRUCTURES

Q25: Are there residential accessory structures that are necessary for an additional residence?

Under s. 30 of the ALR Use Regulation, structures (other than residential structures) and driveways or utilities are permitted if they are necessary for a permitted residential use such as an additional residence.

Accessory residential buildings must also comply with the size limits set out in the ALCA and cannot be used to circumvent the size limits on principal or additional residences in the ALCA and the regulations.

The ALR Use Regulation does not exempt additional residences or accessory residential structures from the Act's restrictions on removing soil from or placing fill on agricultural land. Fill means any material brought onto agricultural land other than materials exempted by regulation, including structural fill and gravel. Soil and Fill Information - [See Q30](#) below. [Back to Top](#)

ORDER OF PLACEMENT

Q26: Can the 90/186 m² residence be placed before or simultaneously with the 500 m² principal residence?

Yes. Order of placement does not matter provided the total floor area limitations for the principal and additional residences are adhered to. In addition, the principal and additional residence must not be attached to, or part of, one another. [Back to Top](#)

MANUFACTURED HOMES

Q27: After December 31, 2021, does the 9 m wide manufactured home have to be used by the owner or the owner's immediate family?

This answer applies to an additional residence that is a manufactured home 9 m or less in width for which all required authorizations are granted before December 31, 2021. After December 31, 2021 the manufactured home may be used by anyone, subject to local government bylaws or First Nation Government laws.

If there is a restrictive covenant held by the local government or First Nation Government requiring a manufactured home to be used only for immediate family, land owners can get in touch with that local government or First Nation Government to determine whether it can be discharged or not.

If there is a restrictive covenant held by the ALC requiring that a manufactured home can only be used for immediate family, land owners can get in touch with the ALC directly to determine whether it can be discharged or not.

Requests for ALC-held covenants can be made to the land use planning team within the applicable administrative region via email to the addresses listed below:

- South Coast: ALC.SouthCoast@gov.bc.ca
- Island: ALC.Island@gov.bc.ca
- Kootenay: ALC.Kootenay@gov.bc.ca
- Interior: ALC.Interior@gov.bc.ca
- North: ALC.North@gov.bc.ca
- Okanagan: ALC.Okanagan@gov.bc.ca

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Q28: Can an addition be added to a 9 m wide manufactured home after December 31, 2021?

No. After December 31, 2021, an existing or authorized 9 m wide manufactured home is considered grandfathered provided the size and siting is not altered. Additions to a grandfathered manufactured home require a NARU application to the ALC. [Back to Top](#)

Q29: Can I replace an existing grandfathered manufactured home after December 31, 2021?

No. After December 31, 2021, an existing or authorized 9 m wide manufactured home is considered grandfathered, but there is no automatic right of replacement. To replace a grandfathered 9 m wide manufactured home, that is not a principal residence, requires a NARU application to the ALC. In which case, the Commission must consider whether the residence is necessary for farm use. [Back to Top](#)

SOIL AND FILL USE

Q30: Is an application to the ALC required if the removal of soil or placement of fill is required for the construction of an additional residence?

Yes. Fill means any material brought onto agricultural land other than materials exempted by regulation, including structural fill and gravel.

It is likely that most, if not all, additional residences will require the submission of a Notice of Intent (NOI) application to the ALC before a local government issues a building permit.

The application fee is \$150 and is submitted on the ALC's application portal. [Read more about soil and fill uses in ALC Information Bulletin 07.](#)

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Q31: Are there any exemptions or an amount of soil removal or fill placement that is permitted for an additional residence without a Notice of Intent (NOI)?

No. [Back to Top](#)

Q32: Does the 1,000 m² threshold for fill placement or soil removal for a principal residence remain in effect after the residential flexibility changes take effect on December 31, 2021?

Yes, under s. 35(a) of the ALR Use Regulation the permitted 1,000 m² fill area continues to apply to the construction of a principal residence. There are no fill placement or soil removal provisions for the 90/186 m² additional residence. It is likely that most, if not all, additional residences will require the submission of a Notice of Intent (NOI) to the ALC before a local government issues a building permit. The application fee is \$150 and is submitted on the ALC's application portal. [Back to Top](#)

Q33: If a local government bylaw does not regulate soil or fill, would the ALC be the enforcement agency if someone places fill associated with an additional residence?

Yes. However, local governments and First Nation Governments are not permitted to issue building permits for an additional residence where structural fill, including aggregate, is necessary for the construction of the 90/186 m² additional residence, unless the fill placement was approved in accordance with the *Agricultural Land Commission Act* and ALR Use Regulation, i.e. an approved Notice of Intent. [Back to Top](#)

APPLICATIONS

Q34: Can a landowner apply for a third or more residence?

Yes, a landowner may submit a Non-Adhering Residential Use (NARU) application for a third or more residence. However, under the *Agricultural Land Commission Act* the ALC must not grant permission for such a residence unless it is necessary for a farm use. [Back to Top](#)

BUILDING STRATA CONVERSIONS

Q35: Is it the intention that both residences would be maintained under a common real estate entity?

Yes. There is no right to subdivision with the construction of an additional residence.

Subdivision of ALR land requires an application to the ALC. Strata conversion is considered a subdivision requiring an application for subdivision to the ALC. [Back to Top](#)

Q36: How will the ALC ensure that the residences are not stratified after a building permit is issued?

Building stratification is a form of subdivision which requires an application to the ALC.

Under Section 19 of the *Agricultural Land Commission Act*, the Registrar of Titles must not, under the *Land Title Act* or the *Strata Property Act*, accept an application for the deposit of a plan if it would cause the subdivision of agricultural land. [Back to Top](#)

MISCELLANEOUS

Q37: How does the additional residence apply to agri-tourism accommodation?

If an applicant would like to use the additional residence for agri-tourism accommodation purposes, it will be counted towards the 10 permitted agri-tourism accommodation units and must meet all other requirements of s. 33 of the ALR Use Regulation. Agri-tourism accommodation may be further restricted and/or prohibited by a local government or First Nation Government. [Back to Top](#)

Q38: How does the regulation apply when a property is partially in the ALR?

The ALC only regulates the portion of the property that falls within the ALR, though local government bylaws may also apply. Outside of the ALR, only local government bylaws apply. [Back to Top](#)

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