

 <p><b>Agricultural Land Commission Act</b></p>	<p><b>ACTIVITIES DESIGNATED AS FARM USE:</b></p> <p><b>FARM PRODUCT PROCESSING IN THE ALR</b></p>	<p><b>POLICY L-01</b></p> <p>Amended April 2019 Amended April 2018 February 2016</p>
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*This policy is intended to assist in the interpretation of the [Agricultural Land Commission Act, 2002](#), (the “ALCA”) and, BC Regulation 30/2019 ([Agricultural Land Reserve Use Regulation](#)), (the “Use Regulation”). In case of ambiguity or inconsistency, the ALCA and the Use Regulation will govern.*

### **INTERPRETATION:**

The Use Regulation designates as farm use the storing, packing, preparing, and/or processing of farm products in the ALR if the conditions of section (11)(2) are met.

The Use Regulation designates as farm use the storing, packing, preparing, and/or processing of farm products and related activities on a farm in the ALR provided at least 50% of the farm product is produced (i.e. grown or raised) on the farm on which the storing, packing, preparing and/or processing of farm products or related activity takes place or on the farms of a (cooperative) association to which the owner of the farm belongs.

The farm may be comprised of one or several parcels of land owned or operated as a farm business by a farmer or by the coop members of the association to which the member belongs.

In the case of feed used to raise animals or fish on a farm, farm product that originates elsewhere may be processed into feed on a farm provided at least 50% of the feed is required and used for animal or fish feed on that farm. The feed not used on the farm (i.e. the remainder) may be sold from the farm.

The 50% threshold is based on the quantity (measured by volume or weight) of processed farm products used, calculated over the full product line.

### **Necessary Structures And Ancillary Services**

Subject to the placement of fill thresholds, the use of agricultural land to construct, maintain or operate a structure, other than a residential structure, that is necessary for a farm use and a driveway or utility that is necessary for that farm use, is permitted as per section 5(1) of the Use Regulation.

Related uses that are not included in the Use Regulation for storing, packing, preparing and/or processing farm products or uses above the threshold require application to and approval from the Agricultural Land Commission (the “Commission”).

The retail sale of processed farm products on a farm for the purpose of onsite or offsite consumption is a farm use as per the Use Regulation (See Policy L-02).

### **Placement of Fill or Removal of Soil**

Except as otherwise permitted in section 35 of the Use Regulation, a person must not place Fill or undertake any action which results in the placement of Fill on any land in the ALR without a Notice of Intent (NOI) or Application approval.

The placement of Fill (or removal of soil) for the purpose of constructing or maintaining a structure for farm use is permitted without an NOI or Application approval if:

1. The total area from which soil is removed or fill placed is 1,000 m<sup>2</sup> or less, and

2. If the location is in a flood plain, the resulting elevation does not exceed the minimum level required to satisfy Flood Protection Requirements.

If the removal of soil or placement of Fill does not meet the conditions in the Use Regulation, an NOI or a Soil or Fill Use Application approval is required before any activity can commence. See ALC Information Bulletin 07 – Soil or Fill Uses in the ALR.

The following materials are listed as prohibited fill and must not be used as fill in the ALR: construction or demolition waste - including masonry rubble, concrete, cement, rebar, drywall and wood waste; asphalt; glass; synthetic polymers (plastic); treated wood; and, unchipped lumber (Section 36, Use Regulation).

## **LOCAL GOVERNMENT:**

### **Bylaw Development**

There is no building threshold area in the Use Regulation beyond the maximum 1,000 m<sup>2</sup> area for the removal of soil or placement of fill in section 35.

A local government may regulate these uses, for example by setting a maximum building area or maximum site coverage, but may not prohibit the uses, except through a farm bylaw approved by the Minister of Agriculture under section 552 of the [Local Government Act](#).

### **Building Permits**

When reviewing building permit applications, only structures that are necessary to a farm use are permitted in the ALR. Building permits for structures should not be issued unless the local government is satisfied that the structure is necessary for the farm use on the parcel.

## **TERMS:**

**processing** means the process of adding value to a primary farm commodity or product by physical, biological or other means including, but not limited to, fermentation, cooking, canning, smoking or drying.

**association** means an association as defined in the [Cooperative Association Act](#) which was incorporated for farm purposes.

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

## **RELATED POLICY:**

ALC Policy L-02 *Activities Designated as Farm Use: Farm Retail Sales in the ALR*

## **REFERENCE:**

**Agricultural Land Reserve Use Regulation (BC Reg. 30/2019), Sections 1, 3, 4, 5(1), 11(1) (2), 35(a), and 36.**

### **Definitions**

*Section 1 In this regulation:*

**“farm product”** means a commodity that is produced from a farm use but does not include water.

### **If farming extends over multiple parcels**

*Section 3 Unless a contrary intention appears, a reference to a use of agricultural land includes all of the agricultural land on which a single farm operation is conducted, regardless of*

- (a) whether activities are conducted over one parcel or multiple parcels, or*
- (b) whether, in the case of multiple parcels, the parcels are adjacent.*

### **Farm uses that may not be prohibited**

*Section 4 The farm uses referred to in this Part may not be prohibited*

- (a) by a local government enactment except a bylaw under section 552 [farming area bylaws] of the [Local Government Act](#), or*
- (b) by a first nation government law, if the activity is conducted on settlement lands.*

### **Necessary structures and ancillary services**

*Section 5 (1) Subject to any limits and conditions set out in this Part, the use of agricultural land to construct, maintain or operate any of the following is designated as a farm use and may not be prohibited as described in section 4:*

- (a) a structure, other than a residential structure, that is necessary for a farm use;*
- (b) a driveway or utility that is necessary for a farm use*

### **Farm products**

*Section 11 (1) In this section, “association” has the same meaning as in the Cooperative Association Act.*

- (2) The use of agricultural land for storing, packing, preparing and processing farm products is designated as a farm use and may not be prohibited as described in section 4 if at least 50% of the farm product is
  - (i) produced either on that agricultural land or by an association to which the owner of the agricultural land belongs, or*
  - (ii) feed required for farm use on that agricultural land**

### **Permitted soil or fill uses**

*Section 35 Subject to section 36 [prohibited fill], the removal of soil from, or the placement of fill on, agricultural land for one or more of the following purposes is permitted if all applicable conditions are met:*

- (a) constructing or maintaining a structure for farm use or for a principal residence if both of the following conditions are met:
  - (i) the total area from which soil is removed or on which fill is placed is 1 000 m<sup>2</sup> or less;*
  - (ii) if the area from which the soil is removed or on which the fill is placed is in a floodplain, the resulting elevation level is consistent with the minimum elevation level established under all applicable local government enactments and first nation government laws, if any, respecting flood protection in the floodplain;**

### **Prohibited fill**

*Section 36 The following must not be used as fill on agricultural land:*

- (a) construction or demolition waste, including masonry rubble, concrete, cement, rebar, drywall and wood waste;*
- (b) asphalt;*
- (c) glass;*
- (d) synthetic polymers;*
- (e) treated wood;*
- (f) unchipped lumber.*

**Agricultural Land Commission Act, S.B.C. 2002, c. 36, Section 1.**

**Definitions**

Section 1(1)

*“agricultural land” means land that*

*(a) is included in the agricultural land reserve under section 15 (1.1), 17(3.1) or 45(1) of this Act, or*

*(b) was included under a former Act as agricultural land or land in an agricultural land reserve,*

*Unless the land has been excluded from the agricultural land reserve under this Act or from an agricultural land reserve under a former Act;*

*“fill” means any material brought onto agricultural land other than materials exempted by regulation;*