

 <p>Agricultural Land Commission Act</p>	<p>ACTIVITIES DESIGNATED AS FARM USE:</p> <p>FARM RETAIL SALES IN THE ALR</p>	<p>POLICY L-02</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") and). In case of ambiguity or inconsistency, the ALCA and the Use Regulation will govern.

INTERPRETATION:

The Use Regulation designates, as farm use, farm retail sales in the ALR if the conditions of section 11(3) are met.

The Use Regulation designates as a farm use farm retail sales on a farm in the ALR in certain circumstances. If all products originate or are produced on the farm on which the sales are taking place, there is no limitation for the retail sales area. If farm or non-farm products offered for sale originate elsewhere, there is a retail sales area limitation or threshold. In this case, where products not originating from the farm or the association to which the owner of the farm belongs are also sold, at least 50% of the retail sales area must be used for the sale of farm product produced on that farm or by the association and the total retail sales area for all products, both farm and off-farm in origin, must not exceed 300 m². The farm may be comprised of one or several parcels of land owned or operated by a farmer as a farm business or by an association to which the owner of the farm belongs.

The 50% area limitation is based on the area devoted to the retail sale of farm products produced on that farm or produced on the combined farms of the association. Wholesale sale of farm products is considered to be a farm activity within the meaning of the definition of "farm use" in the ALCA and thus is not restricted by the Use Regulation.

Bistros, cafes and restaurants are considered non-farm uses in the ALR. Except for food and beverage service lounges permitted by section 13(1) of the Use Regulation related to a winery, cidery, brewery, distillery or meadery.

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 retail sales or uses above the threshold require application to and approval from the Agricultural Land Commission (the "Commission").

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 m² 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

Retail Sales buildings selling any farm products not produced on the farm are limited to 300 m². There is no building threshold area in the Use Regulation for retail sales buildings selling 100% farm products produced on the farm, beyond the maximum 1,000 m² 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:

farm retail sales means the retail sale to the public of tangible farm products grown or raised on a farm or association to which the owner of the farm belongs, from that farm or farms and may include the sale of non-farm products as permitted by the Use Regulation.

retail sales area means the floor area or dedicated outside area on which the farm retail sales are taking place and includes areas used for retail purposes inside buildings (indoors) and areas outside buildings (outdoors). It does not include parking, driveways, office space, washrooms or areas for processing or farm product storage.

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.

REFERENCE:

Agricultural Land Reserve Use Regulation (BC Reg. 30/2019), Sections 1, 3, 4 ,5(1), 11(3), 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(3) The use of agricultural land for conducting farm retail sales is designated as a farm use and may not be prohibited as described in section 4 if

- (a) all of the farm product offered for sale are produced on that agricultural land, or*
- (b) the area used for all retail sales meets both of the following conditions:*
 - (i) the total area, both indoors and outdoors, does not exceed 300 m²;*
 - (ii) at least 50% of that area is limited to the sale of farm products produced either on that agricultural land or by an association to which the owner of the agricultural land belongs.*

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 m² 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

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;