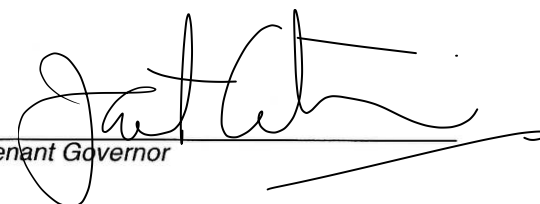


**PROVINCE OF BRITISH COLUMBIA**  
**ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL**

Order in Council No. 067

, Approved and Ordered

February 22, 2019


  
Lieutenant Governor

**Executive Council Chambers, Victoria**

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that

- (a) the *Agricultural Land Commission Amendment Act, 2018*, S.B.C. 2018, c. 56, is brought into force,
- (b) the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*, B.C. Reg. 171/2002, is amended as set out in the attached Schedule 1, and
- (c) the *Agricultural Land Reserve Use Regulation* is made as set out in the attached Schedule 2.

  
Minister of Agriculture

  
Presiding Member of the Executive Council

*(This part is for administrative purposes only and is not part of the Order.)*

**Authority under which Order is made:**

Act and section: *Agricultural Land Commission Amendment Act, 2018*, S.B.C. 2018, c. 56, s. 55;  
*Agricultural Land Commission Act*, S.B.C. 2002, c. 36, s. 58.

Other: OIC 571/2002

R10274103

## SCHEDULE 1

- 1** *The Agricultural Land Reserve Use, Subdivision and Procedure Regulation, B.C. Reg. 171/2002, is amended by repealing the title and substituting the following:*

### **AGRICULTURAL LAND RESERVE GENERAL REGULATION .**

- 2** *Section 1 is amended*

*(a) in subsection (1) by repealing the definitions of “aggregate”, “agri-tourism”, “agroforestry”, “aquaculture”, “compost”, “farm”, “farm product”, “gathering for an event”, “immediate family”, “managed organic matter”, “parcel”, “sleeping unit”, “soil amendment” and “treaty first nation government”,*

*(b) in subsection (1) in the definition of “jurisdictional area” by adding “and” to the end of paragraph (a) and by repealing paragraphs (b) and (c) and substituting the following:*

*(b) in relation to a first nation government, the settlement lands or proposed settlement lands, as applicable, for that first nation; ,*

*(c) by repealing subsection (2) and substituting the following:*

*(2) For the purpose of section 2 (1) of the Act, nothing in this regulation is to be interpreted as relieving an owner, an applicant or an approving officer from complying with*

*(a) any other enactment that may apply, or*

*(b) a decision of a responsible authority, including respecting zoning or subdivision, that may apply. , and*

*(d) by repealing subsections (3) and (4).*

- 3** *Parts 2 and 3 are repealed.*

- 4** *Section 6 is amended*

*(a) by striking out “sections 2 and 3” and substituting “the Agricultural Land Reserve Use Regulation”,*

*(b) in paragraph (a) by striking out “widening of” and substituting “construction for the purpose of widening”, and*

*(c) in paragraph (c) by striking out “dedication of a right of way or”.*

- 5** *Sections 8, 12, 13 (1), 14 (3) and (4), 15 (1) (b), 16 (4) (b), 17, 18, 19 (b), 26 (2) (b) and 29 (2) (b) are amended by striking out “treaty first nation government” wherever it appears and substituting “first nation government”.*

**6**     *Section 9 is amended by striking out “land in an agricultural land reserve” and substituting “agricultural land”.*

**7**     *Section 10 is amended*

*(a) in subsection (1) by striking out “Despite section 18 (b) of the Act, an approving officer under the Land Title Act, the Local Government Act or the Strata Property Act or a person who exercises the powers of an approving officer under any other Act may authorize or approve a plan of subdivision without the approval of the commission if the proposed plan” and substituting “Despite section 18 (5) of the Act, an approving officer or other person referred to in that provision may approve a subdivision described in that provision without the approval of the commission if the proposed subdivision”,*

*(b) by repealing subsection (1) (c) (ii) and substituting the following:*

*(ii) boundary adjustments that, in the opinion of the approving officer, will allow for the enhancement of farming on the owner’s agricultural land or for the better use of structures used for farming; ,*

*(c) in subsection (1) (d) by striking out “an agricultural land reserve” and substituting “the agricultural land reserve”, and*

*(d) in subsection (2) by striking out “authorize or”.*

**8**     *Section 12.1 is repealed and the following substituted:*

**Copy of application must be sent to affected government**

**12.1**   If a local government or a first nation government makes an application under section 17 or 29 of the Act in respect of land within that government’s jurisdictional area, a copy of the application must also be sent by the applicant to the following:

- (a) if the land to which the application relates is adjacent to the jurisdictional area of a different local government or first nation government, other than a pre-treaty first nation government, that different local government or first nation government;*
- (b) each local government or first nation government, other than a pre-treaty first nation government, whose interests, the applicant believes, will be affected by the application.*

**9**     *Section 13 (2) is amended by striking out “or treaty settlement lands” and substituting “or settlement lands”.*

**10**    *Section 14.1 is amended*

*(a) in subsection (1) by striking out “land from an agricultural land reserve” and substituting “agricultural land from the agricultural land reserve”,*

*(b) in subsections (1) and (2) (a) and (c) (i) by striking out “the land” and substituting “the agricultural land”, and*

- (c) *in subsection (4) by striking out “land intended to be excluded from an agricultural land reserve” and substituting “agricultural land intended to be excluded from the agricultural land reserve”.*
- 11 *Section 14.2 is amended*
  - (a) *in subsection (1) by striking out “land from an agricultural land reserve” and substituting “agricultural land from the agricultural land reserve”, and*
  - (b) *in subsections (1) (d) and (4) by striking out “the land” and substituting “the agricultural land”.*
- 12 *Section 14.3 (1) is amended by striking out “land from an agricultural land reserve” and substituting “agricultural land from the agricultural land reserve”.*
- 13 *Section 15 (2) (c) is amended by striking out “the land” and substituting “the agricultural land”.*
- 14 *Section 16 is amended*
  - (a) *in subsection (1) (a) by striking out “or treaty settlement lands” and substituting “or settlement lands”,*
  - (b) *in subsection (1) by striking out “the land” wherever it appears and substituting “the agricultural land”,*
  - (c) *in subsection (1) (c) by striking out “owner of land, in an agricultural land reserve,” and substituting “owner of agricultural land”, and*
  - (d) *in subsection (4) by striking out “owner of land” and substituting “owner of agricultural land”.*
- 15 *Section 16.1 is amended by striking out “If land” and substituting “If agricultural land”.*
- 16 *Sections 20 and 21 (1) are amended by striking out “the land” and substituting “the agricultural land”.*
- 17 *The heading to Part 8 is repealed and the following substituted:*

## **PART 8 – PROVISIONS FOR MEETINGS TO DETERMINE EXCLUSION APPLICATIONS .**

- 18 *Section 22 is amended*
  - (a) *by repealing subsection (2) (b) and substituting the following:*
    - (b) *the local government or first nation government in whose jurisdictional area is located the agricultural land to which the exclusion application relates; ,*
  - (b) *in subsection (2) (c) by striking out “adjacent to the land” and substituting “adjacent to the agricultural land”, and*

- (c) *in subsection (3) (b) by striking out “the land that is” and substituting “the agricultural land that is the”.*
- 19 *Section 24 (c) is amended by striking out “the land” and substituting “the agricultural land”.*
- 20 *Section 26 (1) is repealed.*
- 21 *The heading to Part 10 is repealed and the following substituted:*

## **PART 10 – USE OR SUBDIVISION APPLICATIONS .**

- 22 *Section 29 is amended*
- (a) *by repealing subsection (1),*
- (b) *in subsection (2) by striking out “An application under section 20 or 21 of the Act” and substituting “A use or subdivision application”, and*
- (c) *in subsection (3) by striking out “Subsections (1) and (2) do not apply” and substituting “Subsection (2) does not apply”.*
- 23 *Section 30 is repealed and the following substituted:*

### **Sections 19 and 21 apply**

- 30 Sections 19 and 21 apply to a use or subdivision application and, for that purpose, a reference in those sections
- (a) to an exclusion application must be read as a reference to the use or subdivision application, and
- (b) to section 30 (4) or (4.1) of the Act must be read as a reference to section 25 (3) or (3.1) of the Act.

- 24 *The following section is added:*

### **Application for soil or fill use**

- 30.1 On receiving a use or subdivision application for permission to place fill on agricultural land, the commission must reject the application if the fill to be placed includes any of the materials referred to in section 36 of the Agricultural Land Reserve Use Regulation.
- 25 *Section 31 is amended*
- (a) *in subsection (1) by striking out “application filed under section 29” and substituting “use or subdivision application”, and*
- (b) *in subsection (2) by striking out “an application under subsection (1)” and substituting “a use or subdivision application”.*
- 26 *Section 32 is amended*

- (a) *in paragraph (a) by striking out “includes and designates” and substituting “designates and includes”,*
  - (b) *in paragraph (b) by striking out “non-farm use or a subdivision” and substituting “non-farm use, non-adhering residential use or subdivision”, and*
  - (c) *in paragraph (c) by striking out “non-farm”.*
- 27 *Section 33 is amended by repealing subsections (1) to (2) and substituting the following:*
- (1) In subsection (1.1), “**application**” does not include an inclusion application under section 17 (1) or (3) of the Act.
  - (1.1) For the purpose of section 34 of the Act, the prescribed application fees are
    - (a) \$1 350, if a fee has already been submitted under section 20.3 (1) (c) (ii) of the Act in respect of the application, and
    - (b) \$1 500, in any other case.
  - (2) For the purpose of section 35 (1) of the Act, the prescribed portion of the application fee that a local government or first nation government may retain is \$300 for
    - (a) a use or subdivision application, or
    - (b) an exclusion application made under section 30 of the Act.
- 28 *Section 33.1 is amended by adding the following subsection:*
- (6) The prescribed fee for submitting a notice under section 20.3 (1) (c) (ii) of the Act is \$150.
- 29 *Section 33.2 is repealed.*
- 30 *Section 34 is amended*
- (a) *in subsection (1) by striking out “land reserve plans” and substituting “maps”, and*
  - (b) *by repealing subsection (2) and substituting the following:*
    - (2) The commission must update a map referred to in subsection (1) as soon as reasonably practical after becoming aware that the agricultural land reserve boundary is not accurately represented on the map.
- 31 *Section 37.1 (1) is amended by striking out “the Board Resourcing and Development Office” and substituting “the office of the government that is responsible for the recruitment and recommendation of candidates for appointments to all Crown corporations, agencies, boards and commissions”.*

## SCHEDULE 2

# AGRICULTURAL LAND RESERVE USE REGULATION

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## PART 1 – INTERPRETATION

### Definitions

1 In this regulation:

“**Act**” means the *Agricultural Land Commission Act*;

“**agri-tourism activity**” means an activity referred to in section 12 [*agri-tourism*];

“**compost**” means a product that is

- (a) a stabilized earthy matter having the properties and structure of humus,
- (b) beneficial to plant growth when used as a soil amendment,
- (c) produced by composting, and
- (d) derived only from organic matter;

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

“**gathering for an event**” means a gathering of people on agricultural land for the purpose of attending

- (a) a wedding, other than a wedding to which paragraph (c) (ii) applies,
- (b) a music festival, or
- (c) an event, other than
  - (i) an event held for the purpose of an agri-tourism activity, or
  - (ii) the celebration, by residents of the agricultural land and those persons whom they invite, of a family event for which no fee or other charge is payable in connection with the event by invitees;

“**soil amendment**” means compost, fertilizer, manure, mulch and soil conditioners.

### Other laws not ousted

2 For the purpose of section 2 (1) of the Act, a person who engages in a use of agricultural land that is permitted under this regulation is not relieved from complying with

- (a) any other enactment that may apply, or
- (b) a decision of a responsible authority that may apply.

### If farming extends over multiple parcels

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.

## PART 2 – FARM USES

### Farm uses that may not be prohibited

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**

- 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.
- (2) For greater certainty, subsection (1) (a) includes all of the following:
- (a) a greenhouse;
  - (b) a structure for use in an intensive livestock operation or for mushroom production;
  - (c) an aquaculture facility.

**Land development works**

- 6 (1) The use of agricultural land for conducting land development works may not be prohibited as described in section 4 if the works are required for farm uses conducted on the agricultural land on which the works are conducted.
- (2) Without limiting paragraph (b) of the definition of “farm operation” in section 1 of the *Farm Practices Protection (Right to Farm) Act*, land development works include all of the following:
- (a) levelling and berming agricultural land;
  - (b) constructing reservoirs;
  - (c) constructing works ancillary to clearing, draining, irrigating, levelling or berming agricultural land and to constructing reservoirs.

**Soil testing, biosolids and soil amendments**

- 7 (1) Soil sampling conducted on agricultural land, including testing of the soil samples, may not be prohibited as described in section 4.
- (2) The use of agricultural land for storing and applying biosolids and soil amendments, other than compost, may not be prohibited as described in section 4.
- (3) The use of agricultural land for producing, storing and applying compost may not be prohibited as described in section 4 if, in the case of
- (a) compost classified as Class A compost under the Organic Matter Recycling Regulation, all of the compost produced, stored and applied is used on the agricultural land on which it was produced, or
  - (b) any other compost, the compost is from agricultural by-products that were produced for a farm use.

## **Cannabis**

- 8** (1) The use of agricultural land for producing cannabis lawfully may not be prohibited as described in section 4 if the cannabis is produced
- (a) outdoors in a field, or
  - (b) inside a structure that, subject to subsection (2), has a base consisting entirely of soil.
- (2) The use of agricultural land for producing cannabis lawfully may not be prohibited as described in section 4 if the cannabis is produced inside a structure that meets both of the following conditions:
- (a) the structure was, before July 13, 2018,
    - (i) constructed for the purpose of growing crops inside it, including but not limited to producing cannabis lawfully, or
    - (ii) under construction for the purpose referred to in subparagraph (i), if that construction
      - (A) was being conducted in accordance with all applicable authorizations and enactments, and
      - (B) continues without interruption from the date it began until the date the structure is completed, other than work stoppages considered reasonable in the building industry;
  - (b) the structure has not been altered since July 13, 2018 to increase the size of its base or to change the material used as its base.

## **Horse facilities**

- 9** (1) The use of agricultural land for commercial horse riding, training and boarding may not be prohibited as described in section 4 if both of the following conditions are met:
- (a) facilities for horse riding do not include a racetrack that is or must be licensed by the British Columbia Racing Commission;
  - (b) no more than 40 horses are boarded on the agricultural land.
- (2) The use of agricultural land for non-commercial horse riding, training and boarding is designated as a farm use and may not be prohibited as described in section 4 if both of the conditions referred to in subsection (1) of this section are met.

## **Forestry**

- 10** The following uses of agricultural land are designated as farm uses and may not be prohibited as described in section 4:
- (a) deliberately retaining, introducing and mixing trees or other plants in crop or animal production systems to provide an economic return, commonly referred to as “agroforestry”;
  - (b) producing botanical forest products;
  - (c) producing and harvesting timber, including engaging in silviculture and forest protection activities.

### **Farm products**

- 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
- (a) produced either on that agricultural land or by an association to which the owner of the agricultural land belongs, or
  - (b) feed required for farm use on that agricultural land.
- (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 products 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 m<sup>2</sup>;
    - (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.

### **Agri-tourism**

- 12** (1) The use of agricultural land for conducting an agri-tourism activity described in subsection (2) of this section is designated as a farm use and may not be prohibited as described in section 4 if all of the following conditions are met:
- (a) the activity is conducted on agricultural land that is classified as a farm under the *Assessment Act*;
  - (b) members of the public are ordinarily invited to the activity, whether or not a fee or other charge is payable;
  - (c) no permanent facilities are constructed or erected in connection with the activity.
- (2) The following are agri-tourism activities for the purposes of subsection (1):
- (a) an agricultural heritage exhibit displayed on the agricultural land;
  - (b) a tour of the agricultural land, an educational activity or demonstration in respect of all or part of the farm operation conducted on that agricultural land, and activities ancillary to any of these;
  - (c) cart, sleigh and tractor rides on the agricultural land;
  - (d) subject to section 9 [*horse facilities*], activities that promote or market livestock raised or kept on the agricultural land, whether or not the activity also involves livestock raised or kept elsewhere, including shows, cattle driving and petting zoos;
  - (e) dog trials held on the agricultural land;
  - (f) harvest festivals and other seasonal events held on the agricultural land for the purpose of promoting or marketing farm products produced on that agricultural land;

- (g) corn mazes prepared using corn produced on the agricultural land on which the activity is taking place.

### Alcohol production

**13** (1) In this section:

**“alcohol product”** means beer, cider, spirits, mead or wine;

**“alcohol production facility”** means a brewery, cidery, distillery, meadery or winery;

**“ancillary use”** means the following activities conducted at an alcohol production facility:

- (a) processing, storing and retail sales of an alcohol product produced by the alcohol production facility;
- (b) operating a food and beverage service lounge, if the area of the lounge does not exceed 125 m<sup>2</sup> indoors and 125 m<sup>2</sup> outdoors;
- (c) selling an alcoholic beverage other than one produced by the alcohol production facility, if the alcoholic beverage is intended to be consumed immediately and is sold
  - (i) as a single serving in a lounge referred to in paragraph (b), or
  - (ii) in a service area under a special event area endorsement endorsed on the licence issued under the *Liquor Control and Licensing Act* for the alcohol production facility;
- (d) conducting a cooking class, if the class is held in a food premises within the meaning of the Food Premises Regulation that has been constructed, and is being operated, in compliance with that regulation;
- (e) gathering for an event, if the event is held only in the lounge referred to in paragraph (b) or the special event area under a special event area endorsement referred to in paragraph (c), and, for this purpose, section 17 [*gathering for an event*] does not apply;

**“brewery”, “cidery”, “distillery”, “meadery” and “winery”** mean a brewery, cidery, distillery, meadery or winery, as applicable, that is licensed under the *Liquor Control and Licensing Act* to produce beer, cider, spirits, mead or wine;

**“primary farm product”** means the farm product that is the primary ingredient used in a fermentation process to make an alcohol product.

- (2) The use of agricultural land for constructing, maintaining and operating an alcohol production facility and the use of the facility for ancillary uses are designated as farm uses and may not be prohibited as described in section 4 if
  - (a) at least 50% of the primary farm product used to make the alcohol product produced each year is harvested from the agricultural land on which the alcohol production facility is located, or
  - (b) the agricultural land on which the alcohol production facility is located is more than 2 ha in area and at least 50% of the primary farm product used to make the alcohol product produced each year is
    - (i) harvested from that agricultural land, or

- (ii) both harvested from that agricultural land and received from a farm operation located in British Columbia that provides that primary farm product to the alcohol production facility under a contract having a term of at least 3 years.
- (3) Despite subsection (2), the use of agricultural land for maintaining and operating a winery or cidery and ancillary uses is designated as a farm use and may not be prohibited as described in section 4 if
  - (a) the winery or cidery
    - (i) is the subject of a licence under the *Liquor Control and Licensing Act* to produce wine or cider, issued on or before June 15, 2015, or
    - (ii) is the subject of a letter of eligibility to produce wine or cider, given in respect of a licensing application made under the *Liquor Control and Licensing Act* and received during the period that begins June 15, 2014 and ends June 15, 2015, and
  - (b) the production of wine or cider by the winery or cidery would be designated as a farm use under section 2 (2) (b) of the Agricultural Land Reserve Use, Subdivision and Procedure Regulation as it read on June 14, 2015.

### **PART 3 – PERMITTED NON-FARM USES**

#### **Division 1 – Permitted Non-Farm Uses That May Not Be Prohibited**

##### **Permitted non-farm uses that may not be prohibited**

- 14** The non-farm uses permitted under this Division may not be prohibited
- (a) by a local government enactment, or
  - (b) by a first nation government law, if the activity is conducted on settlement lands.

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

- 15** Subject to any limits and conditions set out in this Division, the use of agricultural land to construct, maintain or operate any of the following is permitted and may not be prohibited as described in section 14:
- (a) a structure, other than a residential structure, that is necessary for a non-farm use permitted under this Division;
  - (b) a driveway or utility that is necessary for a non-farm use permitted under this Division.

##### **Parks and similar areas**

- 16** The following uses of agricultural land are permitted and may not be prohibited as described in section 14:
- (a) a park established or continued under the *Park Act* or the *Protected Areas of British Columbia Act*;
  - (b) an ecological reserve established or continued under the *Ecological Reserve Act* or the *Protected Areas of British Columbia Act*;

- (c) a wildlife management area designated under the *Wildlife Act*;
- (d) a reserve established under section 15 of the *Land Act* for recreational use;
- (e) a recreation site established under section 56 of the *Forest and Range Practices Act*;
- (f) an area established by order under section 7 (1) of the *Environment and Land Use Act* to protect the environment or restrict land or resource use within the area.

#### **Gathering for an event**

- 17** The use of agricultural land for the purpose of gathering for an event is permitted and may not be prohibited as described in section 14 if all of the following conditions are met:
- (a) the event is conducted on agricultural land that is classified as a farm under the *Assessment Act*;
  - (b) no permanent facilities are constructed or erected in connection with the event;
  - (c) parking for those attending the event
    - (i) is available on that agricultural land,
    - (ii) occurs only in connection with that event, and
    - (iii) does not interfere with the productivity of that agricultural land;
  - (d) no more than 150 people, excluding residents of the agricultural land and employees of the farm operation conducted on that agricultural land, are gathered on that agricultural land at one time for the purpose of attending the event;
  - (e) the event is of no more than 24 hours in duration;
  - (f) no more than 10 gatherings for an event of any type occur on that agricultural land within a single calendar year.

#### **Roads**

- 18** The use of agricultural land for any of the following purposes is permitted and may not be prohibited as described in section 14:
- (a) constructing and upgrading roads within a dedicated right of way that has a constructed road bed for vehicular access and use;
  - (b) upgrading an existing road that has vehicular access and use and that is declared to be a highway under section 42 of the *Transportation Act*;
  - (c) widening an existing constructed road within a right of way
    - (i) to ease one curve, or
    - (ii) if the right of way width is 24 m or less, for safety or maintenance purposes or for drainage or flood control works;
  - (d) declaring as a forest service road an existing road under the *Forest Act* or a new road in a managed forest;
  - (e) increasing the width of a forest service road within a right of way by up to 4 m if the right of way width is

- (i) 30 m or less, if the forest service road is located on Crown land, or
- (ii) 20 m or less, in any other case;
- (f) constructing and upgrading a road, and conducting related works, for the purpose of realigning Highway 29 between Hudson's Hope and Charlie Lake, to the extent necessary to
  - (i) construct the dam and hydroelectric generating station on the Peace River known as the Site C Clean Energy Project, and
  - (ii) address potential adverse effects on the highway arising from the operation of the dam and generating station referred to in subparagraph (i).

#### **Other permitted non-farm uses**

- 19** The use of agricultural land for any of the following purposes is permitted and may not be prohibited as described in section 14:
- (a) collecting surface water for farm use or domestic use, water well drilling, connection of water lines and access to water well sites;
  - (b) surveying, exploring and prospecting for gravel or minerals if all cuts, trenches and similar alterations are restored to the natural ground level on completing the surveying, exploring or prospecting;
  - (c) constructing, upgrading and operating a railway on an existing railbed within a dedicated right of way;
  - (d) widening an existing railbed within a right of way if the right of way width is 30.5 m or less.

### **Division 2 – Permitted Non-Farm Uses That May Be Prohibited**

#### **Permitted non-farm uses that may be prohibited**

- 20** The non-farm uses permitted under this Division may be prohibited
- (a) by a local government enactment, or
  - (b) by a first nation government law, if the activity is conducted on settlement lands.

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

- 21** Subject to any limits and conditions set out in this Division, the use of agricultural land to construct, maintain or operate any of the following is permitted but may be prohibited as described in section 20:
- (a) a structure, other than a residential structure, that is necessary for a non-farm use permitted under this Division;
  - (b) a driveway or utility that is necessary for a non-farm use permitted under this Division.

#### **Parks and similar areas**

- 22** (1) The following uses of agricultural land are permitted but may be prohibited as described in section 20:

- (a) an open land park established by a local government or a first nation government, other than an aboriginal governing body referred to in paragraph (b) of the definition of “first nation government” in the Act, for biodiversity conservation, passive recreation, heritage, wildlife or scenery viewing purposes;
  - (b) converting non-forested land to forested land on parcels less than 20 ha, other than for a farm use as described in section 10 [*forestry*].
- (2) The use of agricultural land for biodiversity conservation, passive recreation, heritage, wildlife and scenery viewing purposes, other than in a park referred to in subsection (1) (a), is permitted, but may be prohibited as described in section 20, if both of the following conditions are met:
- (a) the area occupied by any associated structures does not exceed 100 m<sup>2</sup> for each parcel;
  - (b) the purpose does not include the creation of a wetland intended to manage urban runoff or waste.

#### **Keeping animals**

- 23** The following uses of agricultural land are permitted but may be prohibited as described in section 20:
- (a) pet breeding and boarding;
  - (b) sheltering and caring for surrendered, abandoned or seized livestock;
  - (c) providing a refuge for wildlife within the meaning of the *Wildlife Act*.

#### **Home occupation use**

- 24** (1) The use of agricultural land for a commercial or similar use within a structure is permitted, but may be prohibited as described in section 20, if all of the following conditions are met:
- (a) the structure is accessory to and located on the same parcel as a residence;
  - (b) the structure occupies an area that does not exceed
    - (i) the limit specified in an applicable local government enactment or first nation government law, or
    - (ii) if subparagraph (i) does not apply, 100 m<sup>2</sup>.
- (2) The conditions set out in subsection (1) do not apply to a type of use referred to in any other provision of this regulation.

#### **Infrastructure**

- 25** The following uses of agricultural land are permitted but may be prohibited as described in section 20:
- (a) constructing, maintaining and operating force mains, trunk sewers, gas pipelines and water lines within an existing dedicated right of way;
  - (b) constructing, maintaining and operating, for the purpose of drainage or irrigation or to combat the threat of flooding,
    - (i) dikes and related pumphouses, and



- (ii) ancillary works, including access roads and facilities.

#### **Aggregate removal**

- 26** The use of agricultural land for the purpose of removing aggregate is permitted, but may be prohibited as described in section 20, if all of the following conditions are met:
- (a) the total volume of aggregate removed from any single parcel is less than 500 m<sup>3</sup>;
  - (b) regardless of the volume of aggregate removed, the disturbed area is rehabilitated in accordance with good agricultural practice as soon as reasonably practicable after
    - (i) aggregate removal is complete, if the aggregate is removed as part of a single continuous operation, or
    - (ii) each stage of aggregate removal is complete, if subparagraph (i) does not apply;
  - (c) the cultivable surface layer of soil is salvaged, stored on the parcel and available for rehabilitation in accordance with paragraph (b).

#### **Other permitted non-farm uses**

- 27** (1) The use of agricultural land for producing and developing biological products used in integrated pest management programs is permitted, but may be prohibited as described in section 20, if the area occupied by all structures used for the production or development does not exceed 300 m<sup>2</sup> for each parcel.
- (2) The use of agricultural land for producing, storing and applying compost classified as Class A compost under the Organic Matter Recycling Regulation is permitted, but may be prohibited as described in section 20, if at least 50% but less than 100% of the compost produced, stored and applied is used on the agricultural land on which it was produced.
- (3) The use of agricultural land for operating a temporary sawmill is permitted, but may be prohibited as described in section 20, if at least 50% of the volume of milled timber is harvested from the agricultural land on which the sawmill is located.
- (4) The use of agricultural land for education and conducting research respecting a farm use or permitted non-farm use is permitted, but may be prohibited as described in section 20, if all of the following conditions are met:
- (a) the area occupied by any structures necessary for conducting education or research does not exceed 100 m<sup>2</sup> for each parcel;
  - (b) the agricultural land is not used for a school within the meaning of the *School Act*.

## **PART 4 – RESIDENTIAL USES**

### **Section 20.1 (1) (a) and (b) of Act applies**

- 28** A person who engages in a residential use that is permitted under this Part is not relieved from complying with section 20.1 (1) (a) or (b) of the Act, except as provided under section 32 [*additional residences*] of this regulation.

### **Prescribed residential structures**

- 29** (1) A structure used, whether permanently or temporarily, to provide or in connection with providing accommodation as described in this Part is prescribed as a residential structure for the purposes of the Act.
- (2) A vehicle used, whether permanently or temporarily, to provide or in connection with providing accommodation as described in this Part is prescribed as a residential structure for the purposes of this Part.

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

- 30** 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 permitted:
- (a) a structure, other than a residential structure, that is necessary for a residential use permitted under this Part;
  - (b) a driveway or utility necessary for a residential use permitted under this Part.

### **Secondary suites**

- 31** The use of agricultural land for a secondary suite is permitted if there is one suite only, located in the principal residence.

### **Additional residences**

- 32** The use of agricultural land for an additional residence is permitted if all of the following conditions are met:
- (a) there is one additional residence only;
  - (b) the residence is a pre-existing residential structure, constructed in accordance with all applicable enactments;
  - (c) on the date this section comes into force, the size, siting and use of the residence complies with section 3 (1) (b) (ii) or (b.1) (ii) or (iii) of the Agricultural Land Reserve Use, Subdivision and Procedure Regulation, as it read immediately before this section came into force;
  - (d) the size and siting of the residence is not altered after the date this section comes into force unless
    - (i) permitted under section 25 or 45 of the Act, or
    - (ii) the size of the manufactured home or the total area occupied by all residences and other residential structures, roads and service lines, and all agricultural land between them, as applicable, is not increased by the alteration.

### **Agri-tourism accommodation**

- 33** (1) In this section, “**sleeping unit**” means the following:
- (a) a bedroom or other area used for sleeping located in a residence, cabin or other structure;
  - (b) a vehicle, trailer, tent or other structure located on a campsite, field or other area.
- (2) The use of agricultural land for providing accommodation in relation to an agri-tourism activity is permitted if all of the following conditions are met:
- (a) the accommodation is located on agricultural land that is classified as a farm under the *Assessment Act*;
  - (b) the total developed area for structures, landscaping and access for the accommodation is less than 5% of any parcel;
  - (c) the accommodation is limited to 10 sleeping units in total, including bedrooms under section 34 [*tourist accommodation*];
  - (d) accommodation is provided on a seasonal or short-term basis only.

### **Tourist accommodation**

- 34** (1) In this section, “**bedroom**” means a bedroom or other area used for sleeping in a residence.
- (2) The use of agricultural land for providing accommodation for tourists is permitted in a principal residence that is not a pre-existing residential structure if both of the following conditions are met:
- (a) the accommodation is limited to 4 bedrooms in total;
  - (b) accommodation is provided on a short-term basis only.
- (3) The use of agricultural land for providing accommodation for tourists is permitted in a principal residence that is a pre-existing residential structure if all of the following conditions are met:
- (a) on the date this section comes into force, the number of bedrooms complies with section 3 (1) (d) of the Agricultural Land Reserve Use, Subdivision and Procedure Regulation, as it read immediately before this section came into force;
  - (b) the number of bedrooms is not changed after the date this section comes into force unless
    - (i) permitted under section 25 or 45 of the Act, or
    - (ii) the number of bedrooms is not increased by the change;
  - (c) accommodation is provided on a short-term basis only.

## **PART 5 – SOIL OR FILL USES**

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

- 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;
- (b) constructing or maintaining berms for producing cranberries, if any fill placed on the area is
  - (i) no higher than 2 m above the natural grade, and
  - (ii) no wider than 10 m at the base;
- (c) constructing or maintaining flood protection dikes, drainage, irrigation and livestock watering works for farm use, if the total annual volume of soil removed or fill placed is 320 m<sup>3</sup>/16 ha or less;
- (d) maintaining an existing farm road, if the total annual volume of soil removed or fill placed is 50 m<sup>3</sup> or less;
- (e) using clean sand as a top-dress for berry production, if the total annual volume of soil removed or fill placed is 100 m<sup>3</sup>/ha or less;
- (f) applying soil amendments, if incorporated into the soil to a depth of 30 cm or less;
- (g) conducting soil research and testing, if the soil removed or fill placed is limited to the amount necessary for the research or testing.

#### **Prohibited fill**

**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.