

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 346, Approved and Ordered June 15, 2015


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 the Agricultural Land Reserve Use, Subdivision and Procedure Regulation, B.C. Reg. 171/2002, is amended as set out in the attached Schedule.



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 Act*, S.B.C. 2002, c. 36, ss. 58 (2) (a), (a.1), (b), (e.3) to (e.5) and (i) and (7)

Other: OIC 571/2002

June 4, 2015

RESUB/R/314/2015/3

SCHEDULE

1 Section 1 of the Agricultural Land Reserve Use, Subdivision and Procedure Regulation, B.C. Reg. 171/2002, is amended by adding the following subsection:

- (3) For greater certainty, water is not a farm product for the purposes of the Act or this regulation.

2 Section 2 is amended

(a) by repealing subsection (1),

(b) by repealing subsection (2) (a) (ii) and substituting the following:

- (ii) the total area, both indoors and outdoors, used for the retail sales of all products does not exceed 300 m² and if at least 50% of that retail sales area is limited to the sale of farm products produced
- (A) on the farm on which the retail sales are taking place, or
- (B) by an association as defined in the *Cooperative Association Act* to which the owner of the farm on which the retail sales are taking place belongs; ,

(c) by repealing subsection (2) (b),

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

- (c) storing, packing, preparing or processing farm products, if at least 50% of the farm product being stored, packed, prepared or processed is
- (i) produced on the farm,
- (ii) produced by an association as defined in the *Cooperative Association Act* to which the owner of the farm belongs, or
- (iii) feed required for farm production purposes on the farm; ,

(e) in subsection (2) by adding the following paragraph:

- (q) a farm use by a person other than the owner of the farm under a lease of the farm or part of the farm, if a condition of the lease is that the leased land be used only for one or more farm uses. ,

(f) by adding the following subsections:

- (2.1) A winery or cidery, and ancillary uses, are designated as farm uses for the purposes of the Act if
- (a) at least 50% of the farm product used to make the wine or cider produced each year is grown on the farm on which the winery or cidery is located, or
- (b) the farm on which the winery or cidery is located is more than 2 ha in area and at least 50% of the farm product used to make the wine or cider produced each year is grown
- (i) on the farm, or

- (ii) both on the farm and on another farm located in British Columbia that provides that farm product to the winery or cidery under a contract having a term of at least 3 years.
- (2.2) Despite the repeal of subsection (2) (b) and the enactment of subsection (2.1), a winery or cidery and ancillary uses continue to be designated as farm uses for the purposes of the Act if
 - (a) the winery or cidery
 - (i) was licensed to produce wine or cider under the *Liquor Control and Licensing Act* on the date subsection (2) (b) was repealed, 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 within one year before the date subsection (2) (b) was repealed, and
 - (b) the production of wine or cider by the winery or cidery would be designated as a farm use if subsection (2) (b), as it read immediately before its repeal, continued to apply.
- (2.3) A brewery, distillery or meadery, and ancillary uses, are designated as farm uses for the purposes of the Act if at least 50% of the farm product used to make the beer, spirits or mead produced each year is grown on the farm on which that brewery, distillery or meadery is located.
- (2.4) In subsections (2.1) to (2.3):
 - “**ancillary use**” means the following activities carried out at a brewery, cidery, distillery, meadery or winery:
 - (a) processing, storing and retail sales of beer, cider, spirits, mead or wine produced by the brewery, cidery, distillery, meadery or winery;
 - (b) the operation of a food and beverage service lounge, if the area of the lounge does not exceed 125 m² indoors and 125 m² outdoors;
 - (c) selling an alcoholic beverage other than one produced by the brewery, cidery, distillery, meadery or winery if the alcoholic beverage
 - (i) is sold as a single serving in a lounge referred to in paragraph (b) or a special event area operated in accordance with a special event endorsement under section 18 of the Liquor Control and Licensing Regulation, B.C. Reg. 244/2002, and
 - (ii) is intended to be consumed immediately;
 - (d) tours;
 - “**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. ,
 - (g) *in subsection (4) by striking out “specified in subsection (2)” and substituting “designated under any of subsections (2) to (2.3)”*, and
 - (h) *in subsection (5) by striking out “designated in subsection (2)” and substituting “designated under any of subsections (2) to (2.3)”*.

3 Section 3 is amended

(a) by repealing subsection (1) (b) and substituting the following:

- (b) for a parcel located in Zone 1,
 - (i) one secondary suite in a single family dwelling, and
 - (ii) either
 - (A) one manufactured home, up to 9 m in width, for use by a member of the owner's immediate family, or
 - (B) accommodation that is constructed above an existing building on the farm and that has only a single level;
- (b.1) for a parcel located in Zone 2,
 - (i) one secondary suite in a single family dwelling,
 - (ii) either
 - (A) one manufactured home, up to 9 m in width, for use by a member of the owner's immediate family, or
 - (B) accommodation that is constructed above an existing building on the farm and that has only a single level, and
 - (iii) a second single family dwelling, but only if the parcel is at least 50 ha in size and if the total area occupied by all residences and other residential structures, roads and service lines, and all land between them, is 4 000 m² or less; , **and**

(b) in subsection (1) by adding the following paragraph:

- (q) a residential use under a lease of a farm or part of a farm located in Zone 2, if
 - (i) the lessee is a retired farmer as defined in section 23 of the *Assessment Act* who previously owned and operated the farm for at least 15 years before the lease began,
 - (ii) the leased land comprises no more than 1 ha of a parcel that is at least 5 ha, all of which is located on a farm operated for a farm use,
 - (iii) the conditions of the lease specify that
 - (A) the leased land must be used as the primary residence of the lessee,
 - (B) the leased land may not be used for any other non-farm use,
 - (C) the lease may not be assigned or sub-leased by the lessee,
 - (D) the lease terminates on the date that the lessee dies or stops using the leased land as his or her primary residence, if not terminated for another reason, and
 - (E) the interest in the leased land reverts back to the lessor on termination of the lease, and
 - (iv) there is no other lease on the farm as described in this paragraph.

4 The following section is added to Part 11:

Status of applications

31.1 The commission must publish, and keep current, the following information on a website maintained by or on behalf of the commission in respect of each application submitted to the commission under the Act:

- (a) the date on which the application was received;
- (b) the subject matter of the application;
- (c) the names of the parties to the application;
- (d) the dates on which the commission began and completed its review of the application;
- (e) the commission's decision and the reasons for it.

5 *Section 34 (2) is repealed and the following substituted:*

- (2) The commission must update a land reserve plan as soon as reasonably practical after becoming aware that an agricultural land reserve boundary is not accurately represented on the plan.

6 *Section 37.1 (6) is amended by striking out "by the person, that person under subsection (3)," and substituting "by the person under subsection (3),".*

7 *The following sections are added:*

Operational reports

40 The commission must submit to the minister, before June 30 of each year, an annual report that includes the following information:

- (a) the information referred to in section 12 (2) (a) and (c) to (c) of the Act with respect to the preceding financial year;
- (b) the information referred to in section 12 (2) (b) of the Act, including details of the commission's achievement of performance indicators, with respect to the preceding financial year;
- (c) information respecting the financial operation of the commission, including a financial statement
 - (i) showing the commission's financial operations for the 2 preceding financial years, and
 - (ii) prepared in accordance with generally accepted accounting principles and the accounting policies and practices established by Treasury Board.

Planning and strategic reports

41 The commission must submit to the minister, before September 1 of each year, an annual report that includes the information referred to in section 12 (2) (f) to (h) of the Act with respect to the period beginning September 1 of the current year and ending August 31 of the following year.

Other reports

- 42 On request of the minister, the commission must submit to the minister a report that includes the following information with respect to the period specified by the minister:
- (a) information respecting
 - (i) the number of applications, and the percentage of total applications, that the chair of the commission, a regional panel, or both, have referred to the executive committee, and
 - (ii) the reason for each referral;
 - (b) information respecting expenditures in relation to specific budget allocations;
 - (c) information specified by the minister respecting the administration of the Act by the commission;
 - (d) information specified by the minister respecting the expenditure of the budget allocated to the commission.

Publishing reports

- 43 (1) Subject to subsection (2) of this section, the commission must publish a report submitted under section 40, 41 or 42
- (a) on a website maintained on behalf of the commission, and
 - (b) no earlier than 60 days and not later than 90 days after submitting the report.
- (2) The minister may direct the commission not to publish any part of a report that, in the opinion of the minister, contains information that would be protected from disclosure under Division 2 of Part 2 of the *Freedom of Information and Protection of Privacy Act*, whether the information relates to the commission or to the government.