



To: Planning Committee **Date:** July 9, 2019
From: Barry Konkin **File:** 08-4430-03-10/2019-Vol
Manager, Policy Planning 01
Re: **Cannabis Related Official Community Plan and Zoning Bylaw Amendments In
Response to the New Provincial Agricultural Land Reserve Use Regulations**

Staff Recommendation

1. That Richmond Official Community Plan (OCP) Bylaw 9000, Amendment Bylaw 10061, to revise Section 3.6.5 of Schedule 1 of the OCP on the City's land use policies for the management of restriction of cannabis related activities in response to the Provincial *Agricultural Land Reserve (ALR) Use Regulations*, be introduced and given first reading.
2. That Richmond Official Community Plan Bylaw 9000, Amendment Bylaw 10061, having been considered in conjunction with:
 - the City's Financial Plan and Capital Program;
 - the Greater Vancouver Regional District Solid Waste and Liquid Waste Management Plans;is hereby found to be consistent with said program and plans, in accordance with Section 477(3)(a) of the *Local Government Act*.
3. That Richmond Official Community Plan Bylaw 9000, Amendment Bylaw 10061, having been considered in conjunction with Section 477(3)(b) of the *Local Government Act*, be referred to the Provincial Agricultural Land Commission for comment and response by August 27, 2019.
4. That Richmond Official Community Plan Bylaw 9000, Amendment Bylaw 10061, having been considered in accordance with OCP Bylaw Preparation Consultation Policy 5043, is hereby found not to require further consultation.
5. That Richmond Zoning Bylaw 8500, Amendment Bylaw No 10062, to amend Section 3.4 and add Section 5.21 to manage and restrict cannabis related activities in the Agricultural Land Reserve in accordance with the *Agricultural Land Reserve Use Regulation*, be introduced and given first reading.
6. Whereas Section 463 of the *Local Government Act* allows the withholding of building permits that conflict with bylaws in preparation;

Whereas Council has granted first reading to Richmond Zoning Bylaw 8500, Amendment Bylaw 10062 to amend land use regulations specific to the production of cannabis in and outside of the ALR in response to changes to the Provincial ALR legislation;

Therefore be it resolved that staff bring all building permit applications involving the production of cannabis in a building or structure, received more than 7 days after the date of first reading of Richmond Zoning Bylaw 8500, Amendment Bylaw 10062, forward to Council to determine whether such applications are in conflict with the proposed bylaw.



Barry Konkin
Manager, Policy Planning

BK:ke
Att. 2

REPORT CONCURRENCE		
ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER
Law Development Applications	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<i>Wayne to Soc Erceg</i>
REVIEWED BY STAFF REPORT / AGENDA REVIEW SUBCOMMITTEE	INITIALS: DW	APPROVED BY CAO <i>[Signature]</i>

Staff Report

Origin

On July 13, 2018, the Province of British Columbia announced changes to the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* regarding cannabis production in the Agricultural Land Reserve (ALR). These new regulations identified that the lawful production of medical and non-medical (recreational) cannabis is a farm use only if the production occurred:

1. Outdoors in a field or in a building or structure with a soil base; or
2. As of July 13, 2018, in an existing building or structure (or under construction) used for the purpose of growing crops.

Subsequent to that, on February 22, 2019, the *Agricultural Land Commission Act* (the “ALC Act”) and the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* were amended and the *Agricultural Land Reserve Use Regulation* (the “ALR Use Regulation”) was created (Attachment 1 is a copy of the ALC Information Bulletin 04 on this matter). Though many concepts contained in the ALC Act and regulations remain unchanged, there were significant changes to the regulations regarding the use of ALR land for cannabis production.

Under the new legislation, the use of agricultural land for producing cannabis lawfully is a “farm use” in the ALR that does not require Agricultural Land Commission (ALC) approval. Also, through the combined effect of s.4 and s.8 of the *ALR Use Regulation* (set out in Attachment 2), the legislation also provides that this use in the ALR may not be prohibited by a local government bylaw if the cannabis is produced:

- (a) outdoors in a field, or
- (b) inside a structure that has a base consisting entirely of soil that meets those conditions set out in s.8(2) of the *ALR Use Regulation*, or
- (c) As of July 13, 2018, inside an existing building or structure (or a building or structure under construction) previously used for the purpose of growing crops (Attachment 2).

In effect, the new *ALR Use Regulation* now permits all forms of cannabis production as a farm use, subject to obtaining a Federal Health Canada license. If a local government does not establish desired regulations through amendments to the Official Community Plan and Zoning Bylaw, any form of cannabis production (including inside a structure built in the ALR) would be permitted.

For example, a building permit application could be submitted for construction of a large agricultural building within the ALR (consistent with the regulation on building size in the Richmond Zoning Bylaw 8500 of a maximum of 750 m² (8,073 ft²) of concrete slab) which would be lawfully used for cannabis production under the Provincial Regulation, and with a Health Canada License.

Local governments were not consulted regarding the changes to the ALR regulation in February 2019, were not given any advance notice, or notified when these changes came into effect. While these changes to the ALR legislation came into effect in February, 2019, the accompanying ALC bulletin was not published until May 8, 2019.

Based on the new *ALR Use Regulation*, it is staff opinion that the City's Official Community Plan Bylaw 9000 and the Richmond Zoning Bylaw 8500 should be amended as soon as possible to regulate cannabis production and cultivation and any related accessory uses within the Agricultural Land Reserve to the fullest extent possible.

Existing OCP and Zoning Bylaw Regulations

OCP Policy

The OCP limits the proliferation of medical and non-medical cannabis production and cannabis research and development facilities city-wide by restricting any such facility to a site designated as "Mixed Employment" or "Industrial" land use in the OCP. The OCP policy also limits any type of cannabis production or cannabis research and development facility to one facility only city-wide.

Zoning Bylaw 8500

Richmond Zoning Bylaw 8500 currently has land use definitions for a "medical cannabis production facility", "non-medical cannabis production facility" and "cannabis research and development facility". None of these identified land uses are permitted in any zoning district city-wide, and a rezoning application is required to allow City Council to consider the site-specific requirements of the use. Furthermore, the land use definitions for "farm business" and "agriculture" explicitly exclude cannabis related activities.

Despite the City's Zoning Bylaw approach to restrict medical and non-medical cannabis production activities and other cannabis related operations city-wide, the City has been subject to legal proceedings and a court judgement pertaining this use on ALR land. Amendments to the Richmond Zoning Bylaw 8500 proposed in this report in relation to cannabis activities in the ALR will strengthen City's framework to restrict and regulate this use to the fullest extent possible and in staff's opinion, likely prevent future legal proceedings against the City from being successful.

Analysis

Proposed Bylaw Amendments

The intent of the proposed amendments to the Official Community Plan (OCP) and the Richmond Zoning Bylaw 8500 are to provide the maximum degree of regulation permitted by current Provincial regulation, to ensure that the City's bylaws are consistent with the *ALR Use Regulation*, and provide a clear framework for the production and processing of cannabis on lands zoned "Agriculture (AG1)" and located within the Agricultural Land Reserve.

Official Community Plan Bylaw 9000

Bylaw 10061 to amend Richmond Official Community Plan Bylaw 9000 would include a new policy that will clearly state that the cultivation and production of cannabis and related activities is not permitted on ALR land, other than those cannabis activities that cannot be prohibited as per the *ALR Use Regulation*. The proposed amendment would specifically reference to relevant sections of the *ALR Use Regulation*, and state that while cannabis production consistent with the Provincial regulations cannot be prohibited, that use will be subject to the regulations in the Richmond Zoning Bylaw 8500 for cannabis production and related activities.

Richmond Zoning Bylaw 8500

The *ALR Use Regulation* and Ministry of Agriculture “Guide for Bylaw Development in Farming Areas” were referenced in the proposed land use regulations related to cannabis activities outlined in this section of the report. Proposed Richmond Zoning Bylaw 8500 Amendment Bylaw 10062 will bring the City’s zoning regulations up to the maximum level of regulation currently permitted under Provincial legislation. Specific amendments are as follows:

1. Definition of “Agriculture”: Currently, the Zoning Bylaw allows agriculture as a secondary use in all zones to support community gardens and urban farming and already includes a regulation that does not permit a Health Canada commercially licensed medical/non-medical cannabis production facility or cannabis research and development facility. The proposed amendment clarifies that this use definition only applies to land outside of the ALR and any cannabis related activities in this category will continue to be prohibited.
2. Definition of “Farm Business”: Proposed Bylaw 10062 would amend the definition of ‘farm business’ to reference the specific use regulations proposed in a new section (5.21 Cannabis Production and Cultivation in the Agricultural Land Reserve). Medical/non-medical cannabis production facilities would continue to not be permitted as a farm business, except if done so in a manner outlined in the *ALR Use Regulation* that cannot be prohibited by a local government bylaw.
3. A new Section 5.21 (Cannabis Production and Cultivation in the Agricultural Land Reserve) is proposed to be added as a new specific land use regulation, which would prohibit the production and cultivation of cannabis. Under this new section and as per the *ALR Use Regulation*, the only permitted methods of cannabis production and cultivation which cannot be prohibited are:
 - a. outdoors in a field, or inside a structure that has a base consisting entirely of soil that meets those conditions set out in s.8(2) of the *ALR Use Regulation*; or
 - b. inside an existing building or structure (or a building or structure under construction) previously used for the purpose of growing crops.
 - c. This section would establish minimum setbacks to lot lines for the cannabis production activities as follows:
 - i. 30 m to any lot line;
 - ii. 60 m to any lot line that abuts or is adjacent to land zoned anything other than Agriculture (AG1); and

- iii. 150 m measured from the lot line of a site zoned School & Institutional Use (SI) or Assembly (ASY).
- 4. Cannabis Accessory Activities (Storage/Processing): Staff have consulted with the Agricultural Land Commission, who have confirmed that – as with all other agricultural products – it is permitted for a farmer to process product grown on a different property, so long as at least 50% of the product processed is grown on the subject property, or is grown by members of an association (as per the *BC Cooperative Association Act*) that the processor belongs to. It is within the City’s zoning powers to establish regulations on this activity, but not an outright prohibition. To ensure that farmland is not targeted for cannabis processing facilities with no connection to cannabis production and cultivation methods permitted under the *ALR Use Regulation*, Section 5.21 prohibits cannabis related storing, packing, preparing and processing activities. For types of cannabis operations in the ALR where storing, packing, preparing and processing activities cannot be prohibited, regulations are proposed to regulate their siting and restrict size as follows:
 - a. Establish minimum setbacks to lot lines for any cannabis storing, packing, preparing and processing activities (identical to cannabis production and cultivation activities) as follows:
 - i. 30 m to any lot line;
 - ii. 60 m to any lot line that abuts or is adjacent to land zoned anything other than Agriculture (AG1); and
 - iii. 150 m measured from the lot line of a site zoned School & Institutional Use (SI) or Assembly (ASY).
 - b. The proposed size restrictions for a building or facility used for accessory cannabis storing, packing, preparing and processing activities is linked to the total area designated for cannabis production and cultivation use, regardless of if this activity occurs indoors in a building or outside. As a result, the floor area restriction for these accessory activities is proposed to be calculated as 15% of the area designated for cannabis production and cultivation up to a maximum of 100 m² (1,076 ft²). Some examples of how this is calculated is as follows:
 - i. For an operation that has a total area of 200 m² (2,152 ft²) designated for cannabis production and cultivation (inside or outside), 30 m² (323 ft²)(15% of the cannabis production and cultivation area) is the maximum floor area for a related accessory cannabis storing, packing, preparing and processing facility.
 - ii. For an operation that has a total area of 1,000 m² (10,764 ft²) designated for cannabis production and cultivation (inside or outside), the floor area for any related accessory uses would be capped at 100 m² (1,076 ft²).

Cannabis Retail Activities

Zoning Bylaw 8500 currently has provisions in place to prohibit any retail cannabis operations city-wide. The proposed Official Community Plan and Zoning Bylaw Amendments in this report do not impact this and cannabis retail operations would remain prohibited.

In relation to potential cannabis “farm gate retail activities” occurring within the ALR, the Province, through the Liquor and Cannabis Regulation Branch (LCRB) and Liquor Distribution Branch (LDB), is responsible for regulating the retailing of cannabis. As part of the processing

of any retail licensing application by the Province, a referral to the local government is made and requires a positive recommendation. The Province, through the LCRB and LDB, will not license any cannabis retail operations without the support of the local government. Based on this, the City's existing Zoning Bylaw regulation to not permit cannabis retail activities apply, thereby granting the ability for the City to say no to a proposal and would end the license application process. City staff have contacted the Province to request if they have any additional updates on this matter and will advise Council accordingly.

Existing Regulations for Agricultural Buildings and Greenhouses

The two proposed bylaws presented with this report will establish the maximum level of regulation currently permitted under Provincial regulations. It is important to note that the existing provisions in the Richmond Zoning Bylaw 8500 to prohibit concrete slab greenhouses, and to limit the size of a concrete slab in an agricultural building to 750 m² (8,073 ft²) are unchanged. It is intended that the regulations proposed in this report will work in tandem with existing zoning bylaw regulations on cannabis production and agricultural structures.

Consultation

The proposed amendments to the Official Community Plan Bylaw 9000 and the Richmond Zoning Bylaw 8500 would be consistent with the *ALR Use Regulation*, and are fully within Council's powers to enact. In accordance with Section 477(3)(b) of the *Local Government Act*, the proposed Official Community Plan Amendment Bylaw 10061 is recommended to be forwarded to the ALC for review and comment should the Council grant first reading to this bylaw amendment. City staff recommend that any ALC comments be provided seven (7) days in advance (August 27, 2019) of the scheduled Public Hearing (September 3, 2019). Proposed Richmond Zoning Bylaw Amendment Bylaw 10062 would also be forwarded to the ALC for review and comment in conjunction with Official Community Plan Amendment Bylaw 10061.

To date, the City's Agricultural Advisory Committee (AAC) was not consulted on the proposed bylaw amendments, which are consistent with the *ALR Use Regulation* and Ministry of Agriculture "Guide for Bylaw Development in Farming Areas" related to cannabis related facilities in the ALR. The City's AAC current membership consists of 5 members, which is not sufficient to achieve committee quorum. If the proposed bylaw amendments are endorsed by Council and to take into account the current membership challenge of the AAC not being able to achieve committee quorum for a meeting, staff propose to circulate the appropriate materials in this report to the 5 existing members of the AAC. This approach will provide the opportunity for existing members of the AAC to provide comments in advance of the Public Hearing. In addition, as there was no advance notice of the new ALR Use Regulation, staff are of the opinion that the recommended bylaw amendments should proceed as soon as possible as they are consistent with provincial legislation, and delaying until the new AAC is established would place the city at some risk of having more cannabis related facilities constructed on farmland prior to having City restrictions and regulations in place.

Based on the above status of the City's AAC and recommended referral of the OCP and Zoning Amendment Bylaw to the ALC, the consultation outlined in this report is consistent with OCP Consultation Policy No. 5043.

Temporary Withholding of Building Permits

If Council were to grant first reading to Richmond Zoning Bylaw 8500, Amendment Bylaw 10062 to include regulations specific to the production of cannabis in the ALR in response to changes to the Provincial ALR legislation, and wished to withhold the issuance of building permits related to the bylaw under preparation, a resolution would need to be endorsed by Council as follows:

Whereas Section 463 of the Local Government Act allows the withholding of building permits that conflict with bylaws in preparation;

Whereas Council has granted first reading to a bylaw to include regulations specific to the production of cannabis in the ALR in response to changes to the Provincial ALR legislation;

Therefore be it resolved that staff bring all building permit applications involving the production of cannabis in a building or structure, received more than 7 days after the date of first reading, forward to Council to determine whether such applications are in conflict with the proposed bylaw.

The above resolution is included as a recommendation in this staff report as it enables the ability for Council to review and (if applicable) withhold building permits associated with new or existing buildings or structures intended to be used for the production of cannabis that are in conflict with a bylaw under consideration in accordance with Section 463 of the *Local Government Act*. The withholding resolution would also apply to building permits for buildings or structures intended to be used for the storing, packing, preparing or processing of cannabis to determine if such proposals are in conflict with the bylaw under consideration. Any such building permit would be presented to Council for direction on withholding of the building permit if Council endorses the withholding resolution referenced above and recommended as part of this report.

A resolution, in accordance with Section 463 of the *Local Government Act*, enables Council the ability to review and withhold any building permits for these types of proposals.

Staff highlight the following for Council to be aware of if the above referenced resolution to enable the withholding of building permits is supported by Council and Richmond Zoning Bylaw 8500, Amendment Bylaw 10062 is granted first reading:

- In accordance with Section 463 of the *Local Government Act*, building permit applications that are potentially in conflict with a bylaw under consideration must be considered by Council within 30 days (from the date the building permit application was made).
- Due to the existing August schedule break where there are no scheduled regular Council meetings, a special Council meeting would need to be coordinated through the City Clerks Office to consider Council withholding of building permit applications. A special Council meeting would need to be arranged for the applicable building permits received between July 30, 2019 and August 9, 2019.

- Building permits received after August 9, 2019 would be presented to Council as necessary following the regular scheduled Council meetings in September.

Financial Impact or Economic Impact

None.

Conclusion

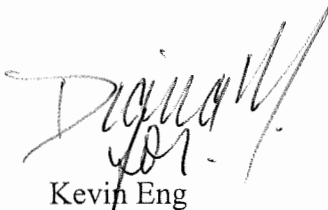
With the un-announced changes to the *Agricultural Land Reserve Use Regulation* which took effect February 22, 2019, there is a risk that cannabis production facilities of a variety of forms and sizes could be constructed on lands zoned “AG Agriculture” and located within the Agricultural Land Reserve. Staff have reviewed the updated Provincial regulations closely, and have proposed a number of amendments to the City’s Official Community Plan Bylaw 9000 and the Richmond Zoning Bylaw 8500 in order to establish the maximum level of regulation allowed.

The proposed bylaws will strengthen the OCP policies on cannabis production lands zoned “AG Agriculture” and located within the Agricultural Land Reserve, and will limit production of cannabis to the minimum permitted through Provincial regulations, and will establish setbacks for lawful cannabis production. The proposed Richmond Zoning Bylaw 8500 amendments will also establish a maximum size and setbacks for on-farm processing, storing, and packaging of cannabis.

It is recommended that Official Community Plan Bylaw 9000, Amendment Bylaw 10061 be introduced and given first reading.

It is further recommended that Richmond Zoning Bylaw 8500 Amendment Bylaw 10062 be introduced and given first reading.

In conjunction with the above referenced Bylaws being recommended for first reading, a withholding resolution in accordance with Section 463 of the *Local Government Act* is also recommended to enable Council the ability to consider and withhold building permits that are in conflict with Bylaws under consideration.



Kevin Eng
Planner 2

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Attachment 1: ALC Information Bulletin 04 – Cannabis Production in the ALR
Attachment 2: Agricultural Land Reserve Use Regulation



INFORMATION BULLETIN 04

CANNABIS PRODUCTION IN THE ALR

Revised: May 8, 2019
 Issued: August 15, 2018

1. SCOPE OF THIS INFORMATION BULLETIN

This information bulletin provides guidance to assist in interpreting the *Agricultural Land Commission Act*, S.B.C. 2002, c. 36 (**ALCA**) and regulations in relation to cannabis production in the Agricultural Land Reserve (**ALR**). The ALCA and regulations will govern if inconsistent with this bulletin.

This information bulletin is directed only to interpretation of the ALCA and regulations. Compliance with the ALCA and regulations in relation to cannabis does not relieve persons from the need to comply with all other applicable laws, regulations and bylaws at the federal, provincial and local government levels.

2. RECENT CHANGES TO STATUTE AND REGULATIONS

Effective February 22, 2019, the ALCA and the Agricultural Land Reserve Use, Subdivision and Procedure Regulation (now the **ALR General Regulation**) were amended and the Agricultural Land Reserve Use Regulation (the **ALR Use Regulation**) was created. Though many concepts contained in the ALCA and regulations remain unchanged, there have been changes related to the use of ALR land for cannabis production. All references in this information bulletin to the ALCA and regulations are as of February 22, 2019, unless otherwise stated.

3. WHETHER CANNABIS PRODUCTION IS A FARM USE

In the past, certain forms of cannabis production, but not others, had been “designated” as farm use by regulation. This was the practice followed when s. 2(2.5) of the former regulation was introduced in July 2018. The fact that certain production required “designation” to be a farm use suggested that non-designated forms of cannabis production:

- were not a farm use; and
- as such, could only be engaged in if the Agricultural Land Commission (the **Commission**) approved a non-farm use application specific to that use.

On February 22, 2019, s. 2(2.5) of the former regulation was repealed and the ALR Use Regulation was created. The ALR Use Regulation addresses cannabis production in s. 8, in a part of the ALR Use Regulation that is entitled “Farm Uses”, and no longer “designates” a

subset of cannabis production as farm use. This regulatory change clarifies that all forms of cannabis production are a “farm use”.

Because all forms of cannabis production are a “farm use”, cannabis production in the ALR does not contravene the ALCA even if engaged in without the Commission’s approval.

However:

- the ALR Use Regulation specifically allows local governments to prohibit cannabis production in certain forms (see section A of this bulletin); **AND**
- certain other activities associated with cannabis production, such as fill placement or soil removal, may still require proponents to engage with the Commission (see section B of this bulletin).

A. Local Government Authority To Prohibit

Local governments play a significant role in determining what kind of cannabis production occurs in their community.

Local governments may regulate or prohibit certain kinds of cannabis production, though may not prohibit all forms of cannabis production.

Section 8 of the ALR Use Regulation provides:

- (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.

Section 4 of the ALR Use Regulation provides:

The farm uses referred to in this Part [which includes s. 8] 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.

B. Placing Fill In, And Removing Soil From, The ALR

There are strict rules regarding placement of fill in the ALR and removal of soil from the ALR, **even when necessary for a farm use**, unless limited exceptions are met.

- Q. *Do the rules on placement of fill in the ALR and removal of soil from the ALR apply to the construction of structures intended to be used for the production of cannabis?*
- A. *Yes. These rules are found in ss. 35-36 of the ALR Use Regulation and apply generally, to the construction of structures for the production of cannabis, subject only to the limited exceptions summarized below.*

Typically even where the fill placement or soil removal is for cannabis production, successful completion of a notice of intent and/or use application process is required before the activity can proceed. This is so unless all of the following conditions are met:

- the fill placement or soil removal are for the purpose of constructing a structure for farm use; AND
- the total area from which the soil is removed or on which fill is placed is 1,000 m² or less; AND
- 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; AND
- the fill **is not, and does not contain**, construction or demolition waste (including masonry rubble, concrete, cement, rebar, drywall and wood waste), asphalt, glass,

synthetic polymers, treated wood, or unchipped lumber, as none of these may be used as fill in the ALR: ALR Use Regulation, ss. 35-36.

See the Commission's Information Bulletin #7 – Soil or Fill Use in the ALR for more information.

4. CONSTRUCTION, MAINTENANCE AND OPERATION OF STRUCTURES NECESSARY FOR FARM USE

Subject to any limits and conditions set out in Part 2 of the ALR Use Regulation, the use of land in the ALR to construct, maintain or operate a structure (including a greenhouse), driveway or utility that is necessary for a farm use is designated as a farm use: ALR Use Regulation, s. 5. A designated farm use may be undertaken without making a use application to the Commission.

- Q. *What does “subject to any limits and conditions set out in Part 2 of the ALR Use Regulation” mean for the construction of structures intended to be used for cannabis production?*
- A. *The construction of structures for cannabis production are limited by the specific limitations for cannabis production set out at s. 8 of the ALR Use Regulation.*

In determining whether an activity is “necessary” for a farm use, consideration must be given to whether the nature and size of the activity is proportionate to the farm use. If a landowner claims that an activity is “necessary” for a farm use that has not yet commenced, issues may arise in respect of whether the proposed use is in fact going to occur, and whether the nature and size of activity characterized as “necessary” will in fact be necessary to that use.

5. STORING, PACKING, PREPARING AND PROCESSING FARM PRODUCTS

The ALR Use Regulation refers to certain other activities potentially related to cannabis that local governments may not prohibit, but may regulate, as described in s. 4 of the ALR Use Regulation, such as certain storing, packing, preparing and processing uses set out in s. 11.

The use of land in the ALR for storing, packing, preparing and processing farm products is designated as a farm use, and as such may be undertaken without application to the Commission, if at least 50% of the farm product is (a) produced either on that agricultural land or by an association (as that term is used in the *Cooperative Association Act*) to which the owner of the agricultural land belongs, or (b) feed required for farm use on that agricultural land: ALR Use Regulation, s. 11(2).



BRITISH
COLUMBIA

Agricultural Land Commission Act
AGRICULTURAL LAND RESERVE
USE REGULATION
B.C. Reg. 30/2019

Deposited and effective February 22, 2019

Consolidated Regulations of British Columbia

This is an unofficial consolidation.

B.C. Reg. 30/2019 (O.C. 67/2019), deposited and effective February 22, 2019, is made under the *Agricultural Land Commission Act*, S.B.C. 2002, c. 36, s. 58.

This is an unofficial consolidation provided for convenience only. This is not a copy prepared for the purposes of the *Evidence Act*.

This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at www.bclaws.ca.

See the User Guide for more information about the *Consolidated Regulations of British Columbia*. The User Guide and the *Consolidated Regulations of British Columbia* are available online at www.bclaws.ca.

Prepared by:
Office of Legislative Counsel
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Agricultural Land Commission Act

AGRICULTURAL LAND RESERVE USE REGULATION
B.C. Reg. 30/2019

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Agricultural Land Commission Act

AGRICULTURAL LAND RESERVE USE REGULATION

B.C. Reg. 30/2019

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.

AGRICULTURAL LAND RESERVE USE REGULATION

Part 2 – Farm Uses

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- (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 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.

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):

AGRICULTURAL LAND RESERVE USE REGULATION

Part 2 – Farm Uses

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- (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 m² indoors and 125 m² 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

AGRICULTURAL LAND RESERVE USE REGULATION

Part 3 – Permitted Non-Farm Uses

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

AGRICULTURAL LAND RESERVE USE REGULATIONPart 3 – Permitted Non-Farm Uses

- (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;

AGRICULTURAL LAND RESERVE USE REGULATIONPart 3 – Permitted Non-Farm Uses

- (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;

AGRICULTURAL LAND RESERVE USE REGULATIONPart 3 – Permitted Non-Farm Uses

- (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 m² for each parcel;

AGRICULTURAL LAND RESERVE USE REGULATIONPart 3 – Permitted Non-Farm Uses

- (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 m².
- (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 m³;
- (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

AGRICULTURAL LAND RESERVE USE REGULATIONPart 4 – Residential Uses

- (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 m² 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 m² 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.

AGRICULTURAL LAND RESERVE USE REGULATION
Part 4 – Residential Uses

- (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:

AGRICULTURAL LAND RESERVE USE REGULATIONPart 5 – Soil or Fill Uses

- (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 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;
- (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 m³/16 ha or less;
- (d) maintaining an existing farm road, if the total annual volume of soil removed or fill placed is 50 m³ 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 m³/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.



**Official Community Plan Bylaw 9000
Amendment Bylaw 10061
Cannabis Production and Cultivation in the Agricultural Land Reserve**

The Council of the City of Richmond, in an open meeting assembled, enacts as follows:

1. Richmond Official Community Plan Bylaw 9000, as amended, is further amended at Section 3.6.5 (Health Canada Licensed Medical Cannabis Production, Non-Medical Cannabis Production and Cannabis Research and Development Facilities) by repealing and replacing Objective 1 in this section with the following:

“Objective 1

Protect the City’s social, economic, land use and environmental interests when considering proposed medical and non-medical cannabis production facilities, cannabis research and development facilities and the production and cultivation of cannabis, including any related accessory uses, on land within the Agricultural Land Reserve by preventing their unnecessary proliferation, avoiding long-term negative effects, and ensuring minimal City costs.”

2. Richmond Official Community Plan Bylaw 9000, as amended, is further amended at Section 3.6.5 (Health Canada Licensed Medical Cannabis Production, Non-Medical Cannabis Production and Cannabis Research and Development Facilities) by inserting the following policies under Objective 1 and renumbering the following policies accordingly:

“b) subject to c) below, production and cultivation of cannabis and any related accessory uses is not permitted in the Agricultural Land Reserve;

- c) where the use of land in the Agricultural Land Reserve for the production and cultivation of cannabis and any related storing, packing, preparing and processing uses is done so in a manner in accordance with Sections 4, 8 and 11(1)(2) of the *Agricultural Land*

Reserve Use Regulation (as amended), the use cannot be prohibited and is subject to the applicable regulations contained in Richmond’s Zoning Bylaw 8500.”

- 3. This Bylaw may be cited as “**Official Community Plan Bylaw 9000, Amendment Bylaw 10061**”.

FIRST READING

JUL 22 2019

PUBLIC HEARING

SECOND READING

THIRD READING

ADOPTED

CITY OF RICHMOND
APPROVED by
LE
APPROVED by Director or Solicitor
AC

MAYOR

CORPORATE OFFICER



**Richmond Zoning Bylaw 8500
Amendment Bylaw 10062
Cannabis Production and Cultivation in the Agricultural Land Reserve**

The Council of the City of Richmond, in an open meeting assembled, enacts as follows:

1. Richmond Zoning Bylaw 8500 is amended by repealing and replacing the following use definitions in Section 3.4 (Use and Term Definitions):

“Agriculture

means the **use** of land outside of the **Agricultural Land Reserve** for the growing of crops or the raising of domesticated animals and allotment gardens where land is divided into plots for exclusive **use** as vegetable, fruit or flower gardens such as private and community gardens but does not include a **medical cannabis production facility** or **non-medical cannabis production facility**.

Farm business

means a **business** in which one or more of the following farm activities are conducted, and includes a farm education or farm research institution to the extent that the institution conducts one or more of the following farm activities:

- a) growing, producing, raising or keeping animals or plants, including mushrooms, or the primary products of those plants or animals;
- b) clearing, draining, irrigating or cultivating land;
- c) using farm machinery, equipment, devices, materials and **structures**;
- d) applying fertilizers, manure, pesticides and biological control agents, including by ground and aerial spraying;
- e) conducting any other agricultural activity on, in or over agricultural land;
- f) intensively cultivating in plantations, any
 - i) specialty wood crops, or
 - ii) specialty fibre crops prescribed by a Minister of the Province of BC;
- g) conducting turf production in an **Agricultural Land Reserve** with the approval under *Agricultural Land Commission Act* of the Provincial Agricultural Land Commission;
- h) aquaculture as defined in the *Fisheries Act* when carried on by a person licensed, under Part 3 of that Act, to carry on the **business** of aquaculture;
- i) raising or keeping game, within the meaning of the *Game Farm Act*, by a person licensed to do so under that Act;
- j) raising or keeping fur bearing animals, within the meaning of the *Fur Farm Act*, by a person licensed to do so under that Act;

- k) processing or direct marketing by a farmer of one or both of
 - i) the products of a farm owned or operated by the farmer, and
 - ii) within limits prescribed by a Minister of the Province of BC, of products not of that farm, to the extent that the processing or marketing of those products is conducted on the farmer's farm, but

farm business does not include:

- a) an activity, other than grazing or hay cutting, if the activity constitutes a forest practice as defined in the *Forest and Range Practices Act*;
- b) breeding pets or operating a kennel;
- c) growing, producing, raising or keeping exotic animals, except types of exotic animals prescribed by a Minister of the Province of BC;
- d) a **medical cannabis production facility**, subject to the provisions contained in Section 5.21 (Cannabis Production and Cultivation in the **Agricultural Land Reserve**);
- e) a **non-medical cannabis production facility**, subject to the provisions contained in Section 5.21 (Cannabis Production and Cultivation in the **Agricultural Land Reserve**); and
- f) a **cannabis research and development facility**.”

2. Richmond Zoning Bylaw 8500 is amended by inserting Section 5.21 (Cannabis Production and Cultivation in the Agricultural Land Reserve) into Section 5 (Specific Use Regulations)

“5.21 Cannabis Production and Cultivation in the Agricultural Land Reserve

5.21.1 Subject to the limitations set out in Sections 4 and 8 of the *Agricultural Land Reserve Use Regulation (as amended)*, the production and cultivation of cannabis and any related accessory **uses** is prohibited in the **Agricultural Land Reserve**.

5.21.2 Subject to the limitations set out in Sections 4, 8 and 11(1) and (2) of the *Agricultural Land Reserve Use Regulation (as amended)*, the storing, packing, preparing and processing of cannabis is prohibited in the **Agricultural Land Reserve**.

5.21.3 Any lawful production and cultivation of cannabis and any related accessory **uses** in the **Agricultural Land Reserve** that cannot be prohibited in accordance with Sections 4 and 8 of the *Agricultural Land Reserve Use Regulation (as amended)*, are subject to the following regulations:

- a) Production and cultivation of cannabis outdoors or in any **building** or **structure** must be **setback** a minimum of:
 - i) 30 m to any **lot line**;
 - ii) 60 m to any **lot line** that **abuts** or is **adjacent** to land zoned anything other than Agriculture (AG1); and

- iii) 150 m measured from the **lot line** of a **site** zoned School & Institutional Use (SI) or Assembly (ASY).

5.21.4 Any lawful storing, packing, preparing and processing of cannabis that cannot be prohibited in accordance with Sections 4, 8, and 11(1) and (2) of the *Agricultural Land Reserve Use Regulation (as amended)*, are subject to the following regulations:

- a) Storing, packing, preparing and processing of cannabis outdoors or in any **building** or **structure** must be **setback** a minimum of:
 - i) 30 m to any **lot line**;
 - ii) 60 m to any **lot line** that **abuts** or is **adjacent** to land zoned anything other than Agriculture (AG1); and
 - iii) 150 m measured from the **lot line** of a **site** zoned School & Institutional Use (SI) or Assembly (ASY).

5.21.5 For the use of storing, packing, preparing and processing of cannabis that cannot be prohibited in accordance with Sections 4, 8, and 11(1) and (2) of the *Agricultural Land Reserve Use Regulation (as amended)*, the maximum **floor area** for the use of storing, packing, preparing and processing of cannabis shall not exceed 15% of the total area designated for production and cultivation of cannabis (in a **building** or **structure** or outside) up to a maximum of 100 m² (1,076 ft²)."

3. This Bylaw is cited as "**Richmond Zoning Bylaw 8500, Amendment Bylaw 10062**".

FIRST READING

PUBLIC HEARING

SECOND READING

THIRD READING

ADOPTED

JUL 22 2019



MAYOR

CORPORATE OFFICER