



File: 0280-30

Ref: 192545

July 30, 2020

To: All local and treaty First Nation governments with land in the Agricultural Land Reserve

**Re: Information update on Order in Council #353/2020 - Amendments to regulations under the *Agricultural Land Commission Act* regarding application fees, soil removal, and fill placement. Part of Bill 15 – *Agricultural Land Commission Amendment Act, 2019* also brought into force by the same Order in Council.**

Greetings,

The purpose of this letter is to provide additional information about recent regulations that will bring into effect changes to the *Agricultural Land Commission Act* (ALCA) and its regulations. As part of recent public engagement undertaken by the B.C. Government, many local governments indicated that they would benefit from additional guidance and information from the Ministry of Agriculture on any significant legislative changes.

On June 26, 2020, [Order in Council No. 353/2020](#) updated Agricultural Land Reserve (ALR) regulations (see news release at <https://news.gov.bc.ca/releases/2020AGRI0026-001178>). Effective September 30, 2020, the Order in Council:

- amends the Agricultural Land Reserve Use Regulation and the Agricultural Land Reserve General Regulation as they relate to soil removal, fill placement, and application fees; and,
- brings into force a part of the *Agricultural Land Commission Amendment Act, 2019* (Bill 15), which amends the ALCA to enable the Agricultural Land Commission (ALC) CEO to file remediation order notes on title.

The September 30, 2020 effective date provides time for local governments, the public, other stakeholders, and First Nation governments to become familiar with, prepare for, and adapt to those changes. These changes will impact both private and public landowners.

The appendix to this letter provides additional information about these changes.

If you have any questions regarding these amendments and the revitalization of the ALC and the ALR, please contact Arlene Anderson, Director of Legislation, B.C. Ministry of Agriculture, at [Arlene.Anderson@gov.bc.ca](mailto:Arlene.Anderson@gov.bc.ca).

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If you have questions about the administration of the ALR, please contact the ALC at [ALCBurnaby@Victoria1.gov.bc.ca](mailto:ALCBurnaby@Victoria1.gov.bc.ca).

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer McGuire". The signature is fluid and cursive, with the first name "Jennifer" written in a larger, more prominent script than the last name "McGuire".

Jennifer McGuire  
Assistant Deputy Minister

Appendix (1)

cc: Gary MacIsaac, Executive Director  
Union of BC Municipalities

Kim Grout, Chief Executive Officer  
Agricultural Land Commission

Tara Faganello, Assistant Deputy Minister, Local Government Division  
Ministry of Municipal Affairs and Housing

**Appendix: Summary of Recent Changes**

Please note: this information is for guidance purposes only. For more details please see the ALCA, the Agricultural Land Reserve Transitional Regulation, the Agricultural Land Reserve General Regulation, the Agricultural Land Reserve Use Regulation, and information provided by the ALC.

**Application Fees**

On March 12, 2020, [Order in Council \(OIC\) No.131/2020](#) was approved by the B.C. Government. This OIC simplifies how application fees are collected by local governments, First Nation governments, and the ALC. Those changes will come into effect September 30, 2020. In response to feedback about application fee amounts, Order in Council No. 353/2020 makes further changes about application fees. It lowers the fee for “non-adhering residential use” applications and it increases the amount of application fees that go to a local or First Nation government when they are required to review an application. For more information about applications that require local or First Nation government review, please see section 34 of the ALCA and section 34.1 of the *Agricultural Land Commission Amendment Act, 2019* (Bill 15).

<b>Until September 29, 2020</b>			
<b>Application fees when local or First Nation government review is required</b>			
Application type	Fee to local or First Nation government	Fee to ALC	Total fee
Non-Adhering Residential Use	\$300	\$1200	\$1500
Soil or Fill Use			
Non-Farm Use			
Subdivision			
Exclusion			
Inclusion	\$0	\$0	\$0

<b>As of September 30, 2020 and after</b>			
<b>Application fees when local or First Nation government review is required</b>			
Application type	Fee to local or First Nation government	Fee to ALC	Total fee
Non-Adhering Residential Use	\$450	\$450	\$900
Soil or Fill Use	\$750	\$750	\$1500
Non-Farm Use			
Subdivision			
Exclusion			
Inclusion	\$0	\$0	\$0

On September 30, 2020 and after, fees for “non-adhering residential use” applications will be reduced from \$1,500 to \$900. Local and First Nation governments will also receive 50 percent of

the total application fee when their review is required, receiving \$450 for “non-adhering residential use” applications and \$750 for other types of application.

If a landowner applies to a local or First Nation government and the local or First Nation government does not forward the application to the ALC, the applicant only pays the local or First Nation government their portion of the application fee (\$450 or \$750). The applicant will not pay the ALC’s portion of the application fee because the ALC will not review the application.

OIC No. 353/2020 also changes the amount a local or First Nation government will pay when they initiate some types of application to the ALC. Instead of the current higher fee, local and First Nation governments will pay \$450 for a “non-adhering residential use” application or \$750 for most other types of application. The most common local or First Nation government-initiated applications with these lower fees will likely be exclusion applications for land within their jurisdiction and applications for non-farm uses or subdivisions of land the local government owns. Fees for applications that are set out in regulation as those that must be filed directly with the ALC (transportation and utility use applications) remain at \$1500; they are not changed by OIC No. 353/2020.

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### **Soil Removal and Fill Placement**

OIC No. 353/2020 will make it easier for farmers on the ALR to maintain and build roads.

#### **Annual Farm Road Maintenance**

For maintenance of existing farm roads, soil removal or fill placement is currently allowed up to a volume of 50m<sup>3</sup> per year. If a farmer needs to use more than that amount, they must seek permission by submitting a Notice of Intent or an application to the ALC. Some people with larger parcels expressed that this 50m<sup>3</sup> limit unintentionally impacts their farms, and so this OIC increases the amount of soil removal or fill placement for farm road maintenance to 50m<sup>3</sup> per 100m of existing road length annually, effective September 30, 2020. To remove soil or place fill for the construction of a new farm road or for maintenance beyond 50m<sup>3</sup> per 100m of farm road length, a person can consult the ALC website for more information about seeking permission by submitting a Notice of Intent or application to the ALC.

#### **Recycled Concrete Aggregate and Recycled Asphalt Pavement**

Construction and demolition waste are prohibited fill materials in the ALR. Prohibited fill materials are those:

- that a person cannot use for a fill use permitted by regulation (see Agricultural Land Reserve Use Regulation section 35), and,
- that the ALC may not approve to be used as fill if a person applies (see Agricultural Land Reserve Transitional Regulation section 30.1 and Agricultural Land Reserve General Regulation section 23).

OIC No. 353/2020 defines recycled concrete aggregate and recycled asphalt pavement and permits them to be used as fill for roads and parking areas in certain circumstances. Since some farm road maintenance is permitted under the regulations (see Agricultural Land Reserve Use Regulation section 35 [d]), a person will be able to use recycled concrete aggregate or recycled asphalt pavement as fill for farm road maintenance up to the annual permitted amount without submitting a Notice of Intent or an application to the ALC.

When a person applies to the ALC for permission to place fill for road construction, maintenance, or widening, the ALC will be able to approve the use of recycled concrete aggregate or recycled asphalt pavement as fill. Similarly, when a person applies to the ALC for permission to place fill for parking area construction or maintenance, the ALC will be able to approve the use of recycled concrete aggregate or recycled asphalt pavement as fill.

For the purposes of the ALCA, recycled concrete aggregate and recycled asphalt pavement will be concrete and asphalt from a demolition process that have had other construction debris, like metal rodding, glass, or wood removed from them. Recycled concrete aggregate and recycled asphalt pavement will have to be crushed or screened and not exceed specific dimensions. Recycled concrete aggregate will have to be able to pass through a 1.905 cm screen (the size of 3/4 inch crush) while recycled asphalt pavement particles will be 1.905 cm<sup>3</sup> or smaller.

The ALC's compliance and enforcement team monitors how ALR land is used and responds to information or concerns they receive, including concerns about illegal fill dumping. People should contact the ALC if they suspect unauthorized land uses like fill dumping on the ALR. More information on the ALC's compliance and enforcement program can be found online here: <https://www.alc.gov.bc.ca/alc/content/alc-act-alr-regulation/compliance-and-enforcement/about-compliance-and-enforcement>.

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### **Remediation Order Notes on Title**

Currently, a person might purchase ALR land without being aware that there are outstanding remediation orders related to contraventions of the ALCA. OIC No. 353/2020 brings part of the *Agricultural Land Commission Amendment Act, 2019* (Bill 15) into force. That part gives the ALC's CEO the ability to file notices in the land title office about remediation orders that have been issued under the ALCA. The CEO may cancel the remediation order note when they are satisfied that the remediation order has been complied with, or that the remediation order cannot be substantially complied with. If the CEO registers a remediation order note on title, it will provide an avenue for prospective buyers to become aware of outstanding issues with the ALR land.

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## **Recent legislative changes: Revitalization of the ALR and the ALC**

The *Agricultural Land Commission Amendment Act, 2019* (Bill 15) continued the B.C. government's commitment to revitalize the ALR and the ALC. The part of Bill 15 that strengthens the independence and governance of the ALC was brought into force on March 12, 2020. Much of the remainder of Bill 15 will be brought into force on September 30, 2020.

The changes made by the *Agricultural Land Commission Amendment Act, 2018* (Bill 52) and the *Agricultural Land Commission Amendment Act, 2019* (Bill 15) build on recommendations of the Minister's Independent Advisory Committee (the Committee) to revitalize the ALR and the ALC, focusing on four targeted areas:

- protecting the ALR land base into the future;
- preserving the productive capacity of the ALR;
- improving governance of the ALR; and,
- supporting farmers and ranchers in the ALR.

From February 4 to April 30, 2018, the Committee held stakeholder consultation meetings in nine communities across B.C. with representatives from 29 local governments and over 110 individuals representing farming and ranching associations and other agricultural organizations and stakeholder groups. The Committee also hosted an online public survey, receiving over 2300 completed surveys during that period, as well as over 270 written submissions.

Feedback collected from this public engagement demonstrated that British Columbians believe the ALR is fundamental to the economic performance of the province's agriculture sector and to the province's food security. They value the ALR because it ensures viable agricultural land is available, affordable, and in production now and into the future. There is strong support from British Columbians for protecting the ALR.

The first stage of legislative changes to revitalize the ALR and the ALC were made by the *Agricultural Land Commission Amendment Act, 2018* (Bill 52). The amendments in Bill 52 were brought into force on February 22, 2019, and made changes in three key areas:

- Restricting the removal of soil and placement of fill; and, increasing penalties for the dumping of construction debris and other harmful fill in the ALR.
- Directly addressing mega-mansions and speculation in the ALR by limiting principal residence size on ALR land and empowering the ALC to approve additional residences if they are necessary for farm use.
- Reunifying the ALR as a single zone, ensuring consistent rules with strong protections for all ALR land across the province.

These critical amendments were needed immediately to preserve the viability and productive capacity of the ALR through addressing the detrimental nature of mega-mansion builds and the abuse of soil and fill on the ALR. Further, Bill 52 confirmed that all land in the ALR is valuable by removing the two-zone approach. It was vital that government eliminate the perception that there is higher and lower priority agricultural land in B.C.

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### **Role of the Agricultural Land Commission**

The ALC is the independent administrative tribunal dedicated to preserving agricultural land and encouraging farming in B.C. in collaboration with other communities of interest. The ALC administers the ALR in accordance with the ALCA and its regulations.

The appointed commissioners review land use plans, create operational policies, and decide land use applications. ALC staff support the commissioners through administration, planning, mapping, and compliance and enforcement of legislation and orders. The ALC and its staff anticipate working with stakeholders throughout implementation of the Bill 15 changes in order to provide operational and administrative guidance. ALC staff will provide local governments with information updates through the ALC update emails, information bulletins, process guidelines, updates to the ALC website and application Portal, and educational materials with respect to Bill 15.

### **Role of the Ministry of Agriculture**

The Ministry of Agriculture establishes government's policy and legislative framework for the ALC and the ALR. To encourage farming and promote the development of the industry, the Ministry provides agricultural land use planning support and information material for local and TFN governments across the province through its Strengthening Farming Program and Regional Agrologist network.