

Ministry of Agriculture, Food and Fisheries

Guidance Material about New Rules that will allow a Second Residence on certain Agricultural Land Reserve (ALR) Parcels

General Information: On July 12, 2021, government approved amendments to the Agricultural Land Reserve Use Regulation under the *Agricultural Land Commission Act*. The amendments will come into effect on December 31, 2021. They permit second residences on ALR parcels based on certain conditions.

Those amendments mean that as of December 31, 2021, if also permitted in local government bylaws, ALR landowners will be permitted two residences per parcel in specific circumstances.

If the parcel has only one residence, a second residence may be built under certain circumstances.

- If the parcel is 40 hectares or less, there will be permission for two residences: one that is 500 m² or less in total floor area, and one that is 90 m² or less in total floor area.
- If the parcel is larger than 40 hectares, there will be permission for two residences: one that is of any size permitted by the *Agricultural Land Commission Act* at the time it was built, and one that is up to 186 m² in total floor area.

Local government or First Nation government permission for residences will still be required, where applicable.

The purpose of this document is to provide information about the changes that may assist stakeholders in understanding and implementing the changes.

These guidance materials are provided for information purposes only. If there is any discrepancy between the guidance materials, the *Agricultural Land Commission Act*, and its regulations, please rely upon the *Agricultural Land Commission Act* and its regulations. Readers can also contact the Agricultural Land Commission (ALC) for more information, and can seek their own independent legal advice.

Questions and Answers:

1) Where can I see a copy of the changes?

The B.C. Laws website shows the *Agricultural Land Commission Act* and its regulations, as well as other statutes, regulations, and Orders in Council. Links related to the recent changes include:

- Order In Council No. 438/2021

https://www.bclaws.gov.bc.ca/civix/document/id/oic/oic_cur/0438_2021

- B.C. Reg. 190/2021

https://www.bclaws.gov.bc.ca/civix/document/id/lc/bcgaz2/v64n14_190-2021

- Agricultural Land Commission Act [SBC 2002] c. 36

https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/02036_01

- Agricultural Land Reserve Use Regulation (B.C. Reg. 30/2019)ⁱ

https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/30_2019

- The ALC also has links to the *Agricultural Land Commission Act* and its regulations posted on their website:

www.alc.gov.bc.ca

2) When do these new rules come into effect?

- They come into effect December 31, 2021.
- Until December 31, 2021, the current regulations remain in effect.

3) How large is the additional residence permitted by regulation?

- Depending on the size of the ALR parcel where the additional residence will be constructed and whether the existing residence on the parcel is 500 m² or less, the new rules will allow one additional residence of a certain size.
 - If the parcel is 40 hectares or smaller in size, there will be permission for two residences: one that is 500 m² or less in total floor area, and one that is 90 m² or less in total floor area.
 - If the parcel is larger than 40 hectares, there will be permission for two residences: one that is of any size permitted by the *Agricultural Land Commission Act* at the time it was built, and one that is 186 m² or less in total floor area.
- The new rules will not permit an additional residence on a parcel that is 40 hectares or smaller if there is already a residence that is larger than 500 m² on that parcel. (The landowner would have the option of applying to the ALC for additional residences that are needed for farming. The ALC cannot approve applications for additional residences unless the additional residence is necessary for a farm use.)
- Local governments continue to have the ability through their zoning bylaw authority to restrict the use, size and number of residences on the ALR. (E.g., a local government could allow only one residence on ALR parcels within their jurisdiction).
- The new rules permit an additional residence that is within a larger building (e.g., a 90 m² carriage suite apartment above a detached garage). In these instances, the

ⁱ Please note the B.C. Laws website is updated continually as new laws and provisions come into force. The Agricultural Land Reserve Use Regulation on B.C. Laws will not show the amendments made by OIC 438/2021 until after the OIC comes into force on December 31, 2021. As of that date, be sure to check the currency of the version of the Act you are looking at in the box at the top of the page.

total floor area size limit applies to the part of the building that is the residence. Landowners would need to ensure that the total floor area of an additional residence within another building does not contravene the regulation by taking up more than the permitted total floor area. However, the additional residence cannot be attached to, or part of, the principal residence.

4) I own an ALR parcel that's less than 40 hectares with one residence on it. The residence has a total floor area larger than 500 m². Why don't these changes allow me to have small second residence?

- Government's intent is to limit further residential impacts on ALR parcels where a very large residence is already present.

5) The new rules say parcels larger than 40 hectares can have two residences, one of which is "any size permitted under the Act". Can you explain what that means?

- In February 2019 the *Agricultural Land Commission Act* was amended to restrict the size of a principal residence to a maximum total floor area of 500 m².
- For principal residences that were built after that date, 500 m² or less is the size permitted under the Act, unless the landowner applied to the ALC for permission for a larger residence.
- For principal residences that received ALC permission to be larger than 500 m², their size is permitted under the Act.
- It is also possible for a residence to legally be larger than 500 m² if it was built before the 500 m² size restriction came into force on February 22, 2019, if it was built before the ALR existed, or if it was an additional residence approved by a local government under previous ALR legislation.

6) What does "total floor area" mean?

- Total floor area is not defined in the *Agricultural Land Commission Act* or its regulations. Many local governments set out the way that buildings' total floor area is measured within their bylaws. Local governments' total floor area definitions can apply both to buildings inside the ALR and those outside the ALR. A landowner can look to their local government or First Nation government to see if it sets out how total floor area is calculated in their area. If a local government or First Nation government does not set out how total floor area is calculated, there are multiple resources that provide guidance about what total floor area can mean:
 - The [ALC's Information Bulletin 05](#) includes a definition of total floor area.
 - The Ministry of Agriculture, Food and Fisheries' [Guide for Bylaw Development in Farming Areas](#) (Minister's Bylaw Standards) includes a definition of floor area for farm residences.
 - The British Columbia Building Code includes a [definition of floor area](#).

- Under the new rules, a landowner may need to determine whether their existing residence is 500 m² or smaller, to confirm whether they are able to place a 90 m² additional residence. For some residences there may be existing building plans, which the landowner and local government could use to determine if the residence is over or under 500 m². Other residences may not have plans (e.g., if no plans were required when the residence was first built). For those residences, landowners could hire a professional to create plans that show the total floor area size.

7) My local government's bylaws only allow one residence on my ALR parcel. Do these ALR regulation amendments mean I can put a second home on my parcel?

- No. Residences on the ALR need to be permitted both under the *Agricultural Land Commission Act* and by local government bylaws.
- Local governments can be more restrictive than the *Agricultural Land Commission Act* in terms of the residences they allow on an ALR parcel.
- You can contact your local government to enquire if an additional residence is an option.

8) What types of additional residences can be built under the new rules?

- An additional residence permitted under the new rules could be of any construction type that meets relevant local government, First Nation government, and provincial requirements. These construction types could include:
 - Stick-built (constructed on-site).
 - Factory-built (part or all of the home constructed offsite, transported to the parcel, and assembled or placed on the parcel. This could be a manufactured home that fits within the size restrictions under the new rules, or other types of prefabricated residences).
 - Accommodation above a building (for example a carriage suite above a detached garage).
- This is a change from the current regulations, which only permit a new additional residence that is a manufactured home.
- As per their authority under the *Local Government Act*, local governments can be more restrictive in the use, size and/or type of the additional residences they allow on parcels (for example they might allow garden suites but not carriage houses).

9) What can the additional residence be used for?

- An additional residence permitted by regulation could be used for many purposes, including housing for farm labour, as a rental property for supplemental income, or as agritourism accommodation. (For further information about agritourism accommodation that is permitted on ALR land, please see the *Agricultural Land Commission Act*, its regulations, and the ALC's relevant [policy](#) and [bulletin](#)). There is

no longer a provincial requirement that the additional residence permitted by regulation be used by the landowner or a member of their immediate family.

- As per their authority under the *Local Government Act*, local governments can be more restrictive about what additional residences can be used for. For example, they might only allow additional residences that are for farm workers.

10) Are only immediate family members allowed to live in the additional residence?

- After December 31, 2021, the use of additional residences permitted under the regulations will not be limited to landowners or their immediate family members. The new regulations will allow family members or others to reside in the additional residence.
- Even though the *Agricultural Land Commission Act* will not be limiting use of additional residences permitted under the new rules to family members, a local government or First Nation government may have limits on the use of residences (e.g., a zoning bylaw preventing short-term vacation rentals in an area).

11) Do the regulations still allow a secondary suite within the principal residence?

- The regulations continue to permit one secondary suite within the principal residence. (See section 31 of the *Agricultural Land Reserve Use Regulation*.)

12) I am wondering about accessory structures for additional residences permitted under the new rules. Do I need to apply to the ALC if I want to put in a driveway, utilities, or an accessory structure like a shed?

- Section 30 of the *ALR Use Regulation* applies to the additional residences permitted by the new rules. Under that section, a driveway or utility necessary for a residential use will be permitted for an additional residence that is permitted under the new rules. Structures necessary for an additional residence permitted under the new rules are also permitted under that section and wouldn't need an application to the ALC.
- In situations where soil removal or fill placement is needed for a permitted accessory structure, the landowner would need to file a Notice of Intent with the ALC or make an application to the ALC.
- If you have questions about whether you need to apply for specific accessory structures for an additional residence, please contact the ALC or your local government.

13) Is there a minimum lot size requirement?

- No, there is no provincial minimum lot size requirement in these new changes. A local or First Nation government may, however, require a minimum lot size for an additional residence that would otherwise be permitted under the *Agricultural Land Commission Act* and its regulations. For example, a local government could require a minimum lot size of 8 ha for an additional residence via its zoning bylaw authority.

14) What if there are no residences on an ALR parcel?

- In circumstances where there are no residences on an ALR parcel, two residences are allowed as described without having to make an application to the ALC. A local or First Nation government may, however, restrict the number of residences permitted on a parcel. A local government could make such restrictions under its zoning bylaw authority.

15) If there are no residences on an ALR parcel and a landowner wishes to build the two permitted residences, does it matter which is built (or placed) first? Can they be built at the same time?

- The order of placement would not matter. The landowner could build both at the same time, or first build the smaller (up to 90 m² or up to 186 m²) residence, and then build the larger (up to 500 m²) residence, provided that both residences meet statutory and regulatory requirements (e.g., local government bylaws).

16) If there is one residence that's less than 90 m² or 186 m² on a parcel, can a landowner build a second residence that's up to 500 m²?

- In many circumstances, yes. The two residences would need to meet the conditions set out in the *Agricultural Land Commission Act* and its regulations regarding permitted residences (e.g., two residences on a parcel, one that is 500 m² or less and the other that is 90 m² or less). Also, the local government or First Nation government must permit the use.
- You can contact the ALC to discuss and confirm specific circumstances and requirements concerning any existing and proposed residence proposals.

Some examples:

Note: As mentioned above, permission to build a residence would be subject to the approval of the local or First Nation government. Confirming statutory and regulatory requirements with the ALC is also always advisable.

- If the existing residence is 90 m² or less and is on a parcel that is 40 ha or less, the landowner could build a new residence that is 500 m² or less without applying to the ALC.

- If the existing residence is 186 m² or less and is on a parcel that is greater than 40 ha, the landowner could build a new residence that is 500 m² or less without applying to the ALC.
- A landowner that wanted a residence greater than 500 m² would need apply to the ALC through a non-adhering residential use application. (They would need to apply to the ALC for a residence larger than 500 m² whether it was the first residence on the parcel, or the second, third, etc. residence on the parcel).
- A landowner could only have a total of 2 residences under the permissions in the regulations; a third residence would not be permitted without application to the ALC.
- Please also see the below table, which is a summary of new residences permitted on ALR parcels after December 30, 2021.

Table: Summary of new residences permitted on ALR parcels after December 30, 2021. As per their authority under the *Local Government Act*, local governments can be more restrictive in the use, size, and/or type of the additional residences they allow on parcels.

Parcel size	Existing residence	New residences permitted without application to the ALC	Larger or more residences that would need ALC application
40 ha or less	Total floor area over 500 m ² if previously permitted under the Act ⁱⁱ	No second residence permitted under the new regulation	Landowner needs to apply to the ALC to build a second residence of any size
	Total floor area larger than 90 m ² , and equal to or less than 500 m ²	Second residence up to 90 m ²	Landowner can apply to the ALC for a second residence larger than 90 m ² , or for third, fourth, etc. residences
	Total floor area 90 m ² or less	Second residence up to 500 m ²	Landowner can apply to the ALC for a second residence larger than 500 m ² , or for third, fourth, etc. residences
	No existing residence on parcel	Two residences: one up to 90 m ² and one up to 500 m ²	Landowner can apply to the ALC for larger residences, or for third, fourth, etc. residences
Over 40 ha	Total floor area over 500 m ² if previously permitted under the Act ⁱⁱ	Second residence up to 186 m ²	Landowner can apply to the ALC for a second residence larger than 186 m ² , or for third, fourth, etc. residences
	Total floor area larger than 186 m ² , and equal to or less than 500 m ²	Second residence up to 186 m ²	Landowner can apply to the ALC for a second residence larger than 186 m ² , or for third, fourth, etc. residences
	Total floor area 186 m ² or less	Second residence up to 500 m ²	Landowner can apply to the ALC for a second residence larger than 500 m ² , or for third, fourth, etc. residences
	No existing residence on parcel	Two residences: one up to 186 m ² and one up to 500 m ²	Landowner can apply to the ALC for larger residences, or for third, fourth, etc. residences

ⁱⁱ E.g., a residence that was built before the size limit of 500 m² in *Agricultural Land Commission Act* section 20.1 came into effect, or that was built on application to the ALC after the size limit came into effect, or that pre-dates the ALR.

17) Is a third residence allowed on an ALR parcel?

- If an ALR parcel already has two residences, then a third residence would not be allowed by the new rules without an application to the ALC. However, landowners will still be able to apply to the ALC for additional residences of any size. Even if one or any of the existing residences are used for farm worker housing, a landowner would need to apply to the ALC for a third (or more) residence. In deciding such applications for additional residences, the ALC cannot grant permission for additional residences unless they are necessary for a farm use.

18) Can a local government or First Nation government regulate or prohibit an additional residence even if it is allowed by the ALR Use Regulation?

- Yes, local and First Nation governments will continue to be able to restrict residential use of the ALR beyond what is permitted by provincial regulation. This hasn't changed under the new rules.
- While the Ministry has removed the requirement for ALC approval for certain residences through these new changes, nothing has changed with respect to a local government's authority to regulate or prohibit residential use of the ALR.

19) I have an additional residence that was built before Dec 31, 2021. Do I need to apply to the ALC to renovate that residence?

- Additional residences that were permitted under previous regulations can likely be renovated as long as there are no changes to their size or footprint. This is the case for renovations of existing residences that rebuild less than 75% of the existing residence. If 75% or more of an existing second residence will be rebuilt, the second residence needs to be permitted under the current *Agricultural Land Commission Act* either by fitting within the new size parameters, or by receiving permission after application to the ALC.

20) Can an ALR landowner replace an existing principal or secondary residence without ALC approval?

- It depends. In many circumstances, the replacement residence would need to be permitted under the current rules in the *Agricultural Land Commission Act*, whether by fitting within the residence size limits permitted in the *Agricultural Land Commission Act* and the ALR Use Regulation, or by the owner applying to the ALC for a larger residence.
- Similar to the requirements of the *Local Government Act*, there is no automatic right to replace residences that were permitted under previous legislation. In most cases, if 75% or more of a residence is damaged or destroyed, the landowner is required to rebuild within the current legislation's size limits, or apply to the ALC to build larger.

- You can contact the ALC for more information.

21) A press release about the new changes, [Increasing housing flexibility in the ALR](#), states that “permitting a principal residence to be constructed in addition to a manufactured home that was formerly a principal residence” is a flexible housing option permitted under the regulation. How does this apply in practice?

- After December 31, 2021 the order of placement for residences will not matter as long as the residences conform with the statutory and regulatory requirements. On this basis, the landowner may have a total of two residences, made up of a principal residence (which may include a secondary suite) and an additional residence, as permitted by the *Agricultural Land Commission Act* and its regulations, if they are also permitted in the relevant local government bylaw or First Nation government law.
- For example, if a landowner has a manufactured home that is the only residence on the parcel, the manufactured home is considered the principal residence. If the principal residence is a manufactured home that meets the conditions for an additional residence permitted by regulation under the new rules (e.g., a residence 90 m² or less on a parcel 40 ha or less), the landowner may build a new principal residence without application to the ALC. Those residences would also need to be permitted in relevant local government bylaws or First Nation government laws.

22) If there is an old house, can the landowner live in the old house while they build a new house, and then demolish the old one once the new one is built? Can local and First Nation governments manage this on their own or is an application to the ALC needed?

The following applies after December 31, 2021:

- If the old house fits within the parameters for one of the two residences permitted without application to the ALC, then a second house could be built without the old house needing to be torn down. An application to the ALC would not be needed. The landowner would need to ensure that at the end of the process, there are not more than two residences on the parcel, and that those residences meet statutory and regulatory requirements.
- However, if the old house is larger than 90 m²/186 m² (as applicable) and the new house will also be larger than that, an application to the ALC is required to live in the existing old house while building the new house.
- Certain applications for building a new principal residence while occupying an existing residence are delegated to the ALC’s CEO. More information can be found in Appendix D of ALC policy L-26, [Non-Adhering Residential Use Applications](#).

23) Can a landowner now subdivide their ALR parcel for the additional residence permitted by regulation?

- The new changes do not change the existing laws regarding subdivision on the ALR, including strata subdivision. In most instances, a landowner will need to apply to the ALC to subdivide an ALR parcel. Please contact the ALC for more information about subdivision requirements in the ALR.

24) Do the new rules affect the requirement for landowners to submit a Notice of Intent or a Soil or Fill Use Application to the ALC?

- Where the removal of soil or placement of fill is required for the additional residence permitted by regulation, landowners are still required to file a notice of intent or submit a soil or fill use application with the ALC. This requirement remains unchanged.

25) Why are these new changes not coming into effect immediately?

- The time between when these changes were approved (July 12, 2021) and when they will come into effect (December 31, 2021) is meant to provide stakeholders with time to adjust to the changes.
- The ALC uses this time to receive the new provincial legislation and prepare for its implementation. This often involves updating information bulletins and policies, creating and updating processes, updating the ALC website and online application portal, training for Commissioners, ALC staff, as well as training sessions with local government staff.
- Local governments may wish to amend bylaws that relate to second residences on ALR parcels to align with these new rules before they come into effect in December 2021. Local and First Nation governments can be more restrictive than the *Agricultural Land Commission Act* and its regulations about residential uses on the ALR. Local and First Nation governments cannot be more permissive than the *Agricultural Land Commission Act* and its regulations about residential uses on the ALR.
- Some landowners could be in the process of securing permits and authorizations for a manufactured home additional residence that's permitted under the current regulations. Government's intent is that the time between July and December will allow those landowners to take necessary steps before December 31 if the house they are placing is permitted under the current regulations.

26) What differences are there between the regulations introduced with 2018's *Bill 52: Agricultural Land Commission Amendment Act, 2018* and these new rules?

- Prior to 2018's *Bill 52*, the *Agricultural Land Commission Act* and its regulation allowed a manufactured home up to 9m in width for use by a member of the owner's immediate family or accommodation above an existing structure that had

only a single level. From 2015 until February 2019 in what was called “Zone 2” (i.e., the Northern, Interior, and Kootenay administrative regions of the Province), a second single family dwelling was also permitted on parcels larger than 50 hectares. Prior to Bill 52, local governments were also able to approve additional residences in excess of these permissions if deemed necessary for farm use.

- Changes made by Bill 52 removed the responsibility for local governments to determine what residences were considered “necessary for farm use” for residences and gave this responsibility to the ALC. Associated regulatory changes also removed the permissions for additional residences (a manufactured home or accommodation above an existing structure on a farm, and the second single-family residence on Zone 2 parcels) while also grandparenting in residences constructed under those permissions.
- The permission for an additional manufactured home was re-introduced on a time-limited basis in 2019 and extended a number of times. It will expire December 31, 2021 when the new rules come into effect.
- The new rules give flexibility to ALR landowners, regardless of whether they are farming or not, to have both a principal and an additional residence of a defined size. Under the new rules, local governments continue to have authority to be more restrictive about residential uses of ALR land.

27) Were First Nations consulted about these changes?

- Yes, Ministry staff sent letters to the 204 First Nations in B.C. notifying them about the proposed changes. Ministry staff then met with representatives of First Nations that wished to discuss the changes.

28) To be eligible for a manufactured home additional residence that is permitted under the current regulations, what would the landowner need to have completed by December 31, 2021?

- All conditions in the current regulation would need to be met on December 30, 2021.
- For more information about what conditions need to be met, please contact the ALC.

29) Why did these changes take so long?

- The Ministry’s [Residential Flexibility Policy Intentions Paper](#) was released in January 2020. The COVID-19 pandemic meant other regulatory priorities took precedence and work about residential flexibility policy was delayed. The Ministry accepted public feedback on the Intentions Paper, taking time to listen to stakeholder input, and released a [“What We Heard” Report](#) on September 4, 2020.

- Ministry of Agriculture, Food and Fisheries staff then undertook additional consultation with local governments and other stakeholders. A technical review committee comprised of staff from the Ministry of Agriculture, Food and Fisheries, the Ministry of Municipal Affairs, the ALC, and the Union of B.C. Municipalities provided feedback as work was completed. Following these processes, a Ministry Factsheet was released in April 2021 about the proposed changes.
- Since then, the Ministry has been working to get these changes finalized and get these new rules in place as soon as possible, while still giving homeowners and other stakeholders sufficient notice of the changes.

30) I have heard it can matter how a building was originally permitted on an ALR parcel. Why does that matter?

- The way a building was originally permitted may be relevant if a landowner wishes to alter the building, use it for a different purpose, or do certain activities on the land related to the building.
- For example, landowners have permission under ALR Use Regulation section 36 to place a certain amount of fill on ALR land to maintain a principal residence (without needing to submit a Notice of Intent to the ALC for soil or fill use). If a landowner needed to place fill on ALR land to maintain an additional residence that was permitted under the regulations, they would need to submit a Notice of Intent or apply to the ALC for permission to place that fill.
- A different example is if someone applied to the ALC two years ago and received approval for an additional residence, on the condition that it would be used for farm worker accommodation. If the landowner now wishes to use that residence as a vacation rental, they may need to apply to the ALC for permission, since the vacation rental use was not in the original approval.
- Please contact the ALC for more information about conditions of an ALC approval that may meet the new additional residence regulations.