

To: Electoral Area Services Committee

Date: 2020-05-12

From: Julie Mundy, Planner I & Katelyn Hipwell, Planner II

File No: 3015-01 3042

**Subject: For Information – Changes to the Agricultural Land Commission Act and Agricultural Land Reserve General Regulation**

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### INTENT

This report is intended to advise the Electoral Area Services Committee of the recent and upcoming changes to the regulations governing the Agricultural Land Reserve (ALR). Staff are not looking for a recommendation and have forwarded this information should EA Directors want clarification or to discuss the item further.

### STRATEGIC AREA(S) OF FOCUS

Provide Responsive & Effective Public Services

### BACKGROUND

On March 12, 2020 the provincial government adopted changes to the *Agricultural Land Commission Act* (ALC Act) and to the *Agricultural Land Reserve General Regulation* under Bill 15 which grants greater oversight powers to the Agricultural Land Commission (ALC). Some of the changes came into effect immediately, while others will be brought into force on September 30, 2020. The changes will affect all lands within the ALR.

In addition to the regulation changes, the ALC is currently conducting public engagement on secondary residences in the ALR. Any future policy changes would occur through changes to the Agricultural Land Reserve Use Regulation.

- **ALR General Regulation** – covers procedures for applications, subdivisions, inclusions, exclusions, and general administration.

- **ALR Use Regulation** – categorizes all uses on ALR land as Farm use, Non-farm use, Residential use, and Soil or Fill use, with specific regulations for each.

## DISCUSSION

### Regulation Changes

Effective March 12, 2020, the provincial government 1) adopted a new Agricultural Land Reserve General Regulation, and 2) renamed the existing Agricultural Land Reserve General Regulation, to the Agricultural Land Reserve Transitional Regulation.

Both regulations include components which have partial force and effect. On September 30, 2020, all portions of the new ALR General Regulation will come into effect, and the transitional regulation will be repealed.

#### Changes effective immediately

##### *1) Application Fee Process*

Previously, an applicant paid the legislated \$1500 application fee to FVRD after making an application. FVRD would keep \$300 and remit \$1200 to the ALC if the application was authorized to proceed. The new process sees the applicant pay only the local government portion (\$300) of the fee upon application. If an application is forwarded the ALC, the applicant pays the remaining \$1200 fee directly to the ALC. This new process creates simpler accounting for FVRD.

##### *2) ALC Decision Making Criteria*

The ALC has a mandate to i) preserve agricultural land, ii) encourage farming on agricultural land, and iii) encourage local governments to plan for agriculture. A new clause in the *ALC Act* (Section 6(2)) requires the commission to now give priority to:

- protecting and enhancing the integrity, and continuity of the land base of the ALR, and
- the use of the ALR for farm use

#### Changes coming into effect September 30, 2020

##### *3) Exclusion applications*

Individual land owners will no longer be able to submit an ALR exclusion application. Local Governments, First Nation Governments, the Province of BC, and prescribed public bodies will be the only entities able to make an exclusion application. Exclusion applications have become relatively infrequent; there have been two within FVRD's Electoral Areas in the last five years. This change should

reduce speculation on agricultural land. In the longer term, it may increase pressure on local governments to front-end area-based exclusion applications.

#### *4) Registration of Statutory Right of Ways*

Before an applicant can register a statutory right of way in the ALR, the applicant will have to prove the ALC has been notified. The Ministry of Agriculture, ALC, and Land Title Survey Authority are currently working on this process. The change is anticipated to have little impact on FVRD as referrals to the ALC are part of our standard procedures. Staff will, however, work with the ALC on this new process where applicable.

#### *5) Remediation Orders*

The ALC will have a new ability to register a remediation notice to a property's title if such an order is issued through ALC compliance and enforcement. This is a significant development that may help the ALC to achieve compliance. FVRD may have a role in ensuring property owners address any ALC requirements prior to issuing building, development, or other permits.

### **Secondary Residences in the ALR**

In February 2019, the Province brought Bill 52, *Agricultural Land Commission Act, 2018* (ALC Act) into force to better protect Agricultural Land Reserve (ALR) land for farming purposes. Bill 52 removed local governments' ability to permit additional residences necessary for farm use without the landowner applying to the ALC. The ALC now decides about applications for new additional residences and the ALC can only grant permission for additional residences that are necessary for a farm use.

Following the legislative changes, the Ministry of Agriculture undertook [public engagement](#) from September to November 2019 in order to provide an opportunity for ALR landowners and stakeholders to express their concerns and views regarding: residential uses of the ALR, economic diversification, and new and young farmers. From the engagement, the Ministry heard that ALR landowners wanted more options for additional residences on ALR parcels.

In response, the Ministry prepared the [Policy Intentions Paper: Residential Flexibility in the ALR](#) (policy paper) that outlines the types of additional residences under consideration. In terms of the options and scope of defining a "small secondary residence", consideration will be given to:

- a manufactured secondary home with conditions such as whether:
  - the foundation type should be limited to a concrete slab and no basement;
  - it can be restricted to a maximum of 9 meters in width and 22.86 meters in length; and
  - it can be restricted to the Canadian Standards Association (CSA) Z240 Manufactured Home (MH) series.

- a garden suite, guest house or carriage suite (e.g. usually meaning a detached dwelling, often no larger than 60m<sup>2</sup>);
- accommodation above an existing building on a farm with conditions on what type of existing structure it could be built on and whether it can be located on a parcel that already has a suite in the principal residence; and,
- permitting a principal residence to be constructed in addition to a manufactured home that was placed as the first principal residence.

In addition, concepts such as the maximum number of residences, maximum additional house/residence size, siting, and total floor area per parcel may also be considered as part of the policy options. The implementation of options outlined in the policy paper would occur through changes to the ALR Use Regulation.

Prior to any changes to the ALR Use Regulation, the Province is conducting further consultation with local governments to better understand the local governments' authority to regulate and/or prohibit residential uses permitted in the ALR. FVRD is currently participating in this ongoing discussion.

## **Impacts to FVRD Policies and Bylaws**

### *Zoning Bylaws*

There are currently some inconsistencies between FVRD zoning bylaws and ALC requirements for accessory family residences and accessory employee residences. Once new provincial rules are announced regarding secondary residences, FVRD may wish to amend its zoning bylaws.

### *Official Community Plans (OCP)*

The new ALR exclusion regulations which come into effect September 30, 2020, will cause portions of two FVRD OCPs to become inconsistent with the new rules.

- OCP Bylaw 75 Electoral Area D contains policies related to exclusion applications by individual land owners. These policies will be revised as part of the Area D OCP update which is currently underway.
- OCP Bylaw 150 for Yale and Emory Creek, Dogwood Valley, and Choate also contains policy related to support for some ALR exclusion applications. These policies will be superseded by the new provincial legislation.

### *Secondary Dwellings Policy*

The FVRD Secondary Dwellings Policy creates a framework for the introduction of secondary dwellings in the FVRD and provides a guide for the Regional District Board's consideration of future OCP and zoning bylaw amendments in support of secondary dwellings. The policy provides similar consideration

to maximum number of additional dwellings per property, maximum size of additional dwellings, and siting restrictions as is being considered by the Province for changes to the ALR Use Regulation. The considerations of the Secondary Dwellings policy have not yet been implemented through bylaw amendments, and consistency with the updated ALR Use Regulation for lands within the ALR can still be accommodated.

Additionally, the policy acknowledges that where inconsistencies exist between FVRD policy or bylaws and Provincial regulation, the Provincial regulation supersedes that of the FVRD:

- 3.1.7 Notwithstanding the policies contained herein, the Agricultural Land Reserve Use Regulation and the FVRD Floodplain Management Bylaw may contain provisions which supersede those of this Policy.

## **COST**

None

## **CONCLUSION**

This information note summarizes recent and upcoming changes to the *Agricultural Land Commission Act* and to the ALR Regulations that are most relevant to the Fraser Valley Regional District. Additional Information from the ALC and Ministry of Agriculture is attached.

## **COMMENTS BY:**

**Graham Daneluz, Director of Planning & Development:** Reviewed and supported

**Kristy Hodson, Acting Director of Financial Services:** Reviewed and supported

**Jennifer Kinneman, Chief Administrative Officer:** Reviewed and supported.

## **Attachments:**

- 1) ALC Information Update: Bill 15 Phase 1 in Force and Effect
- 2) Ministry of Agriculture Policy Intentions Paper: Residential Flexibility in the ALR