

**REGIONAL DISTRICT OF NANAIMO**

**AGRICULTURAL ADVISORY COMMITTEE**

**FRIDAY, November 25, 2016.**

**2:00 PM**

***(RDN Board Chambers)***

**A D D E N D U M**

**PAGES**

**REPORTS**

2-12

***Report included as per Agenda Item - Response to Changes to the Agriculture Land Reserve Use, Subdivision and Procedure Regulation – Gathering for Events***



on-farm activities while preserving the agricultural land base. “Gathering for an event” is unique in terms of status because it can be both a non-farm use and a farm use under the regulations depending on the circumstances. Unlike many of the permitted non-farm uses, local government cannot prohibit “gathering for an event”, but it can regulate it through a zoning bylaw.

“Gathering for an event” is considered a farm use when it is an “ancillary use” to a winery, cidery, brewery or distillery when the event is held in the lounge area and is in compliance with the area provisions for a food and beverage service lounge. The lounge area cannot exceed 125 m<sup>2</sup> indoors and 125 m<sup>2</sup> outdoors for a total of 250 m<sup>2</sup>. There are no conditions specified by the ALR Regulations related to “gathering for an event”, if it is an ancillary use in a winery, cidery, brewery or distillery. As such, there are no restrictions on the size, duration or frequency of events held in a food and beverage service lounge.

“Gathering for an event” is also a permitted use in the ALR. The new ALR Regulations consider “gathering for an event” to be a permitted use on ALR lands, only if all of the following conditions are met:

- a) The farm is classified as having farm status under the *Assessment Act*;
- b) No new, permanent structures are being built;
- c) All parking must be on the farm (no road parking) but the parking area must not be permanent nor interfere with the farm’s agricultural productivity;
- d) The number of guests at any event is 150 or less; and
- e) The number of events is 10 or less in a calendar year.

“Gathering for an event” can also be a non-farm use that requires approval from the ALC if it does not meet the conditions as set out in the ALR Regulation. For example, a farm wishes to hold a wedding with 200 guests, or host an 11<sup>th</sup> wedding on their farm in a calendar year then the landowner would have to apply to the ALC for non-farm use approval prior to proceeding.

**Table 1: Summary of ALC Reg. Changes - Gathering for an Event**

Activity	ALR Use Designation	Local Government Authority
Gathering for an event - within lounge area	Farm Use - ancillary use	Can regulate but not prohibit
Gathering for an event - not in lounge area	Permitted use – subject to conditions in ALR Reg.	
Gathering for an event (approved by ALC)	Non-Farm Use	Can regulate and/or prohibit

**DISCUSSION**

Staff have considered the new regulations and recognize that “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987” and “Regional District of Nanaimo Electoral Area ‘F’ Zoning and

Subdivision Bylaw No. 1285, 2002” do not address gathering for an event as a farm use or as a non-farm use.

To address this matter, staff have identified a few ways in which the Regional District of Nanaimo (RDN) could consider regulating the land use, such as:

- i. Have setbacks apply to the area to be used for the gathering for an event. Currently, setbacks only apply to buildings and structures. If gathering for an event (as a permitted or non-farm use) is not within a building then there are no zoning regulations that presently apply.
- ii. Limit the size of total area in which the use can occur, this may include indoor and outdoor space. A maximum size of 250 m<sup>2</sup> is already in effect for a lounge area. However, there are no size limits for a gathering that takes place outside of a lounge.
- iii. Not allow new construction or erection of permanent buildings, structures or the conversion of existing buildings for the purpose of creating venues for gathering for events.
- iv. Provide parking provisions that require that parking is to be accommodated on-site and surfacing material be non-permanent and permeable. Setbacks can also apply to parking.
- v. Not allow permanent alteration of the landscape to accommodate gatherings for an event.
- vi. For gatherings that are considered a non-farm use and require approval from the ALC a Temporary Use Permit could be used. With respect to regulating non-farm use not associated with a winery, cidery, brewery or distillery, there is an opportunity to expand the Temporary Use Permit (TUP) designation to allow TUPs to be issued for larger events that exceed the ALR Regulations and have ALC approval. A TUP can be used where a use is otherwise not permitted by zoning and all requests undergo public notification prior to the RDN Board making a decision. In this way, the public has an opportunity to provide input and the local government can also include conditions associated with the use, such as: limiting the hours of operation, limiting size in terms of numbers or attendees or area for use and frequency of event (e.g., no more than two events per year as well as requirements for on-site sanitation and post-event clean up).

## **SUMMARY/CONCLUSIONS**

Recent amendments to the Agriculture Land Reserve Use, Subdivision and Procedure Regulation in relation to gathering for an event has resulted in a preliminary review of the RDN’s zoning bylaws. Staff have identified several opportunities in which the zoning bylaws can be clarified to regulate this type of permitted use, including amending setbacks for use, clearly defining terminology and expanding the existing Temporary Use Permit designation to accommodate gatherings for larger events as approved by the Agricultural Land Commission.

Given the preliminary findings, there are regulatory means in which to efficiently manage land use in relation to gathering for an event through a zoning bylaw amendment. The next step will be for staff to prepare a bylaw amendment. As part of that process the AAC will be requested to review the bylaw amendment and make recommendations to the RDN Board.



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Jamai Schile  
Senior Planner



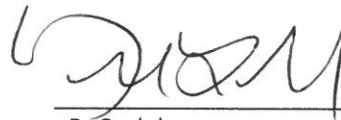
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G. Garbutt, General Manager  
Strategic & Community Development



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P Thompson  
Manager, Long Range Planning



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P. Carlyle  
Chief Administrative Officer

**Attachment 1  
B.C. Reg. 210/2016  
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**B.C. Reg. 210/2016**, deposited August 2, 2016, under the **AGRICULTURAL LAND COMMISSION ACT** [section 58 (2) (a), (a.1) and (b)]. Order in Council 602/2016, approved and ordered July 29, 2016.

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that the Agricultural Land Reserve Use, Subdivision and Procedure Regulation, B.C. Reg. 171/2002, is amended as set out in the attached Schedule.

— N. LETNICK, *Minister of Agriculture*; C. OAKES, *Presiding Member of the Executive Council*.

**SCHEDULE**

**1 Section 1 of the Agricultural Land Reserve Use, Subdivision and Procedure Regulation, B.C. Reg. 171/2002, is amended**

**(a) in subsection (1) by repealing the definition of "agri-tourism" and substituting the following:**

**"agri-tourism"** means

- (a) an activity referred to in subsection (4)
  - (i) that is carried out on land that is classified as a farm under the *Assessment Act*,
  - (ii) to which members of the public are ordinarily invited, with or without a fee, and
  - (iii) in connection with which permanent facilities are not constructed or erected, and
- (b) services that are ancillary to activities referred to in paragraph (a); ,

**(b) in subsection (1) by adding the following definition:**

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**"gathering for an event"** means a gathering of people on a farm for the purpose of attending

- (a) a wedding, unless paragraph (c) (ii) applies,
- (b) a music festival, or
- (c) an event, other than
  - (i) an event held for the purpose of agri-tourism, or
  - (ii) the celebration, by residents of the farm 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; , **and**

**(c) by adding the following subsection:**

(4) Agri-tourism on a farm means the following:

- (a) an agricultural heritage exhibit displayed on the farm;
- (b) a tour of the farm, an educational activity or demonstration in respect of all or part of the farming operations that take place on the farm, and activities ancillary to any of these;
- (c) cart, sleigh and tractor rides on the land comprising the farm;
- (d) subject to section 2 (2) (h), activities that promote or market livestock from the farm, whether or not the activity also involves livestock from other farms, including shows, cattle driving and petting zoos;
- (e) dog trials held at the farm;
- (f) harvest festivals and other seasonal events held at the farm for the purpose of promoting or marketing farm products produced on the farm;
- (g) corn mazes prepared using corn planted on the farm.

**2 Section 2 is amended**

**(a) by repealing subsection (2) (e) and substituting the following:**

- (e) agri-tourism, other than accommodation; ,

**(b) by repealing paragraph (d) in the definition of "ancillary use" in subsection (2.4), and**

**(c) in the definition of "ancillary use" in subsection (2.4) by adding the following paragraphs:**

- (e) cooking classes, if

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- (i) 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, and
  - (ii) the service of food is permitted under a manufacturer licence issued under the *Liquor Control and Licensing Act*;
- (f) gathering for an event, if the event is held only in the lounge referred to in paragraph (b) or the special event area referred to in paragraph (c) of this subsection, and, for this purpose, section 3 (4) (k) does not apply; .

**3 Section 3 is amended**

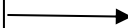
**(a) in subsection (1) by adding the following paragraphs:**

- (s) a refuge for wildlife, if operated in compliance with the *Wildlife Act*;
- (t) a facility that shelters and cares for surrendered, abandoned or seized livestock. , **and**

**(b) in subsection (4) by adding the following paragraph:**

- (k) gathering for an event, if all of the following conditions are met:
- (i) the farm must be located on land classified as a farm under the *Assessment Act*;
  - (ii) permanent facilities must not be constructed or erected in connection with the event;
  - (iii) parking for those attending the event must be available on the farm, but must not be permanent nor interfere with the farm's agricultural productivity;
  - (iv) no more than 150 people, excluding residents and employees of the farm, may be gathered on the farm at one time for the purpose of attending the event;
  - (v) the event must be of no more than 24 hours duration;
  - (vi) no more than 10 gatherings for an event of any type may occur on the farm within a single calendar year.


Section  
3(4)(k)(ii)





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ALC Policy L-22  
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 <p><b>Agricultural Land Commission Act</b></p>	<p>Policy L-22 October 2016</p> <p>ACTIVITIES DESIGNATED AS A PERMITTED NON-FARM USE: GATHERING FOR AN EVENT IN THE AGRICULTURAL LAND RESERVE ("ALR")</p>
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This policy is intended to assist in the interpretation of the [Agricultural Land Commission Act](#), 2002, including amendments as of September 2014, (the "ALCA") and BC Regulation 171/2002 ([Agricultural Land Reserve Use, Subdivision and Procedure Regulation](#)), including amendments as of August 2016, (the "Regulation"). In case of ambiguity or inconsistency, the ALCA and Regulation will govern.

**REFERENCE:**

*Agricultural Land Commission Act, S.B.C. 2002, c. 36, Section 1.*

*Agricultural Land Reserve Use, Subdivision and Procedure Regulation (BC Reg. 171/2002), the "Regulation", Section 1(4) and Section 3(4).*

*Section 3(4) The following non-farm uses are permitted in an agricultural land reserve and must not be prohibited by a local government bylaw or, for lands located in an agricultural land reserve that are treaty settlement lands, by a law of the applicable treaty first nation government:*

*(k) gathering for an event, if all of the following conditions are met:*

- i. the farm must be located on land classified as a farm under the [Assessment Act](#);*
- ii. permanent facilities must not be constructed or erected in connection with the ~~event~~;*
- iii. parking for those attending the event must be available on the farm, but must not be permanent nor interfere with the farm's agricultural productivity;*
- iv. no more than 150 people, excluding residents and employees of the farm, may be gathered on the farm at one time for the purpose of attending the event;*
- v. the event must be of no more than 24 hours duration;*
- vi. no more than 10 gatherings for an event of any type may occur on the farm within a single calendar year.*

Section  
3(4)(k)(ii)

*Section 1 (4) Definitions:*

**"gathering for an event"** means a gathering of people on a farm for the purpose of attending

- (a) a wedding, unless paragraph (c) (ii) applies,*

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ALC Policy L-22  
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*(b) a music festival, or*

*(c) an event, other than*

*(i) an event held for the purpose of agri-tourism, or*

*(ii) the celebration, by residents of the farm 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.*

*Section 2(2.4) In subsections (2.1) to (2.3):*

*(f) gathering for an event, if the event is held only in the lounge referred to in paragraph (b) or the special event area referred to in paragraph (c) of this subsection, and, for this purpose, section 3 (4) (k) does not apply.*

**INTERPRETATION:**

Gathering for an event is a permitted non-farm use in the Agricultural Land Reserve and must not be prohibited by a local government bylaw as long as the event meets the conditions set out in the Regulation.

No more than 150 people may be in attendance and the event must be less than 24 hours in duration.

A maximum of 10 events of any type are permitted within a calendar year on a farm. For example, 5 weddings, 2 music concerts and 3 art shows. Where more than one farm business is being operated from a farm, the maximum 10 events applies. It is recommended that a record of events be maintained by the farmer including type of event, date and number of attendees.

There is no requirement for these events to directly market or promote agricultural products grown on the farm and therefore are not considered agri-tourism events.

People hosting events must make every effort to avoid negative impacts to the use of agricultural land including but not limited to, damage to agricultural land and structures, noise that disturbs animals and livestock, trespass, vandalism, theft and blocking access to adjacent farm businesses.

Events may include weddings, private parties, corporate retreats, music concerts and concert series, music festivals, film and theatrical presentations, art shows, dance recitals, charitable and political fundraising events, dances, and sports events, so long as otherwise compliant with the Regulation. Any event that is not an agri-tourism event falls into this category.

The Regulation allows gathering for events in the ALR provided the land is assessed as "farm" under the *Assessment Act*. If the assessment changes, the use is no longer permitted. The farm may be comprised of one or several parcels of land owned or operated by a farmer as a farm business. The farm parcels should be contiguous or in the same general geographic area.

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Permanent facilities must not be constructed or erected for any event activity. Permanent facilities include, but are not limited to: buildings or permanent structures, hard surface parking areas, concrete pads, structural foundations, retaining walls, permanent tents (erected for more than 90 days) and permanent alteration to the landscape (fill, gravel, berms, hills, dugouts, amphitheatres). The conversion of existing buildings and the construction associated with bringing them up to public assembly building code is also deemed as the construction or erection of a permanent facility. If permanent facilities are required, an application and approval of the Commission is necessary.

For the purposes of this policy, parking areas must not be permanent (asphalt, concrete, gravel, etc) and parking must not interfere with the farm's agricultural productivity. All vehicles visiting the farm for the event must be parked on site. To minimize impacting farm land, parking should be along field edges, adjacent to internal farm driveways and roads, and in farm yard areas or immediately adjacent to farm buildings and structures.

Personal family celebrations hosted by the farm owner where no fee is charged continue to be allowed.

This Policy does not apply to agri-tourism activities. See Related Policies.

As per subsection 2.4(f) of the regulation, these conditions do not apply to wineries, cideries, meaderies, breweries and distilleries if the event(s) is held only in the ancillary food and beverage service lounge that has been developed in compliance with section 2(2.4)(b) of the Regulation. Regulation section 3(4)(k) and associated restrictions apply if the event(s) are held outside the lounge area. This means wineries, cideries, meaderies, breweries and distilleries may host an unlimited number of events in their lounge area and an additional 10 events as per section 3(4)(k) held outside the lounge area.

Local governments have the authority to regulate events with regard to structures and building occupancy (including determining if an existing farm building is appropriate for a gathering or requires upgrades for public assembly), parking, lighting, hours of operation, health and safety, noise, access for police, fire and emergency vehicles, etc. Local governments have the authority to require permits for events.

Events in excess of the what is permitted under section 3(4)(k) require an application pursuant to section 20(3) of the Agricultural Land Commission Act and approval of the Commission.

**TERMS:**

**family event** means an event attended by

- (a) family members, and
- (b) close personal friends or close business associates of family members

**family member** with respect to a person means

- (a) parents, grandparents and great grandparents,
- (b) spouse, parents of spouse and stepparents of spouse,
- (c) brothers and sisters,
- (d) children or stepchildren, grandchildren and great grandchildren, and

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(e) aunts, uncles, cousins, nephews and nieces

**fee or other charge** includes a gift in lieu of a fee or charge given in connection with the event

**wedding** means the ceremony of marriage or a marriage-like ceremony and/or the reception celebration

**music festival** means concert or concert series no more than 24 hours in duration

Unless defined in this policy, terms used herein will have the meanings given to them in the ALCA or the Regulation.

**RELATED POLICY:**

ALC Policy L-04 Activities Designated as a Farm Use: Agri-Tourism Activities in the ALR

ALC Policy L-03: Activities Designated as Farm Use: Wineries and Cideries in the ALR

ALR Policy L-21: Activities Designated as Farm Use: Brewery, Distillery and Meadery in the ALR