THOMPSON-NICOLA
REGIONAL DISTRICT
The Region of BC's Best

**Development Services**

**BOARD OF DIRECTORS**

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| **TO:** | Chair and Board of Directors | **Meeting Date:** | February 24, 2022 |
| **FROM:** | General Manager of Development Services | | |
| **SUBJECT:** | **Bylaw 2758 Zoning Bylaw amendments for ALR residential flexibility changes** | | |

**RECOMMENDATION:**

1. **THAT Zoning Amendment Bylaw 2758, 2022 be introduced and read a first time.**
2. **THAT information notices regarding the changes are placed in all TNRD newspapers**.

R. Sadilkova
GM of Development Services

Approved for
Board Consideration
CAO

**PURPOSE:**

This report recommends first reading of Bylaw 2758 to amend Zoning Bylaw 2400 so as to enable the Agricultural Land Reserve (ALR) Regulation changes, in effect January 1st of 2022. The changes are in the category of non-farm use that is permitted, within limits, by BC legislation that the Agricultural Land Commission (ALC) recommends be regulated by local government. **Local bylaws can be more strict but must not be more permissive**.

**SUMMARY:**

This report outlines recommended Zoning Bylaw 2400 changes to allow an additional detached dwelling unit in conjunction with the *agricultural or horticultural use* in various rural zones on both ALR and NON-ALR land – *in parallel*. It also recommends reducing the required parcel area from 8ha to 4ha (10 acres).

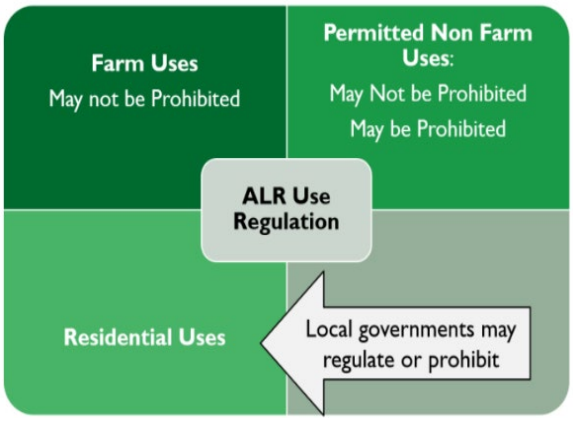
The changes significantly increase the opportunities for rural landowners to construct one additional freestanding dwelling, albeit with provisos as to size and location. This report undertakes the following:

1. Relay and explain the ALC changes, including background
2. Discuss the benefits and challenges of these changes in the TNRD context
3. Explain what the current TNRD regulations allow
4. Suggest how we may revise and harmonize TNRD Zoning Bylaw 2400

**Local governments are encouraged to adopt the ALC changes to their context and bylaws**.

**BACKGROUND:**

In early 2019 the *Agricultural Land Commission (ALC) Act* and *ALR Use Regulation* (the "Regulation") were broadly amended, in particular for dwellings. The Regulation required that the total gross floor area (i.e. total of all the floor levels) of a principal residence not exceed 500m$^2$ [5382ft$^2$] AND manufactured homes (MH) for immediate family were no longer allowed. After the announcement, the Province heard a good deal of opposition to the loss of an MH for family.




By July of 2019, the Regulation was amended to temporarily continue to allow MHs for immediate family *subject to specific criteria*. Subsequently, in April of 2021, it was amended *anew* to extend the period to the end of 2021. The ALC spent a year consulting and finally established the NEW regulations.

On July 12, 2021, an Order in Council amended ALR Use Regulation, BC Reg. 30/2019, effective 2022. Qualifying the ALC does not generate regulations: these are handed down from the Province, particularly the Ministry of Agriculture (MoA). Still, it remains ALC's responsibility to interpret and administer regulation and to interact with local government. As per ALC recommendation, local government can and should impose criteria/restrictions for an additional dwelling. **The most restrictive rule applies.**

**DISCUSSION:**

**Prev ALC Regulations**

**End of 2021**

Until December 31, 2021, the ALC allowed one main residence of up to 500m$^2$ (with or without secondary suite) and one MH up to 9m wide for immediate family - *provided local zoning bylaws do not foreclose this and many did*. If an ALR landowner wished to exceed this they must submit a NARU or *non-adhering residential use* application to the ALC and a variance or rezoning application to the given local government.

**For decades and up to today, the TNRD Bylaw allowed a MH for family or farm help in or out of the ALR but it was limited to the following: 5m wide MH (i.e. a single wide); parcels over 8ha in area; Class 9 Farm assessment; 8m setback to any property line; a covenant on title; and servicing (water/septic).**

## What are the ALC changes effective January 1, 2022?

As of 2022, permitted residential uses on ALR are based on parcel area, as illustrated, AND what is permitted by the local bylaw.


- **ALR parcels <40ha** can have max one 500m$^2$ principal residence and one 90m$^2$ additional residence;

*Aside: while the new rules are more open to options, note that double-wide & most single MHs are over 90 m$^2$.*

- **Parcels >40ha** can have one lawfully built principal residence- (which could be >500m$^2$ if built prior to 2019 or has ALC approval) and 1 186m$^2$ [2002ft$^2$] additional home.


A variety of housing forms are allowed under the new ALR regs; where, a Local Gov can limit to say, units above farm buildings or MHs, etc.

*Aside: According to ALC officials, many BC local governments have responded that they are not revising bylaws to enable additional dwellings.*

## What housing types are allowed as additional dwellings?

The ALC provided samples of housing forms that would be acceptable under the new Regulations. See images above. These can be limited to any or some of the following: MH, unit above a farm building, garden suite, or carriage house meaning a unit above a garage. The TNRD can determine which, *if any,* we wish to permit (e.g. *continue to allow MHs only or above ground level farm use or small site-built*).

**Staff recommends allowing a broad range of types (i.e. not limit it), PROVIDED parcel area be over 4ha.**

**Staff also recommends that we do not further reduce dwelling area from the 90m$^2$ or 186m$^2$ stipulated.**

**Are secondary suites allowed?**

There is no allowance for a secondary suite in an additional residence but suites (not duplexes) are still allowed in primary residences under s. 31 of the Regulation. If an owner seeks multiple farmworker housing on a parcel, this is only permitted by a NARU application and if the workers are in the same additional residence which may only have one kitchen.

**What does "*total floor area*" comprise?** *Acknowledging that the regulations are complete!*

The ALC definition of "total floor area" applies if a local zoning bylaw does not define this term. They advise that – *if we have a definition* - we should use it, qualifying that we must use their definition in the case of the principal or primary dwelling – see the insert below. These limits make sense and are established to reduce the farmland that is used for residential purposes. They foreclose the construction of homes such as that pictured below.

Imagine a 90m$^2$ [968 ft$^2$] additional dwelling if the total area includes attics and garages, this is problematic – i.e. *a double garage can take half the allotted area of 90m$^2$*. The ALC acknowledges the Ministry's intent for additional residences is to be small and accessory.

Zoning Bylaw 2400 has a current definition for *Gross Floor Area* which is applied to other cases of zoning caps on building sizes. Given it does not apply to the new requirements, staff suggest adding the following definition: (ALR & non-ALR)

*ADDITIONAL DWELLING TOTAL FLOOR* ***AREA*** means the horizontal area measured to the outer surface of exterior walls, including:

a) hallways, landings, foyers, staircases, stairwells;
b) enclosed balconies, porches, or verandas, finished basements,
c) attached carports or garages unless the additional dwelling occupies the second storey above a one storey garage or is contained within a permitted building such as a barn or other farm use; but

Aside: **Definition of Primary Dwelling**

There is also a specific different definition for how we must calculate the total area of a main dwelling (i.e. up to 500m$^2$). See the ALC website for the full definition or the summary below:

***TOTAL FLOOR AREA*** *means, the total area of all floors measured to the outer surface of the exterior walls, including corridors, hallways, landings, foyers, staircases, stairwells, enclosed balconies, enclosed porches or verandas, and excluding:*

*(a) attached garages and unenclosed carports to a cumulative maximum of 42 sqm;*

*(b) basements that do not end beyond . . exterior wall of the 1st floor (basement meaning area having more than 1/2 its height below the average grade;*

*(c) attics, with attic meaning unfinished space between the roof with the ceiling less than 2m . . . .*

excludes unfinished non-habitable attic or basement spaces less than 2 metres in height.

**This definition respects ALC's intent and is consistent with the BC Building Code.**


This Richmond ALR dwelling is >500m$^2$ & would require NARU approval.

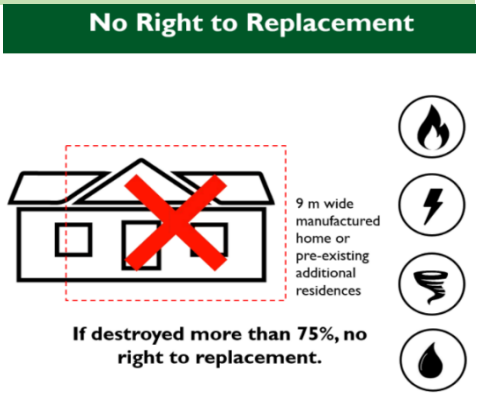
## Order of Placement & Number of Dwellings

There is no required order of placement principal vs. additional dwelling; however, a property can only have two detached dwellings. If the principal residence is larger than 500m$^2$ on a parcel less than 40ha in area, it does **not** qualify for an additional residence. Similarly, if one already has a principal residence and MH, they do **not** qualify for another new or additional residence.

## What is or is not 'grandfathered'?

Any lawfully constructed dwelling, meaning with a building permit, in compliance with both ALR regulations and local bylaws, prior to 2022, may be retained in its size and footprint, including:

- additional residence necessary for farm use
- MH for a family member
- additional residence conditionally approved by ALC
- residences that pre-date the ALR (1972)
- additional residence in former Zone 2
- a unit above an existing structure on a farm




**NOTE**: a clause foreclosing the right to replacement- *if destroyed over 75% above foundation* - was added to the Act for MHs or pre-existing additional residences. This is identical to other non-conforming limits in legislation. Our Bylaw will merely defer to the ALR rather than spell out regulatory details.

## Manufactured Homes (MH) vs. site-built additional dwellings & transition

Importantly, after 2021, additional dwellings are no longer limited to the owner or owner's immediate family but must stay the same size and footprint. So large MHs that had received all necessary authorizations (including Building Permit) before the end of 2021, can now be used for open-market rental revenue. **Qualifying, if an MH is >90m$^2$ [9968 ft$^2$] and is the *only* residence on a parcel on December 31, 2021, it is now deemed the principal residence.**

## Non-Adhering Residential Use (NARU)

Additional residences which do not meet the Regulation require a NARU application and can only be approved if necessary and justifiable for farm use. For example, if there is a principal residence larger than 500m$^2$ on a parcel less than 40 ha, an additional residence is not allowed outright and requires an application.

**The ALC must confirm if previous conditions can be waived. Local governments must not issue new permits unless consistent with ALR Regulation.**

## What does CURRENT Zoning Bylaw 2400 allow across the TNRD?

At present it allows a second dwelling on 8ha+ parcels having Class 9 Farm assessment *whether within ALR or not*. Current Bylaw 2400 reads as follows:

3.6.1 There shall be no more than one *single-family dwelling*, one *duplex* or one *manufactured home* on any *parcel* unless expressly permitted in this Bylaw . . .

3.6.2 Notwithstanding s. 3.6.1, where a *parcel* is used exclusively for *agricultural or horticultural use* in the AF-1, AF-2, or RL-1 Zones, an additional detached *dwelling unit* in conjunction with the *agricultural or horticultural use* is only permitted on that *parcel* subject to the following:

a) the *parcel* must be classified as 'Farm' under the Assessment Act;
b) the *parcel* area must be at least 8 hectares;
c) any additional dwelling must be occupied only by a member of the owner's immediate family or by a person employed in agricultural operation;
d) any additional dwelling must be 8 metres or more from any *parcel* boundary; and
e) any additional dwelling must be serviced with on-site water and sewage disposal in accordance with the requirements of the Provincial authority having jurisdiction.

3.6.3 In addition to the preceding, no more than one dwelling per parcel is permitted on ALR lands unless expressly approved by the Agricultural Land Commission.

3.6.4 Where an additional *dwelling unit* for *agricultural and horticultural use* is permitted pursuant to s.3.6.2, the owner must register a restrictive covenant against the title of the *parcel* under s.219 of the Land Title Act prohibiting the use of the additional dwelling for any other tenancy than the occupancy of a person(s) engaged full-time in *agriculture and horticulture* work on the property.

***Recall that . . .***

Bylaw 2400 also allows (additional to a permanent dwelling) for temporary installing of a CSA Z240 MH as a short-term residence to assist with medical care and daily living needs of (or by) the owner or a relative of the landowner. The temporary dwelling provision permits "*accessory accommodation use*" subject to certain conditions including physician certification, minimum parcel area, and covenant registration. The Bylaw must be clear that **three** dwellings, a primary home, an additional dwelling, and a temporary MH for assisted living are not permitted under the ALR regulations, or Bylaw 2400. Some minor clarification to the Bylaw text is required for concordance to the ALC changes and the additional dwelling changes.

**What did the TNRD Advisory Agricultural Commission (AAC) recommend?**

Our AAC met to discuss changes to the Zoning Bylaw to align with ALR changes. They offered the following input and recommendations to inform potential Bylaw 2400 changes:

- most critically, the allowance for a second dwelling lands be tied to "farm" assessment;
- support reducing current parcel size for second dwellings from 8 to 6ha but no lower than 4ha. A reasonable minimum area is needed to prevent second dwellings on undersized lots;
- any bylaw change should avoid regulating driveway size or soil as it is not practical to enforce and there should be flexibility – specific soil regulations should default to ALR legislation for ALR lands;
- ideally, second dwelling placement should be limited to non-arable soils - no homes should not be placed in prime agriculture land (e.g. can be above a barn); and
- follow ALR home size limits for consistency, rather than set a lower TNRD size threshold.

**Additional comments:**
AAC expressed frustration with repeated ALC changes in recent years. These seesaw amendments have made it confusing for residents and staff alike and have resulted in continual bylaw amendments trying to keep up alignment with BC legislation.

**Before considering changes, note some ALR anomalies . . .**

Given ALR changes and with AAC input, Planning Services have reviewed Bylaw 2400 and suggest the Board authorize changes. Before forging ahead, note some TNRD anomalies within the ALR that need to be considered:

- There are entire communities surveyed ~100 years ago with tiny 1/8 acre parcels (e.g. Walhachin) that are entirely ALR. If no minimum parcel area is stipulated and farm assessment is not required, then each parcel owner could build an additional dwelling.
- There are hundreds of former Crown leaseholds on lakefronts that are now fee simple lots of +/-1 acre across the TNRD that remained within ALR. Given a lake's capacity and septic impacts as well as neighbour to neighbour conflict, we do not recommend doubling density on recreational properties.
- We have small lot (1/2 to 2 acre) subdivisions that were racing ALR creation in 1972-1973 and were approved but are nonetheless ALR. Again, doubling the density on these parcels is not viable

**What about Temporary Dwellings for caregiving?**

Staff recommends leaving this allowance in place but adding a provision to clarify the size restriction for ALR lands to be consistent with ALC regulation and to cite the maximum of two detached homes. Finally, we suggest replacing the limit to a single wide MH with an area and suggest 115m$^2$ (1238ft$^2$) is reasonable. This covers the larger single wide MH or the split offset units recently installed in the region.

**What are the recommended changes to Zoning Bylaw 2400?**

When a zoning bylaw is opened for change, there are often requests to simply drop all (or most) limitations outright permissively. Going back to 1972, even then(!), our Zoning Bylaw limited when landowners could have an extra MH dwelling:

(b) There shall be no more than one single or two family dwelling or mobile home on any parcel, unless such parcel is used exclusively for agricultural, horticultural or logging practice.

In 1984 under Bylaw 940 this provision evolved to limit the additional dwelling to Class 9 Farm assessment on certain rural zones and 8ha (20 acres) in area. This has remained in place for decades thus proposed changes to the Bylaw are significant. Please find the changes to s. 3.6.2 below with the discussion shown in ***blue*** for ease of reference:

> Where a *parcel* is used exclusively for a*griculture or horticultural use* in the AF-1, AF-2, RL-1 **& SH-1** zones, an additional detached *dwelling unit* in conjunction with the *agricultural or horticultural use* is only permitted on that *parcel* subject to the following:
>
> > *If we reduce the parcel area required for an additional dwelling under b) see below, it may make sense to add **SH-1: Small Holdings** zone (a parcel minimum of 2ha but many are 4ha or more)*.

a) *the parcel* must be classed as 'Farm' under the Assessment Act;

*Farm assessment is the key indicator of the ability to farmland. We recommend to continue to require confirmation of Class 9 for all additional dwellings, given the following:*

- *the extent of potential rural overdevelopment especially on the edge surrounding cities and towns is significant – increased help for farms is good as is the rental revenue but it is not the solution for urban homelessness or urban housing shortages;*
- *both AAC and ALC urge us to include a requirement for property to hold Class 9 Farm status;*
- *allowing it any/ everywhere contradicts all TNRD long-range planning policy and bylaws; and*
- *two dwellings on a parcel drive land cost up and we do not want to encourage this trend.*

b) the *parcel* area must be at least ~~8 hectares~~ **4 hectares;**

*Parcel area is critical in our consideration. The ALC has suggested this be considered in the local context and a minimum be established. On-site wells and septic systems for one (never mind two dwellings) have an inherent requirement for adequate parcel area. Larger rural parcels make for better neighbour relations, especially when allowing additional dwellings.*

*Also, changes could result in it being more restrictive on non-ALR lands than ALR lands. Setting a minimum parcel area is critical to protect the integrity of farmland and limit the increase in land valuation. Planning staff suggests decreasing the current 8-hectare minimum parcel area to 6 or even 4 ha for an additional residence on both ALR and non-ALR. This allows for additional dwellings on smaller parcels that can support the additional services.*

c) **for *parcel*s within the ALR, the additional dwelling gross floor area must not exceed 90 sqm if parcel area is 40ha or less and 186 sqm if over 40 ha, or as expressly approved by the ALC;**

*This proviso is added to remind readers of the ALR limit.*

d) **for *parcel*s not in the ALR, the additional dwelling gross floor area must not exceed 186 sqm;**

*The proposed Bylaw allows a slightly larger dwelling in non-ALR. Staff suggests 186m (~2000 sqft) as a max second dwelling size for non-ALR lands. Again, setting a minimum parcel area will be critical and this limit assumes a minimum parcel area of 4ha or even 6 ha.*

e) any additional dwelling must be serviced with water/sewage disposal in accordance with the requirements of the Provincial authority having jurisdiction.

*This reminds readers that there are Provincial Government requirements not repeated in this Bylaw*

**Proposed deletions from current Bylaw 2400 and why?**

**3.6.2 c) "any additional dwelling must be occupied only by a member of the owner's immediate family or by a person employed in agricultural operations;"**

Zoning Bylaw 2400 currently restricts who is permitted to occupy an additional residence to immediate family or a person employed in farm operations. By removing requirement 3.6.2 c), above, landowners may opt to have an additional residence for rental income to help offset the cost of operating the farm. This would reduce staff hours spent clarifying the difference between the TNRD zoning and ALR Regulations, as well as the time spent on processing restrictive covenants – see below.

**AND s. 3.6.4 the requirement for a s. 219 covenant**

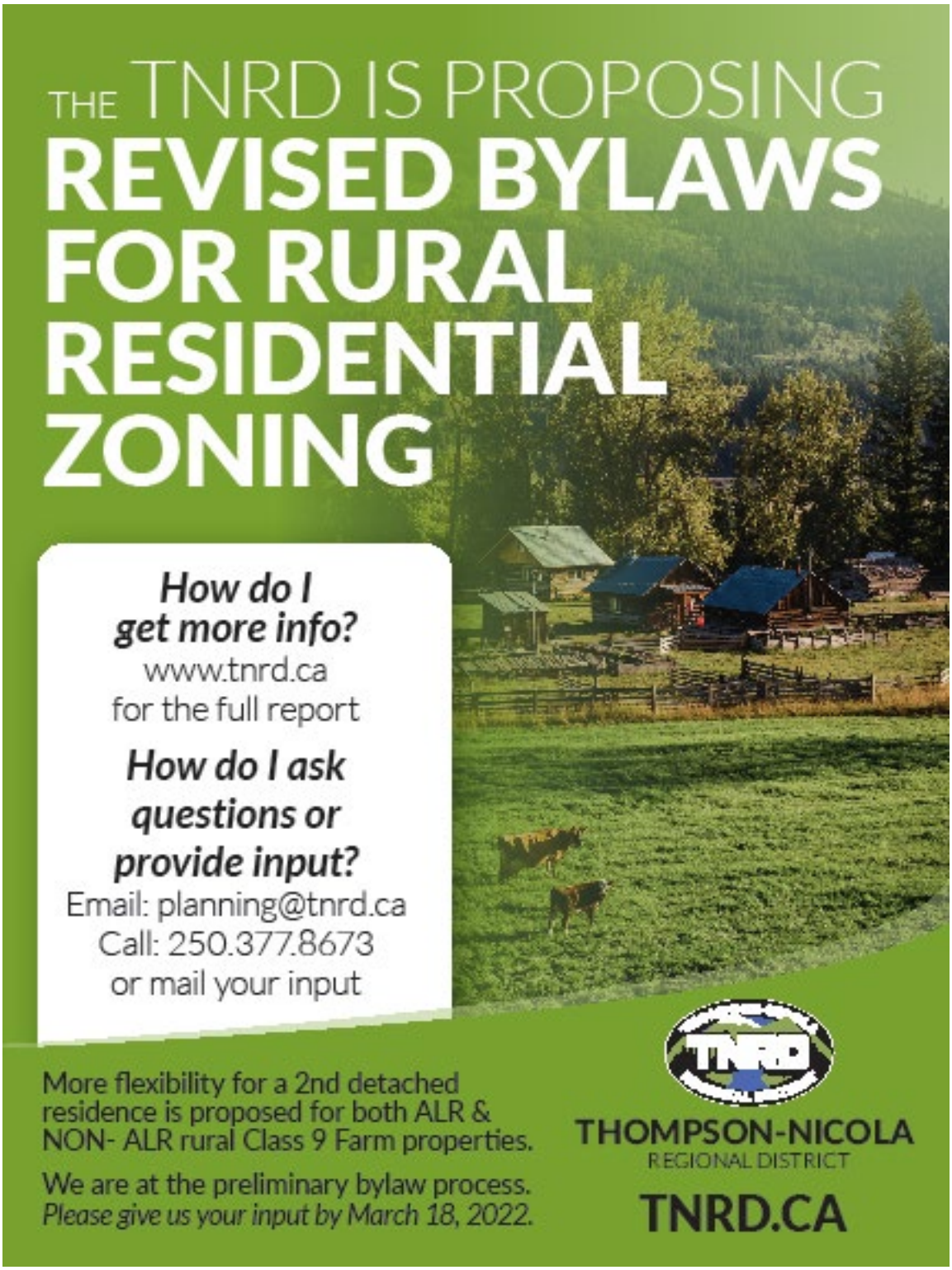
Currently, as part of the Additional Dwelling application process, we require that a landowner must register a restrictive covenant on title prohibiting the use of the additional dwelling for any other tenancy than the occupancy of a person(s) engaged full-time in agriculture and horticulture work on the property. Dropping the occupancy limitations means a covenant is superfluous. In cases where parcel area and home size fall within the new additional dwelling regulation, temporary dwelling covenants would no longer be required.

**COMMUNICATIONS OR PUBLIC CONSULTATION:**

**Public consultation is proposed to be via local newspapers and our website**. We suggest an informative display ad and have attached a draft of what we propose to issue. Given the complexity (see attached FAQ) and possible variety of context, zone, property, etc., no notice or ad can capture all the information. The ad will cover high-level points and direct anyone interested to our website or our office for a copy of this report including attachments.

**ATTACHMENTS**

- Proposed public notice display ad
- ALC FAQ sheet
- Bylaw 2758


THE TNRD IS PROPOSING
REVISED BYLAWS FOR RURAL RESIDENTIAL ZONING
How do I get more info?
www.tnrd.ca
for the full report
How do I ask questions or provide input?
Email: planning@tnrd.ca
Call: 250.377.8673
or mail your input
More flexibility for a 2nd detached residence is proposed for both ALR & NON- ALR rural Class 9 Farm properties.
We are at the preliminary bylaw process.
Please give us your input by March 18, 2022.
TNRD
THOMPSON-NICOLA
REGIONAL DISTRICT
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**RESIDENTIAL FLEXIBILITY IN THE ALR:**

# Frequently Asked Questions

December 2, 2021

**BACKGROUND:** On December 31, 2021, changes to the residential uses permitted in the ALR Use Regulation will come into force and effect.

This *Residential Flexibility in the ALR Frequently Asked Questions* document provides interpretation and clarification of the regulations and details any positions formally adopted by the Commission.

Refer to ALC Information Bulletin 05 Residences in the ALR for a more detailed interpretation of the *Agricultural Land Commission Act* and the ALR Use Regulation. Note that until December 31, 2021, Information Bulletin 05 will have both "Current" and "As of December 31, 2021" versions posted here.

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## GENERAL

**Q1: What are the new regulations for residential flexibility?**

Order in Council 438/2021, which was released on July 12, 2021 and will amend Part 4 of the Agricultural Land Reserve Use Regulation, provides for new regulations for residential uses in the ALR based on property size and the size of the existing principal residence which will be effective December 31, 2021.

On a property less than 40 ha, where there is a principal residence of 500 $m^2$ or less, one 90 $m^2$ additional residence may be permitted, subject to local government bylaws or First Nation Government laws.

On a property larger than 40 ha, where there is a lawfully constructed principal residence*, one 186 $m^2$ additional residence may be permitted, subject to local government bylaws or First Nation Government laws.

*a lawfully constructed principal residence refers to a residence that pre-dates the legislative changes made on February 22, 2019 under Bill 52 or a residence larger than 500 $m^2$ as approved by the ALC and constructed with appropriate authorizations. Back to Top

**Q2: How were the new regulations decided?**
The Ministry of Agriculture, Food and Fisheries in January 2020 publicly proposed its policy direction to increase residential flexibility in the ALR, as described in the Ministry of Agriculture Policy Intentions Paper: Residential Flexibility in the ALR. Subsequently, the Ministry undertook consultation with interested local governments and received public feedback to assist in further developing the policy options outlined in the Intentions Paper. A summary of the feedback was provided in the What We Heard Report. Back to Top

**Q3: When do the new regulations take effect?**
December 31, 2021. Back to Top

**Q4: What was the Ministry of Agriculture, Food and Fisheries' intention with the new regulations?**
In the Ministry's July 12, 2021 News Release associated with Order in Council 438/2021, the policy intention behind the regulation changes was described. In short, the changes are intended to provide farmers and non-farmers in the ALR the opportunity to have a small secondary residence. Back to Top

## PRINCIPAL OR EXISTING ADDITIONAL RESIDENCES

**Q5: How is total floor area calculated to confirm the size of an existing residence?**
Local government and First Nation Government staff may use existing building plans, where available, to confirm the size of an existing residence. If building plans are not available, the local government or First Nation Government will have to work with the applicant to get the necessary information to confirm the existing residence size. Back to Top

**Q6: If there is an existing 9 m wide manufactured home and a principal residence, is an additional residence permitted?**
No. The proposed additional residence would be the third residence and must be applied for through a Non-Adhering Residential Use (NARU) application to the ALC. In considering the application, the Commission cannot grant permission for the third residence unless it is necessary for farm use. Back to Top

**Q7: If I have a principal residence and farm worker accommodation, can I have an additional residence?**
No. Farm worker accommodation is considered a residence. The proposed additional residence would be the third residence and must be applied for through a Non-Adhering Residential Use (NARU) application to the ALC. In which case, the Commission must consider whether the residence is necessary for farm use. Back to Top

**Q8: Can I convert an existing residence that is larger than 90/186 m² into a 90/186 m² residence?**
Not without applications to the ALC. The conversion of a larger residential structure by declaring portions of the structure uninhabitable requires an application to the ALC. For example, if you have a 125 m² house and you are proposing to make 35 m² uninhabitable, an application to the Commission would be required. Back to Top

**Q9: Can I convert a portion of a structure that is larger than 90/186 m² into a 90/186 m² residence?**
It depends. The conversion of an existing structure like a barn to now include a 90/186 m² residence may be permitted if the residence portion is on the second storey or if there is a clear separation between the residence and the remaining structure. For example, that might be accomplished with a fire wall and no internal access between the residential and non-residential areas. Back to Top

**Q10: Can a local government restrict a principal residence size to less than 500 m²?**
Yes, residential uses under the ALR Use Regulation may be further restricted and/or prohibited by a local government or First Nation Government. Back to Top

**Q11: For parcels over 40 ha with no residence currently on it, does the 500 m² principal residence size restriction still apply?**
Yes, any principal residences constructed after February 22, 2019 must be 500 m² or less, except where approved through application by the ALC. Back to Top

**Q12: Where there is a legal, existing residence larger than 500 m², is a new additional residence permitted?**
You must first consider the size of the parcel.

If the property is less than 40 ha, then no. A new additional residence is only permitted on such properties if the principal residence has a total floor area of 500 m² or less.

If the property is larger than 40 ha, then yes, subject to local government bylaws or First Nation Government laws. The principal residence must be lawfully constructed* to have an additional residence.

*a lawfully constructed principal residence refers to a residence that pre-dates the legislative changes made on February 22, 2019 under Bill 52 or a residence larger than 500 m² as approved by the ALC and constructed with appropriate authorizations. Back to Top

## 90 M² OR 186 M² ADDITIONAL RESIDENCES

**Q13: What types of residences meet the requirements of the new regulations?**
As outlined in the Ministry's News Release, examples of flexible housing options permitted under the regulation include, but are not limited to:

- garden suites, guest houses or carriage suites
- accommodation above an existing building
- manufactured homes*
- permitting a principal residence to be constructed in addition to a manufactured home that was formerly a principal residence*

*After December 30, 2021, the size of a new manufactured home that is an additional residence must not exceed the applicable limit of either 90 or 186 m² unless the necessary authorizations have been received by December 30, 2021 as s. 32 (3) of the ALR Use Regulation read on December 30, 2021:

> (3) An additional residence that is a manufactured home and that is not a pre-existing residential structure is permitted if
> (a) the manufactured home is 9 m or less in width,
> (b) the manufactured home is used only by the owner or any of the following persons who are related within the meaning of subsection (4):
> (i) a person who is the owner's
> (A) parent, grandparent or great grandparent,
> (B) sibling, or
> (C) child, grandchild or great grandchild;
> (ii) the owner's spouse, or a person who is a parent of the owner's spouse,
> (c) all required authorizations to locate the manufactured home on the agricultural land are granted before December 31, 2021, and
> (d) the size and siting of the manufactured home is not altered after December 31, 2021, unless permitted under section 25 or 45 of the Act.

The type of housing may be further restricted and/or prohibited by local government bylaw or First Nation Government laws. Back to Top

**Q14: How is total floor area calculated to confirm the size of an additional residence?**
Total floor area (TFA) of the additional 90 or 186 $m^2$ residence permitted in the ALR Use Regulation (if permitted by local government bylaw or First Nation Government law), pursuant to Commission Resolution No. 086N/2021, is measured to the outer surface of exterior walls including corridors, hallways, landings, foyers, staircases, stairwells, enclosed balconies, enclosed porches or verandas, basements, and attached garages as part of the TFA unless the additional residence occupies the second storey above a one storey garage or is contained within a permitted building, and excludes attics with attic meaning the unfinished space between the roof and ceiling of the top storey of a building or between a partial wall and a sloping roof.

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**Q15: Can the additional residence be used for farm worker accommodation?**
Yes, the additional residence may be used for farm worker accommodation. Only one additional residence is permitted, so it cannot be divided up into multiple separate units or suites which would constitute multiple residences. As in other cases, the additional residence must also be permitted by the local government or First Nation Government.
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**Q16: Can the additional residence be used as a short-term vacation rental?**
Yes, the additional residence may be used for a short-term vacation rental. Only one additional residence is permitted, so it cannot be divided up into multiple separate units or suites which would constitute multiple residences. As in other cases, the additional residence must also be permitted by the local government or First Nation Government.
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**Q17: After December 31, 2021, can a 9 m wide manufactured home be placed during the construction/renovation of a principal residence on an interim basis?**
No. Unless necessary authorizations have been received by December 31, 2021, a 9 m wide manufactured home cannot be placed as an additional residence (temporary or permanent) as the size exceeds 90/186 $m^2$. A 9 m wide manufactured home is typically around 205 $m^2$. A Non-Adhering Residential Use (NARU) application to the ALC would be required. Back to Top

**Q18: Can the principal residence and additional residence sizes be manipulated to fall within the total areas permitted for residential uses (e.g., a 510 m² residence and an 80 m² residence)?**
No. A principal residence must not exceed a total floor area of 500 m², and an additional residence must not exceed a total floor area of 90 or 186 m², depending on the property size. Back to Top

## TOTAL FLOOR AREA

**Q19: How is total floor area calculated for these additional residences?**
The ALC's definition for **"total floor area"** (TFA) of the additional 90 or 186 m² residence permitted in the ALR Use Regulation (if permitted by local government bylaw or First Nation Government law), pursuant to Commission Resolution No. 086N/2021, is measured to the outer surface of exterior walls including corridors, hallways, landings, foyers, staircases, stairwells, enclosed balconies, enclosed porches or verandas, basements, and attached garages as part of the TFA unless the additional residence occupies the second storey above a one storey garage or is contained within a permitted building, and excludes attics with attic meaning the unfinished space between the roof and ceiling of the top storey of a building or between a partial wall and a sloping roof.

TFA for principal residences – see Q5 above.

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**Q20: Can an additional residence have a basement and garage?**
The Ministry of Agriculture's policy intention is that these additional residences be like carriage houses, garden suites and guest houses which don't commonly have basements and garages associated with them.

The ALC's definition of total floor area for an additional residence does allow for a basement and/or attached garage, but they count towards the total floor area (i.e. are included in the 90 m²/186 m² calculation). Back to Top

**Q21: Is the 90 m²/186 m² a total floor area or building footprint?**
Total floor area. Back to Top

## SECONDARY SUITES

**Q22: Can I have a secondary suite in the additional residence?**
No. Section 31 of the ALR Use Regulation permits only a single secondary suite in the principal residence, where a local government bylaw permits or First Nation Government law allows. Back to Top

**Q23: If there is a secondary suite in a principal residence, does a property still qualify for an additional residence?**
Yes, subject to the total floor area requirements and local government bylaws or First Nation Government laws. Back to Top

**Q24: Can a local government restrict a secondary suite use within a principal residence?**
Yes, residential uses under the ALR Use Regulation may be further restricted and/or prohibited by a local government or First Nation Government. Back to Top

## RESIDENTIAL ACCESSORY STRUCTURES

**Q25: Are there residential accessory structures that are necessary for an additional residence?**
Under s. 30 of the ALR Use Regulation, structures (other than residential structures) and driveways or utilities are permitted if they are necessary for a permitted residential use such as an additional residence.

The ALR Use Regulation does not exempt additional residences from the Act's restrictions on removing soil from or placing fill on agricultural land. Fill means any material brought onto agricultural land other than materials exempted by regulation, including structural fill and gravel. Soil and Fill Information - See Q30 below. Back to Top

## ORDER OF PLACEMENT

**Q26: Can the 90/186 $m^2$ residence be placed before or simultaneously with the 500 $m^2$ principal residence?**
Yes. Order of placement does not matter provided the total floor area limitations for the principal and additional residences are adhered to. In addition, the principal and additional residence must not be attached to, or part of, one another. Back to Top

## MANUFACTURED HOMES

**Q27: After December 31, 2021, does the 9 m wide manufactured home have to be used by the owner or the owner's immediate family?**

This answer applies to an additional residence that is a manufactured home 9 m or less in width for which all required authorizations are granted before December 31, 2021. After December 31, 2021 the manufactured home may be used by anyone, subject to local government bylaws or First Nation Government laws.

If there is a restrictive covenant held by the local government or First Nation Government requiring a manufactured home to be used only for immediate family, land owners can get in touch with that local government or First Nation Government to determine whether it can be discharged or not.

If there is a restrictive covenant held by the ALC requiring that a manufactured home can only be used for immediate family, land owners can get in touch with the ALC directly to determine whether it can be discharged or not.

Requests for ALC-held covenants can be made to the land use planning team within the applicable administrative region via email to the addresses listed below:

- South Coast: ALC.SouthCoast@gov.bc.ca
- Island: ALC.Island@gov.bc.ca
- Kootenay: ALC.Kootenay@gov.bc.ca
- Interior: ALC.Interior@gov.bc.ca
- North: ALC.North@gov.bc.ca
- Okanagan: ALC.Okanagan@gov.bc.ca

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**Q28: Can an addition be added to a 9 m wide manufactured home after December 31, 2021?**

No. After December 31, 2021, an existing or authorized 9 m wide manufactured home is considered grandfathered provided the size and siting is not altered. Additions to a grandfathered manufactured home require a NARU application to the ALC. Back to Top

**Q29: Can I replace an existing grandfathered manufactured home after December 31, 2021?**
No. After December 31, 2021, an existing or authorized 9 m wide manufactured home is considered grandfathered, but there is no automatic right of replacement. To replace a grandfathered 9 m wide manufactured home, that is not a principal residence, requires a NARU application to the ALC. In which case, the Commission must consider whether the residence is necessary for farm use. Back to Top

## SOIL AND FILL USE

**Q30: Is an application to the ALC required if the removal of soil or placement of fill is required for the construction of an additional residence?**
Yes. Fill means any material brought onto agricultural land other than materials exempted by regulation, including structural fill and gravel.

It is likely that most, if not all, additional residences will require the submission of a Notice of Intent (NOI) application to the ALC before a local government issues a building permit. The application fee is $150 and is submitted on the ALC's application portal. Read more about soil and fill uses in ALC Information Bulletin 07.

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**Q31: Are there any exemptions or an amount of soil removal or fill placement that is permitted for an additional residence without a Notice of Intent (NOI)?**
No. Back to Top

**Q32: Does the 1,000 m² threshold for fill placement or soil removal for a principal residence remain in effect after the residential flexibility changes take effect on December 31, 2021?**
Yes, under s. 35(a) of the ALR Use Regulation the permitted 1,000 m² fill area continues to apply to the construction of a principal residence. There are no fill placement or soil removal provisions for the 90/186 m² additional residence. It is likely that most, if not all, additional residences will require the submission of a Notice of Intent (NOI) to the ALC before a local government issues a building permit. The application fee is $150 and is submitted on the ALC's application portal. Back to Top

**Q33: If a local government bylaw does not regulate soil or fill, would the ALC be the enforcement agency if someone places fill associated with an additional residence?**

Yes. However, local governments and First Nation Governments are not permitted to issue building permits for an additional residence where structural fill, including aggregate, is necessary for the construction of the 90/186 $m^2$ additional residence, unless the fill placement was approved in accordance with the *Agricultural Land Commission Act* and ALR Use Regulation, i.e. an approved Notice of Intent. Back to Top

## APPLICATIONS

**Q34: Can a landowner apply for a third or more residence?**

Yes, a landowner may submit a Non-Adhering Residential Use (NARU) application for a third or more residence. However, under the *Agricultural Land Commission Act* the ALC must not grant permission for such a residence unless it is necessary for a farm use. Back to Top

## BUILDING STRATA CONVERSIONS

**Q35: Is it the intention that both residences would be maintained under a common real estate entity?**

Yes. There is no right to subdivision with the construction of an additional residence.

Subdivision of ALR land requires an application to the ALC. Strata conversion is considered a subdivision requiring an application for subdivision to the ALC. Back to Top

**Q36: How will the ALC ensure that the residences are not stratified after a building permit is issued?**

Building stratification is a form of subdivision which requires an application to the ALC.

Under Section 19 of the *Agricultural Land Commission Act*, the Registrar of Titles must not, under the *Land Title Act* or the *Strata Property Act*, accept an application for the deposit of a plan if it would cause the subdivision of agricultural land. Back to Top

## MISCELLANEOUS

**Q37: How does the additional residence apply to agri-tourism accommodation?**
If an applicant would like to use the additional residence for agri-tourism accommodation purposes, it will be counted towards the 10 permitted agri-tourism accommodation units and must meet all other requirements of s. 33 of the ALR Use Regulation. Agri-tourism accommodation may be further restricted and/or prohibited by a local government or First Nation Government. Back to Top

**Q38: How does the regulation apply when a property is partially in the ALR?**
The ALC only regulates the portion of the property that falls within the ALR, though local government bylaws may also apply. Outside of the ALR, only local government bylaws apply. Back to Top

--End--

# THOMPSON-NICOLA REGIONAL DISTRICT

## BYLAW NO. 2758

A bylaw to amend "Thompson-Nicola Regional District Zoning Bylaw No. 2400"

WHEREAS the Board of Directors of the Thompson-Nicola Regional District has adopted Zoning Bylaw No. 2400, 2012;

AND WHEREAS the Board of Directors deems it desirable to amend Bylaw No. 2400, 2012;

NOW THEREFORE, the Board of Directors, in open meeting assembled, enacts as follows:

1. This bylaw may be cited as "Thompson-Nicola Regional District Zoning Amendment Bylaw No. 2758, 2022."

2. **Zoning Bylaw 2400, 2012, Part 1 Definitions is amended by adding the following in alphabetical order:**

*ADDITIONAL DWELLING TOTAL FLOOR AREA* means the horizontal area measured to the outer surface of exterior walls, including:

a) hallways, landings, foyers, staircases, stairwells;
b) enclosed balconies, porches, or verandas, finished basements;
c) attached carports or garages unless the additional dwelling occupies the second storey above a one storey garage or is contained within a permitted building such as a barn or other farm use; but

excludes unfinished non-habitable attic or basement spaces less than 2 metres in height.

3. **Zoning Bylaw 2400, 2012, s. 3.6 *Dwellings and Additional Dwellings per Parcel*, is amended by deleting s. 3.6.2, 3.6.3, and 3.6.4 in its entirety and replacing it as follows:**

3.6.2 Notwithstanding s. 3.6.1, where a *parcel* is used for *agricultural or horticultural use* in the AF-1, AF-2, RL-1 or SH-1 Zones, an additional detached *dwelling unit* in conjunction with the *agricultural or horticultural use* is only permitted on that *parcel* subject to the following:

a) the *parcel* must be classified as 'Farm' under the Assessment Act;
b) the *parcel* area must be at least 4 hectares;
c) for *parcel*s within the *ALR*, the *additional dwelling total floor area* must not exceed 90 square metres if *parcel* area is 40 hectares or less and 186 square metres if over 40 hectares, or as expressly approved by the Agricultural Land Commission;
d) for *parcel*s not in the *ALR*, the *additional dwelling total floor area* must not exceed 186 square metres; and
e) any additional dwelling must be serviced with water and sewage disposal in accordance with the requirements of the Provincial authority having jurisdiction.

3.6.3 In addition to the preceding, maximum total floor area and internal driveways must comply with the limits imposed by ALR Regulation on ALR land, unless expressly approved by the ALC.

3.6.4 Additional farm worker housing on ALR land is not permitted unless expressly approved by the ALC via formal application process.

3.2 By deleting s.3.7.2 (d) in its entirety and replacing it as follows:

d) the Temporary Dwelling must:

i) not exceed a *gross floor area* of 115 square metres or as allowed by ALR regulations;

ii) be installed upon a non-permanent foundation such as blocking;

iii) not have any additions attached or constructed onto it.

iv) be sited not less than 6 metres from any *parcel* line and not less than 5 metres from the principal dwelling; and

v) be connected to a sewage disposal system in accordance with the British Columbia Sewerage System Regulation to the Public Health Act;

3.3 By deleting s.3.7.3 in its entirety and replacing it as follows:

3.7.3 Despite the preceding, no more than one additional or temporary dwelling per *parcel* is permitted unless expressly approved by the ALC for farm use on ALR lands.

READ A FIRST TIME this day of , 2022.

READ A SECOND TIME this day of , 2022.

PUBLIC HEARING held on the day of , 2022.

READ A THIRD TIME this day of , 2022.

ADOPTED this day of , 2022.

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Corporate Officer Chair