

 <p>Agricultural Land Commission Act</p>	<p style="text-align: right;">Policy L-17 January 2016</p> <p style="text-align: center;">ACTIVITIES DESIGNATED AS A PERMITTED NON-FARM USE: LEASE FOR A RETIRED FARMER – ZONE 2</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 Reserve Use, Subdivision and Procedure Regulation (BC Regulation 171/2002), Section 3(1)(q):

3(1) *The following non-farm uses are permitted in an agricultural land reserve unless otherwise 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:*

(q) *a residential use under a lease of a farm or part of a farm located in Zone 2, if*

- (i) *the lessee is a retired farmer as defined in section 23 of the [Assessment Act](#) who previously owned and operated the farm for at least 15 years before the lease began,*
- (ii) *the leased land comprises no more than 1 ha of a parcel that is at least 5 ha, all of which is located on a farm operated for a farm use,*
- (iii) *the conditions of the lease specify that*
 - (A) *the leased land must be used as the primary residence of the lessee,*
 - (B) *the leased land may not be used for any other non-farm use,*
 - (C) *the lease may not be assigned or sub-leased by the lessee,*
 - (D) *the lease terminates on the date that the lessee dies or stops using the leased land as his or her primary residence, if not terminated for another reason, and*
 - (E) *the interest in the leased land reverts back to the lessor on termination of the lease, and*
- (iv) *there is no other lease on the farm as described in this paragraph.*

Agricultural Land Commission Act S.B.C 2002 c. 36, Section 4.2:

4.2 *The following zones are established:*

- (a) *Zone 1, consisting of the Island Panel Region, the Okanagan Panel Region and the South Coast Panel Region.*
- (b) *Zone 2, consisting of all geographic areas of British Columbia not in Zone 1.*

Note - The Panel Regions are described in more detail in the Schedule to the ALCA and on the Agricultural Land Commission website

A “retired farmer” is defined in Section 23 of the [Assessment Act](#) (RSBC 1996) as:

“retired farmer” means an individual

- (a) who, at all times during a prescribed period or periods of time,*
 - (i) occupied, as the individual's principal residence, a dwelling that was owned by the individual or the individual's spouse and was located on land that was*
 - (A) owned by the individual or the individual's spouse,*
 - (B) used for the dwelling, and*
 - (C) classified as a farm, and*
 - (ii) was actively involved in the day-to-day activities on land that was*
 - (A) owned by the individual or the individual's spouse,*
 - (B) classified as a farm, and*
 - (C) part of the parcel or adjacent to the parcel on which the dwelling was located, and*
- (b) who has retired.*

INTERPRETATION:

Only in Zone 2, a retired farmer, as defined in section 23 of the *Assessment Act* (noted above), may register a life estate lease strictly for residential use by the retired farmer over a portion of a parcel of the retired farmer's farm if specific requirements are satisfied.

There can be no other lease registered on the farm, which includes any additional parcels of land associated with the retiring farmer's farm operation, as described in section 3(1)(q) of the Regulation. A retiring farmer, and by association, the retiring farmer's farm operation, is entitled to only one lease under this section of the Regulation.

When the lease term ends, the use of the leased land reverts back to the land owner (lessor). A single family dwelling constructed for the retired farmer on the reverted leased portion of the parcel may remain on the parcel and be occupied for residential purposes. However, should an additional single family dwelling remain on the parcel as a result of the expiration of the lease under section 3(1)(q) of the Regulation, the residence may not be permanently subdivided from the parcel unless a subdivision application, pursuant to section 21(1) of the *ALCA*, has been submitted and approved by the Agricultural Land Commission (the “Commission”).

There is no restriction as to the location of a lease pursuant to section 3(1)(q) of the Regulation. However, any residence for the retired farmer along with other residential structures and all land between them must be located on the lease area with a maximum size of 1 hectare. Preference should be given to locating the lease area as close to public road access as possible.

The lease must be registered in accordance with section 3(1)(q) of the Regulation before any building permits associated with a residence may be issued by a local government.

Although it is not necessary to provide this information directly to the Commission in advance of registering the lease, the lessee and/or lessor must have in his/her/their possession, proof regarding the retired farmer's ownership and operation of the farm and

specific parcel on which the lease is being registered for at least 15 years prior to the registration of the lease.

Where applicable, the residential uses outlined in this policy must also conform to the residential uses outlined in *ALC Policy #24 "Permitted Non-Farm Uses: Residential Uses in the ALR-Zone 2"*.

Residential and other residential structures that are not permitted in the *ALCA* and/or Regulation require a non-farm use application, pursuant to section 20(3) of the *ALCA*, and approval from the Commission.

Note - Where a local government zoning bylaw is in place, any use outlined herein must also be specifically permitted by that bylaw.

TERMS:

other residential structures means roads, driveways, service lines, parking areas, pools, tennis courts, landscaped area, garages, septic fields or dugouts, and any other use reasonably considered ancillary to a single family dwelling.

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-18 Permitted Non-Farm Uses: Residential Uses in the ALR-Zone 2