

 <p>ALC <i>Agricultural Land Commission Act</i></p>	<p>Policy L-21 October 2016</p> <p>ACTIVITIES DESIGNATED AS FARM USE: BREWERY, DISTILLERY AND MEADERY 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.

(1) “Farm use” means an occupation or use of land for farm purposes, including farming of land, plants and animals and any other similar activity designated as farm use by regulation and including a farm operation as defined in the [Farm Practices Protection \(Right to Farm\) Act](#).

Agricultural Land Reserve Use, Subdivision and Procedure Regulation (BC Reg. 171/2002), Sections 2(1.1), 2(2.3) and 2(2.4) and Section 1(1) and 1(3).

Section 2 (1.1) The activities designated under this section as farm uses for the purposes of the Act must not be prohibited

- (a) by any local government bylaw except a bylaw under section 552 of the [Local Government Act](#), or*
- (b) by a law of the applicable treaty first nation government, if the activity is undertaken on treaty settlement lands.*

Section 2 (2.3) A brewery, distillery or meadery, and ancillary uses are designated as farm uses for the purposes of the Act if at least 50% of the farm product used to make the beer, spirits or mead produced each year is grown on the farm on which that brewery, distillery or meadery is located.

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

“ancillary use” means the following activities carried out at a brewery, cidery, distillery, meadery or winery:

- (a) processing, storing and retail sales of beer, cider, spirits, mead or wine produced by the brewery, cidery, distillery, meadery or winery;*
- (b) the operation of a food and beverage service lounge, if the area of the lounge does not exceed 125 m² indoors and 125m² outdoors;*
- (c) selling an alcoholic beverage other than one produced by the brewery, cidery, distillery, meadery or winery if the alcoholic beverage*
- (i) is sold as a single serving in a lounge referred to in paragraph (b) or a special event area operated in accordance with a special event*

endorsement under section 18 of the Liquor Control and Licensing Regulation, B.C. Reg. 244/2002, and

(ii) is intended to be consumed immediately;

(e) cooking classes, if

(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 license 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.

"brewery", "cidery", "distillery", "meadery" and "winery" mean a brewery, cidery, distillery, meadery or winery, as applicable, that is licensed under the Liquor Control and Licensing Act to produce beer, cider, spirits, mead or wine.

Section 1(1) **"farm product"** means a commodity that is produced from a farm use as defined in the Act or designated by this regulation.

Section 1(3) For greater certainty, water is not a farm product for the purposes of the Act or this regulation.

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 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,
- (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.

INTERPRETATION:

The brewery, distillery or meadery must be licensed under the Liquor Control and Licensing Act of British Columbia in all activities associated with the brewery, distillery or meadery.

British Columbia licensed breweries, distilleries and meaderies are designated by the Regulation as farm uses, and as such, may not be prohibited by a local government bylaw, except a farm bylaw approved by the Minister of Agriculture under Section 552 of the *Local Government Act*.

The Regulation designates as a farm use a licensed brewery, distillery or meadery on land in the ALR, provided at least 50% of the farm product used to make the beer, distilled product or mead are grown on the farm on which the brewery, distillery or meadery is located. The farm may be comprised of one or several parcels of land owned or operated by a farmer as a farm business. The parcel on which the brewery, distillery or meadery is located must be on, contiguous to or in the same general geographic area of the land growing the farm product. There is no requirement to grow product on the parcel on which a brewery, distillery and meadery is located. At least 50% of the farm product must be grown on the farm owned and operated as a farm business.

The 50% threshold is measured by the quantity (measured by volume or weight) of farm product processed calculated on an annual basis. For beer, the farm product will be grain and not hops due to the (small) quantities of hops involved in the beer making process. Water is not a farm product. In the case of distilled products, neutral grain spirits (imported alcohol) is not a farm product. The 50% threshold will be based on the farm product used to make the alcohol (grains, corn, potatoes, sugar beets, etc.) and not the botanicals or other flavouring used in the final product due to their smaller proportions.

Breweries, distilleries and meaderies, unlike wineries and cideries, cannot purchase product under contract with another grower to meet the 50% farm product requirement.

Retail sales of alcohol produced on the farm, tours and food and beverage service in a lounge are allowed for the purpose of the ALCA provided they are ancillary to the brewery, distillery or meadery.

A food and beverage service lounge is allowed up to a maximum area of 125 m² indoors and 125 m² outdoors. The outdoor area of 125 m² includes patio space and landscaped areas but does not include areas set aside for picnicking. Picnicking areas are allowed as an ancillary use. However, picnicking is not an extension of the patio. It is an open air portion of the farm where visitors can eat food (brought in or purchased) and enjoy wine or cider from the farm if the brewery, distillery or meadery has a picnicking

endorsement from LCLB. The 125 m² floor space area is roughly equivalent to a seating capacity of 65 persons in the lounge or on the patio. Thus the maximum capacity is potentially 130 persons, where both indoor and outdoor seating are provided. However, the person or patron capacity remains subject to the limits and conditions established by the general manager under the *Liquor Control and Licensing Act*. The threshold area specified in the Regulation for the lounge does not include the tasting room, washrooms or kitchen facilities.

For the purposes of this policy, a food and beverage service lounge is an establishment serving food and liquor that has a “lounge endorsement” to the manufacturer license issued under the *Liquor Control and Licensing Act*. An application and approval of the Commission is required for a restaurant with a food primary license.

The sale of a limited amount of alcoholic beverages other than those produced by the brewery, distillery or meadery is allowed as an ancillary use if they are sold as a single serving in the lounge and are consumed immediately. Please refer to Liquor Control and Licensing Regulations for further details.

Tasting, free offering or sale of product samples is considered part of a tour activity and is part of the designated farm use.

Cooking classes are permitted in kitchens that are operating in compliance with the Food Premises Regulation and take place in a food and beverage service lounge permitted under the manufacturer license under the *Liquor Control and Licensing Act*.

Gathering for an event regulation restrictions set out in section 3(4)(k) do not apply if the event is taking place in an 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) (gathering for an event) and associated restrictions apply if the event(s) are held outside the lounge area, including in special event areas. This means breweries, distilleries and meaderies may host an unlimited number of events in the lounge area and an additional 10 events as per section 3(4)(k) held elsewhere on the farm.

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.

Uses that do not meet the thresholds established in the Regulation for a brewery, distillery and meadery or associated uses, require a non-farm use application and approval of the Agricultural Land Commission in order to be undertaken.

Local governments have the authority to regulate breweries, distilleries and meaderies by setting a maximum building and/or floor area or maximum site coverage and setbacks. Local governments may also regulate with regard to health and safety, parking, lighting, hours of operation, noise, access for police, fire and emergency vehicles and so on.

TERMS:

food and beverage service lounge – means an establishment serving alcohol products in addition to food that has a “lounge endorsement” to their license issued under the *Liquor Control and Licensing Act*.

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-03 *Activities Designated Farm Use: Wineries and Cideries in the ALR*.

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

ALC Policy L-22 *Gathering for an Event in the ALR*