

Community Farms Program Feasibility Study

Community Farms Program



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The Land Conservancy (*TLC*) is a non-profit, charitable land trust protecting natural areas, heritage landmarks, and agricultural lands throughout British Columbia. *TLC's* agricultural mandate is to protect farmland for sustainable, local food production. We own title or hold covenants on farmland, arrange long-term farm leases for new farmers, and provide information and education to farmers, local food groups and communities.

FarmFolk/CityFolk Society is a non-profit society that works with farm & city to cultivate a local, sustainable food system. We develop and operate projects that provide access to & protection of foodlands; that support local, small scale growers and producers; and that educate, communicate and celebrate with local food communities.



Community Farms Program

Feasibility study

April 2008
updated May 2009

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The Land Conservancy of BC
and
FarmFolk/CityFolk



Funding provided by:
The Real Estate Foundation of British Columbia



FarmFolk/CityFolk and The Land Conservancy of British Columbia

Community Farms Program

The Community Farms Program brings together landowners, farmers, local communities, and resources to develop and support community farm models in BC.

ACKNOWLEDGEMENTS

The Community Farms Program is supported by program partners FarmFolk/CityFolk and The Land Conservancy of British Columbia. We thank The Law Foundation of BC, Notaries Foundation of BC, Organic Sector Development Program, Real Estate Foundation of BC, Vancity Community Foundation, and Vancouver Foundation for funding projects under this Program.

This project was made possible through grants from The Real Estate Foundation of BC.

Thanks to the many people and organizations (both non-government and government) who contributed their time and knowledge to this publication.

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Cover photographs by Ramona Scott, center image by joshmcculloch.com.

Prologue

We are providing a prompt, focused response to the Real Estate Foundation request in December 2007 for a feasibility study on the Community Farms Program for BC (CFP). This study lays important groundwork for further CFP research and development.

The Community Farms Program is a joint venture between The Land Conservancy of BC (*TLC*) and FarmFolk/CityFolk. By sharing our expertise in agriculture and land management as well as accessing a wide network of colleagues (government and non-government organizations) it is possible to ensure the opportunities and barriers facing the CFP are appropriately addressed.

The Real Estate Foundation Board approved a grant for *TLC* to “explore the opportunity to collaborate with the Ministry of Agriculture and Lands on two aspects of the proposed (Community Farms) program: enabling affordable access to farmland both within and outside the ALR, and long-term farm lease options for food production.”

The Foundation states in its letter to *TLC* that it is “interested in seeing farmlands protected and used actively for farming. However there are potential policy obstacles that may hinder *TLC*’s efforts to develop community-based farms. For this reason the Real Estate Foundation would like to support a feasibility study to help determine the long term viability of BC farmland protection for sustainable food production program and the interest of provincial and local governments to collaborate on this initiative.”

TLC and FarmFolk/CityFolk have met several times since May, 2007 with staff of both the Ministry of Agriculture and Lands and Agriculture Land Commission to discuss concerns and solutions.

Important

This document provides general information only. Professional advice should be sought when determining a course of action.

Executive Summary

This feasibility study provides a general overview of some of the opportunities and barriers faced by community farms in BC. Specifically, this study looks at:

- i. securing land for food production;
- ii. enabling affordable access to land for farmers; and,
- iii. long-term leasing for food production.

Overall, community farms and the Community Farms Program (CFP) are operating in a challenging, but not insurmountable landscape. The Ministry of Agriculture and Lands, the Agricultural Land Commission, and local governments all have potential roles in supporting the development and operation of community farms. No significant legislation directly stands in the way of community farm development; however individual community farms face region-specific challenges in becoming established. It is the goal of the CFP to help community farms navigate these opportunities and barriers.

The Land Conservancy of BC and Farm Folk/City Folk acknowledge that the Ministry of Agriculture and Lands (MAL) has a challenging job balancing support and regulation of a wide range of agricultural operations from small local farms to large-scale industrial operations. Activities such as streamlining regulations and working with local governments to support agriculture benefit the farming community as a whole, including existing operations, new farmers and emerging community farms.

Key strategies identified in the 2008 BC Agricultural Plan that may support community farms are:

Producing Local Food in a Changing World (p. 36)

Strategy 2: Implement initiatives to strengthen community food systems.

Building Profitable and Innovative Family Farm Businesses (p. 38)

Strategy 14: Assist the agriculture industry with human resources, succession planning and new entrants.

- Work with the ALC, community groups and non-government institutions to develop alternative land use and succession planning models.

Specific questions from MAL Regional Agrologists about the CFP are identified in Table 1. This study addresses two of these questions. We anticipate on-going CFP research and program development will fully address all questions by spring 2009.

Table 1

Questions:	Addressed in Feasibility Study
What measures will address the impact of multi- unit housing on agricultural land?	X
How will local farmer's concerns that community farms have a competitive advantage due to government/non-government support be alleviated?	
What are the criteria for establishing a community farm (e.g. is there a required population base? Areas where risk of farmland loss is greatest?)	
How are proposed farm activities enforced and monitored?	
Can long-term leases provide equity and succession?	X
Who is responsible for overall management and liability?	
How is farm economic viability defined?	
How will the perceived characteristic of the 'independent farmer' be addressed in this 'shared' land model?	
What is the role for agricultural conservation covenants in farmland protection?	
Is there an alternative name for 'community farms' to avoid confusion with 'community gardens' in the minds of government and the public?	

Communication and cooperation with local governments, MAL and the Agricultural Land Commission will be necessary to the success of the CFP. The community-style farms in BC already experienced in sustainable farming, sharing land and cooperative living demonstrate¹ that forming further community farms in BC is possible.

¹ Dr. Hannah Wittman of Simon Fraser University, in conjunction with TLC - FF/CF, is carrying out a study of these farms to inform the development of new community farms. Her work will help the CFP and the farming community understand the intentions, practices, challenges and opportunities of alternative farm models.

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Introduction

BC communities are starting to focus on sustainable local food systems that provide affordable, healthy food with minimal environmental impact. But the reality is there are hurdles to face before local food systems can thrive in BC. To be sustainable, food systems require a steady supply of locally grown vegetables, fruit, meat, dairy and grain. This supply is challenged by:

1. *High cost of farmland.* New farmers can't access farmland because of the \$30,000 to \$100,000 per acre price tag in the most fertile areas of BC.
2. *Decline in farmers:* Only one in ten farmers is younger than 35 years. The average Canadian farmer is 56 years old. This higher than average age may reflect the costs of entry to farming, the work experience required to be successful and the scarcity of young people entering farming over the last 10 years.² In another 10 years there will be a significant shortage of farmers and farming knowledge in BC as farmers retire.
3. *Lifestyle choices:* Farming is both a business and a lifestyle. Lower incomes, hard work and uncontrollable risks (e.g. weather, disease outbreaks) discourage many young people from keeping the family farm running. Those who do wish to enter farming without the benefit of inheriting a farm face high land prices, other capital costs and a need for knowledge and experience.

Small-scale farms providing sustainable local food are vulnerable to government and societal change. Minor changes to tax assessment regulations; land use regulations; zoning; sales regulations; labour wages; market prices; land prices; and consumer trends have a profound impact on the ability of these farms to remain economically viable (Appendix 1). Farms are especially under pressure in areas of high urban expansion such as southern and central Vancouver Island, the Lower Mainland, and south-eastern BC.

One means of protecting food production in BC is making farmland accessible to new farmers and keeping land in production. By combining resources and skills in a joint-venture called the Community Farms Program for BC (CFP), The Land Conservancy of BC (TLC) and FarmFolk/CityFolk (FF/CF) are promoting an alternative farming model (community farms) to

² British Columbia Occupational Outlooks. 2005. Contractors, operators and supervisors in agriculture, horticulture and aquaculture. Retrieved March 11, 2008 from <http://www.workfutures.bc.ca/profiles/profile.cfm?site=graphic&lang=en&noc=825>

get new farmers onto land and keep farmland in production. The CFP is being developed as one of many means to keep sustainable local food production in BC. The CFP hopes to support development of 50 new community farms by 2012.

There are already about 20 BC farms with experience in sustainable farming, sharing land and cooperative living - demonstrating that community farming in BC can be successful. Dr. Hannah Wittman of Simon Fraser University in conjunction with *TLC - FF/CF* is carrying out a study of these farms to inform the development of new community farms (Appendix 2). Her work will help the CFP and the farming community understand the intentions, practices, challenges and opportunities of alternative farm models.

The CFP is intended to be implemented over a 3 to 5 year period and will be reliant on outside financial support until it is self-supporting (forecast to be five years). In order to implement a viable program and demonstrate accountability, key risks will be acknowledged and addressed.

The Program works on a farm by farm basis to enable affordable access to farmland for new farmers and ensure that land is in sustainable local food production. In contrast, governments deal with agriculture on more general terms. Government definitions, on which policy and legislation are based, are, by mandate, broad. In this study we define terms specific to the CFP for clarity of communication and to provide context for this study.

To be successful, community farms supported by the CFP need to operate under BC's current policy, legislation, and bylaw environments. Understanding some of the barriers and opportunities facing community farms will help guide the development of the Program and provide a framework for further research and development.

In this study the following sections address opportunities and barriers for community farms:

- I. Securing Land for Community Farms
- II. Support and Affordability for Farming
 - Production and Distribution
 - Ecological Services,
 - Housing,
 - Taxation,
 - Start-up funding & support
- III. Long-term Leases for Food Production
 - Tenure
 - Equity

CFP Feasibility Study

Each section includes the potential roles the Ministry of Agriculture and Lands (MAL) and the Agricultural Land Commission (ALC) can play supporting community farms. A summary of questions about community farms raised by MAL Agrologists are summarized in the following table.

Questions:	Addressed in Feasibility Study	Additional Research
What measures address the impact of multi- unit housing on agricultural land?	X	X
How to alleviate local farmers' concerns that community farms have competitive advantage due to government/non-government support?		X
What are the criteria for establishing a community farm (e.g. is there a required population base? Areas where risk of farmland loss is greatest?)		X
How are proposed farm activities enforced and monitored?		X
Can long-term leases provide equity and succession?	X	X
Who is responsible for overall management and liability?		X
How is farm economic viability defined?		X
How will the perceived characteristic of the 'independent farmer' be addressed in this 'shared' land model?		X
What is the role for agricultural conservation covenants in farmland protection?		X
Is there an alternative name for 'community farms' to avoid confusion with 'community gardens' in the minds of government and the public?		X

Assumptions

This study makes four assumptions:

- Key barriers to local food production are the cost of land and the difficulty in earning a living as a small-scale local farmer.
- There is Agricultural Land Reserve (ALR) land and non-ALR land available for farming that is not in production.
- Land can be put into ownership models that enable long-term (40 plus years) leases for food production.
- There are farmers willing to work and live on shared land.

These assumptions can be clarified and detailed as research and development progresses.

For excerpts of Acts, regulations and bylaws referred to in this study, see Appendix 3.

Important

This document provides general information only. Professional advice should be sought when determining a course of action.

I. Securing Land for Community Farms

The Community Farm Program (CFP) assumes agricultural land is available to be either owned or protected in such a way that farmers can hold long-term leases for food production. The Program does not require land be located in the Agricultural Land Reserve (ALR); however ALR-related benefits such as lower property tax, allowance of diverse farm business activities (e.g. agritourism), possible multi-unit housing allowances and fewer restrictions on receiving farm classification may be important for community farm success (see *II. Affordability and Support for Farmers* for details). The CFP facilitates stakeholders in securing land, and does not own the land itself. Secure land refers to land no longer readily available for sale on the real estate market (e.g. held by a land trust or a community group).

While general research seems to indicate that the ALR will be retained to protect farmland, ALR zoning is not holding down land prices to a level affordable by most local farmers. Nor is it the Agricultural Land Commission's mandate to ensure ALR land is kept in food production. The CFP has a role to play in helping ensure land suitable for agriculture is available to new farmers and is kept in sustainable local food production.

Opportunities

Secure land for community farms will depend on donations, endowments and bequests to public land trusts. Other options may include covenants, long-term leases on Crown land or a lease attached to the title of privately-owned land. Further investigation of the dozen or so

Donation with Life Estate

Location: Lohbrunner Farm, BC

Description: The retired owner of the Farm has donated her property to *TLC* with the understanding that:

- An identified section of the land is preserved as a bird sanctuary
- An identified section of the land is put into food production through long-term leases with farmers.

The owner holds a Life Estate enabling her to live in her house on the land for as long as she desires/is able.

Land Needs for Self Reliance

0.47 ha of non-irrigated land and 0.053 ha of irrigated land are required to produce a healthy diet for one person for one year in BC.

In 2001 it was estimated BC farmers produced 48% of all food consumed in BC.

Self-reliance is reduced to 34% if BC's followed Canada's Food Guide to Healthy Eating.

2.15 million ha of food producing land were required in 2005 to provide a healthy diet for all BC citizens.

2.78 million ha of food producing land will be required by 2025 to meet BC's food needs.

Source: BC Ministry of Agriculture and Lands. 2006. BC's food self-reliance: Can BC's farmers feed our growing population?

farmland trusts in North America, the means to acquire land, and alternative ownership models is a scheduled part of CFP research and development.

CFP provides information and assistance to landowners for succession planning, and donation, protection or ownership models. The goal of which is to ensure the landowner's wishes regarding their land are fulfilled.

Barriers

Purchasing farmland is prohibitively expensive for most individuals, communities and not-for-profit organizations, especially in areas favourable to both agriculture and urban development (e.g. southern Vancouver Island, Lower Mainland, Okanagan). For example, a 79 ha farm on the Saanich Peninsula is being sold for \$6 million, and in the Okanagan, prices as high as \$100,000 per 0.4 ha for agricultural land are reported.

Fee simple acquisition of land by a land trust (e.g. *TLC*) or by shareholders (e.g. a cooperative, a business partnership, or a society) for community farms may be possible if agricultural land prices were based on BC Assessment regulated values (farm classification). However, land prices are generally set by market values. Market prices are influenced by a multitude of factors, including the "highest and best use" of the land which can include residential or other types of development. Defensible information is not currently available on the influence ALR zoning has on land prices, nor is clear information available on whether ALR land is subject to speculative purchase by developers.

Purchase through membership

Location: Horse Lake Community Farm, BC

Description: Horse Lake Community Farm is being purchased through sale of cooperative membership shares at \$5,000 each. *TLC* will have final ownership of the land, and will give the cooperative a 99 year lease. By securing the land with a land trust, the land will not be sold, ensuring security for farm enterprises and co-op shareholders holding leases.

Agricultural Land Reserve

There are approximately 4.7 million ha of land in the ALR. This land includes private and public lands that are farmed, not farmed, forested or vacant.

Percentage of ALR by region (Jan 2008):

- 50% North
- 31% Interior
- 8% Kootenay
- 5% Okanagan
- 4% South Coast
- 2% Island

Note that BC's most productive farmland is found in areas with the least amount of ALR land. These are generally valley bottoms where there is the greatest demand for residential and recreational development. These locations also have the greatest amount of biodiversity found in BC.

Source: Provincial Agricultural Land Commission. Retrieved March 2008 from http://www.alc.gov.bc.ca/alr/alr_main.htm

When considering how to dispose of their farmland, owners will take into account their retirement needs and inheritance for their family. Selling their land is one means of meeting these needs, especially with today's high land prices. They may still have a desire to see the land kept in food production but are not sure what their options are. Land trusts can play a role by providing information on succession planning, both directly to landowners and through estate and financial planners, real estate agents and others.

Role of MAL and ALC

According to the 2008 BC Agricultural Plan, the Ministry of Agriculture and Lands (MAL) has an interest in working "...with the ALC, community groups and non-government institutions to develop alternative land use and succession planning models."³ While MAL does not secure land for new farmers, MAL can take on other roles that support affordable land access such as Intensive Agriculture leases on Crown land (see *Tenure* pg. 48) and a contact for succession planning.

The Agricultural Land Commission's (ALC) role in securing land is to continue to ensure farmland is protected, hence available for production and is not used for residential/commercial/industrial development. With only 5% of BC suitable for agriculture, and only 1% of that land being class 1 & 2 soils, the ALC has a critical role in protecting BC's agricultural land resources.

Affirmative Agricultural Covenants

Affirmative agriculture covenants go beyond the usual restrictive language of covenants to affirmatively require that certain activities, such as food production, must be maintained on farm land by either the owner or a farmer with a lease.

Live Power Community Farm, Covelo, CA

Specialized covenant with Equity Trust requires that the land continue to be farmed organically or biodynamically. It also gives the holder of the easement an option to purchase the property for its farm value if the owners wish to sell - or if they are no longer farming the land in accordance with the terms of the easement.

Moritz Deed of Agricultural Conservation and Production and Preservation of Natural Resources Easement and Declaration of Restrictions (CA)

"...intend that : (a) the Property be maintained in agricultural production by the maintenance of the agricultural values and continuation of the agricultural and ranching uses; (b) the natural resources be protected through the practice of good stewardship;..."

³ Page 38, Section 14

II. Affordability and Support for Farmers

Enabling affordable access to farmland for new farmers encompasses several components of land tenure and use. For our purposes, affordable access includes affordable access to farmland under a long-term agreement and minimization of expenses and barriers to ensure financial viability of the farm business. Affordable access is achieved through the community farm model.

Five subjects related to affordability and support are identified for this report:

- Production and Distribution
- Ecologically Sustainable Practices
- Housing
- Taxation
- Start-up and Other Support

These opportunities and barriers are discussed in the context of community farms, including potential roles for the Ministry of Agriculture and Lands and the Agricultural Land Commission.

Production and Distribution

The Community Farm Program (CFP) assists farmers with business planning. Business activities can include direct marketing of primary products, value-added products, agritourism and providing educational opportunities (e.g. courses).

The legal landscape around production and distribution is complex and depends on the types of activities and products involved. For example, over 35 different laws and regulations influence agritourism (not counting individual municipal bylaws).⁴

Examples of Acts, regulations and bylaws that regulate farm product processing, direct marketing and agritourism include, but are not limited to:

Federal	Canada Agricultural Products Act; Consumer Packaging and Labelling Act; Food and Drugs Act
Provincial	Agricultural Land Commission Act; Agricultural Produce Grading Act; British Columbia Wine Act; Food Products Standards Act; Meat Inspection Act; Health Act; Natural Products Marketing (BC) Act; Waste Management Act; Food Safety Act; Local Government Act
Local Government	Zoning bylaws

Changes to the *Agricultural Land Commission Act* (2002) play a key role in allowing diverse business activities related to agriculture on Agricultural Land Reserve (ALR) land (e.g. retail sales area and agritourism). Other recent legislative changes such as the Meat Inspection Regulation (*Food Safety Act*) which reduced custom slaughter capacity creates barriers for local community farms.

Marketing boards are not addressed in this study as community farms are envisioned to be producing food for local food needs at a scale that does not require purchase of Quotas.

⁴ Ministry of Agriculture, Food and Fisheries. 2002. Regulatory Challenges for Agritourism Operators in British Columbia.

Opportunities

Agricultural Land Commission Act [S.B.C. 2002] Chapter 36

Includes amendments to October 15, 2004

Agricultural Land Reserve Use, Subdivision and Procedure Regulation

Agricultural Land Commission Act Policy #2 March 2003: Activities designated as farm use – Farm retail sales in the ALR

Policy #2 interprets section 1(1) and section 2(2)(a) of this Regulation. Farm retail sales cannot be prohibited by local government bylaw unless approved by the Minister of Agriculture and Lands under section 917 of the *Local Government Act*. The Regulation permits farm retail sales on ALR lands with designated restrictions. This Regulation does not apply to non-ALR land.

Barriers

Local Government Bylaws

Local government bylaws provide both opportunities and barriers for local farms (ALR and non-ALR land). Since bylaws vary between local governments, there is always risk that community farm activities in one area of BC may be permissible while not permissible in another. It is vital to consider local government bylaws when developing business activities.

Food Safety Act [SBC 2002] Chapter 28

This Act provides abundant opportunities for the province to enact regulations that may adversely affect community farms. An example is the recently enacted Meat Inspection Regulation (MIR) which reduced the number of custom slaughter facilities. Solutions are being sought by communities, but it is a complicated, time consuming and expensive process. Regulations such as MIR reduce opportunities for direct farm to community sales, increase farm expenses and challenge farmer's ethical choices, such as how far to ship their livestock for slaughter. Local farmers are expressing concern that future food safety regulations under this Act could adversely affect their businesses.

Role of MAL and ALC

Considering the number of Acts, regulations and bylaws affecting food production and distribution it is important for MAL to provide legal clarity to farmers and work towards regulations that support rather than

Food Safety Act [SBC 2002] Chapter 28

This excerpt illustrates the opportunity for enacting regulations that could negatively impact local farms.

23 (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

- (a) establishing standards for food and food establishments, and for the growing, raising, cultivating, keeping, harvesting, producing, manufacturing, slaughtering, processing, preparing, packaging, marking, handling, distributing, transporting, storing, displaying or selling of food, providing for the maintenance of those standards and providing for the duties of inspectors in relation to these matters;
- (b) respecting methods to be followed and equipment to be used in growing, raising, cultivating, keeping, harvesting, producing, manufacturing, slaughtering, processing, preparing, packaging, marking, handling, distributing, transporting, storing, displaying or selling of food;

Meat Inspection Regulation and Slaughter Capacity

Location: North Okanagan Regional District, BC

Results: Local livestock producers rely on custom slaughter facilities. Loss of custom slaughter capacity for region:

- All custom poultry processing closed
- 4 custom red meat processors closed
- Capacity loss for 1875 beef, 3000 lambs, 2775 pigs, eqv value of \$4,635,250.
- 90% of respondents experienced lack of capacity after MIR came into effect compared to 26% previously
- 42% expect to loss farm status

Challenges: Processors must meet regulatory requirements of 8 government agencies. Key issues are still undecided such as if slaughter waste is agricultural or industrial.

See also Appendix 1.

Source: Johnson, B. 2008. Impact of the Meat Inspection Regulation on slaughter capacity in the North Okanagan Regional District. Final Report.

threaten local farms. Use of the new Small Business Lens⁵ may reduce regulation and provide a more streamlined regulatory environment for farmers. Continued work with local governments to support local farm businesses while ensuring long-term protection of farmland is also key.

⁵ The Small Business Lens is part of the BC Regulatory Reform Policy. The goal is to minimize the impact of new regulations, changing regulations and existing regulations on small businesses. This tool will be used to assess legislation or regulations from a small business perspective.

Ecologically Sustainable Practices

Under the Community Farms Program (CFP), the importance of maintaining ecological systems is recognized. Without functioning ecological systems, long-term food production is not possible. Ensuring long-term food production helps farmers keep their businesses economically viable for themselves and future generations on community farms. Ecosystems also provide other services to society such as water filtration, flood control, climate modification and biodiversity. The federal Agricultural Policy Framework (associated Environmental Farm Plan and related funding programs); the *Community Charter* and the *Local Government Act* offer farmers funding, tax breaks and other opportunities to use ecologically sustainable practices. Split classification of land under the *Assessment Act* and lack of an ecological services incentive policy may be barriers to ecologically sustainable practices.

Farming in BC is subject to extensive federal and provincial legislation related to the environment, as well as local government bylaws. See Table 1 for a summary of environmentally related legislation and bylaws.

Table 1 Summary of environmental legislation affecting farming in BC⁶

Federal	Canadian Environmental Assessment Act; Canadian Environmental Protection Act; Fisheries Act; Migratory Birds Convention; Pest Control Products Act; Plant Protection Act; Species at Risk Act; Transport of Dangerous Goods Act; Wildlife Act
Provincial	Agricultural Land Commission Act; Drainage, Ditch and Dyke Act; Drinking Water Protection Act; Environment and Land Use Act; Environment Management Act; Environmental Assessment Act; Farm Practices Protection (Right to Farm) Act; Fire Services Act; Fish Protection Act; Fisheries Act; Fisheries Renewal Act; Forest Practices Code of BC Act; Health Act; Highway Act; Local Government Act; Motor Vehicle Act; Pesticide Control Act; Plant Protection Act; Soil Conservation Act; Transportation of Dangerous Goods; Waste Management Act; Water Act; Weed Control Act;
Local government	Under the Local Government Act, local governments may make bylaws related to environmental matters.

⁶ Updated from: Ministry of Agriculture, Food and Fisheries. 1998. Environmental legislation affecting agriculture. Environmental Fact Sheet Order No. 870.000-1

Opportunities

Agricultural Policy Framework

Environmental Pillar – Environmental Farm Plan Program

As part of the federal government's sustainable agriculture policy, bi-lateral agreements with the provinces were signed to deliver programs such as the Environmental Farm Plan (EFP) program. The EFP is a voluntary environmental risk assessment program for farmers. Partial funding for environmental Beneficial Management Practices is available to farmers.

Community Charter [SBC 2003] Chapter 26

Part 7 Municipal Revenue, Division 7 -- Permissive Tax Exemptions

See "Taxation" re: tax exemption for riparian areas.

Local Government Act [RSBC 1996] Chapter 323

Part 24 Regional Districts, section 811 riparian property exemption

See "Taxation" re: tax exemption for riparian areas.

Environmental Farm Plans in BC

Location: Across BC

Description: As of April 2007, 1,500 of approximately 19,800 farms in BC completed an EFP.

Source: Ministry of Agriculture and Lands. 2007 1500 Environmental Farm Plans completed in British Columbia. Agricultural Policy Framework Newsletter, September.

No classification for natural areas

Location: Saanich Peninsula

Description: Public meeting minutes: Farm Tax Assessment, Jan 18, 2008

Experience: A property not in the ALR was reassessed to 71% farm and 29% residential. Residential classed section included a rocky knoll and a Garry Oak refuge containing endangered native plants. The reassessment doubles the current tax rate for the owner/operator who is raising chickens, turkeys, goats and bees.

Islands Trust Natural Area Protection Tax Exemption Regulation

Location: Islands Trust area, BC

Description: Property tax exemption for natural, geological and cultural features

This regulation provides participating landowners with a 65% tax exemption on property protected by a NAPTEP covenant. The regulation is under the *Islands Trust Act*.

Barriers

Assessment Act [RSBC 1996] Chapter 20

Prescribed Classes of Property Regulation

Includes amendments up to B.C. Reg. 281/2007, January 1, 2008

ALR and Non-ALR land

BC Assessment places properties in eight classes based on property type or use. Under the Prescribed Classes of Property Regulation there is no classification for natural areas.

Farmland is subject to split classification (see Taxation). Natural areas used as part of an ecologically sustainable farming system may be subject to Residential tax rates.

Incentive Policy

An incentive (such as a payment for maintaining wetlands) encourages and supports ecologically sustainable farming practices. While the CFP requires sustainable farming practices on community farms, payments for ecological services would help support farmers in those practices that provide ecological benefits to society. To date, Canada does not have a policy to pay farmers for providing public ecological services. This is in contrast to other countries such as the United States and the European Union. Payments for ecological services are allowable under the World Trade Organization green box.

Role of MAL and ALC

MAL can support local farmers through discussing the impact of split classification on farm economic viability and environmental

Payment for ecological services

Description: Alternative Land Use Services (ALUS) is a pilot program based on paying farmers for ecological services. ALUS pilot projects provide farmers with payments for ecological services. For example, Manitoba farmers are paid to retain wetlands. In Ontario, payments are contingent on completing an Environmental Farm Plan.

BC's 2008 Agricultural Plan includes ecological service payments for wildlife damage and a promise to pursue other payments in the future.

Delta Farmland and Wildlife Trust

Location: Delta, BC

Description: Current land stewardship programs include:

- Grass Set-Asides: The Trust shares the cost of sowing and maintaining grassed areas up to 4 years.
- Cover Crops: The Trust shares the cost of planning cover crops that provide habitat for migratory birds.
- Field Margin Stewardship Programs: The Trust assists farmers with re-establishing or retaining field margins planted with native trees and shrubs to prevent erosion, provide crop friendly microclimates and wildlife habitat.

performance at the upcoming BC Assessment Review of Farm Classification (see “Taxation”). Modifying the *Community Charter* and the *Local Government Act* to include tax exemptions for ecologically sensitive areas in addition to the riparian areas currently allowed under permissive tax exemptions can help local farms towards economic viability and ecologically sustainable practices. Another option is enactment of a BC – wide regulation similar to the Islands Trust Natural Area Protection Tax Exemption Regulation. MAL can continue to support and expand the concept of ecological services incentives as outlined in *The BC Agriculture Plan: Growing a Healthy Future for BC Families* (pg. 15).

Housing

Enabling affordable access to land includes the Community Farms Program (CFP) assisting with securing safe, legal housing on or near to the land for community farmers. Land use planning for farmland primarily involves the *Agricultural Land Commission Act* (including the Agricultural Land Reserve Use, Subdivision and Procedure Regulation and Agricultural Land Commission Policies); *Local Government Act*, and; municipal bylaws. The main barrier to establishing multi-unit dwellings on both Agricultural Land Reserve (ALR) and non-ALR lands for community farms appear to be local government bylaws.

The general philosophy regarding BC farmlands is that agriculture should be the first and foremost use. Allowing other uses (such as housing) may open opportunities for development that diminishes agricultural production. The CFP shares this philosophy and acknowledges this valid concern regarding development. Developers have substantial resources (funding and legal) to find avenues to remove land from food production and put it to other uses such as residential or industrial. The CFP is exploring means of allowing multi-unit housing in ways that minimize housing impact on food production (low foot print) and not opening local government bylaws in such a way that developers can gain a foothold. An example is making use of well-defined zoning bylaws specific to community farms where priority is placed on food production with housing being one tool to support economically viable farming. One option is to require the community farm to prove viable agricultural production over 3 years before housing applications would be considered. Another option is prioritizing community farms located near residential communities where housing may be available near to or adjacent to the land. Under the CFP housing on or adjacent to farmland is viewed as a necessary resource that allows farmers to build community and be economically viable.

Opportunities

Agricultural Land Commission Act [S.B.C. 2002] Chapter 36

Includes amendments to October 15, 2004

Agricultural Land Commission Act Policy #9 March 2003: Additional Residences for Farm Use

ALR Land:

Policy #9 interprets section 18 of the *ALC Act*. According to this policy, additional residences are possible if they are necessary for farm use. Local government must agree there is a legitimate need for additional residences and one criterion is that the farm parcel should have farm classification under the *Assessment Act*. The policy also states that local government bylaws should not necessarily form the basis for determining the need for residences.

Gabriola Commons

<http://www.gabriolacommons.ca/>

Location: Gabriola Island, BC

Description: Space for community agriculture, farm & elder housing and community interactions.

There are 26 acres located in the ALR held under community ownership and control. Request for multi-unit housing referred to the ALC. ALC provisional approval granted for housing for land stewards, elders and special needs.

Gabriola Island Land Use Bylaw No. 177 specifies that on ALR lands, additional dwelling units necessary for farm employees working on the property may be considered by the municipality/ALC.

Summary of housing opportunities on ALR land:⁷

- One home per legal parcel..... *Outright use in the ALR*
- Additional residences for farm use..... *Possible*
- Temporary placement of a mobile home for a relative..... *Possible*
- Must observe other local and provincial regulations associated with housing..... *Yes*

Non-ALR Land:

The Agricultural Land Commission Act does not apply to non-ALR land, only local government bylaws.

⁷ Smith, B. 1998. Planning for agriculture and resource material. Agricultural Land Commission. Retrieved February 12, 2008 from http://www.alc.gov.bc.ca/publications/planning/Planning_for_Agriculture/index.htm

Barriers

ALR Land:

Application for multi-unit housing is first made to the local government. The local government decides if the application proceeds to the ALC. If authorization is not granted, the application does not continue to the ALC. Hence a request that may be approved under ALC Policy #9 (see above) may never reach the ALC.

Non-ALR Land:

Permission for multi-use housing on agricultural land must be sought from the local government. All municipalities in BC have varying bylaws regarding land use on farmland. This can be either an opportunity or a barrier depending on the bylaws.

Role of MAL and ALC

MAL and ALC work with municipalities regarding bylaws related to farming and farmland. The *Local Government Act* allows the Minister of Agriculture and Lands to review and approve bylaws affecting the use of farmland. Section 882(3)(c) of the *Local Government Act* requires that any plans regarding land in the ALR be referred to the ALC for comment.

Both MAL and ALC desire to work closely with local governments to support agriculture.^{8,9} One means of supporting local agriculture is enabling alternative farming models such as community farms. This requires both MAL and ALC working in partnership with local governments to ensure local bylaws can support alternative farming models which may require multi-unit housing on ALR and non-ALR lands.

Blocked: District of Saanich

Location: Saanich peninsula, Vancouver Island

Description: Application to the District of Saanich for two dwellings on 20 acres in the ALR for the purpose of farming.

Saanich A-1 zoning prohibits second residence. Rezoning to A-2 requires a request to Council. Saanich General Plan Agriculture Policy 5 (5) supports rezoning on ALR for 2 residences provided the parcel is classified as a farm under the Assessment Act, has at least twice the minimum parcel size of the zone in which the parcel is situated (does in this circumstance) and proof of need for a second dwelling is provided based on economic operation of farm.

Application was made to Council. Council responded that “Generally, there has been little support for rezoning to A-2 in Saanich on the basis that there are few farms operating at a commercial level. Also, two dwellings on one parcel can have future implications with respect to ownership, mortgaging and resale.” Council refused the rezoning request and did not pass the request up to the ALC.

⁸ Ministry of Agriculture and Lands. 2008. The British Columbia Agriculture Plan: Growing a healthy future for B.C. families.

⁹ Agricultural Land Commission. n.d. ALR & Community Planning Guidelines.

Community Forest Stewardship Zone

Location: Siskin Lane Strata, Cortes Island, BC

Description: Developing zoning bylaws for specific activity models in Comox-Strathcona Regional District.

This new zone permits higher density of residential development than allowed under the original Forestry-One zoning in exchange for the permanent designation of at least 60% of the land for forestry and protection.

A covenant with the *TLC* was used to ensure conservation activities and permanent establishment of land for forestry purposes under the new zone. The covenant applies to the entire property.

Allocation of land under the covenant:

18 ha cleared for homesites

18 ha residential reserve (no home building or development permitted)

12 ha Public Park

52 ha conservation eco-forestry under ownership of strata residents

Zoning for Community Farms

Recommended inclusions:

- Primary purpose of land remains agricultural production
- Multi-unit housing permitted with covenant restriction to on-site farmer use only.
- Housing footprint must be less than 5% of parcel or 1 acre, whichever is less.
- New or renovated housing must be located on least productive and ecologically sensitive area of parcel.
- Covenant required to retain remaining land for agricultural purposes.
- Housing is in service of supporting farming. One option is to require the farm to prove to be a viable business over 3 years before housing applications would be considered.

Taxation

Tax advantages make land more affordable and provide support to farmers' financial viability. Four relevant pieces of legislation affecting the tax status of farmers are the *Assessment Act* (including Standards for the Classification of Land Regulation); the *Social Services Tax Act*; the *Community Charter*, and; the *Local Government Act*. Land in the ALR may currently enjoy a tax advantage over non-ALR lands as non-ALR lands appear to be more vulnerable to split classification. Permissive tax exemptions on the local government level could potentially provide further tax relief for community farms. For example, riparian areas maintained as part of sustainable farming management practices may be eligible for tax exemption.

Opportunities

Assessment Act [RSBC 1996] Chapter 20

Standards for the Classification of Land as a Farm Regulation 411/95

Includes amendments up to BC Reg. 292/2007, September 24, 2007

Property tax on farm classified land BC (*Assessment Act*) is valued at a lower regulated rate rather than market value which is the standard means for determining property tax in BC. Farm tax status entitles farmers to be considered *bona fide* farmers (see *Social Services Tax Act* below).

ALR land

Land can be given farm classification even if it has no present use, as long as it is part of the land used for primary agricultural production, the land is certified as being held for production and the land meets other requirements of the Standards for the Classification of Land as a Farm Regulation.

Developing farm

Under section 8(1) of the Regulation, land not yet in production can receive farm classification if a set of conditions outlined in the Regulation are met.

Classification of leased land:

Leased land can receive farm classification. It must either be used for primary production or be certified as being held for primary agricultural production.

Social Service Tax Act [RSBC 1996] Chapter 431

Bona Fide Farmer

Farm tax status under the *Assessment Act* entitles farmers to be considered *bona fide* farmers. *Bona fide* farmers are eligible for PST exempt status on specified purchases and other advantages associated with the BCAC Farmer Identity Card.¹⁰

Community Charter [SBC 2003] Chapter 26

Part 7 Municipal Revenue, Division 7 -- Permissive Tax Exemptions

This part of the *Community Charter* gives municipalities some authority to exempt certain lands and/or improvements from municipal property taxation. Community farms may be eligible for some of these exemptions, depending on the municipality. Exemptions are often associated with covenants, restricting use of the property which may be an issue on ALR land.

Section 224: General authority for permissive exemption

Councils may offer exemptions for periods up to ten years to a range of properties including property owned by a not-for-profit corporation; property owned by a local authority, or; property owned by a public authority and occupied by another authority or not-for-profit.

Section 225: Authority to exempt eligible partnering, heritage, riparian, cemetery or golf course

Riparian area exemptions are the most relevant exemptions to community farms. Councils can make agreements with property owners respecting the extent of the exemptions and the ability to make agreements with the property owners. The owners may be subject to conditions such as placing a restrictive covenant on the area. This may be a barrier on ALR land.

Permissive Tax Exemption

Location: Pemberton, BC

Description: Exempting agricultural land from taxation.

Under section 224(2)(i) of the *Community Charter*, council granted exemption to agricultural properties on Lot 12, Plan 7619, District Lot 203 Lillooet Land District. "Corporation of the Village of Pemberton Exemption from Taxation Bylaw No. 538, 2004"

¹⁰ Ministry of Small Business and Revenue. 2008. Bona Fide Farmers. Bulletin SST 023. The Land Conservancy of BC, April 2008
Community Farms Program

Section 226: Authority to exempt land or improvements or both for encouraging revitalization

Councils can exempt land and/or improvements from the municipal portion of property value taxes to encourage economic, social or environmental revitalization in a community, including agricultural improvements.

**Local Government Act [RSBC 1996]
Chapter 323**

**Part 24 Regional Districts, section 811
riparian property exemption**

This section allows regions to exempt riparian property from taxation.

Barriers

**Assessment Act [RSBC 1996] Chapter
20**

**Standards for the Classification of Land as
a Farm Regulation**

***Split classification on ALR and non-ALR
land:***

Land may receive a split classification where those portions producing primary agricultural products are given farm classification and non-farmed portions are classified according to use and zoning (e.g. Residential classification for areas occupied by farm housing and other structures such as barns or processing kitchens, natural areas).

Gross annual value criteria

In determining if the gross annual value of product criteria are met for farm classification

only the value of primary agricultural products are considered (section 4(a)). Under section

Riparian Exemption

Location: Town of Gibsons, BC

Description: Bylaw to exempt riparian property.

Under the *Local Government Act*, for 2003-2013, select parcels are exempt from taxation if under a conservation covenant. "Town of Gibsons Riparian Area Property Tax Exemption Bylaw No. 944, 2002"

BC Assessment Review Panel

BC Assessment periodically reviews property use to ensure it continues to qualify for farm classification. In 2007 204 Saanich properties on non-ALR land were reviewed. 22 properties lost farm status and 97 were reclassified as split usage resulting in a substantive increase in property tax for some small farmers.

Minister Thorpe responded to complaints by announcing a review of the farm status assessment policy. The panel members were announced February 29, 2008. Importantly, the panel does not include a representative for organic or small scale farms.

A recent change to the *Assessment Act* (Bill 32- *Assessment Statutes Amendment Act*, 2007, S.B.C. 2007 c. 13) modified the definition of farm and on-going complaints about 'country estates' applying for and receiving farm tax status may have precipitated some of the reassessments to split classification.

6(b)(ii) the value of primary agricultural products used in processing for sale or in preparation of manufactured derivatives may be counted, but not the value of the processed or manufactured item.

Local farmers may also find it challenging, at least at start up, to meet the gross annual income requirements which are \$10,000 on land less than 2 ha. Over 2 ha annual income requirements decrease to \$2,500.

Classification of leased land:

BC Assessment assesses individual farm operations. If a community farm is farmed as 3 X 1 acre plots on one piece of land by 3 individuals each ‘farm’ would need to meet the income threshold requirements for farm classification. If the leased area is less than 8000m² (2 acres, 0.8 hectares) it will only qualify for farm class if it is in the ALR or under primary production.

Role of MAL and ALC

MAL can support local farmers through discussing the impact of split classification on farm economic viability and environmental performance at the upcoming BC Assessment Review of Farm Classification (see “Taxation”).

Consideration can be given to including the value of processed products in calculating the gross annual income criteria under the *Assessment Act*. Finally it may be worth while to investigate if, for community farms on non-ALR lands, it is possible to waive the 8,000m² requirement for leased land.

Both MAL and ALC desire to work closely with local governments to support agriculture.^{11,12} Encouraging municipalities to take advantage of permissive tax exemptions for riparian areas, especially on non-ALR land can help local community farms towards economic viability.

Working under one cooperative: Fraser Common Farm

Location: Fraser Valley, BC

Description: Fraser Common Farm is owned by a land cooperative and has multiple farmers. Each farmer is not an individual enterprise, but is a member/owner of Glorious Organics Cooperative. The whole of the 20-acre farm is in the ALR and is assessed by BC Assessment as one farm, not individually leased farm plots.

¹¹ Ministry of Agriculture and Lands. 2008. The British Columbia Agriculture Plan: Growing a healthy future for B.C. families.

¹² Agricultural Land Commission. n.d. ALR & Community Planning Guidelines.

Start-up and other support

Enabling affordable access to land includes the CFP assisting community farmers with finding start-up funding and other support such as education opportunities. Farmers leasing land may have difficulty getting a business loan as they do not have land to put up as collateral. However, Canada's banking legislation allows access to micro-credit which may remove that barrier to start-up financing.

Government financial support programs need to take into account trade agreements such as the Agreement on Internal Trade, the Trade, Investment and Labour Mobility Agreement (TILMA), the North American Free Trade Agreement, and World Trade Organization (WTO) restrictions. Currently BC provides less than the national average of support for agriculture. Support from non-government organizations may not be subject to the same restrictions. It is interesting to note that financial support influences farmer's management decisions. For example, support linked to production can have unintended negative environmental impacts while support requiring adherence to baseline environmental performance (e.g. completion of an Environmental Farm Plan) can have a positive effect on ecological services (cross-compliance).

Other types of support can include extension, information and other education opportunities (e.g. apprenticeships) offered by both government and non-government organizations.

Opportunities

The exact piece of Canadian legislation that enables micro-credit and related lending programs in Canada was not discovered during the research for this study.

VanCity Savings Credit Union

Location: Lower mainland, BC

Description: VanCity's Peer Lending Program provides loans to groups of three to six business owners, each borrowing for their own business. According to VanCity, lack of assets, traditional collateral or credit history will not necessarily prevent access to business credit with them.

Micro-credit and related programs

Farmers looking to finance a small business and having trouble getting credit from traditional sources may be eligible for micro-credit.

According to Finance Canada, micro-credit “refers to small loans made to low-income individuals to sustain self-employment or start up very small businesses.”¹³ Micro-credit loans are generally small, amounting to a few thousand dollars (e.g. under \$25,000). Micro-credit is either community based or is accessed through specific programs (community development corporations, community-based organizations, credit unions, government and non-government programs).

Community Farm Alliance Fund

Location: VanCity Community Foundation

Description: A member of the Glen Valley Organic Farm Cooperative donated \$500,000 for Glen Valley and similar projects.

The money is invested with VanCity as an endowment fund, generating \$25,000 per year for grants to start Community Farms. The fund is administered by FF/CF and TLC.

Barriers

British Columbia/Alberta 2006 Trade, Investment and Labour Mobility Agreement (TILMA)

Part IV Transitional Measures, Business Subsidies

BC and Alberta are still working on addressing assistance to the agricultural sector under TILMA. There is risk this may negatively affect current or future support options for farmers in BC.

ALR land

While the provincial governments do not expect TILMA to affect land use decisions with the agricultural land reserve (ALR), there are concerns that the ALR was not specifically exempted from TILMA. TILMA allows private investors and companies to challenge governments on programs and regulations that impair or restrict their investments. As both BC and Alberta investors can purchase ALR land this may not be of concern.

¹³ Small businesses in this case refer to businesses with 5 or fewer employees and gross revenues of less than \$500,000.

Role of MAL

In the 2008 Agricultural Plan MAL commits to strengthening and building extension services, especially those related to building profitable family farm businesses (Strategy 15 “Strengthen current extension services” pg. 39).

There may also be a role for MAL in supporting micro-credit opportunities for farmers in BC through working with organizations such as the Community Futures Development Association of British Columbia and the Women’s Enterprise Centre.

III. Long-Term Leases for Food Production

Farmers renting land for food production is not new to BC. However, utilizing leased lands in BC to provide long-term security for farmers is. A lease is an interest in land that gives the tenant the use and occupation rights of the landowner for a period of time. The tenant has the responsibility of maintaining the land according to the terms of the lease while the landowner has the right to dispose of the land. Since landowners can dispose of the land, in order for long-term leases to provide security for farmers the land needs to be held in such a way that it is not readily available for sale (e.g. held by a land trust).

Long-term leases (40 plus years) provide farmers with tenure without requiring a significant capital investment in land. Secure tenure is assumed to be important for good farmland management. Long term leases encourage and enable farmers to:

- Invest in land improvements (e.g. developing soil, building infrastructure)
- Develop long-term business plans and may assist with obtaining financing
- Plant perennial crops such as fruit trees
- Utilize ecologically sustainable practices

A number of Acts play a role in long-term leases including the *Land Title Act*; the *Commercial Tenancy Act*; the *Income Tax Act*, and; the *Land Act*. Two of the significant challenges associated with long-term leases include ensuring secure tenure for farmers, and accounting for accrued equity.

Managing leases is a complex legal matter. Leases vary extensively between individual agreements. A detailed discussion of the leasing legal landscape is beyond the scope of this feasibility study. See the CFP publication *Farmland Access Agreements* for more information. The handbook describes different types of rental agreements, situations in which they can be used and provides basic templates.

The following are some of the initial opportunities and barriers related to long-term leases for food production.

Tenure

Opportunities

Land Title Act [RSBC 1996] Chapter 250

Bill 35 Miscellaneous Statutes Amendment Act Section 73.1

The *Land Title Act*, section 73 states that when part of property is leased for longer than three years, the property must go through the subdivision requirements outlined in section 7 of the Act. The subdivision must be approved by an approving officer, and this approval only carries for the term of that particular lease. When the lease terminates, so does the subdivision. The subdivided areas cannot be transferred separately under this approval (e.g., the owner cannot sell the leased area as a separate lot from the original property). In 2007, the legislature amended section 73 to clarify that leases longer than three years that do not meet the subdivision requirements are not unenforceable. However, no precedence has yet been set in law under this change.

Glen Valley Organic Farm Cooperative

Location: Abbotsford, BC

Description: The farmland is owned by the Glen Valley Organic Farm Cooperative. The cooperative pays for the land and associated expenses through selling membership shares, fund raising and farm leases. The cooperative holds leases with individual farm enterprises.

Keating Community Farm Cooperative

Location: Cowichan Valley, BC

Description: The Keating Farm Cooperative holds a profit a prendre with *TLC* giving the cooperative a 99 year tenure on the farmland owned by *TLC*. The cooperative holds a 'profit a prendre' with individual farmers.

Land Act [RSCB, 1996] Chapter 245

Crown Land Use Operational Policy: Agriculture – Intensive (Amendment 1, October 21, 2005)

Under this policy, Crown land parcels are available for lease or sale for the purposes of intensive agriculture. Intensive agriculture is defined as "...the use of Crown land parcels of an area of 15 ha or less for the commercial production of animals, fruits and/or vegetables. Examples of intensive agriculture include poultry farms, dairy farms, market gardens, greenhouses, nurseries, piggeries and feed lots."

It is possible to transfer the tenure holder's interest in the land to a third party. Under the CFP, a tenure holder may be a land trust, a community society or cooperative which provides sub-leases to individual farmers.

Note that in disposing of Crown land, consideration is given to the province's obligations to First Nations. This may be an opportunity for First Nations interested in forming a community farm.

Barriers

Agricultural Land Commission Act [S.B.C. 2002] Chapter 36

Includes amendments to October 15, 2004

Registration Restrictions Section 19 and Subdivision of Agricultural Land Reserve Section 21

Multiple leases longer than 3 years (such as under the community farm model) cannot be registered against a title on ALR land without consent of the ALC. Under Canadian law, a lease on part of a property is considered a type of subdivision when the lease is for a term longer than 3 years. For example, if a landowner leases a specific area of his property to a farmer for 12 years, the property is considered subdivided for 12 years. Approval of the ALC is not required on ALR land. See the CPF publication *Farmland Access Agreements* for more information.

Lease document development

Drafting long-term leases with the assistance of a legal professional is essential to ensure both the tenant and landlords rights and responsibilities are clear and that all parties' needs are met. This is an initial expense that may be a barrier to new farmers.

Land Act [RSCB, 1996] Chapter 245

Land Use Operational Policy: Agriculture - Intensive

No information was found on the number of small (less than 15 ha) crown land properties currently or potentially available for Intensive Agriculture lease.

Equity

Enabling access to affordable land includes the CFP helping farmers and landowners with the question of how to handle equity. The only way a farmer can afford to invest themselves and their capital into a piece of land is to be able to receive a return on their investment if they need to leave (e.g. sickness, family, retirement).

Under a long-term lease, improvements to the land may be owned by the tenant. Arrangements can be made where the group holding the farmer lease (trust/society/cooperative) has the first option to purchase improvements (including assets and sweat equity) at a price set to avoid windfall gains.¹⁴ A new farmer would buy the business from the trust/society/cooperative at fair value. Overall, dealing with the question of equity will likely depend on individual community farm arrangements and will need to be handled on a case by case basis.

Selling a Farm Business

Location: Glen Valley Organic Farm, BC

Description: Retiring farmer John Switzer sold his fruit and vegetable operation on Glen Valley Organic Farm to a new farmer selected by the Glen Valley Organic Farm Cooperative. John is staying on to mentor the new farmers who purchased his business.

Role of MAL and ALC

MAL can play a role in long-term leases for food production by helping provide current information on legislation and bylaws related to farmland rental agreements. MAL can also identify Crown land that could be leased by land trust/society/cooperative for the purposes of developing a community farm.

¹⁴ Hamilton, B. 2005. Agricultural Land Trusts: Preserving Small Farm Heritage. Canadian Centre for Policy Alternatives.

IV. Conclusion

This feasibility study clearly demonstrates that although opportunities and barriers are consistent across BC at a provincial level, there is a large degree of variation at the local government level (e.g. zoning bylaws). The Community Farms Program (CFP) can take advantage of these variations to support community farm development in ways suitable to BC's many unique areas.

Dr. Hannah Whittman of Simon Fraser University is completing a study of farms in BC already experienced with sustainable farming, sharing land and cooperative living. This data will support development of prospective community farms.

Securing land in order to make it accessible to farmers is a challenging proposition considering the high price of land in areas favourable to farming. It is likely that the majority of land for community farms will depend on donations, bequests, covenants and leases structured in such a way that the landowner is provided with some return based on their requirements. The Ministry of Agriculture and Lands (MAL) could also play a role in enabling land access by giving new farmers priority on Intensive Agriculture leases (< 15 ha) on Crown agricultural land.

Although federal and provincial policy and legislation create both opportunities and barriers for community farms, in many cases the success or failure of enabling affordable access to land (e.g. permitted activities, housing) will depend on local government bylaws. This highlights the importance of the role of MAL and the Agricultural Land Commission (ALC) in working with local governments to support local agriculture initiatives, including community farms.

While the CFP does not require land be located in the Agricultural Land Reserve (ALR), ALR-related benefits such as allowance of diverse farm business activities (e.g. agritourism), possible multi-unit housing allowances, and fewer restrictions on receiving farm tax classification are important conditions for community farm success.

Subsidies for new farmers are unlikely from the BC government, especially in light of potential conflicts with trade agreements. However, other government support, such as training and other extension services are important for new farmers to be successful. Governments can also play a role by encouraging and supporting micro-credit programs for farmers.

Utilizing long-term leases to provide farmers with tenure is a relatively new concept. As landowners have the right to dispose of land, land held by a land trust or a community helps provide security to long-term leases for farmers.

Designing a lease is a complex matter and requires legal advice to assure all parties interests are protected. A second challenge with long-term leases is accounting for accrued equity; however there are legal solutions to address this challenge and it is likely to depend on individual community farm arrangements. MAL can play a role in long-term rental agreements by ensuring up-to-date information on legislation and bylaws are readily available.

Overall, new community farms will be operating in a challenging, but not impossible landscape. No significant legislation directly stands in the way of community farm development; however individual community farms will face region-specific challenges in becoming established. Helping community farms work with these barriers is a key role of the CFP. Communication and cooperation with local governments and collaboration with both MAL and ALC will be necessary to successfully meet the CFP goal of 50 community farms in BC by 2012.

In all cases MAL can collaborate with the CFP in research necessary to develop community farms, especially in the areas of alternative ownership models, covenants, on-farm agricultural training, long-term leases, and succession planning. A contract proposal to undertake research in these areas has been submitted to MAL at their request and is currently under consideration by the Executive Committee. By supporting further research and by streamlining regulations and working with local governments to support community farms, MAL will not only be supporting alternative models for local food production, but will also be supporting other new and existing members of the farming community.

Future research and development

For the CFP to perform its roles as facilitator and information hub for community farm development, a solid background of information related to land securement, affordable land access and long-term leases for food production is necessary. The following outlines future research and development work to support *TLC* and *FF/CF* in delivering the Community Farms Program. This research will also be of value to the wider farming community.

1. *Farm Land Trust Models* (in process)

- Research the structure, application and experiences of farmland trusts in Canada, US and the UK to aid in developing *TLC* as BC's farmland trust.

2. *Options for Farm Land Leasing and Their Governance* (in process)

- Document existing tenure agreements used in Canada, US and UK on farms that are sharing land and housing.
- Compile examples of leases, sub-leases, rental agreements, profits a prendre, contracts etc and develop templates appropriate to community farms in BC.
- Determine the level of legal security a farmer has with a long-term lease.
- Explore the options for accounting for accrued equity, including sweat equity and built assets.
- Develop draft governance structures for community farms (eligibility, rents, length of tenure, liability, business sale, succession etc).

3. *Covenant Options* (in process)

- Research application of agricultural covenants in Canada and the US related to keeping land in food production.
- Develop case studies, including consultation with land appraisers to determine 'before and after covenant' land values to establish benefit to landowners.
- Research will be used to inform covenant development in BC to keep land in sustainable food production.

4. *Housing*

- Research how the challenge of housing for multiple farmers on one piece of land can be addressed in BC, working with local and provincial government, including the ALC. Provide case studies in Canada and the US.

5. *Succession Planning* (in process)

- Research succession planning options for farmland owners wanting to permanently protect their land for long-term food production. Information will be used to develop CFP positions on succession planning and as an education piece for estate and financial planners, landowners, farmers and other stakeholders.

6. *Economics of Land acquisition and farming*

- Research what financial arrangements, business plans and governance structures have led to economically viable farms that share land and housing.
- Research the influence of ALR zoning and covenants on land prices.
- Research if ALR zoning protects land from speculative purchase by developers.
- Research if farmers on ALR lands have an economic benefit over farmers on non-ALR land.
- Develop a ‘toolkit’ of actions agricultural municipalities could take to nurture the economic viability of farming in their jurisdictions. (in process)
- Determine the number and location of small (less than 15 ha) crown land properties currently or potentially available for Intensive Agriculture lease?

7. *Education and Training for Farmers*

- Document agricultural training programs, including apprenticeship and mentoring opportunities in BC, Canada and the US. Identify gaps and effective delivery agencies to support FF/CF role in the CFP of assisting with farmer education.

8. *Farmland and Farmers*

- Determine how much land is currently available for food production BC, including ALR, non-ALR, in active production and not in production.
- Track number of requests of new farmers looking for land, and where.
- This will feed into a database being developed by FF/CF as part of the CFP web site to link new farmers with available land.

Summary of Opportunities, Barriers and Suggested Solutions for Community Farms

	Opportunities	Barriers	Suggested Solutions
Securing Land for Agriculture			
	Donations and bequests to public land trusts	Landowners need to consider financing their retirement and leaving an inheritance for their family.	<i>TLC</i> as a farmland trust for BC Form local land trusts Landowners can receive tax benefits from donating land to land trusts.
	Fee Simple purchase by land trusts, shareholders, cooperatives, societies, and individuals.	High land prices.	Potential use of Affirmative Agricultural Covenants that require land to remain in agricultural production..
	Crown land leases to land trusts, societies, cooperatives etc.	Lack of inventory on how much Crown land is available for Intensive Agriculture lease.	BC compile inventory of availability of agricultural Crown land.
Support & Affordability for Farming			
1. Local Production & Distribution	Farm retail sales cannot be prohibited on ALR land by local government unless approved by MAL	Local bylaws may prohibit certain agritourism activities, food processing, farmers markets, and other agricultural production activities in some areas of BC, especially on non-ALR land.	Help farmers work with local governments when developing farm business plans. Offer information and support to local governments when they are developing plans and bylaws that affect agriculture.
		Current and potential regulations under <i>Food Safety Act</i> reduce direct farm sales, increase farm expenses and challenge ethical choices.	Consider present and forthcoming regulations when developing farm business plans (e.g. Meat Inspection Regulation).

Summary of Opportunities, Barriers and Suggested Solutions for Community Farms cont'd

	Opportunities	Barriers	Suggested Solutions
Support & Affordability for Farming cont'd			
2. Ecologically Sustainable Practices (required by the CFP)	Environmental Farm Plan (EFP) Program supports best management practices (BMP's).	Funding for BMP's is a small % of overall cost to farmer.	BC can encourage AAFC to increase funding for BMP's. Partner with or support related NGO's to establish an EFP trust to provide additional funding for BMPs.
	Permissive Tax Exemptions for riparian areas are possible when municipalities enact an appropriate bylaw.	No federal or provincial incentive policy for ecological services.	CFP and related groups can encourage MAL to continue pursuing a payment for ecological services program provincially/federally CFP and related groups can recommend the <i>Community Charter</i> and the <i>Local Government Act</i> be amended so ecologically sensitive areas are eligible for permissive tax exemptions.
		Natural areas used as part of an ecologically sustainable farming system may be subject to Residential tax rates.	Recommend to the BC Assessment Review Panel that natural areas be included under farm classification on both ALR and non-ALR lands.

Summary of Opportunities, Barriers and Suggested Solutions for Community Farms cont'd

	Opportunities	Barriers	Suggested Solutions
Support & Affordability for Farming cont'd			
3. Housing	ALR Land - Additional residences are possible if they are necessary for farm use.	ALR Land - If local government does not authorize an application for multi-unit housing, it is not passed to the ALC for review.	Work with local governments and ALC to develop specific zoning bylaws that support multi-unit housing on agricultural land. E.g. <ul style="list-style-type: none"> • Occupies 5% or 1 acre, whichever is less • Utilizes existing buildings for housing wherever possible (e.g. 2 suites in one house). • Covenant restricting housing for use by farmers only • Whole Farm Plan required Housing is in service of supporting farming. One option is to require the farm to prove to be a viable business over 3 years before housing applications would be considered.
	Non-ALR Land - Local government zoning can permit multi-unit housing on agricultural land.	Non-ALR land - Permission must be sought from local government for multi-unit housing. ALC is not involved.	

Summary of Opportunities, Barriers and Suggested Solutions for Community Farms cont'd

	Opportunities	Barriers	Suggested Solutions
Support & Affordability for Farming cont'd			
4. Taxation	ALR Land - Land can be given farm classification even if it is not in production (there are other stipulations that need to be met).	Land may receive a split classification where those portions producing primary agricultural products are given farm classification and non-farmed portions are classified according to use and zoning (e.g. Residential classification for areas occupied by farm housing and other structures such as barns).	Recommend to the BC Assessment Review Panel that both ALR and non-ALR land be declared ineligible for split classification. Recommend to the BC Assessment Review Panel that land under processing facilities be eligible for farm tax status. 51% of product content must be produced on the farm.
	ALR Land and Non-ALR Land - Land can be given farm classification if land is not yet in production (there are other stipulations that need to be met to be a 'developing farm').		
	ALR and Non-ALR Land - Leased land can receive farm classification.	If the leased area is less than 0.8 ha, it will only qualify for farm classification if it is in the ALR or under primary production.	Recommend to the BC Assessment Review Panel that Non-ALR leased land less than 0.8 ha be eligible for farm classification as long as all other requirements are met.
		Value of processed or manufactured item does not count towards gross annual income criteria for farm classification.	Recommend to the BC Assessment Review Panel that the value of processed or manufactured goods counts towards gross annual income criteria for farm classification where 51% of primary ingredients come from the farm.

Summary of Opportunities, Barriers and Suggested Solutions for Community Farms cont'd

	Opportunities	Barriers	Suggested Solutions
Support & Affordability for Farming cont'd			
Taxation cont'd	<p><i>Bona fide</i> farmers (farmers with farm classification) are eligible for PST exemptions.</p>		
	<p>Permissive Tax Exemptions possible for:</p> <ul style="list-style-type: none"> • riparian areas, • land held by not-for profit (e.g. cooperative or land trust) • land or improvements that leads to community revitalization (e.g. community farms) 		<p>Recommend a province wide tax exemption similar to the Islands Trust Natural Area Protection Tax Exemption that provides participating landowners with a 65% tax exemption on property protected by a covenant. The regulation is under the Islands Trust Act.</p>
5. Start-up and Other Support	<p>Farmers can access micro-credit loans through a variety of organizations.</p>	<p>Farmers who lease land may not qualify for business loans (can't offer land as collateral)</p>	<p>Recommend that community and governments support micro-loan programs for farmers.</p> <p>Establish a precedent where CFP farming group qualifies for loan based on long-term (40+ years) lease.</p>
	<p>Governments can provide extension and related support programs without conflicting with national and international trade agreements.</p>	<p>Government subsidies to farmers are restricted by trade agreements. Note: WTO Green Box allows payments for ecological services.</p>	<p>Recommend provincial and federal governments retain and grow extension services for new farmers.</p>

Summary of Opportunities, Barriers and Suggested Solutions for Community Farms cont'd

	Opportunities	Barriers	Possible Solutions
Long-term Leases for Food Production			
	A change in 2007 to the <i>Land Title Act</i> means long-term (greater than 3 years) leases that have not followed the subdivision process may not be unenforceable.	Lease development can be a complicated and expensive process.	CFP developed templates for leases, profits a prendre, licenses and MOU's, including accounting for accrued equity
	Crown land parcels (< 15 ha) are available for lease or sale for the purposes of intensive agriculture.	Determining how to account for accrued equity is a complicated process.	
		ALR land – cannot register multiple leases against a land title unless approved by the ALC.	Use alternative agreements on ALR land such as profits a prendre, license or MOU
	There are farms in Canada, the US and the UK who have experience with long-term leases for food production. This knowledge is important to CFP development.		

Questions about Community Farms

These questions are based on those frequently asked of the Community Farm Program (CFP).

1. How will farmland be secured for food production when farmland is prohibitively expensive in many important agricultural regions of BC?

Response: CFP will be developing a communication strategy to increase awareness across BC regarding options for farmland owners and other BC residents to help keep farmland in food production. There are many avenues for farmland acquisition by land trusts and communities, including: donations; planned giving; bequests; fee simple purchases through land trust fundraising campaigns, and sale of shares (through cooperatives, corporations or societies). ‘Affirmative agricultural covenants’ as well as conservation covenants are land trust tools which may be used to protect farmland for farming.

2. What if the complex legal landscape around food production and sale makes things so complicated that it deters farmers from establishing a diverse business base necessary for success?

Response: While community farms support a variety of crops, value-added products, education opportunities, and agri-tourism, their goal of local food for local needs reduces or eliminates the influence of export regulations and marketing boards.

A role of the CFP is to provide farmers with resources and direction to navigate the legal complexities of business activities. Changes to legislation such as the *Agricultural Land Commission Act* and the *Local Government Act* provide farmers with more opportunities for diverse business activities than in the past. However, local farmers do remain vulnerable to legislative changes based on industrial-scale agriculture – e.g. the Meat Inspection Regulation. This vulnerability is a risk that cannot be directly addressed by the CFP.

3. Will farmers implement ecologically sustainable practices that include setting aside natural areas when those areas may be subject to Residential taxation rates?

Response: By definition, community farms¹⁵ use sustainable practices. Participants in the CFP are required to develop a Whole Farm Plan that determines conservation guidelines for the land. Farmers qualified for community farms are expected to follow sustainable agriculture practices. Typically these community farm activities would be monitored by a society or cooperative. CFP acknowledges that split classification can cause economic hardship for some farmers with set-asides or land that appears not to be under production (e.g. uncultivated areas left for pollination, beneficial wildlife habitat and water retention)

A BC Assessment Review Panel has been established to look at farm classification. Unfortunately this panel does not include representation from organic or small-scale farmers. The risk of split classification on both Agricultural Land Reserve (ALR) and non-ALR land is still outstanding.

4. Will multi-unit housing on farmland be allowed?

Response: There are farms in BC where permanent multi-unit housing is legally in use. There are regulations to permit temporary housing for temporary workers. On both ALR and non-ALR land, success will depend on working with local governments and the Agricultural Land Commission (ALC) to find means to allay fears about opening doors for non-farmer residential or commercial development. For example, community farms could be defined by a special zoning bylaw that protects against development proposals not congruent to agriculture (see Housing for details). The CFP can supply housing plan resources and information to community farms and local governments on appropriate and required housing for farmers on agricultural land. The goal of the CFP is to utilize housing to ensure sustainable, local food production. The CFP does not support housing for other purposes such as rentals, sales or vacation homes.

¹⁵ A community farm is a multi-functional farm where long-term leases (40 plus years) are assigned for local food production, and farmers may be housed on, or near the land. Agricultural activities are small-scale, labour intensive and sustainable (ecologically, economically and socially). See also local farm and sustainable agriculture in Definitions.

5. Will community farms on ALR land have a competitive advantage over community farms on non-ALR land?

Response: ALR land does enjoy some privileges over non-ALR such as benefits related to lower property tax, allowance of diverse farm-related business activities (e.g. agritourism), possible multi-unit housing allowances and fewer restrictions on receiving farm classification. These benefits may be important for community farm success (see Support and Affordability for Farming for details). While this challenge in relation to community farms requires further investigation, it is a situation faced by all farmers in BC.

On the other hand, registering multiple leases on the same parcel of ALR land may not be approved by the ALC (considered subdivision). ALC approval is not required non-ALR land. Other types of rental agreements for sharing a parcel of ALR land may be more appropriate (e.g. profits a prendre or memorandums of understanding).

6. Will government support of community farms give community farms a competitive advantage over other new or established farm businesses?

Response: Government support, such as research, training and other extension services would be available to all new and existing farmers. Furthermore, giving new farmers priority on Intensive Agriculture leases (land < 15ha) does not need to be restricted to community farms.

7. Will farmers lack security with only long-term leases instead of land ownership?

Response: CFP anticipates that a community cooperative, society or other organization would hold a long-term, registered lease (e.g. 99 plus years) with a land trust. The community group would then provide sub-leases to farmers. Recent changes to the *Land Title Act* now provide lessees with some legal standing even if the lease is not registered and the subdivision process not followed (See Long-term Leases for Food Production).

8. How can farmers get business loans as they do not have land to put up as collateral?

Response: Micro-credit loans through community organizations, credit unions or other government and non-government programs are becoming more available. As farmers do not have to finance land purchase, micro-credit may be sufficient to start their business. It is also possible to take out a loan against a lease or a profit à prendre. CFP is currently working towards setting a precedent where a CFP farming group qualifies for a loan based on a long-term (40 year plus) lease.

9. Why would a farmer invest in improving leased land?

Response: Leases to farmers will provide long-term tenure (minimum 10 years) and can be structured in ways that account for equity. Thoughtful lease design with guidance of a legal professional will be necessary. CFP can help farmers, landowners and communities with resources and guidance on lease development. The CFP intends to develop lease templates to help ensure equity is accounted for (see Long-term Leases for Food Production).

Glossary

Affordable land access

Affordable access means farmers have access to farmland through long-term agreements (e.g. a 10 year lease that rolls over 4 times for a total of 40 years). Access rates (rent) are comparable to local market rates. Farmers live on or near the land in safe, legal housing. Equity accrued by farmers is accounted for. A party other than the farmer bears the responsibilities and liabilities of holding the land title.

Community farm

A community farm is a multi-functional¹⁶ farm where the land is protected forever, long-term agreements (e.g. up to 40 plus years) are assigned to farm businesses for local food production, and farmers may be housed on, or near the land. Agricultural activities are small-scale, labour intensive and sustainable (ecologically, economically and socially). See also *local farm* and *sustainable agriculture* below.

Community Farms Program (CFP)

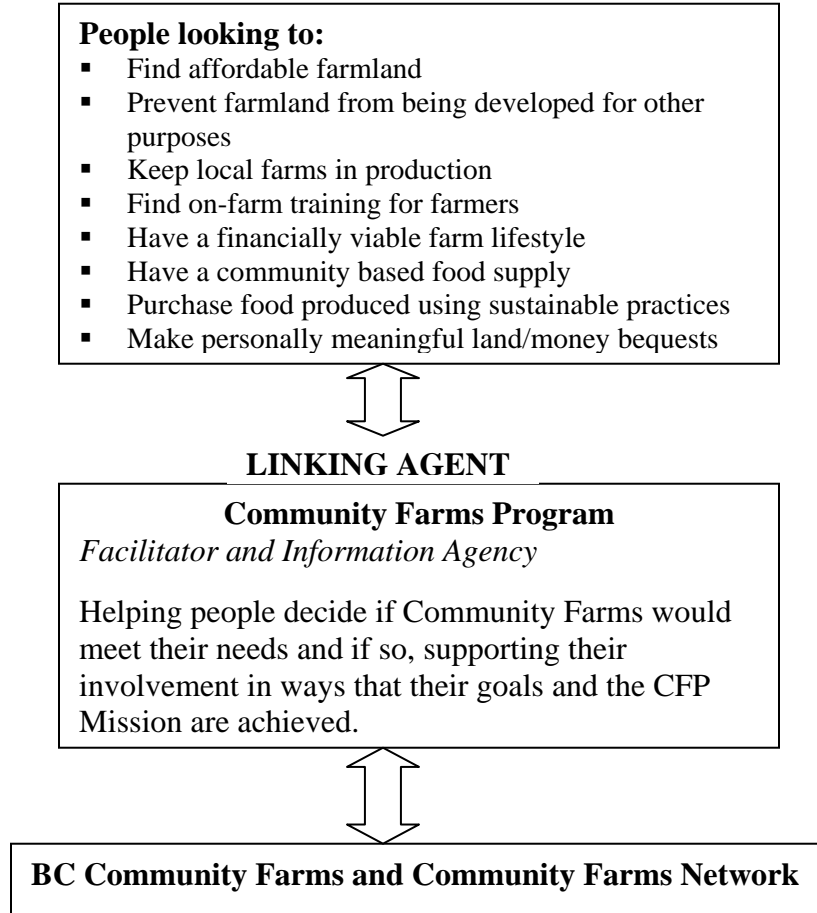
The Community Farms Program acts as a facilitator and brokering agency, bringing landowners, farmers, and local communities together to form *community farms* on land not readily available for sale in the real estate market. The CFP also acts as an information hub for community farm stakeholders through a web page, wiki and personal contacts. See Figure 1.

Program Goals:

- To enable affordable access to farmland for new farmers by:
 - Facilitating acquisition of farmland through bequests, donations, endowments and member share structures
 - Assisting in finding means to hold this land in public trust
 - Working with farmers to form business enterprises, cooperatives or partnerships.
 - Facilitating long-term farm leases for food production
 - Facilitating the formation of community groups (Societies, Cooperatives) for the purpose of supporting the farms and the farmers
 - Facilitating affordable and legal housing for farmers on or adjacent to farmland
- To organize mentorship and apprenticeship training opportunities in sustainable agriculture.
- To facilitate growth of an endowment fund to support grants for farmers and farming

¹⁶ Multifunctional farming is a term used to indicate agriculture can produce various outputs in addition to food and fibre. For example, ecological services, bioenergy, landscape preservation, employment, cultural heritage, food quality and safety, and animal welfare.

Figure 1: Role of the Community Farms Program



The CFP is a joint venture. The Land Conservancy of BC (*TLC*), as a charitable BC farmland trust, secures land through donations, bequests and fee simple purchase and provides expertise and templates for covenants, rental agreements, farm business plans, whole farm plans, and farm management plans. Farm Folk/City Folk (*FF/CF*), as a charitable BC society, places farmers on farms, facilitates cooperative farm enterprises, coordinates access to education opportunities for new farmers and provides resources for agricultural training and facilitation in sharing farmland and housing.

Local farm

Local farms provide food to meet local needs. Farm management is based on sustainability, multi-functionality and diversity. Production techniques are labour intensive and designed to maximize production from the area farmed while respecting ecological integrity. See *sustainable agriculture*.

Sustainable agriculture

Sustainable agriculture is "...practices that meet current and future societal needs for food and fibre, for ecosystem services, and for healthy lives, and that do so by maximizing the net benefit to society when all costs and benefits of the practices are considered."¹⁷ Sustainable agriculture includes the importance of local food systems in building capacity for long-term production of safe, affordable, food; protecting and providing ecological services, and; supporting community health.¹⁸

Economic: Economically sustainable agriculture is financially viable¹⁹ for all stakeholders in BC, including secure income for farm families, functioning food distribution systems, and affordable, safe food for consumers.

Social: Socially sustainable agriculture includes youth involvement in agriculture, support of collaborative organizations, a diversity of employment opportunities, quality of life for farmers, distributors and consumers, access to agricultural education and training and recognition of the value of agriculture to communities in BC.

Environmental: Environmentally sustainable agriculture protects and provides ecological goods and services that benefit both farmer and society.²⁰

¹⁷ Tilman, D., Cassman, K., Matson, P., Naylor, R. & Polasky, S. 2002. Agricultural sustainability and intensive production practices. *Nature*, 418, 671-677.

¹⁸ Local Food Plus. n.d. Why local sustainable food? Retrieved February 1, 2008 from http://www.localflavourplus.ca/why_local_sustainable_food.htm

¹⁹ Financially viable refers to the need for secure, adequate incomes to meet present and future needs.

²⁰ Adapted from: Agriculture and Agri-Food Canada. (2007). Sustainable development strategy 2007-2009: Making progress together. Public Works and Government Services Canada.

Appendix 1: Small changes, big influences: Small-scale farms and legislation/regulations

Small-scale farms producing food for local sale can be disproportionately affected by small changes in the legal landscape. In some cases, negative results may be entirely unexpected and unintended. Recent changes to the *Food Safety Act* (Meat Inspection Regulation) illustrate how small legislative changes can affect the viability of local farm businesses.

Other legislative changes may be beneficial to local farmers, such as the 1994 amendments to the *Agricultural Land Commission Act* that mandates the Agricultural Land Commission (ALC) to work closely with local governments, provincial ministries and others. Additional Acts amended to the benefit of local farms include the *Growth Strategies Statutes Amendment Act*; *Land Title Act*; and, the *Local Government Act*.

The recent creation of the Small Business Lens may help address future concerns about the impact of legislative change on small businesses such as local farms.

Legislative Impacts on Small Scale Farms

The following is an example of how local farm businesses can be threatened by small changes to the legal landscape.

Food Safety Act [SBC 2002] Chapter 28

Meat Inspection Regulation

[Includes amendments up to BC Reg. 299/207, September 30, 2007]

Enacted in 2004 the Meat Inspection Regulation (MIR) stipulates that only meat from livestock slaughtered in provincially or federally licensed facility can be sold for human consumption. All animals must be inspected before and after slaughter. A 2 year transition was planned, with the Act coming into full effect on September 30, 2007.

Local farmers rely on custom slaughter operations as their livestock production is smaller scale than industrial farms, their animals may be slaughtered at different times of the year, and the economic feasibility and animal welfare aspects of shipping their animals' long distances to provincial and federally licensed operations. Despite the BC Meat Industry Enhancement Strategy, the new MIR has significantly reduced the number of custom slaughter operations.

For instance, in the North Okanagan Regional District producers report higher slaughter costs, lower profit margins, lost revenues, loss of farm status and reduced livestock production. According to the “Impact of the Meat Inspection Regulation on slaughter capacity in the North Okanagan Regional District” by Brigitt Johnson (January 2008):

2.4 Small Lot Specialty Poultry Slaughter Capacity

- There is no custom poultry processing facility left to serve the region.
- Five custom poultry processing facilities that processed 55,000 to 70,000 chickens and over 5,000 turkeys for close to 800 producers have closed, including a mobile that operated as far north as Salmon Arm and as far south as Oliver. Most had been operational for 10 years or more, and one for as long as 22 years.
- Three provincially licensed poultry facilities, Colonial Farms, Farmcrest Foods and Van Diemen Turkey Farm, do not process small lot custom poultry.
- The Class C licenses²¹ granted or in progress will not provide enough capacity to accommodate poultry production levels before MIR was implemented.
- The economic value of the specialty chicken production was over \$520,000 per annum.
- Chicken producers need to order chicks by early 2008. With no licensed processor in place, chicken producers cannot place their orders with hatcheries.

Background

Food safety is housed in many different places. Provincially and locally, food safety is dealt with in the Food Protection Services (Provincial Health Services Authority, Ministry of Health), Food Safety and Quality Branch (Ministry of Agriculture and Lands) and the Regional Health Authorities.

The *Food Safety Act* was enacted in 2002 to act as an umbrella for food safety in BC. The intention is to bring the *Milk Industry Act* and the *Fish Inspection Act* under the *Food Safety Act* as regulations, as was done with meat inspection.

The Meat Inspection Regulation evolved out of the “Report of the Meat Regulatory and Inspection Review - Farm to Fork: A strategy for meat safety in Ontario” the discovery of BSE in Canada and reports of bovine tuberculosis in the northern region of BC.

Canadian Horticulture Council (CHC), Food Safety and Local Farms

The CHC is a voluntary, not-for-profit national association that represents the horticulture sector.

The CHC provides manuals for on-farm food safety based on the Hazard Analysis and Critical Control Points (HACCP) system. The manuals are available for free to members and at a cost of \$1,500 each to non-members.

CHC is not set-up to work with small and multi-crop farms and hence local farmers are not generally members, limiting their access to this valuable resource.

²¹ Interim licenses granted to slaughter operations allowing them time to upgrade to meet the Meat Inspection Regulation requirements.

2.5 Custom Red Meat Slaughter Capacity

- Before MIR came into effect, there were 8 custom slaughter businesses servicing RDNO. Six were fixed plants that also provided cut and wrap services. Two provided on farm slaughter, including one mobile.
- Four of the custom abattoirs have closed. Lost custom processing is conservatively estimated at over 1850 beef; 2775 pigs; 3000 lambs; and 3000 rabbits.
- The economic value of the beef, lamb and pig production represented by the lost capacity is conservatively estimated at \$4,635,250.
- After September 30, 2007 only one provincially licensed plant that processed custom beef and lamb was operational.
- Three Class C licenses were granted in the area. Only one, a mobile, has resumed operation. One fixed plant began the licensing process in October 2006 but is not operational. The other small-scale lamb processor has not even begun construction.

Positive Change for Local Farms

There are also relatively recent legislative changes that may be beneficial to the success of local farms.²²

Agricultural Land Commission Act Amendments

Amendments to the *Agricultural Land Commission Act* mandate the Agricultural Land Commission (ALC) to work closely with local governments, provincial ministries and others to encourage plans, bylaws and policies that support farming [section 10(1)(d)].

Growth Strategies Statutes Amendment Act

This act amended the Local Government Act to allow for regional growth management strategies led by regional governments. Growth strategies can address protection of farmland.

Farm Practices Protection (Right to Farm) Act [RSBC 1996] Chapter 131

This act (FPPA) links the right to farm with local government bylaw powers by exempting normal farm practices from certain nuisance and miscellaneous bylaws.

Land Title Amendments (Introduced with the FPPA)

Amendments (section 86) give approving officers the power to refuse subdivision plans if there are inadequate buffers between subdivision and farming and if the location of highways and highway allowances would unnecessarily increase access to land in the ALR.

²² Ministry of Agriculture, Food and Fisheries. 1998. Guide for Bylaw Development in Farming Areas. Strengthening Farming Fact Sheet Order No. 840.000-1

Local Government Act Amendments (introduced with the FPPA)

Changes include:

- Official Community Plans can include policies that help maintain and enhance farming [section 878(1)(c)].
- Allowance for the designation of development permit areas to protect farming [section 879(1)(c) and section 920(10)]
- Ability to prevent local governments and regional boards using zoning bylaws to prohibit or restrict the use of land for a farm business in a farming area [section 918] (requires regulation).
- Division 8 of Part 26 allows development of bylaw standards to guide the review of and development of zoning and farm bylaws.
- Division 8 of Part 26 also establishes a process for reviewing bylaws and outlines relationships with other sections of the Act concerning the content and effect of zoning bylaws and intensive agriculture.

Small Business Lens

The Small Business Lens is part of the BC Regulatory Reform Policy. The goal is to minimize the impact of new regulations, changing regulations and existing regulations on small businesses. This tool will be used to assess legislation or regulations from a small business perspective.

In September 2007 the Union of BC Municipalities endorsed a resolution to adopt the Small Business Lens. According to the 2008 BC Agriculture Plan, “[t]hrough these regulatory reform efforts, farmers and food processors will face reduced regulation and a more streamlined regulatory environment in which to operate.”²³

²³ Ibid

Appendix 2: Community Farms Simon Fraser University Questionnaire

Community Farms: Local Food, Environment, and Community Survey

Introduction

This research project aims to gather data from established community farms in BC to gain a better understanding of the social, economic, environmental and cultural benefits that accrue from farming practices in BC. We aim to gather data on the diversity of community farms, farmers, and farming practices. We also aim to gain a better understanding of farmer perspectives on the current status and future of farming in BC. All data is strictly confidential, and your name or property details will not be made public in any way without your prior and explicit consent. You are not required to answer any question that you are not comfortable with and you may withdraw from the study at any time. You will receive a summary report of the results of this preliminary study.

Name of Farm:

Address:

Contact Person:

Telephone:

Email:

Part 1: Describe your farm structure

Cooperative (describe) Other (Describe)

- 1) Date of acquisition (Month Year)
- 2) Total size of farm (acres)
- 3) How was the land acquired? (Purchase Lease Other (write in))
 - a. If leased, who from? Cost/acre?
 - b. If purchased who from? Cost/acre?
 - c. How many titles?
 - d. Total Purchase Cost
 - e. Current assessed value
 - f. Legal Farm Status?
 - g. ALR?
 - f. Any tax assessment problems? (Describe)
- 4) In 2007, how many separate agricultural businesses operated on your farm? (List)
- 5) During 2007, who worked on your farm?
 - Full time, year round, owner #
 - Full time, year round, employee #
 - Part time, year round, owner #
 - Part time, year round, employee #
 - Seasonal full time, owner #
 - Seasonal full time, employee #

CFP Feasibility Study

Occasional contract/part time seasonal #

WWOOF/Apprentice #

Comments: any issues with labour availability or management?

How do you obtain off-farm labour?

6) How are/were new farmers or farm members attracted to the farm?

7) Is there a succession plan in place? (Describe)

8) Housing

Describe the housing that existed on the farm in 2007:

of habitable buildings

square footage sq.

number of bedrooms

Describe the occupancy structure (who lives in each building, owners, renters, etc).

Who is responsible for upkeep of buildings (owner, renter)

Part 2 Describe your Production System in 2007

9) # of acres in production (total acres)

grazing (acres)

field cultivation (acres)

coldframe/greenhouse space (sq feet)

other?

b. What was Cultivated in 2007 (Area Cultivated Yield)

i.

ii.

iii.

iv.

v.

c. Animal production?

d. Forest management, fishing, foraging, gathering?

10) What percent of your total production is consumed on farm (by you or other farm needs, e.g. livestock)?

11) Of your total human food and livestock feed needs, what percent is produced on your farm?

12) What are the factors that most influence what you produce? (Describe, e.g. economic differential, fun, hobby, personal taste.....??)

13) What, if any, any regulatory issues keep you from realizing your goals?

Part 3 Describe your marketing system

14) Where do you sell your production? (Percent Market Location, Distance from Farm)

CSA

Farmgate

Farmer's Market

Restaurant

Distributor (which)

Grocery Store/Retail

Other

15) Any Value Added on farm? (Yes No)

i. If yes, what % of total sales?

- ii. Describe value-added system.
- 16) Does your food have a "story" as part of its value added? (explicit or implicit)
Describe your "story":
- 17) Do you experience any challenges with your current method of sales?
Describe:
- 18) What is working well with your current marketing strategy?
- 19) Do you have a farm business plan? a whole farm plan?
- 20) Do you have any experience with liability insurance - coverage? cost?

Part 4: Farm History and Ecological Landscape

- 21) In addition to your area in production, do you manage woodlots, forest, or fishing areas?
Describe:
- 22) What was produced in previous years, or historically (either by you, or by former owners)? - (prior land use, and what fostered changes in production)
- 23) What environmental/ecological changes have you observed in your farm, over time? (e.g. rains more/less, temperature, more/less pests, more/less birds)
- 24) Do these changes affect your farming practice, and if so how have you adapted?
- 25) Broadly speaking, how would you characterize your farm's contribution to 'ecology' or 'natural well-being' or 'the earth'
- 26) Has your farm completed an Environmental Farm Plan? (Yes No)
What BMP's were applied for funding?
Would you be willing to provide a copy of your EFP? (Yes No)
- 27) Have you participated in other Studies (Organic Certification, Ducks Unlimited Farm Improvement Program, Local Land Trusts, local Stewardship projects, Sensitive Ecosystem Surveys, research projects, etc)
Yes No
Would you be willing to provide a copy?
- 28) Is the farm a TLC Conservation Partner? (Yes No)
- 29) Does the farm have a baseline map and biodiversity documentation? (Yes No)

Part 5: Your Farm and the Community

- 30) Does your farm engage in any educational activities related to Farming? (Yes No)
Describe:
- 31) Does your farm offer any public access? (Yes No)
Describe:
- 32) Do you have a policy or plan related to public access, events, festivals, programs, etc? (Yes No)
Describe:
- 33) What would you say is the single largest benefit your farming practice provides to your local community?
- 34) What benefits does your farm provide to people/society outside your immediate community?

Appendix 3: Policies, Acts, Regulations and Bylaws

Agricultural Land Commission Act [S.B.C. 2002] Chapter 36

Includes amendments to October 15, 2004

Registration restrictions

- 19 Unless permitted by this Act, the regulations or the terms imposed in an order of the commission, a registrar of titles must not, under the Land Title Act or Strata Property Act, in respect of land, all or part of which consists of land in an agricultural land reserve,
- (a) accept an application for deposit of a subdivision plan, reference plan, explanatory plan or other plan showing subdivision of land, or a statutory right of way plan under section 114 of the Land Title Act, or
 - (b) permit a new parcel of land by a metes and bounds description or an abbreviated description.

Subdivision of agricultural land reserve

- 21 (1) A person must not subdivide agricultural land unless permitted by this Act, the regulations or an order of the commission.
- (2) An owner of agricultural land may apply to the commission to subdivide agricultural land.

Agricultural Land Reserve Use, Subdivision and Procedure Regulation

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 2 (2) The following activities are designated as farm use for the purposes of the Act and may be regulated but must not be prohibited by any local government bylaw except a bylaw under Section 917 of the Local Government Act:

- (a) farm retail sales if
 - (i) all of the farm product offered for sale is produced on the farm on which the retail sales are taking place, or
 - (ii) at least 50% of the retail sales area is limited to the sale of farm products produced on the farm on which the retail sales are taking place and the total area, both indoors and outdoors, used for the retail sales of all products does not exceed 300 m²;

Agricultural Land Commission Act. Policy #9 March 2003²⁴

Additional Residences for Farm Use

REFERENCE:

Agricultural Land Commission Act, 2002, Section 18

²⁴ Note: There are further regulations and policies addressing housing on ALR land. These are the most relevant to CFP.

18. Unless permitted by this Act, the regulations or the terms imposed in an order of the commission,

- (a) a local government, or an authority, a board or another agency established by it or a person or an agency that enters into an agreement under the Local Services Act may not
 - (ii) approve more than one residence on a parcel of land unless the additional residences are necessary for farm use

INTERPRETATION:

The Act and Agricultural Land Reserve Use, Subdivision and Procedure Regulation do not set a limit on the number of additional residences for farm help per parcel, but all residences must be necessary for farm use. However, see Section 3 (1) (b) of the Regulation which permits a 'manufactured home' for family members of the owner. This Section also permits a secondary suite within a residence. See Commission Policy "Permitted Uses in the ALR: Residential Uses".

Local government must be convinced that there is a legitimate need for an additional residence for farm help. One criteria is that the parcel should have 'farm' classification under the Assessment Act. In coming to a determination, a local government should consider the size and type of farm operation and other relevant factors. To help determine the need and evaluate the size and type of farm operation, a permitting officer may wish to obtain advice and direction from staff of:

- a) the Ministry of Agriculture, Food and Fisheries [now Ministry of Agriculture and Lands]
- b) the Agricultural Land Commission.

Local government bylaws should not necessarily be the basis for making a determination about the necessity for farm help. Some bylaws may automatically permit a second residence on a specified size of parcel in the ALR. This is not an appropriate determination under the Act and should not be used as the basis for issuing a building permit for an additional residence for farm help. Some local governments have adopted detailed guidelines as a basis for determining legitimacy of a request for additional residences for farm help, in which a threshold for different types of agricultural operations is specified. In these instances, it may be appropriate to consider these as factors in interpreting Section 18 of the Act.

If there is any doubt with respect to need, an application under Section 20 (3) of the Act for permission for a non-farm use is required.

Assessment Act [RSBC 1996] Chapter 20

Prescribed Classes of Property Regulation

Includes amendments up to B.C. Reg. 281/2007, January 1, 2008

- 1 Class 1 — residential
- 2 Class 2 — utilities
- 3 Repealed
- 4 Class 4 — major industry
- 5 Class 5 — light industry
- 6 Class 6 — business and other
- 7 Class 7 — managed forest land
- 8 Class 8 — recreational property/non-profit organization
- 9 Class 9 — farm

Standards for the Classification of Land as a Farm Regulation 411/95 [includes amendments up to BC Reg. 292/2007, September 24, 2007]

Classification of land as a farm

- 4 (1) Unless this regulation provides otherwise, the assessor must classify as farm all or part of a parcel of land used for
- (a) primary agricultural production,
 - (b) a farmer's dwelling, or
 - (c) the training and boarding of horses when operated in conjunction with horse rearing.
- (2) Land will only be classed as farm where part of a parcel or parcels of land are
- (a) necessary to the farm, and
 - (b) predominantly used for primary agricultural production.
- (3) Despite subsections (1) and (2), where land is part of a farm that lies within an agricultural land reserve designated under the Agricultural Land Commission Act and has no present use, the assessor must classify that land as a farm if
- (a) it is part of a parcel, a portion of which is used for primary agricultural production, and the portion used for the primary agricultural production makes a reasonable contribution to the farm operation,
 - (b) the owner certifies on the prescribed form that the land is being held for the purpose of primary agricultural production, and
 - (c) the parcel being used for primary agricultural production meets the other requirements of this regulation.
- (3.1) Despite subsections (1), (2) and (3), the assessor must classify land as farm if
- (a) the land has no present use,
 - (b) the land has a highest and best use that is a use not better than that of a farm,
 - (c) the land is part of a parcel, a portion of which is used for primary agricultural production, and the portion used for the primary agricultural production makes a reasonable contribution to the farm operation, and
 - (d) the portion being used for primary agricultural production meets the other requirements of this regulation.

- (4) A farm operation is comprised of all or part of a parcel or group of parcels of land
 - (a) contiguous or not,
 - (b) owned, or leased in accordance with section 7, and
 - (c) operated as an integrated unit.
- (5) A farm operation comprised of parcels of land within different assessment areas will only be classed as a farm where the assessor is satisfied that each parcel is
 - (a) necessary to the farm, and
 - (b) predominantly used for primary agricultural production.

[am. B.C. Regs. 343/96, s. 24; 438/97, s. 3; 561/2004, s. 2.]

Gross annual value requirements

- 5 (1) Despite section 4, the classification of land as a farm requires the production of primary agricultural products on the farm by the owner or lessee in either the 12 month period ending October 31, or in the preceding 12 month period, having a gross annual value at farm gate prices of at least
- (a) \$2 500 if the area of land is between 8 000 m² and 4 ha,
 - (b) \$2 500 plus 5% of the actual value of the land for farm purposes in excess of 4 ha, if the area of land is more than 4 ha,
 - (c) \$10 000 if the total area of land is less than 8 000 m², and
 - (d) despite paragraph (c), \$2 500 if the area of land has been reduced to less than 8 000 m² as a result of expropriation but only if the land remains in the same ownership.
- (2) Despite subsection (1) (c), if land is classified as a farm in 1995 and if the gross value of production is less than \$10 000, the land will continue to be classified as a farm so long as
- (a) the total area of the owned parcel or parcels is less than 8 000 m²,
 - (b) the land remains in the same ownership,
 - (c) the assessor is satisfied that the owner earns the greater part of his livelihood from the sale of primary agricultural products produced on the land, and
 - (d) the land meets the other requirements of this regulation.
- (3) Despite subsections (1) and (2), the sale of primary agricultural products from the farm must occur during each 12 month period ending October 31.
- (4) In determining the gross annual value, the assessor must
- (a) consider only the value of primary agricultural production which takes place on the farm, and
 - (b) include any unrealized value of primary agricultural production grown or raised on the farm in the 12 month period ending October 31.
- [am. B.C. Reg. 343/96, ss. 3 and 4.]

Exception to requirement for sale of primary agricultural products

- 6 Despite section 5 (3), the assessor may classify land as farm if the primary agricultural production from the land is
- (a) not sold but is produced in sufficient quantities to have met the gross annual value requirements if it had been offered for sale, and
 - (b) either
 - (i) grains, oilseeds, fine seeds or pulse seeds, and the assessor is satisfied that the grains or seeds will be available for sale within 12 months after October 31, or

(ii) any other primary agricultural product that is grown and harvested for processing for sale or to be used in the preparation of manufactured derivatives to be made available for sale within 12 months after October 31.

[en. B.C. Reg. 561/2004, s. 3.]

Classification of leased land

7 (1) In the case of leased land, a copy of the lease document must be submitted to the assessor on or before October 31 in order for the land to be classified as a farm.

(2) The lease document must contain the names and signatures of the lessee and lessor, the legal or other well defined description of the land being leased, the commencement date, the signing date, the duration of the lease, the lease area, the intended use of the leased land and the consideration for the lease.

(3) To be classed as a farm the leased land must

(a) be either

(i) used for primary agricultural production and make a reasonable contribution to the farm operation, or

(ii) certified by the owner, on the form prescribed for the purposes of section 4 (3) (b), as being held for the purpose of primary agricultural production, and

(b) be 8 000 m² or greater except if

(i) the land is in the Agricultural Land Reserve (ALR), and

(ii) despite section 4 (3), the land is used for primary agricultural production.

(4) Despite section 5 and section 7 (1), in the case of leases of Crown land issued after October 31, the assessor must classify all or part of the land as a farm if

(a) the application form referred to in section 3 is delivered to the assessor on or before December 31, and

(b) the assessor is satisfied that the farm meets the other requirements of this regulation.

[am. B.C. Reg. 561/2004, s. 5.]

Classification as a developing farm

8 (1) Despite section 5 (1), (2) and (3), the assessor must classify land not yet in production as a developing farm if the assessor is satisfied the land is being developed as a farm and the application form referred to in section 3 shows that on or before October 31 the following conditions will be met:

(a) in the case of products produced from primary agricultural production that

(i) require less than one year after planting before harvesting occurs, there is a sufficient area prepared and planted to meet the requirements of this regulation on or before October 31 of the following year,

(ii) require 1 to 6 years to establish after planting before harvesting occurs, there is a sufficient area prepared and planted to meet the requirements of this regulation when harvesting occurs, and

(iii) require 7 to 12 years to establish after planting, there is a sufficient area prepared and planted to meet the requirements of this regulation when harvesting occurs and the assessor determines that there is a reasonable expectation of profit from farming,

(b) in the case of livestock, poultry, greenhouse or mushroom operations that require 1 year to establish before sales occur,

(i) the necessary buildings, structures and fencing are completed,

(ii) the required livestock and poultry are purchased and present, and

(iii) the assessor is satisfied that the farm will meet the requirements of this regulation on or before October 31 of the following year, and

(c) in the case of aquaculture operations that require 2 years to establish before harvesting occurs,

(i) the buildings and structures are completed as required to meet the minimum gross annual value level for the farm,

(ii) the land is seeded, planted or stocked as required to meet the requirements of section 5 when production and sales occur, and

(iii) the assessor is satisfied that the farm will meet the requirements of this regulation on or before October 31 of the year that production and sales occur.

(2) The owner or lessee must submit with the application form for approval by the assessor a development plan and site diagram which includes location and details of the crop to be planted, area, date of planting, expected yield, selling price and date of harvest.

(3) Despite subsection (1) (a), the assessor must classify land as a developing farm if the following conditions are met:

(a) the required area of land is prepared for planting on or before October 31,

(b) the development plan shows that the crop will be planted by the spring of the year following application,

(c) the assessor is satisfied that a viable farm will be established in accordance with the requirements for that crop based on sound agricultural practices, and

(d) the developing farm will meet the requirements of this regulation when harvesting occurs.

(4) When the farm meets the gross annual value requirements of section 5 of this regulation, the farm will no longer be classified as a developing farm under this section.

[am. B.C. Reg. 343/96, s. 5.]

Community Charter [SBC 2003] Chapter 26

Division 7 — Permissive Exemptions

General authority for permissive exemptions

224 (1) A council may, by bylaw in accordance with this section, exempt land or improvements, or both, referred to in subsection (2) from taxation under section 197 (1) (a) [municipal property taxes], to the extent, for the period and subject to the conditions provided in the bylaw.

(2) Tax exemptions may be provided under this section for the following:

(a) land or improvements that

(i) are owned or held by a charitable, philanthropic or other not for profit corporation, and
(ii) the council considers are used for a purpose that is directly related to the purposes of the corporation;

(b) land or improvements that

(i) are owned or held by a municipality, regional district or other local authority, and
(ii) the council considers are used for a purpose of the local authority;

(c) land or improvements that the council considers would otherwise qualify for exemption under section 220 [general statutory exemptions] were it not for a secondary use;

(d) the interest of a public authority, local authority or any other corporation or organization in land or improvements that are used or occupied by the corporation or organization if

(i) the land or improvements are owned by a public authority or local authority, and
(ii) the land or improvements are used by the corporation or organization for a purpose in relation to which an exemption under this Division or Division 6 of this Part would apply or could be provided if the land or improvements were owned by that corporation or organization;

(e) the interest of a public authority, local authority or any other corporation or organization in land or improvements that are used or occupied by the corporation or organization if

(i) the land or improvements are owned by a person who is providing a municipal service under a partnering agreement,
(ii) an exemption under section 225 [partnering and other special tax exemption authority] would be available for the land or improvements in relation to the partnering agreement if they were used in relation to the service,
(iii) the partnering agreement expressly contemplates that the council may provide an exemption under this provision, and
(iv) the land or improvements are used by the corporation or organization for a purpose in relation to which an exemption under this Division or Division 6 of this Part would apply or could be provided if the land or improvements were owned by that corporation or organization;

(f) in relation to property that is exempt under section 220 (1) (h) [buildings for public worship],

(i) an area of land surrounding the exempt building,
(ii) a hall that the council considers is necessary to the exempt building and the land on which the hall stands, and
(iii) an area of land surrounding a hall that is exempt under subparagraph (ii);

(g) land or improvements used or occupied by a religious organization, as tenant or licensee, for the purpose of public worship or for the purposes of a hall that the council considers is necessary to land or improvements so used or occupied;

(h) in relation to property that is exempt under section 220 (1) (i) [seniors' homes], (j) [hospitals] or (l) [private schools], any area of land surrounding the exempt building;

(i) land or improvements owned or held by an athletic or service club or association and used as a public park or recreation ground or for public athletic or recreational purposes;

(j) land or improvements owned or held by a person or organization and operated as a private hospital licensed under the Hospital Act or as a licensed community care facility, or registered assisted living residence, under the Community Care and Assisted Living Act;

(k) land or improvements for which a grant has been made, after March 31, 1974, under the Housing Construction (Elderly Citizens) Act before its repeal.

(3) The authority under subsection (2) (e) and (g) to (j) is not subject to section 25 (1) [prohibition against assistance to business].

(4) Subject to subsection (5), a bylaw under this section

(a) must establish the term of the exemption, which may not be longer than 10 years,

(b) may only be adopted after notice of the proposed bylaw has been given in accordance with section 227 [notice of permissive tax exemptions], and

(c) does not apply to taxation in a calendar year unless it comes into force on or before October 31 in the preceding year.

(5) Subsection (4) (a) and (b) does not apply in relation to exemptions under subsection (2) (f) and (h).

(6) If only a portion of a parcel of land is exempt under this section, the bylaw under this section must include a description of the land that is satisfactory to the British Columbia Assessment Authority.

(7) A bylaw under this section ceases to apply to property, the use or ownership of which no longer conforms to the conditions necessary to qualify for exemption and, after this, the property is liable to taxation.

Partnering, heritage, riparian and other special exemption authority

225 (1) In this section:

"eligible property" means property that is eligible under subsection (2);

"exemption agreement" means an agreement under subsection (5).

(2) The following property is eligible for a tax exemption under this section:

(a) eligible partnering property, being property that

(i) is owned by a person or public authority providing a municipal service under a partnering agreement, and

(ii) the council considers will be used in relation to the service being provided under the partnering agreement;

(b) eligible heritage property, being property that is

(i) protected heritage property,

(ii) subject to a heritage revitalization agreement under section 966 of the Local Government Act,

(iii) subject to a covenant under section 219 of the Land Title Act that relates to the conservation of heritage property, or

(iv) if property referred to in subparagraphs (i) to (iii) is a building or other improvement so affixed to the land as to constitute real property, an area of land surrounding that improvement;

(c) eligible riparian property, being property that

(i) is riparian land,

(ii) is subject to a covenant under section 219 of the Land Title Act that

- (A) relates to the protection of the property as riparian property, and
- (B) has the municipality granting the exemption under this section as a covenantee in whose favour the covenant is made, and
- (iii) meets any other requirements prescribed by regulation;
- (d) eligible cemetery property, being land held for cemetery, mausoleum or columbarium purposes;
- (e) eligible golf course property, being land maintained as a golf course.

(3) A council may, by bylaw, exempt eligible property from taxation under section 197 (1) (a) [municipal property taxes] to the extent provided in the bylaw and subject to the conditions established by exemption agreement.

(4) The authority under subsection (3) is not subject to section 25 (1) [prohibition against assistance to business].

(5) For the purposes of this section, the council may enter into an agreement with the owner of property that is exempt or is to be exempt under this section, respecting the extent of the exemption and the conditions on which it is made.

(6) Without limiting subsection (5), an exemption agreement may do one or more of the following:

- (a) require the eligible property to be subject to a covenant under section 219 of the Land Title Act in favour of the municipality;

- (b) provide that the exemption is subject to specified conditions;

- (c) provide that, if

- (i) a condition is not met,

- (ii) a required covenant under section 219 of the Land Title Act is discharged, or

- (iii) any other circumstances specified in the agreement occur,

the property owner must pay to the municipality an amount determined in accordance with the agreement.

(7) A bylaw under this section

- (a) must establish the term of the exemption,

- (b) may only be adopted after notice of the proposed bylaw has been given in accordance with section 227 [notice of permissive tax exemptions],

- (c) may only be adopted by an affirmative vote of at least 2/3 of all council members, and

- (d) does not apply to taxation in a calendar year unless it comes into force on or before October 31 in the preceding year.

(8) An exemption under this section ceases to apply to property, the use or ownership of which no longer conforms to the conditions necessary to qualify for exemption and, after this, the property is liable to taxation.

Revitalization tax exemptions

226 (1) In this section:

"exemption agreement" means an agreement under subsection (7);

"exemption certificate" means a revitalization tax exemption certificate issued under subsection (8);

"revitalization program bylaw" means a bylaw under subsection (4).

(2) A council may, for the purpose of encouraging revitalization in the municipality, provide tax exemptions for land or improvements, or both, in accordance with this section.

(3) For a revitalization tax exemption under this section to apply to a particular property,

- (a) the exemption must be in accordance with a revitalization program bylaw under subsection (4),
- (b) an exemption agreement under subsection (7) must apply to the property, and
- (c) an exemption certificate for the property must have been issued under subsection (8).
- (4) A revitalization tax exemption program must be established by a bylaw that includes the following:
 - (a) a description of the reasons for and the objectives of the program;
 - (b) a description of how the program is intended to accomplish the objectives;
 - (c) a description of the kinds of property, or related activities or circumstances, that will be eligible for tax exemptions under the program;
 - (d) the extent of the tax exemptions available;
 - (e) the amounts of tax exemptions that may be provided under the bylaw, by specifying amounts or by establishing formulas by which the amounts are to be determined, or both;
 - (f) the maximum term of a tax exemption that may be provided under the bylaw, which may not be longer than 10 years.
- (5) A revitalization program bylaw
 - (a) may include other provisions the council considers advisable respecting the program including, without limiting this,
 - (i) the requirements that must be met before an exemption certificate may be issued,
 - (ii) conditions that must be included in an exemption certificate, and
 - (iii) provision for a recapture amount that must be paid by the owner of the property to the municipality if the conditions specified in the exemption certificate are not met, and
 - (b) may be different for
 - (i) different areas of the municipality,
 - (ii) different property classes under the Assessment Act,
 - (iii) different classes of land or improvements, or both, as established by the bylaw,
 - (iv) different activities and circumstances related to a property or its uses, as established by the bylaw, and
 - (v) different uses as established by zoning bylaw.
- (6) A revitalization program bylaw may be adopted only after
 - (a) notice of the proposed bylaw has been given in accordance with section 227 [notice of permissive tax exemptions], and
 - (b) the council has considered the bylaw in conjunction with the objectives and policies set out under section 165 (3.1) (c) [use of permissive tax exemptions] in its financial plan.
- (7) The council may enter into an agreement with the owner of a property respecting
 - (a) the provision of a revitalization tax exemption under this section,
 - (b) any requirements that must be met before an exemption certificate is issued, and
 - (c) any conditions on which the tax exemption is to be provided.
- (8) Once
 - (a) all requirements established in the revitalization program bylaw, and
 - (b) any additional requirements established in the exemption agreementhave been met, a revitalization tax exemption certificate must be issued for the property in accordance with the exemption agreement.
- (9) An exemption certificate must specify the following in accordance with the revitalization program bylaw and the exemption agreement:
 - (a) the extent of the tax exemption;

- (b) the amount of the tax exemption or the formula for determining the exemption;
 - (c) the term of the tax exemption;
 - (d) if applicable, the conditions on which the tax exemption is provided;
 - (e) if applicable, that a recapture amount is payable if the exemption certificate is cancelled, and how that amount is to be determined.
- (10) So long as an exemption certificate has not been cancelled, the land or improvements, or both, subject to the exemption certificate are exempt from taxation under section 197 (1) (a) [municipal property taxes] as provided in the exemption certificate.
- (11) An exemption certificate may be cancelled by the council
- (a) on the request of the property owner, or
 - (b) if any of the conditions specified in the exemption certificate are not met.
- (12) An exemption certificate or cancellation does not apply to taxation in a calendar year unless the exemption certificate is issued or cancelled, as applicable, on or before October 31 in the preceding year.
- (13) The designated municipal officer must
- (a) provide a copy of an exemption certificate to the relevant assessor as soon as practicable after it is issued, and
 - (b) if applicable, notify that assessor as soon as practicable after an exemption certificate is cancelled.
- (14) The authority to provide a tax exemption under this section is not subject to section 25 (1) [prohibition against assistance to business].

Note:

http://www.cserv.gov.bc.ca/lgd/infra/financial_circulars/cir0714.htm

June 1, 2007

To: All Municipal Financial Administrators

Re: Amendments to Municipal Financial Plans and Revitalization Tax Exemptions

This circular deals with changes to the Community Charter in relation to the following:

- Part A: financial plan (Section 165) & annual property tax bylaw (Section 197)
- Part B: revitalization tax exemptions (Sections 226 & 227)

Food Safety Act [SBC 2002] Chapter 28

Power to make regulations

23 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

- (a) establishing standards for food and food establishments, and for the growing, raising, cultivating, keeping, harvesting, producing, manufacturing, slaughtering, processing, preparing, packaging, marking, handling, distributing, transporting, storing, displaying or selling of food, providing for the maintenance of those standards and providing for the duties of inspectors in relation to these matters;
- (b) respecting methods to be followed and equipment to be used in growing, raising, cultivating, keeping, harvesting, producing, manufacturing, slaughtering, processing, preparing, packaging, marking, handling, distributing, transporting, storing, displaying or selling of food;
- (c) establishing requirements for control, supervision and management in a food establishment and providing for systems to ascertain whether the food establishment is in compliance with this Act and the regulations, including, without limitation, reporting systems under which an operator must deliver reports to an inspector on a regular basis, as prescribed;
- (d) respecting design, construction, alteration, equipment and sanitation of food establishments, requiring approval of design and construction plans for food establishments or proposed food establishments and prohibiting or restricting the uses of a food establishment;
- (e) providing for measures to be taken to prevent contamination or spoilage of food, establishing types and levels of bacteria, antibacterial agents and other substances or agents that may contaminate food or do not occur naturally in it, requiring the treatment of food for the purpose of destroying pathogenic bacteria and prescribing the manner or methods of that treatment;
- (f) respecting the development, establishment, implementation and operation of one or more food safety programs, including, without limitation,
 - (i) developing and providing educational, research and promotional material or training respecting food safety,
 - (ii) establishing or authorizing one or more bodies or organizations to administer food safety programs,
 - (iii) developing supervisory programs of, or systems for inspection of, records, premises and products of food establishments other than those food establishments required to be licensed under this Act,
 - (iv) prescribing fees to be paid by operators to run and maintain food safety programs, and
 - (v) other matters the Lieutenant Governor in Council considers necessary for the administration of food safety programs;
- (g) providing the means to ensure compliance with the regulations by
 - (i) providing for the imposition of administrative penalties on operators for non-compliance with or contravention of the regulations, and providing for the collection of those penalties,
 - (ii) prescribing the conditions under which, and the time within which, the penalties are payable under subparagraph (i),
 - (iii) prescribing the amount of the penalties or methods by which they must be calculated, and
 - (iv) prescribing that the penalties collected be applied to a fund established under paragraph (h);

- (h) establishing one or more funds to be used to develop and provide educational, research and promotional material or to provide training respecting food safety, providing for the payment of penalties under paragraph (g) to be directed and remitted to an established fund and prescribing the manner in which the penalties are to be paid into and out of an established fund;
- (i) authorizing the minister to
 - (i) appoint a person or persons to manage and administer a fund established under paragraph (h) and to make payments from it in accordance with the regulations, and
 - (ii) establish terms of reference, duties and responsibilities for the person or persons appointed;
- (j) establishing a licensing scheme for one or more types or classes of food establishments, including, without limitation,
 - (i) establishing qualifications to be met for obtaining a licence,
 - (ii) requiring and prescribing a fee payable for a licence and for a licence application,
 - (iii) providing for the issue, renewal, suspension, cancellation or reinstatement of a licence,
 - (iv) establishing terms, restrictions and conditions that may be included or imposed in respect of a licence, including inspection, supervision or other requirements to meet and comply with codes, standards, rules and guidelines,
 - (v) establishing the circumstances under which a licence may be suspended, cancelled and reinstated,
 - (vi) establishing procedures for conducting a suspension, cancellation or reinstatement proceeding, and
 - (vii) providing for other matters necessary to establish the licensing scheme;
- (k) establishing or authorizing one or more bodies or organizations, on specified terms and conditions, to administer a licensing scheme under paragraph (j) and to enforce licensee compliance with this Act and the regulations, and prescribing the fees that the body or organization may charge for a licence or licence application;
- (l) establishing qualifications and standards to be met by food establishment staff, prescribing their duties and functions and providing for examinations as to the competency of food establishment staff, the nature and extent of those examinations and standards required to pass them;
- (m) providing for the issue of licences to food establishment staff, the classifying or categorizing of licences in accordance with the qualifications of the applicants, the terms of the licences and the fees to be paid for the licences, and providing for their renewal, suspension, cancellation or reinstatement;
- (n) prescribing the fees payable under section 9 (2) for one or more of the actions that an inspector may take under that section;
- (o) specifying the manner in which a fee specified under paragraph (n) must be paid to the government;
- (p) authorizing a body or organization to operate an inspection service, specifying the manner in which a fee under paragraph (o) must be paid to the body or organization and authorizing that body or organization to retain all or a portion of the fee collected;
- (q) respecting records that a person must maintain or produce for an inspection under section 9 and reports that a person must deliver to an inspector under a regulation under paragraph (c) of this subsection, including, without limitation, prescribing the form and content of the records and reports and the manner in which they must be maintained, produced or delivered;
- (r) respecting the inspection of animals and carcasses to be used for food, including, without limitation, providing for

- (i) the volume of business required before inspection will be granted,
- (ii) the inspection hours,
- (iii) the fees for inspections and related matters, and
- (iv) the withdrawal of inspection services;
- (s) providing for and setting standards and criteria for the detention, condemnation, quarantine, decontamination, denaturing, disposal and destruction of food that is contaminated or otherwise unfit for human consumption or of an ill, diseased or contaminated animal, carcass, plant, crop or other thing;
- (t) providing for sampling, testing and analysis of any or all lots, deliveries or shipments of food and any other sampling, testing and analysis that the Lieutenant Governor in Council considers necessary in the public interest, providing for the manner and conditions of sampling, testing or analysis and designating laboratories to perform testing and analysis;
- (u) prescribing fees and charges payable to the government in respect of the following:
 - (i) analyses, tests and investigations conducted under this Act;
 - (ii) filing of applications, records or reports with the minister;
 - (iii) provision of material or training referred to in paragraph (f) (i);
 - (iv) licences and licence applications;
- (v) creating an offence for the contravention of a regulation and prescribing a penalty for that offence, up to the maximum penalties set out in section 16 (1) and (2);
- (w) respecting
 - (i) the delegation of the powers, duties and functions of the minister, and
 - (ii) the use, or standards for the use, of a certificate, stamp, mark, tag, label or form prescribed or specified by the minister under section 22, and making it an offence to misuse, imitate, deface or alter any of those things;
- (x) prescribing one or more classes of food establishments, or parts of them, for purposes of section 19;
- (y) exempting a class or type of person, food or food establishment from the application of all or part of this Act or a regulation, authorizing the minister to make such exemptions and prescribing conditions in relation to the exercise of that authority;
- (z) defining any word or expression used but not defined in this Act.

Land Act [RSCB, 1996] Chapter 245

Crown Land Use Operational Policy: Agriculture – Intensive (Amendment 1, October 21, 2005)

1. POLICY APPLICATION

This policy applies to all Crown land allocated by the province for intensive agricultural use as defined below.

This policy is to be applied together with Crown Shoreline Policy, which is consolidated for reference in Appendix 1 of the Residential Land Use policy.

This policy is subject to the memorandum of agreement with the Ministry of Forests and Range respecting Land Act administration in Provincial Forests.

The italicized text in this document represents information summarized from standard Crown land management policies and procedures. This material has been inserted where it provides necessary direction or context...

6.1 Lease

A lease should be issued where long term tenure is required, where substantial improvements are proposed, and/or where definite boundaries are required in order to avoid conflicts.

The tenure holder has the right to modify the land and/or construct improvements as specified in the tenure contract. The tenure holder is granted quiet enjoyment of the area (exclusive use).

A legal survey will generally be required at the applicant's expense to define the tenured area. A lease is a registrable interest in the land that is mortgageable.

The standard term for a lease is 30 years.

All shoreland parcels and all parcels not registrable in the Land Titles Office are disposed by lease.

Applicants may apply to obtain a 30 year replacement lease at mid-term of the tenure.

Land Title Act [RSBC 1996] Chapter 250

...

Restrictions on subdivision

73 (1) Except on compliance with this Part, a person must not subdivide land into smaller parcels than those of which the person is the owner for the purpose of

(a) transferring it, or

(b) leasing it, or agreeing to lease it for a life, or for a term exceeding 3 years.

(2) Except on compliance with this Part, a person must not subdivide land for the purpose of a mortgage or other dealing that may be registered under this Act as a charge if the estate, right or interest conferred on the transferee, mortgagee or other party would entitle the person in law or equity under any circumstances to demand or exercise the right to acquire or transfer the fee simple.

(3) Subsection (1) does not apply to a subdivision for the purpose of leasing a building or part of a building.

(4) A person must not grant an undivided fractional interest in a freehold estate in land or a right to purchase an undivided fractional interest in a freehold estate in land if the estate that is granted to or that may be purchased by the grantee is

(a) a fee simple estate on condition subsequent, or

(b) a determinable fee simple estate that is or may be defeated, determined or otherwise cut short on the failure of the grantee to observe a condition or to perform an obligation relating to a right to occupy an area less than the entire parcel of the land.

(5) Subsection (4) does not apply to land if an indefeasible title to or a right to purchase an undivided fractional interest in

(a) a fee simple estate on condition subsequent in the land of the kind described in subsection (4), or

(b) a determinable fee simple estate in the land of the kind described in subsection (4) was registered before May 30, 1994.

(6) An instrument executed by a person in contravention of this section does not confer on the party claiming under it a right to registration of the instrument or a part of it.

Local Government Act [RSBC 1996] Chapter 323

811 (1) In this section and section 811.1:

"eligible riparian property" means property that meets all the following requirements:

- (a) the property must be riparian land;
- (b) the property must be subject to a covenant under section 219 of the Land Title Act that relates to the protection of the property as riparian property;
- (c) the regional district granting the exemption under this section must be a covenantee in whose favour the covenant referred to in paragraph (b) is made;
- (d) any other requirements prescribed under subsection (6);

"eligible value" means the portion of the net taxable value of the parcel of land in relation to which an exemption under subsection (2) is made that is equivalent to the ratio of

(a) the area of the eligible riparian property that is exempted under subsection (2) (a)
to

(b) the area of the parcel of land in relation to which the exemption is made.

(2) Despite section 182 [prohibition against assistance to business] but subject to subsections (3) and (4) of this section, for the purposes of supporting the conservation of an eligible riparian property, on or before October 31 in any year a board may, by bylaw adopted by at least 2/3 of the votes cast, do one or more of the following:

- (a) exempt all or part of the eligible riparian property from taxation under this Part;
- (b) limit an exemption under paragraph (a) to a specified portion of the eligible value of the property to which the exemption applies;
- (c) make an exemption under this subsection subject to specified conditions.

(3) An exemption under subsection (2) may apply only to that part of the eligible riparian property that is a riparian area.

(4) A bylaw under subsection (2) may provide a tax exemption

- (a) for the next calendar year, or
- (b) if the bylaw has received the approval of the electors, for a specified period not greater than 10 years.

(5) In addition to the information required by section 86 (2) [alternate approval process notice] of the Community Charter or section 164 (3) [notice of other voting] of this Act, the notice in relation to approval of the electors under subsection (4) (b) of this section must

- (a) identify the eligible riparian property that would be subject to the bylaw, and
- (b) describe the exemption that would be made for the eligible riparian property.

(6) The Lieutenant Governor in Council may, by regulation, establish additional requirements for property to be considered eligible riparian property.

Division 8 — Regulation of Farm Businesses in Farming Areas

Farm bylaws

917 (1) A local government may make bylaws in relation to farming areas

- (a) respecting the conduct of farm operations as part of a farm business,

- (b) respecting types of buildings, structures, facilities, machinery and equipment that are prerequisite to conducting farm operations specified by the local government and that must be utilized by farmers conducting the specified farm operations,
 - (c) respecting the siting of stored materials, waste facilities and stationary equipment, and
 - (d) prohibiting specified farm operations.
- (2) A bylaw under subsection (1) may be different for one or more of the following:
- (a) different sizes or types of farms;
 - (b) different types of farm operations;
 - (c) different site conditions;
 - (d) different uses of adjoining land;
 - (e) different areas.
- (3) Unless exempted under subsection (4), a bylaw under subsection (1) may only be adopted with the approval of the minister.
- (4) The minister may make regulations
- (a) defining areas for which and describing circumstances in which approval under subsection (3) is not required, and
 - (b) providing that an exception under paragraph (a) is subject to the terms and conditions specified by the minister.
- (5) Regulations under subsection (4) may be different for different regional districts, different municipalities, different areas and different circumstances.
- (6) A local government may not exercise a power under this or any other Part of this Act or the Community Charter to do anything that the local government is specifically authorized to do under this section.

Miscellaneous Statutes Amendment Act Bill 35

25 The Land Title Act, R.S.B.C. 1996, c. 250, is amended by adding the following section:

Lease of part of a parcel of land enforceable

73.1 (1) A lease or an agreement for lease of a part of a parcel of land is not unenforceable between the parties to the lease or agreement for lease by reason only that

(a) the lease or agreement for lease does not comply with this Part, or

(b) an application for the registration of the lease or agreement for lease may be refused or rejected.

(2) This section does not apply to an airport lease, as defined in section 41 of the Municipalities Enabling and Validating Act (No. 2).

Social Service Tax Act [RSBC 1996] Chapter 431

Exemptions in relation to agriculture and fisheries

- 73 (1) The following are exempted from taxes imposed by sections 5 to 25 and 112.3:
- (a) subject to subsection (1.1), grain, mill and other agricultural feeds and seeds that are purchased to be used and are used solely for an agricultural purpose;
 - (a.1) subject to subsection (2), fertilizers;
 - (b) prescribed tangible personal property purchased or leased by a bona fide farmer that is to be used, and is used, solely for a farm purpose;
 - (c) prescribed tangible personal property purchased or leased by a bona fide aquaculturist that is to be used, and is used, solely for an aquaculture purpose;
 - (d) boats, fishing nets and other fishing apparatus utilized in catching fish for human consumption, purchased or leased by a bona fide commercial fisher for use only in the fisher's trade.
- (1.1) The exemption in subsection (1) (a) does not apply to grain, mill and other agricultural feeds and seeds that are purchased to be used or are used to feed
- (a) a bird, a product of which does not ordinarily constitute food for human consumption, or
 - (b) a household pet.
- (2) The exemption in subsection (1) (a.1) does not apply to fertilizers purchased for a non-agricultural purpose by a person other than an individual unless the fertilizer is otherwise exempted by this Act or the regulations.

Trade, Investment and Labour Mobility Agreement (TILMA)

British Columbia and Alberta 2006

Part IV Transitional Measures, Business Subsidies

Measures adopted or maintained relating to financial support and assistance to the agriculture and agri-food sectors.

Local Government

Gabriola Island Land Use Bylaw No. 177 - Schedule A

D.2.1.2 Buildings and Structures

The buildings and structures permitted in Article B.1.1.2, plus the following buildings and structures and no

others are permitted in the Agriculture (AG) zone:

...

ii On lands in the Agricultural Land Reserve*, additional dwelling units necessary for farm employees working on the property,

...

* For information purposes only – on land situated within the Agricultural Land Reserve these buildings and structures may be subject to approval of the Agricultural Land Commission under the “Agricultural Land Commission Act”

Saanich General Plan 1993: Appendix A to Official Community Plan Bylaw, 1993 No. 7044

Includes amendments to August 9, 2005.

5. Agriculture

...

5. Support zoning applications for two dwellings on one parcel within the Agricultural Land Reserve only if the parcel is classified as farmland for assessment purposes, has an area of at least twice the minimum parcel size of the zone in which the parcel is situated and the owner/operator provides proof of need for a second dwelling based on the economic operation of the farm.