



INFORMATION BULLETIN

Bylaw No.2-Placement of Fill in the ALR

The following provides an overview of the Agricultural Land Commission’s Bylaw No. 2 Placement of Fill (the “Bylaw”) adopted by the Full Commission on April 26, 2018.

Purpose:

The purpose of the Bylaw is to:

- clearly define when the placement of fill is considered necessary and to what threshold;
- outline the process for notification and application to the ALC for the placement of fill; and,
- provide definitions regarding the types of materials that constitute fill and appropriate uses of fill for agriculture in the ALR.

Thresholds:

The Bylaw specifically provides thresholds for uses in the ALRUSP relating to:

- single family residences;
- permitted farm uses; and,
- permitted non-farm uses.

Notification and Approval:

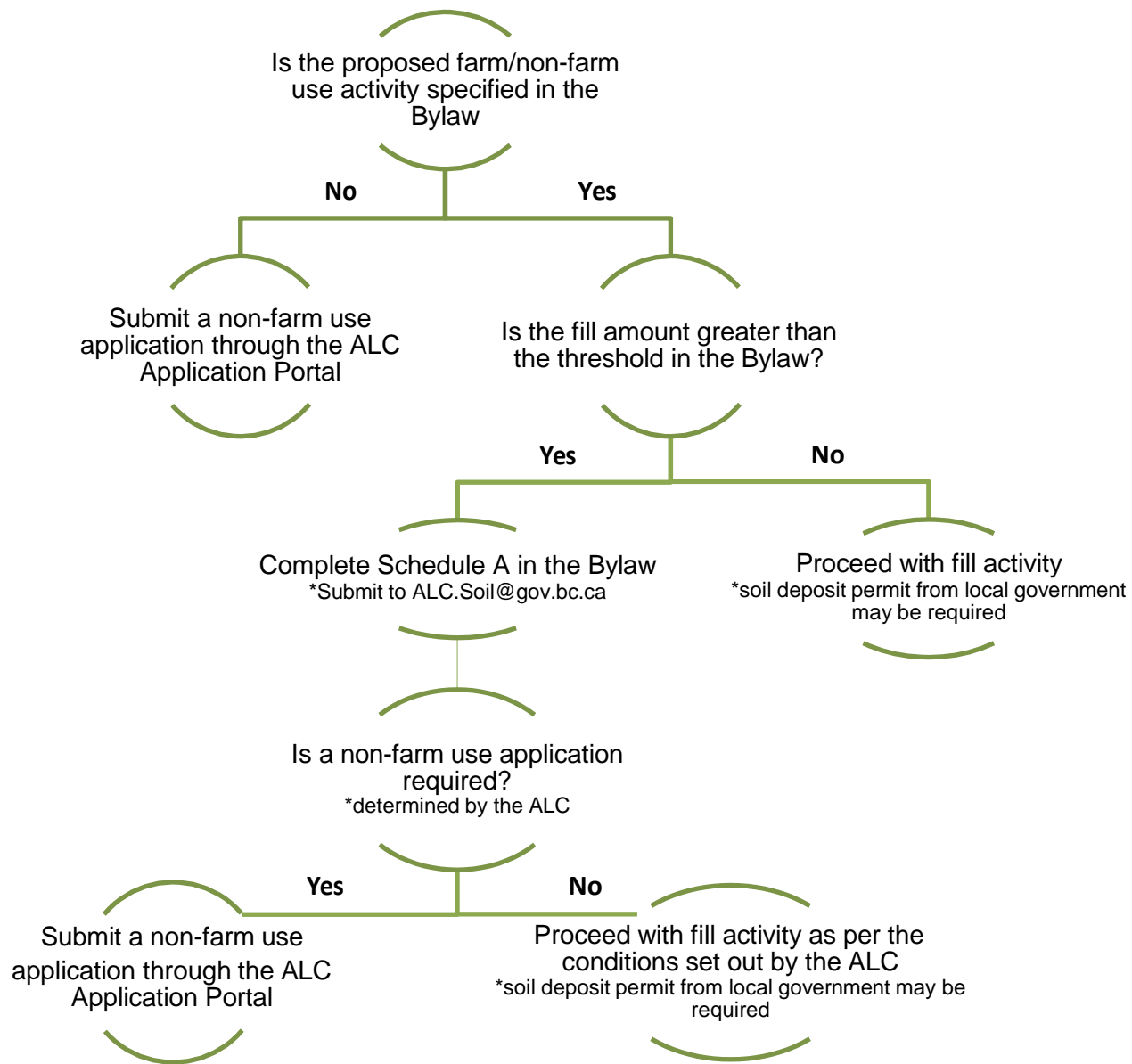
The process for notification and approval for the placement of fill will depend on the type of activity and the amount of fill proposed, with one of three possible outcomes:

1. permitted outright in the Bylaw without notification to the ALC;
2. notification to the ALC (Schedule A form in the Bylaw); or,
3. submission of a non-farm use application.

Based on the information submitted in the Schedule A form, the ALC will determine whether the information provided is adequate for the proposed fill placement activity or whether a non-farm use application is needed. Landowners must also ensure that they have obtained all necessary permits from the local government prior to placing any fill on a parcel in the ALR. Submit Schedule A forms to: ALC.Soil@gov.bc.ca

Use the flowchart provided on the following page to determine the appropriate process to follow for your proposed fill project.

Figure 1. How to use ALC Bylaw No.2 – Placement of Fill in the ALR





AGRICULTURAL LAND COMMISSION

BYLAW No. 2–Placement of Fill in the Agricultural Land Reserve

PURPOSE OF THE BYLAW

To clearly define when the placement of fill in the Agricultural Land Reserve (the “ALR”) is considered necessary, and the process for notification and application to the Agricultural Land Commission (the “Commission”) for the placement of fill in the ALR.

AUTHORITY TO CREATE BYLAWS

WHEREAS Section 9 of the *Agricultural Land Commission Act*, SBC 2002, (the “Act”) the Commission may pass resolutions and bylaws it considers necessary or advisable for the management and conduct of its affairs, the exercise of its powers and the performance of its duties and functions; AND

WHEREAS the removal of soil and the placement of fill are non-farm uses as set out in Section 20(2) of the Act; AND

WHEREAS a person who intends to use agricultural land for a prescribed use that involves soil removal or fill placement must give notice to the Commission in the prescribed form as set out in Section 20(4); AND

WHEREAS the Chief Executive Officer (the “CEO”) may specify terms and condition for the conduct of soil removal and fill placement or order an application to the Commission in response to a notice;

NOW THEREFORE the Commission hereby enacts as follows:

TITLE:

1. This Bylaw may be cited as “Placement of Fill in the ALR Bylaw No. 2”.

APPLICABILITY:

2. This Bylaw applies to all land in the ALR.
3. Nothing in this Bylaw shall relieve persons from complying with the provisions of any other local government, provincial, or federal enactment or regulation.

DEFINITIONS:

4. In this Bylaw:

“**ALRUSP**” means the Agricultural Land Reserve Use, Subdivision and Procedure Regulation (BC Reg 171/2002 as amended).

“**Aggregate**” means sand, gravel, crushed stone, quarry rock and similar materials used in the construction and maintenance of civil and structural projects.

“Agricultural Land Reserve” or **“ALR”** means land designated as agricultural land reserve under the Act.

“Agri-tourism” means agri-tourism as defined by the ALRUSP and does not include agri-tourism accommodation.

“Ancillary Works” means farm roads limited to a maximum road surface width of 6 metres and 1.6 metres above the natural grade and constructed using Aggregate or uncontaminated Fill only.

“Berming” means the construction of dikes required for cranberry production and flood protection dikes authorized/approved by the applicable local government. Cranberry dikes must not exceed a height of 2.0 metres above the natural grade and a width at the base of no more than 10 metres.

“Clearing” means tree and stump removal undertaken to prepare land for cultivation in accordance with good agricultural practice and does not include importing Fill from off-site.

“Draining” means removal of soil from the property for the construction and maintenance of drainage ditches provided it does not foul, obstruct, or impede the flow of any waterway where the total volume removed does not exceed 320 cubic meters per 16 hectares. It does not include importing Fill from off-site to raise the grade of the land.

“Fill” means:

- a) for the purposes of farm uses referred to in Part 2 Section 2 (2) to (2.3), (3), (4) and Part 3 of the ALRUSP, Soil and Aggregate that is clean and free of contaminants and Foreign Materials. The use of Aggregate as Fill is restricted to specified farm uses under Section 2(3) and 4(1) of the ALRUSP related to building construction and Ancillary Works as set out in Section 5;
- b) for the purposes of farm uses referred to in ALRUSP Part 3 Section 4(e), soil that is of good agricultural quality and:
 - i. has a soil texture ranging from sandy loam to silt loam and does not include heavy clays or excessively stony soils, unless approved by the Commission; and
 - ii. meets the Contaminated Sites Regulation (BC Reg. 3775/96) for agricultural soil standards and is free of foreign materials;
- c) Fill does not mean the Placement of Fill for the purposes of land development related to Clearing, Draining, Irrigating, or Leveling as defined by the Bylaw.

“Flood Protection Requirement/s” means the elevation level as established by local government bylaws for flood protection within a defined floodplain.

“Foreign Materials” means woodwaste from demolition and clearing activities, construction and demolition waste, masonry rubble, concrete, asphalt, glass, unchipped lumber, drywall, and biological waste.

“Irrigating” means the removal of soil for the construction and maintenance of irrigation ditches where the total volume removed does not exceed 320 cubic metres per 16 hectares.

“Land” means any land within the boundaries of the ALR.

“Leveling” means reshaping the soil surface within a field or parcel of land to eliminate high and low areas and resulting in a uniform field level (that is, cutting high spots and filling in low spots) and does not include importing Fill from off-site.

“Placement of Fill” means to deposit, place, store, or stockpile directly or indirectly, filling on any land in the Agricultural Land Reserve, where that Fill did not previously exist.

“Remove” or **“Removal”** means the act of removing Soil from any Lands in the ALR, where it existed or stood, which place or location shall include a Stockpile or other storage facility.

“Reservoir” means a water impoundment that is used for agricultural water supply. Berms used to impound water must not exceed 2 metres above the natural grade.

“Single Family Residence” means a dwelling and associated accessory structures, services, utilities, and landscaped areas, including garages, carports, sheds, workshops, water lines, sewer lines, wells, driveways, and sanitary disposal systems normally associated with the construction of a dwelling.

“Soil” includes the entire mantle of unconsolidated material above bedrock other than minerals as defined in the *Mineral Tenure Act*.

“Stockpile” means a man-made accumulation of soil, Fill, or organic materials held in reserve for future use, distribution or removal.

“Woodwaste” includes hog fuel, mill ends, bark and sawdust, but does not include demolition waste, construction waste, tree stumps, branches, logs or log ends.

Interpretation

For the purposes of interpretation, where in this Bylaw a threshold of 0.2 hectares or less per 16 hectares is used, the following table applies:

Parcel size (ha)	Max fill area (ha)
0 - 16.0	0.2
16.0 - 32.0	0.4
32.0 – 48.0	0.6
48.0 - 64.0	0.8

Placement of Fill for Farm Use

5. Except as otherwise permitted in this Bylaw, a person must not place Fill or undertake any action which results in the Placement of Fill on any land in the ALR until the Commission has been notified pursuant to this bylaw.
6. Placement of Fill will be considered necessary under Part 2 Section 2 of the ALRUSP for the following farm uses, and exempt from the requirement to notify the Commission in accordance with Section 7, if the following requirements are met:
 - a) farm retail sales only if associated with the construction of a farm retail sales building and associated parking and loading areas not to exceed a total combined area of 0.2 hectares or less per 16 hectare and to a height not to exceed the minimum level required to satisfy Flood Protection Requirements;
 - b) farm product processing only if associated with the construction of a farm product processing building and associated parking and loading areas not to exceed a total combined area of 0.2 hectares or less per 16 hectare and to a height not to exceed the minimum level required to satisfy Flood Protection Requirements;
 - c) land development works limited to Berming, and the construction of Reservoirs and Ancillary Works as defined by this bylaw constructed of Fill or Aggregate, or a combination thereof, not including crushed concrete or demolition debris of any kind;
 - d) Agri-tourism only if associated with the construction of buildings, structures or parking areas approved by the Commission as part of a non-farm use application;
 - e) horse riding, training and boarding facilities only if associated with the construction of barns, indoor and outdoor arenas, paddocks and associated parking areas not to exceed a total combined area of 0.2 hectares or less per 16 hectares and to a height not to exceed the minimum level required to satisfy Flood Protection Requirements;
 - f) temporary storage areas (less than 9 months) required for the storage of fertilizers, mulches, soil conditioners, and materials regulated by the Organic Matter Recycling Regulation (BC Reg. 18/2002) limited to the footprint of the temporary storage area. All Fill must be removed and the storage area must be reclaimed once these materials have been land applied;
 - g) construction of buildings for the production of compost, soil conditioners, and growing mediums from agricultural wastes produced on the farm for farm purposes in compliance with the Agricultural Waste Control Regulation (BC Reg 131/92) provided that a nutrient management plan demonstrates that all of the material is used on the farm at an appropriate agronomic rate (as determined by a qualified registered professional) and that the buildings do not exceed a total combined area of 0.2 hectares or less per 16 hectares;
 - h) construction of a compost facility related to the production of Class A compost in compliance with the Organic Matter Recycling Regulation (BC Reg 18/2002) if all of the

compost measured by volume is used on the farm provided that a nutrient management plan demonstrates that the compost is applied at an appropriate agronomic rate (as determined by a qualified registered professional) and that the compost facility does not exceed a total combined area of 0.2 hectares or less per 16 hectares;

- i) production of medical marihuana only if associated with the construction of a building (not including greenhouses) and associated parking and loading areas not to exceed a total combined area of 0.2 hectares or less per 16 hectares and to a height not to exceed the minimum level required to satisfy Flood Protection Requirements;
- j) alcohol production facilities only if associated with the construction of buildings, associated parking, landscaping and loading areas not to exceed a total combined area of 0.2 hectares or less per 16 hectares and to a height not to exceed the minimum level required to satisfy Flood Protection Requirements; and
- k) a farm use by a person other than the owner of the farm under a lease of the farm or part of the farm provided that use is one of the uses identified in Section 6 a) through j).

Notification and Decision Process for Farm Use

7. An owner wishing to place Fill in excess of the limits established in Section 6 above or for a farm use not specifically referenced in Section 5 must notify the Commission and applicable local government or treaty first nation, using the form provided in Schedule A, of their interest to Fill at least 60 days before engaging in the intended use.
8. An owner wishing to place Fill for the reasons established in Section 6 where the height of Fill must not exceed the minimum level required to satisfy the Flood Protection Requirement must obtain written confirmation from the local government confirming that their property is located within a designated floodplain and the height of Fill is necessary for flood protection.
9. If the CEO requests additional information on the extent and method of Fill placement within 30 days of receipt of the notice under Section 7, it must be provided by the owner of the land in the form of an amended notice within 30 days of receipt of the request.
10. The owner must comply with the restrictions on the use and the terms and conditions for the conduct of that use of agricultural land ordered by the CEO under authority delegated to the CEO by the Commission provided that the order is made within 30 days of a notice under Section 7 or within 45 days of an amended notice under Section 8.
11. If the owner does not agree to the restrictions on the use or the terms and conditions ordered by the CEO under Section 9, the owner may apply to the commission for permission for a non-farm use under Section 20 (3) of the Act.

Placement of Fill for Non- Farm Use

12. Placement of Fill will be considered necessary under Part 2 Section 3 of the ALRUSP for the following non-farm uses and exempt from the requirement to notify the Commission, in accordance with Section 12, if the following requirements are met:
- a) Agri-tourism accommodation only if associated with the construction of buildings not to exceed a total combined area of 0.2 hectares or less per 16 hectares and to a height not to exceed the minimum level required to satisfy Flood Protection Requirements;
 - b) buildings related to biodiversity conservation, passive recreation, heritage, wildlife and scenery viewing purposes to an area not to exceed 100 square metres and a height not to exceed the minimum level required to Flood Protection Requirements;
 - c) buildings required for open land park to an area not to exceed 100 square metres and a height not to exceed the minimum level required to satisfy Flood Protection Requirements;
 - d) breeding pets or kennels or boarding facilities only if associated with the construction of barns and kennels not to exceed a total combined area of 0.2 hectares or less per 16 hectares and to a height not to exceed the minimum level required to satisfy Flood Protection Requirements;
 - e) buildings related to the production and development of biological products used in integrated pest management programs to an area not to exceed 300 square meters and to a height not to exceed the minimum level required to satisfy Flood Protection Requirements;
 - f) telecommunications equipment, buildings and installations to a volume not to exceed 100 square metres and to a height not to exceed the minimum level required to satisfy Flood Protection Requirements;
 - g) construction of a compost facility related to the production of Class A compost in compliance with the Organic Matter Recycling Regulation if at least 50% of the compost measured by volume is used on the farm provided that a nutrient management plan demonstrates that the compost is applied at an appropriate agronomic rate (as determined by a qualified registered professional) and that the compost facility does not exceed a total combined area of 0.2 hectares or less per 16 hectares;
 - h) a residential use under a lease of a farm or part of a farm located in Zone 2 only if associated with the construction of a building not to exceed a total combined area of 0.2 hectares or less per 16 hectares and to a height not to exceed the minimum level required to satisfy Flood Protection Requirements; and
 - i) a facility that shelters and cares for surrendered, abandoned or seized livestock only if associated with the construction of barns not to exceed a total combined area of 0.2 hectares or less per 16 hectares and to a height not to exceed the minimum level required to satisfy Flood Protection requirements.

Notification and Decision Process for Non-Farm Use

13. An owner wishing to place Fill in excess of the limits established in Section 12 or for a farm use not specifically referenced in Section 12 must notify the Commission and applicable local government or treaty first nation, using the form provided in Schedule A, of their interest to Fill at least 60 days before engaging in the intended use.
14. An owner wishing to place Fill for the reasons established in Section 12 where the height of Fill must not exceed the minimum level required to satisfy the Flood Protection Requirement must obtain written confirmation from the local government confirming that their property is located within a designated floodplain and the height of Fill is necessary for flood protection.
15. If the CEO requests additional information on the extent and method of soil placement of Fill within 30 days of receipt of the notice under Section 12, it must be provided by the owner of the land in the form of an amended notice within 30 days of receipt of the request.
16. The owner must comply with the restrictions on the use and the terms and conditions for the conduct of that use of agricultural land ordered by the CEO under authority delegated to the CEO by the Commission provided that the order is made within 30 days of a notice under Section 12 or within 45 days of an amended notice under Section 13.
17. If the owner does not agree to the restrictions on the use or the terms and conditions ordered by the CEO under Section 14, the owner may apply to the Commission for permission for a non-farm use under Section 20 (3) of the Act.
18. A decision of the CEO under Section 9 and 14 is a decision of the Commission.

Fill Placement for the Construction of a Single Family Residence

19. Fill placement will be considered necessary for the construction of a Single Family Residence/s provided the Placement of Fill does not exceed a total combined area of 0.2 hectares or less and to a height not to exceed the minimum level required to satisfy Flood Protection Requirements.
20. An owner wishing to place Fill for the construction of a Single Family Residence/s in order to satisfy Flood Protection Requirements must obtain written confirmation from the local government confirming that their land is located within a designated floodplain and the height of Fill is necessary for flood protection.
21. A driveway constructed to access a Single Family Residence should not exceed 6 metres in width.
22. An owner wishing to place Fill in excess of the limits established in Section 17 above may apply to the Commission for permission for a non-farm use under Section 20 (3) of the Act.

END

Adopted by the Agricultural Land Commission on the 26th day of April, 2018 by Resolution #48N/2018.



Schedule A – Notification for Fill Placement (Bylaw No.2)
(send to ALC.Soil@gov.bc.ca)

1. Owner Information

Name: Phone: Fax:

Address: E-mail:

2. Legal Description of Land

Legal Description:

Property Identifier Number (PID):

Civic Address:

Parcel Size: acres ha (please check)

3. Site Information

Current use of property:

Use(s) of adjacent properties:

North
East
South
West

4. Fill Origin – Please provide the civic address of property where soil is originating from:

5. Fill Placement Information

Estimated quantity of fill to be placed: cubic metres

Estimated area of the property that the fill will cover: acres ha (please check)

Minimum depth of fill placement: metres

Maximum depth of fill placement: metres

Duration of project:

6. Is this a permanent deposit? YES NO (please check) If no, how long do you intend to stockpile the fill?

7. **Has a Professional Agrologist reviewed the project and provided a written report?**

YES NO (please check) If yes, please attach the report.

8. **Has a Professional Agrologist reviewed the fill to be placed i.e. source site(s)?**

YES NO (please check) If yes, please attach the report.

9. Contractor Information

Company Name: _____ Phone: _____

Address: _____ E-mail: _____

10. Submission Requirements – Please attach the following information to the Notification Form:

- a) a letter outlining why and where the soil is to be placed;
- b) a site plan clearly identifying the area of land from which the soil is sought to be placed including all pertinent topographic features (structures, watercourses, roads, trees);
- c) a site grading plan including the proposed slopes which will be maintained upon project completion; and
- d) the Certificate of Title of the property.

11. Have you notified your local government or treaty first nation government of the proposal?

YES NO (please check) If yes, please provide the name, phone number, and email of the local/First Nation government official.

Local/First Nation Government: _____ Phone: _____

Employee Name: _____ E-mail: _____

Declaration and Consent: I/we consent to the use of the information provided in this notice and all supporting documents. Furthermore, I/we declare that the information is to the best of my/our knowledge, true and correct. I/we understand that the Agricultural Land Commission will take the necessary steps to confirm the accuracy of the information and documents provided.

Signature of Owner or Agent

Print Name

Date