



EXCLUSION APPLICATION GUIDE

EFFECTIVE SEPTEMBER 30, 2020

Published August 6, 2020

Purpose: this guide is intended to outline the process for submitting a local or First Nation government initiated or prescribed body initiated exclusion application to the Agricultural Land Commission as of September 30, 2020.

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LOCAL OR FIRST NATION GOVERNMENT INITIATED EXCLUSION APPLICATIONS

STEP 1: Local or First Nation Government Fills out the Application

- Log into the ALC Application Portal using your local or First Nation government's BCeID Business account, found here: <https://a100.gov.bc.ca/pub/oatsp/>
 - Please contact the ALC if your local or First Nation government does not currently have an account registered with the Portal
 - The ALC must also assign a local or First Nation government 'role' to every local or First Nation government staff BCeID used to submit a local or First Nation government initiated application
- Create the exclusion application
- Complete the application up to Step 7 and save (do not submit the application). You can move between the steps, save and exit the application multiple times
- Download a copy of the application

STEP 2: Local or First Nation Government Gives Notice of the Application

❖ Sign:

- Post a sign on the affected parcel(s) advising of the exclusion application
 - Contact the ALC to confirm where to place signs if multiple parcels are involved
- The Sign must be:
 - at least 60 cm x 120 cm in size
 - located at the midpoint boundary of the parcel fronting a roadway
- Provide a summary of the application and a map showing the subject parcel(s)

Figure 1: Sample Sign

The image shows a sample sign for an agricultural land exclusion application. The sign is rectangular with a black border and contains the following text:

NOTICE TO MAKE APPLICATION TO EXCLUDE LAND FROM THE AGRICULTURAL LAND RESERVE

EXCLUSION APPLICATION INFORMATION:

Application ID: 68513
Applicant: City of Smithton
Posting Date: Sept 12, 2017
Proposal: To exclude 11 hectares from 4 properties on Carbunkle Road for industrial needs as identified in ABC planning report.

Civic Address: 4512, 4518, 4588 & 4620 Carbunkle Road
PID: 123-456-789, 123-123-321, 456-789-123 & 987-654-321

TO SUBMIT COMMENTS:

Local Government: City of Smithton
Phone: 1-800-555-1234 Email: planning@smithton.ca
Local Government File Number: 88D-2017

NOTE: ALL CORRESPONDENCE RECEIVED WITH RESPECT TO THIS APPLICATION FORMS PART OF THE PUBLIC RECORD, AND IS DISCLOSED TO ALL PARTIES, INCLUDING THE APPLICANT

There is a red 'EXAMPLE' watermark across the sign and a box on the right side with the text 'Insert Map Here'.

❖ Notice of Public Hearing:

- Provide notice of the public hearing in at least two issues of a local newspaper, with the last notice appearing not less than 3 days and not more than 10 days before the public hearing. Should your area not have a local newspaper, please contact the ALC to discuss alternative notice options
- Notice must identify:

- Time and place of the public hearing
- Parcel(s) affected
- Intent of the application
- When and where application will be reviewed

❖ **Notice of Application:**

- Provide a copy of the application to adjacent or affected local or First Nation governments, where applicable

STEP 3: Local or First Nation Government Holds the Public Hearing

- Hold the public hearing in accordance with s. 465 of the *Local Government Act*
 - At the public hearing:
 - All persons must be afforded an opportunity to speak
 - Public hearing may be adjourned from time to time
 - A Council/Board member who did not attend public hearing may vote on the application if provided with a written or oral report of public hearing

STEP 4: Local or First Nation Government Passes a Resolution on the Application

- Council/Board passes a resolution to forward or not forward the application to the ALC
 - If forwarded, the application proceeds to the ALC for consideration (see Step 5 below)
 - If not forwarded, the application is refused.
- Local or First Nation government will update the application status in the ALC Application Portal to reflect the outcome of the Council/Board's resolution

STEP 5: Local or First Nation Government Submits the Application

- Proof of notice must be submitted with your application including a copy of the newspaper advertisement and photographs of the sign showing the location of posting in relation to the road or other public access
- Upload public hearing report and any other public comments received
- Upload a copy of the local or First Nation government Council/Board resolution
- Include any other application materials

STEP 6: Local or First Nation Government Pays the Application Fee

- Submit the \$750 application fee to the ALC
 - Fees can be paid by cheque (made out to the Minister of Finance) or by credit card over the phone or in person

STEP 7: ALC Holds the Exclusion Meeting

- Once a completed application and prescribed fee is received, ALC processing of the application will begin

- The ALC must offer an exclusion meeting with written notice to the local or First Nation government not more than 30 days before the meeting
- If the ALC considers it advisable, the ALC may notify adjacent or affected landowners of the parcel(s) subject to the application
- In advance of the exclusion meeting, the ALC must give notice of the materials that will be considered at the meeting, and any new information received
- At the exclusion there may be:
 - representations from the local or First Nation government (e.g. a presentation)
 - written submissions and other forms of evidence to be considered by ALC
 - representations, evidence, opinions of any person present at meeting
- Following the exclusion meeting, the ALC will provide a draft summary of the exclusion meeting proceedings (the “exclusion meeting report”) for verification and sign-off by the local or First Nation government

STEP 8: ALC Makes a Decision on the Application

- The ALC must make a decision on the application taking in consideration its mandate under s. 6(1) and the priorities it must consider in doing so under s. 6(2) of the ALC Act. More information about what the ALC generally considers when making a decision on applications can be found here: <https://www.alc.gov.bc.ca/application-and-notice-process/applications/what-the-commission-considers/>
- The ALC must provide a decision in writing, whether to refuse, approve (with or without conditions), or approve as an alternate use, such as a non-farm use
- The ALC strives to communicate most of its decisions, in writing (electronic or mail), within 60 business days of an application being received and the majority of its decisions in 90 business days. Please be advised that the 60 and 90 business day application process timeline may not be consecutive given the specifics of an application; the ALC may “pause” the business day timelines should any of the following be required:
 - The exclusion meeting
 - A site visit
 - A request for additional information (from the local government or any other person considered appropriate)

PRESCRIBED BODY INITIATED EXCLUSION APPLICATIONS

A “prescribed body” is defined in s. 16 of the ALR General Regulation as:

- Regional Health Board
- Educational Body
- Improvement District
- BC Transit Corporation
- BC Housing Management Commission
- BC Hydro and Power Authority
- South Coast BC Transportation Authority
- BC Transportation Financing Authority
- Columbia Power Corporation

STEP 1: Prescribed Body Fills out the Application

- Create a Basic or Business BCeID account
- Logon to the ALC Application Portal found here:
<https://a100.gov.bc.ca/pub/oatasp/>
- Create the exclusion application
- Complete the application up to Step 7 and save (do not submit application)
 - Note: You can move between the steps, save and exit the application multiple times
- Download a copy of the application

STEP 2: Prescribed Body Gives Notice of the Application

- As the applicant, you are responsible for ensuring the notice requirements are fulfilled prior to filing your application with the local or First Nations government and for all costs arising from providing the notice

❖ Sign:

- Post a sign on each of the affected parcel(s) advising of the exclusion application
 - The Sign must be:
 - at least 60 cm x 120 cm in size
 - located at the midpoint boundary of the parcel(s) fronting a roadway
- Provide a summary of the application and a map showing the subject parcel(s)

Figure 2: Sample Sign

The image shows a sample sign for an agricultural land exclusion application. The sign is rectangular with a black border and contains the following text:

NOTICE TO MAKE APPLICATION TO EXCLUDE LAND FROM THE AGRICULTURAL LAND RESERVE

EXCLUSION APPLICATION INFORMATION:

Application ID: 68513
Applicant: City of Smithton
Posting Date: Sept 12, 2017
Proposal: To exclude 11 hectares from 4 properties on Carbunkle Road for industrial needs as identified in ABC planning report.

Civic Address: 4512, 4518, 4588 & 4620 Carbunkle Road
PID: 123-456-789, 123-123-321, 456-789-123 & 987-654-321

TO SUBMIT COMMENTS:

Local Government: City of Smithton
Phone: 1-800-555-1234 Email: planning@smithton.ca
Local Government File Number: 88D-2017

NOTE: ALL CORRESPONDENCE RECEIVED WITH RESPECT TO THIS APPLICATION FORMS PART OF THE PUBLIC RECORD, AND IS DISCLOSED TO ALL PARTIES, INCLUDING THE APPLICANT

A large red "EXAMPLE" watermark is overlaid diagonally across the sign. A grey box on the right side of the sign contains the text "Insert Map Here".

❖ **Notice of Public Hearing:**

- Provide notice of the public hearing in at least two issues of a local newspaper, with the last notice appearing not less than 3 days and not more than 10 days before the public hearing
- Notice must identify:
 - Time and place of the public hearing
 - Parcel(s) affected
 - Intent of the application
 - When and where application will be reviewed
- Send any comments received from the public to the local or First Nation government

❖ **Notice of Application:**

- Provide a copy of the application to a local or First Nation government that shares of common boundary to the parcel, where applicable

STEP 3: Prescribed Body Holds the Public Hearing

- Hold the public hearing
 - At the public hearing:
 - All persons must be afforded an opportunity to speak
 - Public hearing may be adjourned from time to time
 - A member who did not attend public hearing may vote on the application if provided with a written or oral report of public hearing

STEP 4: Prescribed Body Submits the Application

- Photographs of the sign showing the location of posting in relation to the road or other public access must be submitted with the application
- Upload proof of notice of public hearing (newspaper)
- Include all other application requirements
- Public comments received by prescribed body and forwarded to local or First Nation government must be uploaded

STEP 5: Prescribed Body Pays the Local or First Nation Government Portion of Application Fee

- Pay the local or First Nation government their portion of the application fee (\$750)

STEP 6: Local or First Nation Government Board/Council Passes a Resolution on the Application

- Local or First Nation government may choose to hold a public information meeting

- Local or First Nation government may refer application to adjacent local or First Nation government where applicable. Adjacent local or First Nation government may provide comment on the application
- Council/Board resolves to either forward or not forward the application to the ALC
 - If forwarded, the application proceeds to the ALC for consideration
 - If not forwarded, the application is refused and the ALC portion of the fee is not required
- Local or First Nation government will update the application status in the ALC Application Portal to reflect the outcome of the Council/Board's resolution

STEP 7: Prescribed Body Pays the ALC Portion of the Application Fee

- If the Council/Board resolves to forward the application to the ALC, the applicant must now pay the ALC portion of the application fee (\$750)
 - Fees can be paid by cheque (made out to the Minister of Finance) or by credit card over the phone or in person

STEP 8: ALC Holds the Exclusion Meeting

- Once a completed application and prescribed fee is received, ALC processing of the application will begin
- The ALC must offer an exclusion meeting with written notice to the applicant and local or First Nation government not more than 30 days before the meeting
- If the ALC considers it advisable, the ALC may notify adjacent or affected landowners of the parcel(s) subject to the application
- In advance of the exclusion meeting, the ALC must give notice of the materials that will be considered at the meeting, and any new information received
- At the exclusion there may be:
 - representations from the local or First Nation government (e.g. a presentation)
 - written submissions and other forms of evidence to be considered by ALC
 - representations, evidence, opinions of any person present at meeting
- Following the exclusion meeting, the ALC will provide a draft summary of the exclusion meeting proceedings (the "exclusion meeting report") for verification and sign-off by the applicant

STEP 9: ALC Makes a Decision on the Application

- The ALC must make a decision on the application taking in consideration its mandate under s. 6(1) and the priorities it must consider in doing so under s. 6(2) of the ALC Act. More information about what the ALC generally considers when making a decision on applications can be found here: <https://www.alc.gov.bc.ca/application-and-notice-process/applications/what-the-commission-considers/>
- The ALC must provide a decision in writing, whether to refuse, approve (with or without conditions), or approve as an alternate use, such as a non-farm use
- The ALC strives to communicate most of its decisions, in writing (electronic or mail), within 60 business days of an application being received and the majority of its decisions in 90

business days. Please be advised that the 60 and 90 business day application process timeline may not be consecutive given the specifics of an application; the ALC may “pause” the business day timelines should any of the following be required:

- The exclusion meeting
- A site visit
- A request for additional information (from the local government or any other person considered appropriate)

ATTACHMENT A:

APPLICABLE ACT AND REGULATION SECTIONS FOR LOCAL OR FIRST NATION GOVERNMENT INITIATED EXCLUSION APPLICATIONS

ALC Act

Note: These sections of the ALC Act come into force and effect September 30, 2020. See [Bill 15-2019](#) for text until BC Laws is updated.

- s. 29** (1) A person may apply to the commission to have land excluded from the agricultural land reserve if the person is
- (a) the owner of the land and is
 - (i) the Province, a first nation government or a local government, or
 - (ii) a prescribed public body,
 - (b) a local government, and the land is within the local government's jurisdiction, or
 - (c) a first nation government, and the land is within the first nation's settlement lands.
- (2) Subject to subsection (3),
- (a) an applicant must give notice, in the prescribed form and manner and before making the application, of the application and of a public hearing respecting that application, and
 - (b) the public hearing must be held in the prescribed manner.
- (3) On request of an applicant described in subsection (1) (a), the commission may waive one or more of the requirements of subsection (2).
- (4) An application made by an applicant described in subsection (1) (a) may not proceed unless authorized as follows:
- (a) by a resolution of a local government if the application is made by a person other than a first nation government and, on the date the application is made, the application
 - (i) applies to land within the local government's jurisdiction that is zoned by bylaw to permit farm use, or

(ii) requires, in order to proceed, an amendment to an official settlement plan, official community plan, official development plan or zoning bylaw of the local government;

(b) by a law of a first nation government if the application applies to settlement lands over which the first nation has legislative authority.

s. 29.1 (1) In this section, "**decision respecting proposed settlement lands**" means a decision of the commission made under subsection (2) (b) or (c) of this section on receiving an application under section 29

(a) by an applicant described in subsection (1) (a) of that section, and

(b) in relation to proposed settlement lands.

(2) On receiving an application under section 29, the commission may do one of the following:

(a) refuse permission to have land excluded from the agricultural land reserve;

(b) grant permission, with or without limits or conditions, to have land excluded from the agricultural land reserve;

(c) permit, with or without limits or conditions, a non-farm use, non-adhering residential use, soil or fill use or subdivision of land.

(3) A decision respecting proposed settlement lands is not effective unless and until

(a) those lands are established, in whole or in part, as settlement lands, and

(b) the first nation government that has jurisdiction over those settlement lands enacts a law approving the commission's decision and provides a certified copy of the law to the commission.

(4) Unless a decision respecting proposed settlement lands first becomes effective under subsection (3), the decision expires on the earlier of the following dates:

(a) the date the decision expires according to its terms;

(b) the date a notice to suspend negotiations takes effect.

(5) The commission must deliver its written decision to the applicant.

s. 34 (1) This section applies to the following types of applications:

- (a) an application made by a first nation government as the owner of proposed settlement lands, other than an inclusion application under section 17;
- (b) an exclusion application made by a person referred to in section 29 (1) (b) or (c);
- (c) an application for which review would be required under section 34.1, but the application is made by the local government or first nation government that would be responsible for the review;
- (d) an application for a specific type of use prescribed by regulation as an application that must be filed directly with the commission;
- (e) an application made under section 58.3 (1) (e), unless a regulation made under that section provides otherwise.

(2) A person may make an application described in subsection (1) by submitting the application and paying the prescribed application fee to the commission.

(3) In respect of an application described in subsection (1) (d), the commission

(a) may request comments and information from the local government or first nation government for the area in which the land described in the application is located, and

(b) if a request is made under paragraph (a) of this subsection, pay a prescribed portion of the fee received under subsection (2) to the local government or first nation government.

(4) A local government or first nation government that is paid a fee under subsection (3)

(b) may retain the fee, and the *Financial Administration Act* does not apply in relation to that fee.

s. 34.1 (1) A person may make an application to which section 34 does not apply by submitting the application and paying the prescribed application fee, if any, to the following, as applicable:

(a) the municipality, if the land described in the application is in a municipality;

(b) the regional district, if the land described in the application is in a regional district but not in a municipality or a local trust area;

- (c) the Islands Trust, if the land described in the application is within a local trust area under the *Islands Trust Act*,
 - (d) the first nation government, if the land described in the application is in the settlement lands of a first nation.
- (2) A local government or first nation government that receives an application must review the application and do one of the following:
- (a) forward to the commission
 - (i) the application, and
 - (ii) the comments and recommendations of the local government or first nation government respecting the application;
 - (b) notify the applicant that the application will not be forwarded to the commission if
 - (i) the application is refused, or
 - (ii) the application may not, under this Act, proceed unless authorized by a resolution of the local government or a law of the first nation government and the required resolution or law is refused.
- (3) If a local government or first nation government forwards an application under subsection (2) (a) to the commission, the applicant must pay the prescribed application fee, if any, to the commission.
- (4) The application fee that must be paid under subsection (3) is in addition to the application fee, if any, paid under subsection (1).
- (5) A local government or first nation government that collects a fee under subsection (1) may retain the fee, and the *Financial Administration Act* does not apply in relation to that fee.

ALR General Regulation – Effective September 30, 2020

Note: These sections of the ALR General Regulation (BC Reg. 57/2020) come into force and effect September 30, 2020. See [OIC 131/2020](#) for text until BC Laws is updated.

Procedures at meetings and public hearings

- s. 9** (1) a local government or a first nation government that holds a public hearing with respect to an application may, without limiting any other powers of the commission, local government, first nation government or public body applicant,
- (a) designate the date, time and place for the meeting or public hearing, and
 - (b) adjourn the meeting or public hearing
- (2) a local government or a first nation government holding a public hearing
- (a) must give all persons present an opportunity to be heard on matters related to the proposal or application that is the subject of the public hearing, and
 - (b) may, without further notice, allow a proposal or application that is the subject of the public hearing to be amended to accommodate representations made at that public hearing
- (3) a local government or a first nation government who was not present at a public hearing may vote on the proposal or application that was the subject of the public hearing if an oral or written report of the public hearing has been given to the member

Applications by local or First Nation government applicants

- s. 14** (1) If a local or first nation government applicant is applying to include land in, or exclude agricultural land from, the agricultural land reserve, the applicant must do all of the following:
- (a) give notice of the application not less than 3 days and not more than 10 days before the date of the public hearing;
 - (b) give a copy of the application to the following:
 - (i) if the land that is the subject of the application is adjacent to an area over which a different local government or first nation government has jurisdiction, that different local government or first nation government;
 - (ii) each local government or first nation government whose interests, the local or first nation government applicant believes, will be affected by the application;
 - (c) include with the application
 - (i) a report of the public hearing and any additional public comments,

and

(ii) any other supporting material the commission may require;

(d) post a sign, in a form and manner acceptable to the commission, on the land that is the subject of the application.

(2) Despite subsection (1) (b), a local or first nation government applicant is not required to give a copy of an application to a first nation government referred to in paragraph (b) of the definition of “first nation government” in section 1 of the Act.

Notice of public hearing

s. 15 (1) A notice of a public hearing must be given in accordance with this section by

(a) the commission, in respect of a proposal on the commissions’ own initiative to include land in, or exclude agricultural land from, the agricultural land reserve, and

(b) a local or first nation government applicant, in respect of an application by the applicant to include land in, or exclude agricultural land from, the agricultural land reserve.

(2) The notice must do all of the following:

(a) state the general intent of the proposal or application;

(b) identify the land affected, whether by using the legal description or by describing the land generally;

(c) state the date, time and place of the public hearing;

(d) state when and where a copy of the proposal or application may be inspected.

(3) The notice must be published as follows:

(a) publication must be in at least 2 issues of a newspaper within the meaning of the *Community Charter*;

(b) the newspaper must be circulated in the municipality, regional district or settlement lands within which the land that is the subject of the proposal or application is located;

(c) the last publication must be circulated not less than 3 days and not more than 10 days before the date of the public hearing.

(4) Despite subsection (3) of this section, if the requirements of that subsection are not practical, the commission or local or first nation government applicant, as applicable, may give notice in the same manner as a council may give notice under section 94 (4) and (5) of the *Community Charter*.

Commission meeting

s. 20 (1) The commission must do all of the following:

(a) hold a meeting to determine an exclusion application;

(b) not more than 30 days before the meeting, give written notice of the meeting to

(i) the applicant,

(ii) the local government or first nation government that has jurisdiction over the agricultural land that is the subject of the application, and

(iii) if the commission considers it advisable, each owner of agricultural land that shares a common boundary with, or is separated by a public road right of way from, the agricultural land that is the subject of the application;

(c) before the meeting, give notice to the applicant of the following:

(i) the information, if any, related to the application that will be considered at the meeting;

(ii) any new information that becomes available.

(2) At the meeting, the commission may do one or more of the following:

(a) hear representations from the applicant;

(b) accept written submissions or any other form of evidence, whether or not it would be admissible as evidence in a court of law;

(c) hear representations, evidence and opinions the commission considers

relevant of

- (i) any person present or represented at the meeting, and
- (ii) the local government or first nation government that has jurisdiction over the agricultural land that is the subject of the application.

Evidence presented at meeting

s. 21 (1) This section applies if

- (a) evidence is presented at a meeting of the commission held to determine an exclusion application, and
- (b) a statement or summary of that evidence has not been given to the applicant before the meeting.

(2) If the applicant is present at the meeting, the commission may

- (a) hear further representations in respect of the evidence, or
- (b) adjourn the meeting to enable the applicant to answer the evidence.

(3) If the applicant is not present at the meeting, the commission must notify the applicant personally or by registered or electronic mail of

- (a) the evidence, and
- (b) the date by which the additional evidence may be answered.

ATTACHMENT B:

APPLICABLE ACT AND REGULATION SECTIONS FOR PUBLIC BODY INITIATED EXCLUSION APPLICATIONS

ALC Act

Note: These sections of the ALC Act come into force and effect September 30, 2020. See [Bill 15-2019](#) for text until BC Laws is updated.

- s. 29** (1) A person may apply to the commission to have land excluded from the agricultural land reserve if the person is
- (a) the owner of the land and is
 - (i) the Province, a first nation government or a local government, or
 - (ii) a prescribed public body,
 - (b) a local government, and the land is within the local government's jurisdiction, or
 - (c) a first nation government, and the land is within the first nation's settlement lands.
- (2) Subject to subsection (3),
- (a) an applicant must give notice, in the prescribed form and manner and before making the application, of the application and of a public hearing respecting that application, and
 - (b) the public hearing must be held in the prescribed manner.
- (3) On request of an applicant described in subsection (1) (a), the commission may waive one or more of the requirements of subsection (2).
- (4) An application made by an applicant described in subsection (1) (a) may not proceed unless authorized as follows:
- (a) by a resolution of a local government if the application is made by a person other than a first nation government and, on the date the application is made, the application
 - (i) applies to land within the local government's jurisdiction that is zoned by bylaw to permit farm use, or

(ii) requires, in order to proceed, an amendment to an official settlement plan, official community plan, official development plan or zoning bylaw of the local government;

(b) by a law of a first nation government if the application applies to settlement lands over which the first nation has legislative authority.

s. 29.1 (1) In this section, "**decision respecting proposed settlement lands**" means a decision of the commission made under subsection (2) (b) or (c) of this section on receiving an application under section 29

(a) by an applicant described in subsection (1) (a) of that section, and

(b) in relation to proposed settlement lands.

(2) On receiving an application under section 29, the commission may do one of the following:

(a) refuse permission to have land excluded from the agricultural land reserve;

(b) grant permission, with or without limits or conditions, to have land excluded from the agricultural land reserve;

(c) permit, with or without limits or conditions, a non-farm use, non-adhering residential use, soil or fill use or subdivision of land.

(3) A decision respecting proposed settlement lands is not effective unless and until

(a) those lands are established, in whole or in part, as settlement lands, and

(b) the first nation government that has jurisdiction over those settlement lands enacts a law approving the commission's decision and provides a certified copy of the law to the commission.

(4) Unless a decision respecting proposed settlement lands first becomes effective under subsection (3), the decision expires on the earlier of the following dates:

(a) the date the decision expires according to its terms;

(b) the date a notice to suspend negotiations takes effect.

(5) The commission must deliver its written decision to the applicant.

s. 34 (1) This section applies to the following types of applications:

- (a) an application made by a first nation government as the owner of proposed settlement lands, other than an inclusion application under section 17;
- (b) an exclusion application made by a person referred to in section 29 (1) (b) or (c);
- (c) an application for which review would be required under section 34.1, but the application is made by the local government or first nation government that would be responsible for the review;
- (d) an application for a specific type of use prescribed by regulation as an application that must be filed directly with the commission;
- (e) an application made under section 58.3 (1) (e), unless a regulation made under that section provides otherwise.

(2) A person may make an application described in subsection (1) by submitting the application and paying the prescribed application fee to the commission.

(3) In respect of an application described in subsection (1) (d), the commission

(a) may request comments and information from the local government or first nation government for the area in which the land described in the application is located, and

(b) if a request is made under paragraph (a) of this subsection, pay a prescribed portion of the fee received under subsection (2) to the local government or first nation government.

(4) A local government or first nation government that is paid a fee under subsection (3)

(b) may retain the fee, and the *Financial Administration Act* does not apply in relation to that fee.

s. 34.1 (1) A person may make an application to which section 34 does not apply by submitting the application and paying the prescribed application fee, if any, to the following, as applicable:

(a) the municipality, if the land described in the application is in a municipality;

(b) the regional district, if the land described in the application is in a regional district but not in a municipality or a local trust area;

(c) the Islands Trust, if the land described in the application is within a local trust area under the *Islands Trust Act*,

(d) the first nation government, if the land described in the application is in the settlement lands of a first nation.

(2) A local government or first nation government that receives an application must review the application and do one of the following:

(a) forward to the commission

(i) the application, and

(ii) the comments and recommendations of the local government or first nation government respecting the application;

(b) notify the applicant that the application will not be forwarded to the commission if

(i) the application is refused, or

(ii) the application may not, under this Act, proceed unless authorized by a resolution of the local government or a law of the first nation government and the required resolution or law is refused.

(3) If a local government or first nation government forwards an application under subsection (2) (a) to the commission, the applicant must pay the prescribed application fee, if any, to the commission.

(4) The application fee that must be paid under subsection (3) is in addition to the application fee, if any, paid under subsection (1).

(5) A local government or first nation government that collects a fee under subsection (1) may retain the fee, and the *Financial Administration Act* does not apply in relation to that fee.

ALR General Regulation – General Procedures that apply to all Application Types

Note: These sections of the ALR General Regulation (BC Reg. 57/2020) come into force and effect September 30, 2020. See [OIC 131/2020](#) for text until BC Laws is updated.

Local or first nation government review

- s.8** (1) A local government or first nation government that receives an application under section 34.1 [application procedure if local government or first nation government review required] of the Act must, in accordance with this section, forward to the commission
- (a) the application, and
 - (b) the comments and recommendations of the local government or first nation government in respect of the application.
- (2) The application, comments and recommendations must be forwarded within the following period after the local government or first nation government receives the application:
- (a) 90 days, if a public information meeting is held under section 19 (b) [public hearing and public information meeting];
 - (b) 60 days, if paragraph (a) does not apply.
- (3) The comments and recommendations must be in a form acceptable to the commission and address all of the following that apply:
- (a) in the case of an exclusion application made by a public body applicant,
 - (i) whether the notice required under section 17 (a) [exclusion applications by public body applicants] of this regulation has been given,
 - (ii) whether the resolution or law required under section 29 (4) [exclusion applications] of the Act has been made, and
 - (iii) any responses the local government or first nation government received
 - (A) under section 18 [responses to exclusion applications], and
 - (B) through a public information meeting held under section 19 (b),if any;
 - (b) in the case of a use or subdivision application, whether
 - (i) the resolution, if required under section 25 (3) [applications by owner] of the Act, has been made, or
 - (ii) the law required under section 25 (3.1) of the Act has been made.
- (4) The comments and recommendations may include any other information the local government or first nation government wants the commission to consider concerning the application.

Procedures at meetings and public hearings

- s. 9** (1) The commission, a local government, a first nation government or a public body applicant that holds a meeting, public information meeting or a public hearing with respect

to an application may, without limiting any other powers of the commission, local government, first nation government or public body applicant,

- (a) designate the date, time and place for the meeting or public hearing, and
- (b) adjourn the meeting or public hearing.

(2) The commission, a local government, a first nation government or a public body applicant holding a public hearing

- (a) must give all persons present an opportunity to be heard on matters related to the proposal or application that is the subject of the public hearing, and
- (b) may, without further notice, allow a proposal or application that is the subject of the public hearing to be amended to accommodate representations made at that public hearing.

(3) A member of the commission, a local government or a first nation government who was not present at a public hearing may vote on the proposal or application that was the subject of the public hearing if an oral or written report of the public hearing has been given to the member.

Public body applicants

s. 16 (1) An applicant to exclude agricultural land from the agricultural land reserve is a public body applicant if the applicant is the owner of the agricultural land and is

- (a) the Province, a local government or a first nation government, or
- (b) a person or body listed in subsection (2).

(2) The following are prescribed for the purposes of section 29 (1) (a) (ii) [*exclusion applications*] of the Act:

- (a) a regional health board designated under section 4 (1) of the *Health Authorities Act*;
- (b) an educational body within the meaning of the *Freedom of Information and Protection of Privacy Act*;
- (c) an improvement district within the meaning of the *Local Government Act*;
- (d) BC Transportation Financing Authority;

- (e) British Columbia Housing Management Commission;
- (f) British Columbia Hydro and Power Authority;
- (g) South Coast British Columbia Transportation Authority;
- (h) British Columbia Transit Corporation;
- (i) Columbia Power Corporation.

Exclusion applications by public body applicants

s. 17 If a public body applicant is applying to exclude agricultural land from the agricultural land reserve, the public body applicant must do all of the following:

- (a) give notice of the application not less than 3 days and not more than 10 days before the date of the public hearing;
- (b) give a copy of the application to any local government or first nation government that has jurisdiction over land that shares a common boundary with the agricultural land that is the subject of the application;
- (c) include with the application a copy of the notice required under paragraph (a);
- (d) post a sign, in a form and manner acceptable to the commission, on the land that is the subject of the application.

Responses to exclusion applications

s. 18 (1) If a public body applicant receives a response to a notice given under section 17 (a) [*exclusion applications by public body applicants*], the applicant must promptly forward the response to the local government or first nation government that has jurisdiction over the agricultural land that is the subject of the application.

(2) A local government or first nation government that receives a copy of an application under section 17 (b) may respond to the application by giving comments and recommendations to the local government or first nation government that has jurisdiction over the agricultural land that is the subject of the application.

s. 19 If a public body applicant is applying to exclude agricultural land from the agricultural land reserve,

(a) the applicant must give notice of a public hearing in accordance with section 15 (2) to (4) [*notice of public hearing*] as if the applicant were a local or first nation government applicant, and

(b) the commission, or the local government or first nation government that has jurisdiction over the agricultural land that is the subject of the application, may, in addition to the public hearing, hold a public information meeting with respect to that application.

Commission meeting

20 (1) The commission must do all of the following:

(a) hold a meeting to determine an exclusion application;

(b) not more than 30 days before the meeting, give written notice of the meeting to

(i) the applicant,

(ii) the local government or first nation government that has jurisdiction over the agricultural land that is the subject of the application, and

(iii) if the commission considers it advisable, each owner of agricultural land that shares a common boundary with, or is separated by a public road right of way from, the agricultural land that is the subject of the application;

(c) before the meeting, give notice to the applicant of the following:

(i) the information, if any, related to the application that will be considered at the meeting;

(ii) any new information that becomes available.

(2) At the meeting, the commission may do one or more of the following:

(a) hear representations from the applicant;

(b) accept written submissions or any other form of evidence, whether or not it would be admissible as evidence in a court of law;

(c) hear representations, evidence and opinions the commission considers relevant of

- (i) any person present or represented at the meeting, and
- (ii) the local government or first nation government that has jurisdiction over the agricultural land that is the subject of the application.

Evidence presented at meeting

s. 21 (1) This section applies if

(a) evidence is presented at a meeting of the commission held to determine an exclusion application, and

(b) a statement or summary of that evidence has not been given to the applicant before the meeting.

(2) If the applicant is present at the meeting, the commission may

(a) hear further representations in respect of the evidence, or

(b) adjourn the meeting to enable the applicant to answer the evidence.

(3) If the applicant is not present at the meeting, the commission must notify the applicant personally or by registered or electronic mail of

(a) the evidence, and

(b) the date by which the additional evidence may be answered.