

ALC INFORMATION BULLETIN 05 RESIDENCES IN THE ALR

EXCERPT

- If a landowner wishes in the absence of certain grandfathering exceptions to have a *principal residence* having a total floor area that is more than 500 m², to have an *additional residence* having a total floor area that is more than permitted by the ALR Use Regulation, to have a second *additional residence*, or to use a *residential structure* in a manner that contravenes the regulations, the landowner may submit an application to the Commission, through the local government or First Nation Government, seeking Commission approval: ALCA, ss. 20.1(2), 25. The ALCA calls this type of application an “**application for a non-adhering residential use**”. More information about this type of application is provided later in this bulletin under the heading “Applications for Non-Adhering Residential Use”.

5. NEW CONSTRUCTION OF AN ADDITIONAL RESIDENCE AFTER DECEMBER 31, 2021 WHERE THERE IS AN EXISTING RESIDENCE

No application is required to the Commission in order to *construct* an *additional residence* for which construction begins after December 31, 2021 if:

- at the time that construction begins, the parcel has located on it only one residence, whether or not a permitted secondary suite is located in the residence;
- neither residence will be attached to, nor be part of, the other residence;
- when constructed, one of the following applies to the residences:
 - if the parcel is 40 ha or less, there will be:
 - one residence, the total floor area of which is 500 m² or less; and
 - one residence, the total floor area of which is 90 m² or less;
 - if the parcel is more than 40 ha, there will be:
 - one residence, the total floor area of which is any size permitted under the ALCA; and
 - one residence, the total floor area of which is 186 m² or less.

11. APPLICATIONS FOR NON-ADHERING RESIDENTIAL USE

An owner may apply to the Commission for permission under section 25 of the ALCA for a *non-adhering residential use*: ALCA, s. 20.1(2). A **“non-adhering residential use”** means “any of the following: (a) an *additional residence*; (b) a *principal residence* having a total floor area that is more than 500 m²; (c) a use of a *residential structure* that contravenes the regulations”: ALCA, s. 1(1).

For more information on making applications to the Commission, please see the Commission’s website, at www.alc.gov.bc.ca/application-and-notice-process.

Section 25(1) of the ALCA provides that on receiving a use application the Commission normally may:

- refuse permission for the use applied for,
- grant permission, with or without limits or conditions, for the use applied for, or
- grant permission for an alternative use or subdivision, with or without limits or conditions, as applicable.

With respect to an application for a *non-adhering residential use*, the Commission (a) must consider the prescribed criteria, if any, (b) must not grant permission for an *additional residence* unless the *additional residence* is necessary for a farm use; and (c) must reject the application if required by the regulations to do so: ALCA, s. 25(1.1).

Examples of considerations that the Commission may take into account in determining a use application are found here: www.alc.gov.bc.ca/application-and-notice-process/applications/what-the-commission-considers.

12. GLOSSARY

The following key definitions are relevant to this information bulletin:

“additional residence” means “a residence on a parcel of agricultural land, other than the *principal residence*”: ALCA, s. 1(1)

“alter” means “the following: (a) to alter the exterior of a structure so as to increase its size; (b) to move or *alter* the exterior walls or edges of a structure so as to change its siting”: ALCA, s. 1(1)

“basement” pursuant to Commission Resolution No. 056N/2019 means a single storey (Commission Resolution No. 112N/2024) below the first floor with a vertical height of more than 1.8 metres and having more than one-half its vertical height below the average finished grade at the perimeter of a building, (Commission Resolution No. 094N/2022) that does not extend beyond the outer surface of the exterior wall of the first floor.

“construct” means “the following: (a) to build a new structure; (b) to place on land a new structure that is fully or partially pre-fabricated; (c) to replace a structure, 75% or more of which has been substantially damaged or destroyed”: ALCA, s. 1(1)

“crawl space” means an unfinished space below the first floor with a vertical height of less than 1.8 metres pursuant to Commission Resolution No. 094N/2022.

“non-adhering residential use” means “any of the following: (a) an *additional residence*; (b) a *principal residence* having a total floor area that is more than 500 m²; (c) a use of a *residential structure* that contravenes the regulations”: ALCA, s. 1(1)

“pre-existing residential structure” means “a *residential structure* that exists on agricultural land on the date this section comes into force [February 22, 2019], and (a) is an *additional residence*, (b) is a *principal residence* having a total floor area of more than 500 m², or (c) is of a size or is sited in contravention of a regulation”: ALCA, s. 20.2

“prescribed residential structure” is either a “structure” that, or a “vehicle” that, is “used, whether permanently or temporarily, to provide or in connection with providing accommodation as described in [Part 4 of the ALR Use Regulation]”: ALR Use Regulation, s. 29

“residential structure” means “a structure used, during all or part of the year and whether fully or partially, as (a) a residence, (b) if prescribed, accommodation, or (c) if prescribed, in relation to a residence or accommodation”: ALCA, s. 1(1)

“residential use” means “a use of agricultural land for a *residential structure*” but “does not include a *farm use* or a *soil or fill use*”: ALCA, s. 1(1)

“total floor area of an additional 90 m² or 186 m² residence” of 90 or 186 m² permitted in the ALR Use Regulation, pursuant to Commission Resolution No. 106N/2023, is measured to the inner surface of exterior walls, to account for prefabricated construction methods, including corridors, hallways, landings, foyers, staircases, stairwells, enclosed or partially enclosed (covered roof and/or sidewalls) balconies (Commission Resolution No. 109N/2024), enclosed porches or verandas, *basements*, attached garages and unenclosed carports as part of the total floor area, with the following exceptions:

- (a) attached garages are excluded from the total floor area calculation if the *additional residence* occupies the second storey above a one storey garage (i.e., a carriage house) if:
 - i. the garage is for the storage or parking of motor vehicles for the principal residence;
 - ii. the garage is one large space accessed by garage doors;
 - iii. the TFA of the garage located on the first storey must be no greater than the maximum allowable TFA of the *additional residence* located on the second storey (90 m² for parcels less than 40 ha or 186 m² for parcels greater than 40 ha);
 - iv. There is no internal connection between the garage and an *additional residence* (i.e., the garage must not be intended for the *additional residence*); and,
 - v. the *additional residence* when above a garage must be clustered close to the principal residence (i.e., next to the principal residence) (Commission Resolution No. 110N/2024), and
- (b) attics, with attic meaning the unfinished space between the roof and the ceiling of the top storey of a building or between a partial wall and a sloping roof. This exception only applies if this unfinished space is created by the use of roof trusses. The unfinished attic space created by the use of attic trusses or rafters in the construction of a residence is **not excluded from the calculation of total floor area**, and
- (c) *crawl spaces*.