

# Report

Date January 15, 2025

File: SPP000045

Subject ALR Exclusions: Fees and Charges Bylaw Amendment Bylaw No. 3993, and  
Development Procedures Bylaw Amendment Bylaw No. 3994 for first three readings

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## PURPOSE

To introduce the following bylaws for first three readings:

- (1) Fees and Charges Bylaw Amendment Bylaw No. 3993, 2025, [Attachment 1], which proposes to establish fees for processing applications to exclude land from the Agricultural Land Reserve; and,
- (2) Development Procedures Bylaw Amendment Bylaw No. 3994, 2025, [Attachment 2], which proposes amending the definition of “application” to encompass those applications that culminate in a Council resolution (as opposed to a bylaw adoption or permit approval).

## BACKGROUND

At its meeting on June 19, 2024, Council adopted the Development Procedures Bylaw, which prescribes the process for dealing with land development applications of all types, along with a corresponding amendment to the Fees & Charges Bylaw. It has since emerged that the bylaw provisions regarding applications to exclude land from the Agricultural Land Reserve (ALR) are not wholly sufficient. The amendment bylaws subject to this report seek to rectify this.

## DISCUSSION

Unlike other types of application regarding the ALR (such as non-farm use or soil and fill notices of intent), an application to exclude land from the ALR cannot be made by a private landowner. This is the result of a change to the *Agricultural Land Commission Act* in 2020. These applications are infrequent, and North Cowichan has not received such an application since these 2020 changes.

Exclusion applications may only be made by a local or provincial government, First Nations government, or other prescribed bodies. The only recourse for a private landowner wishing to exclude land from the ALR is to convince the local government having jurisdiction to make the exclusion application to the Agricultural Land Commission (ALC). If the local government makes an exclusion application, the ALC will deal directly with the local government, and the responsibility to arrange any notification or public hearing will also fall to the local government.

While the Development Procedures Bylaw contemplates this application type, the definition of “application” does not adequately capture it, and the Fees & Charges bylaw does not prescribe a fee. However, such an application represents a considerable amount of work and expense and an administrative service that the municipality is providing to a landowner. Section 8(2) of the *Community Charter* allows the municipality to provide any service council considers necessary or desirable, and s.194(1)(a) provides the statutory authority to impose a fee payable for a service.

### Determination of Fee: Exclusion of land from the ALR

An application to exclude land from the ALR assumes the form of a request to Council to pass a resolution to apply to the ALC on behalf of a landowner within its jurisdiction and effectively provide a service as the landowner's agent. Should Council do so, staff would apply through the ALC's online portal. This process carries a fee payable to the ALC of \$750 and may include further expense and administration, depending on the ALC's subsequent requirements.

To arrive at this point, staff would receive relevant information, assess the proposal relative to the Official Community Plan, municipal bylaws, policies, and other material considerations, and formulate a recommendation to Council. This process is similar to a Temporary Use Permit application.

However, Council has also endorsed the Agricultural Advisory Committee's (AgAC) workplan, which includes the routine referral of certain application types to the AgAC for review and recommendation prior to being presented to Council.

To capture the administrative efforts expected to be "typical" in reviewing an ALC exclusion application and providing Council with a recommendation, including review by the AgAC, a base fee of \$2,000 is proposed. In the event that Council agrees to submit an application on the applicant's behalf, an ALR submission fee of \$1,000 is suggested, which would include the \$750 payable directly to the ALC plus municipal administrative time. Beyond this point, the public notification and public hearing surcharges currently set out in the Fees & Charges Bylaw would be levied should the ALR subsequently require these things to take place.

Not all municipalities explicitly provide this service, and many do not appear to have updated their bylaws since the changes to ALR exclusion applications took effect in September 2020. A number of local government websites do not distinguish ALR exclusions and direct users to the ALC website, which, in turn, directs users back to their local government for this particular application type. Accordingly, there is little consistency in how this issue is addressed province-wide. For comparison, some other municipalities that provide this service have set fees as follows, structured in somewhat different ways:

<b>Municipality</b>	<b>ALR Exclusion</b>	<b>Comments</b>
Central Saanich	\$2,200	+ \$1,500 for public meeting notification
Surrey	\$2,748	No refund provisions
Nanaimo	\$1,000	For all ALR application types, +advertising costs
Chilliwack	\$750	+all subsequent fees if submitted
Columbia-Shuswap RD	\$650 + \$1,000 + \$750	Payable in stages depending on progression
East Kootenay RD	\$750 + \$1,500	No refunds
Saanich	\$2,000	+\$750 if forwarded, +\$1,500

### **OPTIONS**

#### 1. **(Recommended Option)** THAT Council:

1. Authorizes North Cowichan, pursuant to section 8(2) of the *Community Charter*, to provide the service of evaluating Agricultural Land Reserve exclusion applications and, where Council considers that the application has sufficient merit, to make the application to the Agricultural

Land Commission; and,

2. Gives first, second and third readings to Fees and Charges Bylaw Amendment Bylaw No. 3993, 2025, and Development Procedures Bylaw Amendment Bylaw No. 3994, 2025.

- If adopted, these bylaws will provide a process and fee for this service.

2. THAT Council defers consideration of Fees and Charges Bylaw Amendment Bylaw No. 3993, 2025, and Development Procedures Bylaw Amendment Bylaw No. 3994, 2025, and requests further information (or substantial changes) to:

- ... [Council to identify information or changes required]

3. THAT proposed bylaws 3993 and 3994 be rejected and not be considered further.

- This option would maintain the status-quo in which the municipality is potentially incurring both direct and indirect costs.

## IMPLICATIONS

Implications	Concerns or Impacts to North Cowichan
Financial	The bylaws create a fee for a service which, if otherwise rendered without a fee, would consume Municipal resources without compensation.
Policy/Legislation	Consistent with the <i>Community Charter</i>
Strategic Priority	No significant impact.
Governance	No significant impact.
Sustainability	No significant impact.
Communication	No significant impact.
Staffing implications	No significant impact.

## RECOMMENDATION

THAT Council:

- 1) Authorizes North Cowichan, pursuant to section 8(2) of the *Community Charter*, to provide the service of evaluating Agricultural Land Reserve exclusion applications and, where Council considers that the application has sufficient merit, to make the application to the Agricultural Land Commission; and,
- 2) Gives first, second and third readings to Fees and Charges Bylaw Amendment Bylaw No. 3993, 2025 and Development Procedures Bylaw Amendment Bylaw No. 3994, 2025.

Report prepared by:



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Chris Osborne RPP, MCIP  
Manager, Planning

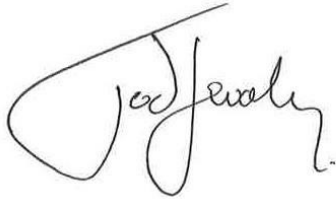
Report reviewed by:



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Amanda Young  
Director, Planning and Building

**Approved to be forwarded to Council:**



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Ted Swabey  
Chief Administrative Officer

Attachments:

- (1) Fees and Charges Bylaw Amendment Bylaw No. 3993
- (2) Development Procedures Bylaw Amendment Bylaw No. 3994