



# PLANNING ADVISORY COMMITTEE MEETINGS

TUESDAY, SEPTEMBER 25, 2018

9:00 a.m.

COUNCIL CHAMBERS

## A G E N D A

### PLANNING ADVISORY COMMITTEE MEETING

Page

1. Meeting to Order
2. Roll Call
3. Amendments to Agenda
4. Approval of the Agenda
5. Approval of Minutes
6. Business Arising from the Minutes
7. Disclosure of Conflict of Interest Issues
8. Business
9. Other Business
  - a. Staff Report on Motions Deferred as part of Review of draft Municipal Planning Strategy 1
  - b. Review of Timeline for Adoption of the draft Municipal Planning Strategy and draft Land Use By-law. 109
10. Correspondence
11. Date of Next Meeting – To be determined
12. Public Comments
13. Adjournment

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**Municipality of the County of Kings**  
**Report to the Planning Advisory Committee**  
**Recommendations Report**  
**September 25, 2018**  
**Prepared by: Planning and Development Services**

## 1. INTRODUCTION

Over the past several months, Staff have been reviewing the draft Municipal Planning Strategy with regard to comments from the public and seeking direction from the Planning Advisory Committee related to edits to the Draft Municipal Planning Strategy (MPS) and the Draft Land Use By-law (LUB) in order to produce what is known as a 'red-line' version of the document where additions, deletions and edits are tracked and can be reviewed.

Policies for Parts 1-3 and Part 5 of the Municipal Planning Strategy were reviewed and recommendations from the Planning Advisory Committee were provided to staff on the following dates:

[December 18, 2017](#)

[January 22, 2018](#)

[May 4, 2018](#)

May 8, 2018 – no agenda, continued from May 4<sup>th</sup>, 2018 agenda package

[July 10, 2018](#)

[July 13, 2018](#)

[July 19, 2018](#)

[July 23, 2018](#)

[July 31, 2018](#)

Part 4 of the draft Municipal Planning Strategy contains Community Plans for various Growth Centres within the Municipality. These plans do not form part of this review and have not changed with regard to policy direction. This report provides a follow up to motions passed by the Planning Advisory Committee at the aforementioned meetings that asked staff to report back on various matters. By way of a review, the motions that were carried at the previous meetings are included as "Appendix A" to this report.

It is Staff's expectation that, following this meeting, a brief review of the Land Use By-law by the Planning Advisory Committee will occur after which, staff will make edits to both the draft Municipal Planning Strategy and draft Land Use by-law in anticipation of the release of a document showing staff edits to the Planning Advisory Committee, for the Committee to endorse and release to the public as a red line document.

## 2. DISCUSSION

### 2.1 DEFERRED MOTIONS

#### 2.1.1 Large Scale Solar Collector Projects on Agricultural Lands

There was one motion passed by the Planning Advisory Committee on December 18, 2017 that required that staff report back. This motion was related to the development of large scale solar farms, specifically on lands within the Agricultural (A1) Zone. The deferred motion, as well as the motion to defer, are as follows:

**That the Planning Advisory Committee direct staff to maintain the proposed policies and regulations related to locating large scale solar farms on lands within the Agricultural (A1) Zone as currently drafted. Motion Deferred.**

**That the Planning Advisory Committee defer the motion to enable staff to look for possible solutions.**

Nova Scotia Power has three avenues for the construction of solar energy generation projects that feed back into the grid:

1. Community Solar
2. Community Feed-in Tariff (COMFIT)
3. Net Metering

The Community Solar option is a 3-year pilot program, expiring in 2019, wherein community groups falling into one of four categories can install solar panels on buildings and properties up to a generation capacity of 75 kW and are able to feed into the electrical grid for 20 years. The four eligible groups are Mi'kmaw bands, Municipalities, universities and, not-for-profit organizations.

The Community Feed-in Tariff has traditionally been used in the construction of wind turbines in the province of Nova Scotia. This program encouraged community-based energy generation projects by broadening ownership of renewable energy generating infrastructure. At this time, Nova Scotia Power is not accepting applications.

Net Metering is the program most often used in the approval of renewable energy projects. It offers the ability to homes and businesses to develop renewable energy projects that primarily serve existing uses on the property. Any excess energy generated is fed into the grid, however, prior to approval, Nova Scotia power assesses usage on the subject property and will limit the total amount of generating capability based on usage. The maximum amount of generating capacity available under the Net Metering program is 100 kW.

The discussion at the Planning Advisory Committee centred around the development of large scale solar collector systems and specifically, the development of large scale solar collector systems on lands within the Agricultural (A1) Zone. The draft Municipal Planning Strategy

proposes that this use be permitted by development agreement only with conditions that the installation be easily reversible and that a decommissioning plan and/or bonding is included as part of the development agreement. The Planning Advisory Committee had questions regarding the maximum size of any potential large scale solar collector system. As part of the discussion, the recently installed solar collector system on Elmridge Farm was discussed. Staff have determined that this project is at the maximum generating capacity, as dictated by Nova Scotia Power. Photographs of the solar collector system on Elmridge Farm is included as Figure 1 and Figure 2. It should also be noted that the owner did not seek any approvals prior to installation of these panels, only after.

Figure 1



Figure 2



Given the requirement from Nova Scotia Power that a solar collector system serve another use, and, as such, cannot exist as an independent use, this use would traditionally be considered an accessory use which would not normally require a development agreement to be undertaken to permit its development.

Notwithstanding, there are other situations where a planning process, specifically a development agreement, has been required to permit a given use such as the development of an event venue as an accessory or ancillary use to a farm or other tourist accommodations or the expansion of an accessory rural home occupation beyond the size normally permitted. This is the avenue that is currently proposed within the draft Municipal Planning Strategy.

Therefore, the options before the Planning Advisory Committee are as follows:

1. Maintain the proposed approach in the draft Municipal Planning Strategy
2. Direct staff to develop as-of-right options for large scale solar collectors as a main use
3. Permit the use as an accessory use, with or without additional restrictions

### **2.1.2. Agricultural Protection within Growth Centres**

On January 22, 2018, the Staff made a recommendation to the Planning Advisory Committee with regard to comments from the public that indicated that there was a desire to place active agricultural lands within Growth Centres into the Agricultural (A1) Zone. Staff explained the rationale for their recommendation to not enable the Agricultural (A1) Zone within Growth Centres. This rationale was due to land use conflicts that could be introduced and the restriction on lands that are intended to support and facilitate a broad range of urban development. Staff proposed the following motion which was deferred:

**That the Planning Advisory Committee affirm that the Agricultural (A1) Zone not be enabled within Growth Centres.**

The Planning Advisory Committee also passed the following motion:

**That the Planning Advisory Committee refer the motion back to staff for discussion at a later date with the following questions:**

- 1. How much farmland is in Growth Centres?**
- 2. Are there any other possible mechanisms to find an intermediary approach to protecting farmland in Growth Centres?**

Within current Growth Centre boundaries, there are 2,039 acres of active farmland, based on the 2012 Land Cover Map which includes lands that were in agricultural production in 2012 as well as lands that were previously recorded as 'active' as part of the Agricultural Land Inventory conducted by the province in 1997 . Within the proposed Growth Centre boundaries, there are 2,205 acres of active farmland. The farming activity on the land is permitted to continue in perpetuity.

It is important to note that, the farmland within Growth Centres, for the most part has been within Growth Centres since the first adoption of the Municipal Planning Strategy and Land Use Bylaw in 1979. The lack of development, and continuous farming of the land without issue, notwithstanding policies in both the 1979 MPS and 1992 MPS that directed that agricultural uses be phased out within Growth Centres, has been able to continue due to a lack of market demand for development and/or a desire on the part of the land owner to continue farming. The permission to continue farming is maintained and recognized in the draft Municipal Planning Strategy and draft Land Use By-law. At any point in the intervening period, the lands could have been developed and could still be developed at any point under the existing policies and regulations of the Municipal Planning Strategy and Land Use Bylaw. Staff have been in touch with the Director of Planning at the Department of Municipal Affairs, the department that is responsible for the determination of whether a Municipal Planning Strategy is reasonably consistent with the Statements of Provincial Interest, and he has confirmed that lands within Growth Centres, and especially lands that have been identified for urban growth for a significant amount of time, would not fall under the definition of agricultural lands, as defined by the Statement of Provincial Interest on Agriculture and would not require any protection in order for

the Minister of Municipal Affairs to determine that the draft Municipal Planning Strategy is reasonably consistent with the Statement of Provincial Interest on Agriculture. .

In order to maintain 30 years of supply of developable lands, that is, lands with easy access to municipal services, and to maintain development rights that have been in existence since 1979, it is important to facilitate the development of the lands when and if the land owner wishes to do so. The maintenance of 30 years of developable land has been a consistent policy since 1979. As such, staff are not recommending any level of protection on active farmland, or otherwise vacant lands, within Growth Centres. The Growth Centre model of planning was adopted to concentrate growth within these areas to reduce demand within the Agricultural (A1) Zone. To add a level of protection on lands identified for development, regardless of whether they are currently farmland or vacant land, would serve as a deterrent and undue restriction to development within Growth Centres. Moreover, in light of the motions passed further restricting non-farm development and overall agricultural protection within the Agricultural (A1) Zone specifically and the Agricultural Designation more broadly, it is Staff's opinion that to restrict development within Growth Centres is not advisable from the perspective of economic growth as well as the Statements of Provincial Interest related to Infrastructure and Housing. It is in Council's interest to facilitate development where servicing exists in order to ensure that existing infrastructure is efficient and cost effective.

### **2.1.3 Contextual Language Regarding Growth Centre Expansion**

On January 22, 2017, Staff made a recommendation regarding the contextual text that precedes policy 2.1.11 of the draft Municipal Planning related to Growth Centre boundary expansions. The recommendation came out of comments from the public related to the use of the word 'arbitrariness' in setting Growth Centre boundaries. This recommendation was the seventh recommendation prepared by Staff for that meeting of the Planning Advisory Committee. The Planning Advisory Committee passed the following motion:

**That the Planning Advisory Committee refer recommendation #7 back to staff for further information and discussion at a later date.**

The motion was referred back since the Planning Advisory Committee had not yet reviewed the boundaries of specific Growth Centres and indicated that they would prefer to discuss this matter following a more comprehensive review of the specific Growth Centres.

It continues to be staff's recommendation that the language within this section of the Municipal Planning Strategy be clarified. It is the opinion of Staff that the proposed Growth Centre boundaries are not arbitrary in nature, but rather represent a poor choice of wording and that any future Growth Centre boundary expansion would take into account the policies of the Municipal Planning Strategy related to the placement of Growth Centre boundaries and policy 2.1.11.



#### **2.1.4 Sidewalks in New Subdivisions**

On May 30, 2018, the Planning Advisory Committee reviewed the policies of the draft Municipal Planning Strategy related to the provision of sidewalks within the Municipality. The Planning Advisory Committee expressed interest in minimum requirements for the provision of sidewalks within new residential subdivisions. It was recognized that, based on overall traffic levels and the specific context of a given proposal, that sidewalks may not be necessary on all new streets. The Planning Advisory Committee passed the following motion:

**That the Planning Advisory Committee direct staff to report back to Planning Advisory Committee on the considerations for requiring active transportation infrastructure in new subdivisions.**

The approval process for a plan of subdivision involves extensive negotiation between Staff and the applicant to ensure that the subdivision meets the requirements outlined by the Municipality in the Municipal Planning Strategy, Land Use Bylaw and Subdivision By-law. As shown during the discussion at the Planning Advisory Committee, the development of regulations identifying when sidewalks are required is difficult due to the fact that every application for a residential subdivision is different and the context of one proposed subdivision may merit the installation of sidewalks or other appropriate active transportation infrastructure, another may not necessitate such infrastructure.

It is therefore, Staff's recommendation that a policy be added to this section of the draft Municipal Planning Strategy indicating that, appropriate active transportation shall be provided as part of all applications for new residential plans of subdivision, in consultation with Municipal Staff. The determination of the level of active transportation infrastructure to be provided would be governed within the Subdivision Bylaw or the Municipal Specifications for new public rights-of-way. It is expected that the overall density and expected traffic levels as well as the financial impact on the Municipality with regard to costs associated with ongoing maintenance and repair of the infrastructure will be taken into account in making this determination. Within villages, sidewalks are owned and maintained by the village, so sidewalks have a financial impact on villages. In such situations, staff would be consulting with Village Commissions. There are Growth Centres, such as Port Williams, that have Community Plans that address the provision of sidewalks as well. Potential Motion:

**That the Planning Advisory Committee direct staff to include a new policy in section 2.3 of the draft Municipal Planning Strategy indicating that appropriate active transportation infrastructure shall be included in all new residential subdivisions.**

#### **2.1.5 Industrial Land within the Municipality**

On July 10<sup>th</sup>, 2018, the Planning Advisory Committee discussed the Industrial Designation and the Planning Advisory Committee passed the following motion:

**That the Planning Advisory Committee direct staff to review the supply of industrial land with the Annapolis Valley Chamber of Commerce and report back with recommendations to the Planning Advisory Committee.**

Staff are still in the process of working with the Economic Development Specialist to discuss this matter with the Chamber of Commerce and will bring back more information at a subsequent meeting.

### **2.1.6 Agricultural Land**

Throughout the course of the review of the draft Municipal Planning Strategy there have been motions related to the protection of agricultural land that have been referred back to Staff for future discussion. Staff are also bringing a previously passed motion back to the Planning Advisory Committee to seek clarification on their prior direction and a motion that was originally tabled.

On July 13<sup>th</sup>, 2018, the Planning Advisory Committee drafted and then tabled the following motion:

**That the Planning Advisory Committee direct staff to review the eligibility for the construction of a farm dwelling and report back to the Committee. Motion Tabled.**

The motion was tabled in order to provide an opportunity for additional information to come back to the Planning Advisory Committee regarding the best way to permit the development of a farm dwelling within the Agricultural (A1) Zone.

In the existing, in force, policies and regulations related to the development of farm dwellings, these are permitted through two avenues. The first is that the property must qualify as a bona fide farm which is defined in these documents as a parcel of land that has a minimum lot area of 20 acres, of which 15 acres must be assessed as resource for at least the 2 years prior and then a farm dwelling can be constructed as an accessory use to the farm. It has been the interpretation of this regulation that the farm applying for the building permit be the owner for those two years prior. It has not been the interpretation to solely accept “active” farmland. This is the most common method of issuing a permit for a farm dwelling. Since 2001 there have been 443 dwellings constructed in the A1 zone. Of that, 30 farm dwellings were constructed (less than 1%). Staff have included a breakdown of Dwelling Statistics as Appendix B to this report. Staff believe the number will increase in the future as many of the other units created were actually farm dwellings, but the farmers took the easier/more flexible route of using other qualifiers. The second method is provided in the existing, in force, planning documents to assist new farmers or experienced farmers that are moving to the Municipality and consists of entering into a development agreement to permit the development of a new farm dwelling. Applicants are required to prove that they are bona fide farmers through the submission of either a professional business plan showing the intention to farm, proof of farm financing or investment, or a demonstration of a history of farming elsewhere, as well as registration with the province under the Farm Registration Act, a lot area of at least 20 acres and any other information as

required by the development officer. There have been no applications under this enabling policy since it was incorporated into the Municipal Planning Strategy in 2008.

Staff have proposed a new method in the draft Land Use By-law to determine the eligibility for a farm dwelling. The following criteria appear in section 8.3.4.2 of the draft Land Use By-law:

- The farm dwelling is not permitted to be the first building on the lot;
- The farm dwelling must be part of the farming business operating on the property;
- The revenue from the farm business must exceed all other sources of revenue.

These criteria have been developed in response to comments from the public regarding dwellings that may have previously been developed as bona fide farm dwellings wherein the farmer that constructed the building retired from farming or sold the dwelling to a non-farmer and the lands on which the farm dwelling sit are subsequently left fallow or turned into lawn. It is staff's opinion that the requirement for an agricultural building to be constructed and that the dwelling must be part of the farming operation (essentially as an accessory use to the farming business), indicate that there is a commitment to ongoing farming on the property. Similarly, the income requirement is intended to require the property owner to be an economically viable farm.

Staff will be revising the draft Land Use By-law to clarify and make explicit the requirement that a farm dwelling be an accessory use to a farm. Staff are interested in having a discussion with the Planning Advisory Committee regarding potential revisions to the eligibility criteria in order to better reflect the needs of the farming community while still providing a level of protection for agricultural lands and minimizing the conversion of farm dwellings to non-farm dwellings however, the following limitations must be considered:

- Staff do not have the ability to compel or require new or former farmers to farm land within the Agricultural (A1) Zone
- Staff do not have the ability to control the sale of land or dwellings nor are Staff able to control to whom a property is sold (farmers vs. non-farmers)
- Staff have very little ability to cease the occupancy of a farm dwelling should farming cease on a property, regardless of its classification as an accessory use, this would require Court Action
- The Municipality does not have control over how lands are assessed by Property Valuation Services Corporation for the purposes of collecting property taxes

It has been suggested that the requirement for a proof of income to permit the construction of a farm dwelling is too restrictive and that a minimum property size be incorporated to determine the size of a new farm instead. This is the current method used to determine whether a property owner qualifies as a bona fide farmer. As described above, the minimum lot size is currently 20 acres. As such, this has been known within the community as the 20-acre lot provision. There were comments from the public opposing this practice due to the belief that the provision is used to build houses that are then sold to non-farmers, resulting in a loss of at least 15 acres of active farmland. Between 2001 and 2016 a total of 29 dwellings were constructed as bona fide farm dwellings. Staff do not have data on the number of those

dwellings that are no longer part of a farming operation due to the restrictions provided above. See Appendix B By contrast, between 2001 and 2016, a total of 246 permits were issued for non-farm dwellings under a pre-94 provision or a poor soils provision. This figure represents 94 percent of non-farm dwellings constructed during this period and 85 percent of all new dwellings within the Agricultural (A1) Zone. Staff and the Planning Advisory Committee are proposing to remove these options for the construction of dwellings within the Agricultural (A1) Zone, representing a potentially significant reduction in the total number of dwellings constructed within the Agricultural (A1) Zone. A portion of the comments from the public have indicated that there is adequate housing stock within the Agricultural (A1) Zone to accommodate all that wish to farm and have suggested that no new dwellings be permitted to be constructed, even if the proposed dwelling is intended to be part of a farming operation.

**That the Planning Advisory Committee direct staff to restrict the qualification of infill non-farm dwelling development to once per 500 foot infill condition. Motion Carried (July 13<sup>th</sup>, 2018)**

This motion was carried on July 13<sup>th</sup>, 2018. Since that time, Staff, in their review, have identified an area of uncertainty with this directive. The proposed infill provision of the draft Municipal Planning Strategy and Land Use By-law require that, in order to qualify, that there be two dwellings in existence on the date of adoption of the new planning documents, or a dwelling and a road, and that there be less than 500 feet between the two dwellings, or the dwelling and the road. In order to further reduce the total number of dwellings to be constructed, the Planning Advisory Committee directed staff to limit each infill opportunity to one dwelling. Figure 3 shows an example.

Figure 3



Figure 3 shows an existing lot that meets the requirement of the infill provision. There are two existing houses located 412 feet apart. The lot in this example has already been created.

Figure 4



In Figure 4, there is a total of 295 feet between two houses. The two houses are separated by one property line. In this example, in order to construct a dwelling that qualifies for the infill provision, a subdivision to create the new lot will be required.

The example in Figure 5 highlights the uncertainty that has been identified through Staff's review.

Figure 5



In Figure 3, there is 295 feet between two houses, thereby creating an infill condition. There are, however, a total of 3 properties are within this area, all of which would qualify as an infill lot.. This creates a “first-in” situation between property owners.

Staff are requesting clarification for circumstances such as that presented in Figure 3. To permit one infill dwelling would remove development rights from the remaining two parcels creating a potentially unfair situation.

**That the Planning Advisory Committee direct staff to review the extent of the Agricultural (A1) Zone with regard to soils mapping and agricultural use on the North and South Mountains in order to comply with the Statement of Provincial Interest. Motion Carried (July 19<sup>th</sup>, 2018)**

Staff are in the process of preparing a map showing a revised analysis of agricultural areas consisting of 60% or greater soils that fall into Class 2, Class 3 or Class 4 lands for the meeting of Planning Advisory Committee scheduled for September 2, 2018. Following the discussion at Planning Advisory Committee, the map will be included within the minutes.

### **2.1.7 Growth Centre Boundary Maps**

There has been extensive discussion around Growth Centre boundaries throughout the review of the draft Municipal Planning Strategy.

On Monday, January 22, 2018, the following motions were carried:

**That the Planning Advisory Committee direct staff to remove from the proposed Growth Centre boundaries lands identified in Cambridge and Port Williams as depicted on the maps contained in Appendix B of the report dated January 22, 2018.**

**That the Planning Advisory Committee direct staff to review the west portion of the Waterville Growth Centre for discussion related to the loss of agricultural land.**

**That the Planning Advisory Committee direct staff to review the north portion of North Kentville and report back to the Planning Advisory Committee with revised zoning for the area.**

On Friday, May 4, 2018, the following motions were carried:

**That the Planning Advisory Committee direct staff to contract the proposed boundary of the Growth Centre of Waterville at the western boundary to the end of the serviced area, along Maple Street to extend north 150 feet along Maple Street.**

**That the Planning Advisory Committee direct staff to reinstate the northern boundary of the Growth Centre of Port Williams proposed in the March 2016 draft Municipal Planning Strategy.**

**That the Planning Advisory Committee bring back a discussion around the Growth Centre boundaries of the Growth Centres of Canning, Waterville and Cambridge.**

Staff have prepared a series of maps based on the motions passed by the Planning Advisory Committee to be presented at the September 25<sup>th</sup>, 2018 meeting. Similar to the Agricultural (A1) Zone map, these maps will be included as part of the minutes. Where motions were contradictory or inconsistent with previously passed motions, Staff have used the most recent directive to generate a map of the Growth Centre boundaries.

#### **Waterville**

Staff have prepared 2 maps showing the boundary of Waterville extending to a depth of 150 feet to the north of Maple Street. The first shows the depth at a consistent 150 feet. The lands to be incorporated into the Growth Centre have been placed within the Residential One and Two Unit (R2) Zone. This creates a situation where, once the lands within the Growth Centre have been developed, the area to the north will be a somewhat isolated agricultural parcel due to the Environmental Constraint (O1) zone. The area is relatively small at approximately 3.5 acres

and, due to the river to the north, is not able to be easily consolidated with adjacent agricultural lands.

The second map of Waterville includes the 3.5 acres to the north as part of the Growth Centre. In an effort to avoid a somewhat arbitrary Growth Centre Boundary, and in order to be consistent with policy 2.1.7d) of the draft Municipal Strategy, Staff are proposing that the boundary, in this area, due to the difficulties that could arise in farming the lands, align with the river as opposed to the depth of 150 feet. The serviced lands could then be incorporated with the lands to the south and/or the lands to the east that are proposed to be located within a Residential Mixed Density (R3) zone, and intended to be developed with higher densities to enable the development of a comprehensive neighbourhood as opposed to strip development along Highway 1.

### Cambridge

Staff have brought back a map of the Growth Centre boundary in Cambridge. On January 22, 2018, the Planning Advisory Committee directed Staff to remove the lands on the eastern boundary of the Growth Centre, located south of Highway 1 from the Growth Centre boundary. Following the adoption of this motion, Municipal Council adopted a budget with a capital item that included the extension of a sidewalk and sewer services between the Growth Centres of Coldbrook and Cambridge. The department of Engineering and Public Works has advised that the provision of this infrastructure will not be cost effective without the ability to permit additional development on the south side of Highway 1. In order to ensure the efficient provision of this sewer service, staff are recommending that the lands to the south of Highway 1 be added to the Growth Centre boundaries since the initial rationale for removing the lands was due to the lack of servicing.

### North Kentville

Staff have prepared a map showing revised zoning for the Growth Centre of North Kentville. The actively farmed lands that members of the public requested to be placed within the Agricultural (A1) Zone have been rezoned to the Agricultural (A1) Zone. The lands along the frontage of Highway 341 and Scott Drive have been placed within a Residential One and Two Unit (R2) Zone to maintain the ability to provide servicing in an efficient and cost effective manner in this portion of North Kentville, consistent with the Statement of Provincial Interest on Infrastructure.

### Port Williams

Staff have prepared a revised map showing the northern boundary of the Growth Centre of Port Williams as proposed in the March 2016 draft planning documents. On January 22, 2018, the Planning Advisory Committee directed staff to contract the Growth Centre boundary southward to remove unserviced lands from the Growth Centre. On Friday, May 4, 2018, the Planning Advisory Committee directed staff to reinstate the boundary proposed in the March 2016 draft Municipal Planning Strategy. Staff have made this change.



## Canning

On Friday, May 4, 2018, the Planning Advisory Committee indicated that there was a desire to have additional discussion around the boundaries of the Growth Centre of Canning. It is Staff's understanding that this discussion is based on decisions related to the servicing of the northern portion of the Growth Center along J Jordan Road and North Avenue and wellfield protection to the east of the eastern boundary of the Growth Centre, along North Avenue. It was previously discussed that development along those roads is at a density that does not necessitate central sewer services. Furthermore, sewer infrastructure, specifically along J Jordan Road requires replacement in the near future. Staff have also reviewed the zoning of the areas that were proposed to be incorporated into the Growth Centre along Highway 221 to the east toward Kingsport and Pereau Road to the east. The Planning Advisory Committee passed the following motion on July 19, 2018:

**That the Planning Advisory Committee direct staff to review the policies, regulations and application of the Country Residential (A4) Zone.**

The purpose of the motion, at that time, was around applying appropriate zoning to serviced lands within rural areas. It is Staff's opinion that the lands to the east of Canning would be appropriately placed within a revised Country Residential (A4) Zone. Placing these lands within this zone would avoid having lands within the Growth Centre of Canning that are not located within the boundaries of the Village of Canning. Staff are similarly proposing that an option could be that the lands along J Jordan Road and North Avenue, in the northern portion of the Growth Centre be removed and placed within the Country Residential (A4) Zone.

## **3. Appendices**

**Appendix A – Planning Advisory Committee Motions**

**Appendix B – Agricultural Dwelling Statistics**

**Appendix C – Submission from Tom Cosman**

## APPENDIX A – Planning Advisory Committee Motions

**Monday, December 18, 2017**

1. On motion of Councillor Hodges and Mr. Cosman, that the Planning Advisory Committee direct staff to amend the Lakeshore Limited Development (S2) Zone by including a maximum building footprint chart. Motion Carried.
2. On motion of Deputy Mayor Lutz and Councillor Hodges, that the Planning Advisory Committee direct staff to amend the Lakeshore Residential (S1) and Lakeshore Limited Development (S2) Zones by placing greater restriction on the removal of vegetation along the shoreline. Motion Carried.
3. On motion of Deputy Mayor Lutz and Mr. Fournier, that the Planning Advisory Committee direct staff to amend the draft Land Use Bylaw by removing Section 9.3.4.4 (d) i. and ii. which are the provisions permitting visiting Recreational Vehicles in all zones within the Shoreland Designation. Motion Carried.
4. On motion of Deputy Mayor Lutz and Councillor Hodges, that the Planning Advisory Committee defer this item to the next PAC meeting to enable staff to find a provision for disposal of waste and grey water under the recreational cabin definition in the Land Use Bylaw. Motion Carried.
5. On motion of Councillor Hodges and Mr. Smith, that the Planning Advisory Committee affirm the draft Land Use Bylaw as it relates to outdated septic systems. Motion Carried.
6. On motion of Deputy Mayor Lutz and Councillor Hodges, that the Planning Advisory Committee direct staff to amend the policies of the Shoreland Designation by requiring that all new development within the Lakeshore Residential (S1) and Lakeshore Limited Development (S2) Zones take place through Site Plan Approval. Motion Carried.
7. On motion of Councillor Hodges and Deputy Mayor Lutz, that the Planning Advisory Committee direct staff to amend the Shoreland Designation policies by replacing the policies that limit the re-zoning of the Lakeshore Residential (S1) Zone based on the maximum lake percentages with a policy that prohibits any re-zoning to the Lakeshore Residential (S1) Zone. Motion Carried.
8. On motion of Councillor Hodges and Deputy Mayor Lutz, that the Planning Advisory Committee direct staff to amend the General Development Agreement and General Land Use By-law amendment criteria to include the protection of lake water quality. Motion Carried.

9. On motion of Mr. Smith and Councillor Allen, that the Planning Advisory Committee direct staff to amend the Shoreland Designation policies by removing the development agreement option for large and unique developments. Motion Carried.
10. On motion of Deputy Mayor Lutz and Mr. Smith, that the Planning Advisory Committee direct staff to amend the high-impact recreation uses development agreement option by removing the requirement to first re-zone to the Commercial Recreation (P1) Zone and by enabling this development agreement option within the Shoreland Designation and by adding in criteria to further control these types of development. Motion Carried.
11. On motion of Mr. Smith and Councillor Hodges, that the Planning Advisory Committee direct staff to amend the County Zoning Map of the draft Land Use Bylaw by re-zoning all islands, except Dodge Island in Aylesford Lake, to the Lakeshore Limited Development (S2) Zone. Motion Carried.
12. On motion of Mr. Smith and Councillor Allen, that the Planning Advisory Committee direct staff to maintain the placement of the Lakeshore Residential (S1) and Lakeshore Limited Development (S2) Zones as described in Map 1 of the draft Land Use Bylaw. Motion Carried.
13. On motion of Councillor Hodges and Councillor Winsor, that the Planning Advisory Committee direct staff to amend the County Zoning Map of the draft Land Use Bylaw by rezoning all land under the lakes to the Environmental Constraint (O1) Zone. Motion Carried.
14. On motion of Councillor Allen and Mr. Cosman, that the Planning Advisory Committee direct staff to review the extent and location of the Tidal Shoreland (T1) Zone in an effort to minimize the loss of development rights for properties not directly on the coastline. Motion Carried.
15. On motion of Councillor Winsor and Councillor Hodges, that the Planning Advisory Committee direct staff to incorporate the Alternative Wind Proposal by applying an overlay that would permit large scale wind turbines to the southwest portion of the Municipality. Motion Carried.
16. On motion of Deputy Mayor Lutz and Mr. Smith, that the Planning Advisory Committee direct staff to notify property owners within 5 kilometres of the proposed large scale wind turbine overlay and provide options and opportunity to submit feedback which will also be available to all other residents of the Municipality. Motion Carried.
17. On motion of Councillor Hodges and Councillor Winsor, that the Planning Advisory Committee direct staff to edit the draft Municipal Planning Strategy and draft Land Use By-

law to remove any proposed policies and regulations related to permitting large scale wind turbines using a separation distance approach. Motion Carried.

18. On motion of Mr. Fournier and Mr. Smith, that the Planning Advisory Committee direct staff to maintain the regulations related to the decommissioning of large scale wind turbines and adding that all structures be included in the decommissioning process. Motion Carried.
19. On motion of Councillor Winsor and Councillor Hodges, that the Planning Advisory Committee direct staff to amend the proposed distinction between small and large scale wind turbines to be 115 feet, in accordance with the provincial guidelines. Motion Carried.
20. On motion of Councillor Winsor and Councillor Allen, that the Planning Advisory Committee direct staff to include as criteria for development agreements permitting alternative energy generation other than wind or solar energy the requirement that all other governmental approvals be acquired. Motion Carried.
21. On motion of Mr. Cosman and Councillor Allen, that the Planning Advisory Committee direct staff to include in the report the number of public responses in support, against or unclear for each topic being discussed. Motion Carried.

### **Monday, January 22, 2018**

1. On motion of Councillor Winsor and Councillor Hodges, that the Planning Advisory Committee direct staff to increase the shoreline setback distance for outhouses within lakeshore zones from a minimum of 65 feet to 100 feet. Motion Carried.
2. On motion of Councillor Hodges and Councillor Allen, that the Planning Advisory Committee affirms the draft Land Use By-law as it relates to recreational cabins within the lakeshore zones. Motion Carried.
3. On motion of Councillor Hodges and Mr. Cosman, that the Planning Advisory Committee directs Staff to amend the draft Municipal Planning Strategy by including policies that limit the types of high-impact recreation uses considered by Development Agreement within the Shoreland Designation to uses directly related to lakeshore or coastal activities, including overnight accommodations, campgrounds and camps. Motion Carried.
4. On motion of Mr. Cosman and Councillor Winsor, that the Planning Advisory Committee refer the motion back to staff for discussion at a later date with the following questions: 1. How much farmland is in Growth Centres? 2. Are there any other possible mechanisms to find an intermediary approach to protecting farmland within Growth Centres? Motion Carried.

5. On motion of Mr. Cosman and Councillor Winsor, that the Planning Advisory Committee direct staff to remove from the proposed Growth Centre boundaries lands identified in Cambridge and Port Williams as depicted on the maps contained in Appendix B of the report dated January 22, 2018. Motion Carried.
6. On motion of Councillor Hodges and Mr. Fournier, that the Planning Advisory Committee direct staff to review Growth Centre boundaries and remove lands within the Environmental Constraints (O1) Zone adjacent to Growth Centre boundaries from the Growth Centre Area. Motion Carried.
7. On motion of Mr. Cosman and Mayor Muttart, that the Planning Advisory Committee direct staff to review the west portion of the Waterville Growth Centre for discussion related to the loss of agricultural land. Motion Carried.
8. On motion of Mayor Muttart and Councillor Hodges, that the Planning Advisory Committee direct staff to update the Kings 2050 Background Paper 2 - Demographics, Development Activity and Land Use with the latest census and development data. Motion Carried.
9. On motion of Mayor Muttart and Mr. Cosman, that the Planning Advisory Committee direct staff to incorporate salient demographic and development data in the draft Municipal Planning Strategy. Motion Carried.
10. On motion of Councillor Winsor and Mr. Cosman, that the Planning Advisory Committee direct staff to remove the identification of Future Expansion Areas within the text of the draft Municipal Planning Strategy. Motion Carried.
11. On motion of Councillor Winsor and Councillor Hodges, that the Planning Advisory Committee direct staff that a population cap not be incorporated into the draft Municipal Planning Strategy. Motion Carried.
12. On motion of Councillor Hodges and Councillor Allen, that the Planning Advisory Committee refer recommendation # 7 back to staff for further information and discussion at a later date. Motion Carried.
13. On motion of Mr. Fournier and Councillor Winsor, that the Planning Advisory Committee direct staff to maintain policies in the Municipal Planning Strategy that do not distinguish between small and large Growth Centres. Motion Carried.
14. On motion of Councillor Hodges and Mr. Cosman, that the Planning Advisory Committee direct staff to clarify the text of the draft Municipal Planning Strategy that vacant land within Towns of Kentville, Wolfville and Berwick shall be considered as part of any Growth Centre boundary expansion. Motion Carried.

15. On motion of Mayor Muttart and Councillor Hodges, that the Planning Advisory Committee direct staff to update and include the maps depicting Growth Centre clusters in the draft Municipal Planning Strategy. Motion Carried.
16. On motion of Mayor Muttart and Mr. Fournier, that the Planning Advisory Committee direct staff to maintain height permissions in the draft Land Use By-law. Motion Carried.
17. On motion of Councillor Hodges and Mr. Fournier, that the Planning Advisory Committee direct staff to remove the identification of Greenwich as a Growth Centre and to place the lands within appropriate rural zones. Motion Carried.
18. On motion of Mr. Fournier and Councillor Allen, that the Planning Advisory Committee direct staff to remove the identification of Avonport as a Growth Centre and to place the lands within appropriate rural zones. Motion Carried.
19. On motion of Councillor Hodges and Councillor Allen, that the Planning Advisory Committee direct staff to remove the identification of South Berwick as a Growth Centre and to place the lands within appropriate rural zones. Motion Carried.
20. On motion of Mayor Muttart and Councillor Hodges, that the Planning Advisory Committee direct staff to review the north portion of North Kentville and report back to the Planning Advisory Committee with amended zoning for the area. Motion Carried.
21. On motion of Councillor Winsor and Mr. Fournier, that the Planning Advisory Committee direct staff to identify the area of the Village of New Minas south of Highway 101 as part of the Growth Centre of New Minas and apply a holding zone to this area, and that background studies begin now to inform the development of a Community Plan in consultation with the Village of New Minas. Motion Carried.
22. On motion of Mayor Muttart and Councillor Winsor, that the Planning Advisory Committee direct staff that the areas within Growth Centres not be contracted with the exception of lands under consideration in North Kentville. Motion Carried.

**Friday, May 4, 2018 at 9:00 a.m**

1. On motion of Councillor Hodges and Deputy Mayor Lutz, that Planning Advisory Committee direct staff to contract the proposed boundary of the Growth Centre of Waterville at the western boundary to the end of the serviced area, along Maple Street to extend north 150 feet, along Maple Street. Motion carried.

2. On motion of Councillor Hodges and Councillor Spicer that PAC direct staff to reinstate the northern boundary of the Growth Centre of Port Williams proposed in the March 2016 draft MPS. Motion carried.
3. On motion of Deputy Mayor Lutz and Councillor Hodges, Motion to table the motion on discussion to be addressed at the end of the session to be able to include all Growth Centres that should be included. Motion carried.
4. On motion of Councillor Hodges and Bob Smith, that PAC direct staff to bring back a discussion around the Growth Centre boundaries of the Growth Centres of Canning, Waterville and Cambridge. Motion carried.
5. That PAC direct staff to include in section 2.1.6 existing agricultural uses as a permitted use within Growth Centres. Motion carried.

### **3.1 Tuesday, May 8 2018 at 1:00 pm**

1. On motion of Tom Cosman and Councillor Winsor that Planning Advisory Committee direct staff to include within policy 2.1.7 of the draft Municipal Planning Strategy that vacant land within the Towns shall be considered as part of any Growth Centre boundary expansion. Motion Carried.
2. On motion of Deputy Mayor Lutz and Councillor Hodges, that Planning Advisory Committee direct staff to include the Future Expansion Areas, with the exception of the area within the Village of New Minas south of Highway 101, within the draft Municipal Planning Strategy as previously identified in the March 2016 draft. Motion Carried.
3. On motion of Councillor Hodges and Councillor Winsor that Planning Advisory Committee direct staff to include within policy 2.1.11 a requirement that Council conduct an Agricultural Impact Assessment when considering an expansion to Growth Centre boundaries. Motion Carried.
4. That Planning Advisory Committee direct staff to remove the word “active” from policy 2.1.7(b) in the draft Municipal Planning Strategy. Motion Carried.

### **Monday, May 28, 2018 at 1:00 pm**

1. On motion of Deputy Mayor Lutz and Councillor Spicer That Planning Advisory Committee direct staff to include as a new policy a list of Growth Centre characteristics. Motion carried.

2. That planning Advisory Committee directs staff to include historic development patterns as a criterion in Policy 2.1.7 in the Draft Municipal Planning Strategy. Motion carried.
3. On motion of Deputy Mayor Lutz and Councillor Hodges That the Planning Advisory Committee direct staff to amend policies 2.2.11 and 2.2.12 to clarify that Council does not intend to consider rezoning from the Agricultural (A1) Zone to either the Rural Commercial (C4) Zone or the Rural Industrial (M4) Zone. Motion carried.
4. On motion of Deputy Lutz and Councillor Hodges That Planning Advisory Committee direct staff to include as a new policy within section 2.2.6 of the draft Municipal Planning Strategy Council's intention to permit household livestock uses, including beekeeping, in all Resource, Agricultural and Shoreland Designations, with the exception of the Lakeshore Residential (S1) Zone, and to regulate the scale of such uses according to the size of the property and the zone within which the property is located. Motion carried.

**Wednesday, May 30, 2018 at 1:00 p.m.**

1. On motion of Councillor Winsor and Mr. Fournier, that Planning Advisory Committee direct staff to amend the Policy 2.3.13 to indicate that street lights are required as part of the new subdivision requirement. Motion carried.
2. That Planning Advisory Committee direct staff to amend the policy 2.3.17 to allow council to consider the installation of sidewalks in proximity to all schools regardless of location if there is a demonstrated need. Motion carried.
3. On motion of Councillor Winsor and Mr. Fournier, that the Planning Advisory Committee direct staff to remove from Policy 2.3.18 subsection d) referring to budget allocation. Motion carried.
4. On motion of Deputy Mayor Lutz and Councillor Armstrong that the Planning Advisory Committee direct staff to report back to PAC on the consideration for requiring active transportation infrastructure in new subdivisions. Motion carried.

**Tuesday, June 12th, 2018 at 9:00 a.m.**

1. On motion of Mr. Fournier and Deputy Mayor Lutz That the Planning Advisory Committee direct staff to include an additional policy in Section 2.5 stating Council's intent to enable the extension of municipal services for non-residential development through the establishment of a wastewater management district. Motion carried.
2. On motion of Deputy Mayor Lutz and Councillor Spicer That the Planning Advisory Committee direct staff to include a criterion related to an appropriate lot size to Policy 2.5.12 of the draft Municipal Planning Strategy. Motion carried.



3. On motion of Councillor Winsor and Deputy Mayor Lutz That the Planning Advisory Committee direct staff to remove policies 2.5.16 and 2.5.17 from the draft Municipal Planning Strategy. Motion carried.

**Tuesday, June 15th, 2018 at 9:00 a.m**

1. On motion of Councillor Hodges and Deputy Lutz that the Planning Advisory Committee direct staff to require a hydrogeology report acceptable to the Municipal Engineer examining potential contamination to groundwater resources when a development agreement described in policies 2.6.9 and 2.6.10 of the draft Municipal Planning Strategy is requested. Motion carried.
2. On motion of Councillor Hodges and Councillor Spicer That the Planning Advisory Committee direct staff to amend policy 2.7.3 by stating Council's intent to regulate exemptions to open space dedication requirements within the Subdivision By-law. Motion carried.
3. On motion of Councillor Winsor and Mr. Cosman that the Planning Advisory Committee direct staff to add to the list of priority areas in policy 2.7.5 lands that provide public access to a lake or the Fundy Shore or the Minas Basin. Motion carried.
4. On motion of Councillor Winsor and Mr. Fournier That the Planning Advisory Committee direct staff to add to section 2.7 of the draft Municipal Planning Strategy access to waterways. Motion carried.
5. On motion of Mr. Cosman and Councillor Hodges that the Planning Advisory Committee direct staff to remove policy 2.7.10 and the preamble for low-impact recreation uses from the draft MPS. Motion carried.
6. On motion of Councillor Hodges and Mr. Fournier That the Planning Advisory Committee direct staff to amend policies 2.7.11 and 2.7.14 and the preamble for the High-Impact Recreation Uses section to better distinguish between high-impact recreation uses that are permitted within the Commercial Recreation (P1) Zone and those that are considered only by development agreement. Motion carried.
7. On motion of Councillor Winsor and Councillor Hodges That the Planning Advisory Committee direct staff to amend policy 2.7.15 by adding additional criteria to ensure land use compatibility when considering re-zoning application to the Commercial Recreation (P1) Zone. Motion carried.

**Tuesday, June 21st, 2018 at 9:00 a.m**

1. On motion of Mr. Cosman and Councillor Hodges That Planning Advisory Committee direct staff to remove policy 2.8.8 from the draft Municipal Planning Strategy. Motion carried.

**Tuesday, June 26th, 2018 at 9:00 a.m.**

1. On motion of Councillor Spice and Councillor Allen That the Planning Advisory Committee direct staff to review and revise the policies related to non-conforming uses, non-conforming structures, and nonconforming uses within structures to ensure that the policies are appropriate and consistent. Motion carried.
2. On motion of Mr. Cosman and Councillor Armstrong That the Planning Advisory Committee direct staff to include within of the draft Municipal Planning Strategy, a section enabling urban chickens within residential zones in Growth Centres. Motion carried.
3. On motion of Councillor Allen and Mr. Cosman that the Planning Advisory Committee direct staff to include a policy within section 3.1 of the draft Municipal Planning Strategy that would allow Council to consider development agreements to permit residential uses and proposals that may not be permitted as-of-right. Motion carried.

**Tuesday, July 10th, 2018 at 9:00 a.m.**

1. On motion of Deputy Lutz and Councillor Spicer that the Planning Advisory Committee direct staff to include a Policy within Section 3.3 of the draft Municipal Planning Strategy that would allow Council to consider development agreements to permit industrial uses and proposals that may not be permitted as-of-right. Motion carried.
2. On motion of Councillor Winsor and Councillor Hodges that the Planning Advisory Committee direct staff to review the supply of industrial land with the Annapolis Valley Chamber of Commerce and report back with recommendations to the Planning Advisory Committee. Motion carried.
3. On motion of Mr. Cosman and Councillor Winsor That the Planning Advisory Committee direct staff to remove the word 'active' from the Agricultural objective within section 3.4 of the draft Municipal Planning Strategy. Motion carried.
4. On motion of Councillor Winsor and Mr. Cosman that the Planning Advisory Committee direct staff to strengthen language within the contextual, interpretive and policy sections of

the draft Municipal Planning Strategy to better reflect the importance of agricultural land and its protection. Motion carried.

**Friday, July 13th, 2018 at 9:00 a.m.**

1. On motion of Councillor Hodges and Deputy Lutz That the Planning Advisory Committee direct staff to include references to all applicable Statements of Provincial Interest within the appropriate sections of the Municipal Planning Strategy. Motion carried.
2. On motion of Councillor Hodges and Councillor Winsor That the Planning Advisory Committee direct staff to remove both 1,000 foot frontage options for the development of non-farm dwellings from section 8.3 of the draft Land Use By-law. Motion carried.
3. On motion of Councillor Hodges and Deputy Lutz That the Planning Advisory Committee direct staff to restrict the qualification of infill non-farm dwelling development to once per 500 foot infill condition. Motion carried.
4. On motion of Mr. Cosman and Councillor Hodges that the Planning Advisory Committee direct staff to require that non-farm infill development occur through a site plan approval process on the basis of criteria that seek to protect the maximum possible area of agricultural land and minimize impacts on neighbouring farm activities. Motion carried.

**Thursday, July 19th, 2018**

1. On motion of Councillor Hodges and Councillor Allen that the Planning Advisory Committee direct staff to include a policy within section 3.4 of the draft Municipal Planning Strategy that indicates that Council will not consider applications to rezone land from the Agricultural (A1) Zone to any other zone except to the Environmental Constraint (01) Zone. Motion carried.
2. On motion of Councillor Hodges and Councillor Allen that the Planning Advisory Committee direct staff to revise policy 3.4.14 of the draft Municipal Planning Strategy with regard to a development agreement option to establish a restaurant or event venue. Motion carried.
3. On motion of Mr. Cosman and Mayor Muttart that the Planning Advisory Committee direct staff to review the extent of the Agricultural (A1) Zone with regard to soils mapping and agricultural use on the North and South Mountains in order to comply with the Statement of Provincial Interest on Agriculture. Motion carried.

4. On motion of Mr. Cosman and Councillor Hodges that the Planning Advisory Committee direct staff to review policies 3.4.14 and 3.4.18 of the draft Municipal Planning Strategy and make recommendations for revisions. Motion carried.
5. On motion of Councillor Hodges and Councillor Spicer that the Planning Advisory Committee direct staff to review the policies, regulations and application of the Country Residential (A4) Zone. Motion carried.
6. On motion of Mayor Muttart and Councillor Hodges That the Planning Advisory Committee direct staff to remove the words 'for sale' from policy 3.4.31 of the draft Municipal Planning Strategy. Motion carried.

**Monday, July 23rd, 2018 at 9:00 a.m.**

1. On motion of Mr. Cosman and Deputy Lutz That the Planning Advisory Committee direct staff that the names of the zones enabled in the Shoreland Designation be consistent in the draft Municipal Planning Strategy and the draft Land Use By-law. Motion carried.
2. On motion of Councillor Winsor and Mr. Cosman That the Planning Advisory Committee direct staff to delete the Special Character Area section from section 3.5 of the draft Municipal Planning Strategy. Motion carried.

**Tuesday, July 31st at 9:00 a.m.**

1. On motion of Tom Cosman and Deputy Mayor Lutz, that the Planning Advisory Committee direct staff to revise policy 5.1.1 (d) to remove the words 'and not just a vocal minority; and draft alternative wording. Motion carried.
2. On motion of Deputy Mayor Lutz and Councillor Spicer, that the Planning Advisory Committee direct staff to review Section 5.1 of the draft Municipal Planning Strategy to reflect the adoption of, and to ensure consistency with, the Municipal Community Engagement Strategy. Motion Carried.
3. On motion of Deputy Mayor Lutz and Emile Fournier that the Planning Advisory Committee direct staff to revise section 5.2.3 of the draft Municipal Planning Strategy to remove variance options related to parking, ground area and height of buildings, and the floor are occupied by a home-based business. Motion Carried.
4. On motion of Tom Cosman and Deputy Mayor Lutz, that the Planning Advisory Committee direct staff to revise section 5.3.3 (b) of the draft Municipal Planning Strategy

to indicate that Council will not consider applications for amendments that would result in the expansion of a Growth Centre or would remove land from the Agricultural (A1) Zone. Motion Carried.

5. On motion of Deputy Mayor Lutz and Councillor Armstrong, that the Planning Advisory Committee direct staff to include 'land use compatibility' as a criterion in section 5.3.7 of the draft Municipal Planning Strategy. Motion carried.
6. On motion of Councillor Armstrong and Tom Cosman, that the Planning Advisory Committee direct staff to review section 5.3.9 of the draft Municipal Planning Strategy and include additional reports and plans, as necessary. Motion carried.

**APPENDIX B – Dwelling Construction in A1 Zone by qualifier**

Qualifier	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
Farm Dwelling	4	1	3	2	1	2	1	2	2	4	2	0	1	0	0	4	29
Farm Tenement	1	1	2	0	1	0	1	5	5	2	5	2	4	8	2	0	39
Bunkhouse	2	0	0	3	0	0	0	1	0	0	0	0	1	0	0	0	7
Replacement of Existing Dwelling	9	4	5	2	1	9	12	5	8	3	1	10	7	4	0	3	83
<b>Total Farm Dwelling</b>	<b>16</b>	<b>6</b>	<b>10</b>	<b>7</b>	<b>3</b>	<b>11</b>	<b>14</b>	<b>13</b>	<b>15</b>	<b>9</b>	<b>8</b>	<b>12</b>	<b>13</b>	<b>12</b>	<b>2</b>	<b>7</b>	<b>158</b>
Pre-94	13	14	12	14	9	12	10	9	6	7	6	13	8	6	3	8	150
Poor Soils	4	4	4	3	5	5	1	5	7	8	17	7	5	5	6	10	96
Infill	1	0	1	1	0	0	0	0	1	2	0	0	1	1	0	0	8
Agrologist	1	0	0	1	0	0	0	0	1	1	0	0	0	0	0	0	4
S/D Plan note	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	2
Unsuitable	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1
Lyons Branch	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	1
<b>Total Non-farm Dwelling</b>	<b>19</b>	<b>18</b>	<b>17</b>	<b>19</b>	<b>14</b>	<b>17</b>	<b>12</b>	<b>14</b>	<b>15</b>	<b>18</b>	<b>23</b>	<b>21</b>	<b>14</b>	<b>14</b>	<b>9</b>	<b>18</b>	<b>262</b>
<b>Totals</b>	<b>35</b>	<b>24</b>	<b>27</b>	<b>26</b>	<b>17</b>	<b>28</b>	<b>26</b>	<b>27</b>	<b>30</b>	<b>27</b>	<b>31</b>	<b>33</b>	<b>27</b>	<b>26</b>	<b>11</b>	<b>25</b>	<b>420</b>

## APPENDIX C – Submission from Tom Cosman

Email received Sunday, September 16, 2018

Hi folks,

One of the important issues in the MPS that was deferred by PAC to a future meeting was creating a policy that would permit bona fide farmers to build residences on farmland but which would prevent the loss of farmland to other residential purposes.

As promised, I raised the question of how to identify "who is a farmer" with a number of interested parties, ie the Kings County and the Nova Scotia Federations of Agriculture, the Ecology Action Centre, and members of the Provincial government. The most common answers I received were in line with the policy suggested by our Planning Staff of using a CRA income test for this purpose. This may indeed be the best method available to us.

I also asked Dr. David Connell, the national lead on farmland preservation policy, how other jurisdictions in the country have approached this issue.

Dr. Connell consulted his peers across the country and kindly compiled the information he collected in the attached document. The document is long and often veers into taxation issues but there are good ideas that we can glean from this report on how we can answer this question and improve our land use planning efforts to protect farmland here.

Tom Cosman

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## Who is a 'farmer'?

### Meaning of farmer and farm business (and farm property tax programs/policies)

#### SUMMARY OF RESPONSES

September 10, 2018

In the summer of 2018, Dr. Connell received an inquiry by email regarding ways to define a “farmer” for the purpose of determining whether a farm dwelling might be built on farmland. Dr. Connell then presented the question (below) to his network of agricultural land use planners. This report provides a summary of responses received and of a review of provincial legislative documents and programs.

#### Question posed:

I was contacted by a local farmland protection group who are in search of ways to define a “farmer” for the purpose of determining whether a farm dwelling might be built on farmland.

Any thoughts you have about what you think is optimal (works best) will be appreciated.

#### Some options/elements:

- Minimum lot size
- CRA test to determine if the owner is a farm operator
- CRA test to determine if a minimum portion of the operators income comes from farming
- Provincial farm registration

It seems that most options have some disadvantages, for example:

- CRA deals with income, not whether someone is a farm operator
- New farmers are not likely to meet minimum income thresholds
- Established farmers could take advantage of their development rights
- Farm registrations may not be restrictive enough

In addition to the above questions, the review of documents also includes information about farm

Citation: Connell, David J. (2018). “Who is a ‘farmer’? Summary of Responses.” Prince George, BC: University of Northern British Columbia.

David J. Connell, PhD, University of Northern British Columbia.

Website: <https://blogs.unbc.ca/agplanning> Email: david.connell@unbc.ca



## Who is a 'farmer'?

property tax programs and policies, which are often related to definitions of a farmer or farming operation.

The report begins with a summary table of key definitions and tax policy. The information collected is organised by province. Where appropriate, comments received from respondents are included for additional context.

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## Who is a ‘farmer’?

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## Who is a ‘farmer’?

### Summary table : legislative definitions of ‘farmer’ and ‘farm operations’; farm property tax programs

	Program or Policy	Definitions, key statements, terms, conditions	Other resources
Canada	Canada Revenue Agency (CRA). <b>Income Tax Folio S4-F11-C1, Meaning of Farming and Farming Business</b> <b>Series 4: Businesses</b> <b>Folio 11: Farmers</b>	<p><i>General farming definition</i></p> <p><b>1.1</b> Generally, farming is the raising and harvesting of animals or plants in a controlled environment. The courts have determined that taxpayers are farming if they make an appreciable contribution to the growth and maturity of the animals or crops. The activity of farming would generally involve the whole aspect of commercial production of any crop or plant that has economic value.</p> <p><i>Subsection 248(1) farming definition</i></p> <p><b>1.2</b> Farming is defined in subsection 248(1) to include:</p> <ul style="list-style-type: none"> <li>• tillage of the soil (in other words, plowing, sowing, and raising crops);</li> <li>• raising or exhibiting livestock;</li> <li>• maintaining horses for racing;</li> <li>• raising poultry;</li> <li>• fur farming;</li> <li>• dairy farming;</li> <li>• fruit growing; and</li> <li>• bee keeping.</li> </ul> <p><b>1.18</b> Whether a taxpayer’s farming activities constitute a farming business is a question of fact. Generally, a farming business includes the activities described above under What is considered farming? Further, the taxpayer must be actively engaged in either the management or day to day activities of earning income from the business to be considered in the business of farming.</p> <p><b>1.19</b> However, even where a farmer hires another person (an employee or an independent contractor) to do almost all of the work of the farm operation, the operation may still be considered a farming business. This could be the case where the farmer, to the extent the operation allows, exercises general management and control of the overall farm operation. For example, the farmer may determine which fields to plant, the type of crops to seed, and the times to spray and harvest.</p>	<p>Conservation Easements for Agriculture in Canada <a href="http://www.rockies.ca/project_info/Mii_stakis_CEs%20for%20Ag%20in%20Cda_Final2.pdf">http://www.rockies.ca/project_info/Mii_stakis_CEs%20for%20Ag%20in%20Cda_Final2.pdf</a></p> <p>“Review of Property Taxation and Conservation Easements for Agriculture” (pp. 18-20) [discusses Alberta and Ontario]</p>
British Columbia	BC Assessment Farm Class Regulation	<ul style="list-style-type: none"> <li>• The Farm Class Regulation requires a producing farm to meet minimum gross income requirements, which vary with the size of the farm operation: <ul style="list-style-type: none"> <li>○ \$2,500 if the total area of the farm operation is between 0.8 ha (1.98 acres) and 4 ha (10 acres);</li> </ul> </li> </ul>	<p>Metro Vancouver Regional District, “Farm Tax Class Income Threshold Investigation” <a href="http://www.metrovancouver.ca">http://www.metrovancouver.ca</a></p>

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## Who is a 'farmer'?

		<ul style="list-style-type: none"> <li>○ \$2,500 plus 5% of the actual value of the area in excess of 4 ha (10 acres) if the total area of the farm operation is greater than 4 ha (10 acres); or</li> <li>○ \$10,000, if the total area of the farm operation is less than 0.8 ha (1.98 acres).</li> <li>• Land being developed as a farm but which is not yet generating income may qualify for farm class. A farm development plan is required and must be followed. The Farm Class Regulation requires that plan to be filed by October 31 to be effective for the following year.</li> </ul>	<p><a href="https://www2.gov.bc.ca/gov2/services/regional-planning/PlanningPublications/FarmTaxClassIncomeThresholdInvestigation.pdf">org/services/regional-planning/PlanningPublications/FarmTaxClassIncomeThresholdInvestigation.pdf</a> [a comprehensive review of issues and regulations]</p>
Alberta	<p><i>Municipal Government Act</i></p> <p>Matters Relating To Assessment and Taxation Regulation</p> <p>Alberta Farm Land Assessment Minister's Guidelines</p>	<p>1(b) "agricultural use value" means the value of a parcel of land based exclusively on its use for farming operations</p> <p>(h) "farm building" means any improvement other than a residence, to the extent it is used for farming operations</p> <p>(i) "farming operations" means the raising, production and sale of agricultural products and includes</p> <ul style="list-style-type: none"> <li>(i) horticulture, aviculture, apiculture and aquaculture</li> <li>(ii) the production of horses, cattle, bison, sheep, swine, goats, fur-bearing animals raised in captivity, domestic cervids within the meaning of the Livestock Industry Diversification Act, and domestic camelids, and</li> <li>(iii) the planting, growing and sale of sod;</li> </ul>	<p>MGA Review Discussion Paper: Farm Property Assessment and Taxation <a href="https://mgareview.alberta.ca/wp-content/uploads/media/Farm-Property-Assessment-and-Taxation-Discussion-Paper.pdf">https://mgareview.alberta.ca/wp-content/uploads/media/Farm-Property-Assessment-and-Taxation-Discussion-Paper.pdf</a></p>
Saskatchewan	<p><i>The Municipalities Act 2005</i></p>	<p>Information Bulletin</p> <p><b>Farm:</b> "Farm" means an area of land in Saskatchewan (i) of at least 30 cultivated hectares used for growing cereal crops for sale; or (ii) an area of land used for the growing or raising of primary farm products for sale that generates annual gross revenue of at least \$10,000.</p> <p><b>Farmer:</b> "Farmer" means a person who: (i) controls and is responsible for the operation of a farm, (ii) owns or is the lessee of the farm, and (iii) makes an appreciable contribution to the growth and maturity of primary farm products by being actively and directly involved in farming operations. "Farmer" does not include a person who: (i) leases out their land, or enters into an agreement that transfers their land to someone else for the purpose of farming it, (ii) buys primary farm products solely for the purpose of resale, or (iii) holds an interest in the farm solely for resale or investment purposes.</p> <p><b>Farming Operations:</b> "Farming Operations" means one or more of the following activities carried out by a farmer in connection with the production of his or her own primary farm products:</p> <ul style="list-style-type: none"> <li>• The cultivation or tilling of land for crops, animal forage or grazing;</li> </ul>	

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## Who is a ‘farmer’?

		<ul style="list-style-type: none"> <li>• The seeding, spraying, irrigating, fertilizing or harvesting of crops and other primary farm products;</li> <li>• The loading or unloading of crops for on-farm storage;</li> <li>• The raising, breeding, feeding, watering, handling or segregating of farm animals, poultry, bees and fur-bearing animals;</li> <li>• Corral cleaning;</li> <li>• The collecting and primary processing of eggs, poultry, milk and honey;</li> <li>• Mobile seed cleaning and mobile grain drying; and</li> <li>• Hauling by the farmer of their own primary farm products (or production inputs used in connection with the above).</li> </ul> <p><i>The Municipalities Act 2005</i></p> <p>(a) <b>“agricultural operation”</b>:</p> <ul style="list-style-type: none"> <li>(i) includes the tillage of land, the production or raising of crops, dairy farming, the raising of poultry or livestock, the production of poultry products or livestock products in an unmanufactured state and any portion of the use of an operation mentioned in subclause (ii) that is determined by the Saskatchewan Assessment Management Agency to be a non-commercial use; but</li> <li>(ii) does not include the commercial operation of seed cleaning plants, farm chemical and fertilizer outlets, grain elevators, equipment sales and service enterprises and other similar commercial operations;</li> </ul> <p>(b) <b>“land”</b> means land:</p> <ul style="list-style-type: none"> <li>(i) for which the predominant potential use is cultivation, determined by the assessor as the best use that could be reasonably made of the majority of the surface area;</li> <li>(ii) for which the predominant potential use is as range land or pasture land, determined by the assessor as the best use that could reasonably be made of the majority of the surface area;</li> <li>(iii) the majority of the surface area of which is not developed for any use, has been left in or is being returned permanently to its native state or cannot be used for agricultural purposes; or</li> <li>(iv) used for any other agricultural purpose.</li> </ul> <p><b>293 Exemptions from taxation in rural municipalities</b></p> <p>(2) In addition to the exemptions provided for by section 292, the following are exempt from taxation in rural municipalities:</p> <ul style="list-style-type: none"> <li>(a) unoccupied buildings that are residential in nature and that are situated on land;</li> <li>(b) buildings that are used to grow plants in an artificial environment;</li> <li>(c) improvements, other than dwellings, that are used exclusively in connection with the agricultural operation that is owned or operated by the owner or lessee of the</li> </ul>	
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## Who is a 'farmer'?

		<p>improvements;</p> <p>(d) the portions of improvements, other than dwellings, that are:</p> <p>(i) used partly in connection with the agricultural operation that is owned or operated by the owner or lessee of the improvements and partly for other purposes; and</p> <p>(ii) determined by the Saskatchewan Assessment Management Agency to be attributable to that agricultural operation;</p> <p>(e) a dwelling that is situated outside of an organized hamlet or an area established pursuant to clause 53(3)(i) and occupied by an owner or a lessee of land, to the extent of the amount of the assessment of the dwelling that does not exceed the total of the assessments of any land in the rural municipality or in any adjoining municipality that is owned or leased by:</p> <p>(i) the occupant, the occupant's spouse or both of them;</p> <p>(ii) subject to subsection (3), a partnership of which the occupant is a partner; or</p> <p>(iii) subject to subsection (3), a corporation of which the occupant is a shareholder.</p> <p>Percentages of value</p> <p>40 In accordance with clause 196(1)(b) of the Act, the following percentages of value are applicable to the classes of property established pursuant to section 39:</p> <p>(a) Non-arable (Range) Land and Improvements - 45%;</p> <p>(b) Other Agricultural Land and Improvements - 55%;</p>	
Manitoba	<p><i>The Municipal Assessment Act</i></p> <p>The Municipalities Regulations</p> <p>The Rural Municipality Assessment and Taxation Regulations</p>	<p><b>The Farm Lands Ownership Act C.C.S.M c. F35</b></p> <p><b>"farmer"</b> means an eligible individual</p> <p>(a) who receives a significant portion of his income either directly or indirectly from his occupation of farming, and</p> <p>(b) who spends a significant portion of his time actively engaged in farming; (« agriculteur »)</p> <p><b>"farming"</b> includes tillage of the soil, livestock production, raising poultry, dairying, fur farming, tree farming, horticulture, bee keeping, fish farming or any other activity undertaken to produce agricultural products; but does not include the purchase and resale of agricultural products, or the commercial processing of agricultural products; (« agriculture »)</p> <p><b>The Provincial Planning Regulation R.M. 81/2011 under The Planning Act C.C.S.M. c. P80</b></p> <p><b>agricultural operation</b> means an agricultural, horticultural or silvicultural operation that is conducted in order to produce agricultural products on a commercial basis, and includes</p> <p>a) the production of crops, including grains, oil seeds, hay and forages, and horticultural crops, including vegetables, fruit, mushrooms, sod, trees, shrubs and greenhouse crops;</p> <p>b) the use of land for livestock operations and grazing;</p> <p>c) the production of eggs, milk and honey;</p> <p>d) the raising of game animals, fur-bearing animals, game birds, bees and fish;</p>	

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## Who is a 'farmer'?

		<p>e) the processing necessary to prepare an agricultural product for distribution from the farm gate;</p> <p>f) the operation of agricultural machinery and equipment, including the tillage of land and the application of fertilizers, manure, soil amendments and pesticides, whether by ground or aerial application;</p> <p>g) the storage, use or disposal of organic wastes for agricultural purposes. (exploitation agricole)</p> <p><b>agricultural producer</b> means a person who produces and markets an agricultural product. (producteur agricole)</p> <p><b>The Municipal Assessment Act</b> C.C.S.M. c. M226 Farm Property: farming purposes</p> <p>17(2) A registered owner of Farm Property may request an assessor to determine the Farm Property assessed value of the property on the basis of its use for farming purposes and where so requested, the assessor shall thereafter, and for so long as the property is used for purposes that are prescribed as farming purposes, determine the Farm Property assessed value of the property solely on the basis of use for farming purposes as prescribed under subsection (8).</p> <p>17(4) A Farm Property assessed value determined under subsection (2) applies in respect of taxation for the year following the year in which the request is made under the subsection and may be the subject of an application under subsection 42(1).</p> <p><b>Classification of Property and Portioned Values Regulation</b> <b>PART 3 Portioned Values</b> <b>Percentages of assessed value for the year 2002 and subsequent years</b></p> <p><b>19.1</b> The percentages of assessed value that apply to each class of property for the purpose of determining its portioned value for the year 2002 and subsequent years are as follows:</p> <table style="margin-left: 40px;"> <thead> <tr> <th style="text-align: left;">Class</th> <th style="text-align: left;">Percentage</th> </tr> </thead> <tbody> <tr> <td>Farm Property</td> <td>26.0%</td> </tr> </tbody> </table>	Class	Percentage	Farm Property	26.0%	
Class	Percentage						
Farm Property	26.0%						
Ontario	<p><i>Farm Registration and Farm Organizations Funding Act</i></p> <p>Farm Property Class Tax Rate Program</p>	<p>“farming business” means a farming business within the meaning of the <i>Income Tax Act</i> (Canada); (“entreprise agricole”)</p> <p><i>Farm Registration and Farm Organizations Funding Act, 1993</i></p> <p><b>Farm Registration and Farm Organizations Funding Act, 1993</b> Ontario Regulation 723/93</p> <p><b>1.</b> (1) A person who carries on a farming business shall file with the Minister a completed farming business registration form in every year in respect of which the annual gross income of the farming business equals or exceeds \$7,000. O. Reg. 723/93, s. 1 (1).</p>	<p><i>Bringing Local Food Home: Legal, Regulatory and Institutional Barriers to Local Food</i></p> <p>Maureen Carter-Whitney, Canadian Institute for Environmental Law and Policy (December, 2008). Friends of the Greenbelt Foundation. On-line: <a href="http://d3n8a8pro7vhm.cloudfront.net/greenbelt/pages/271/attachments/original/1381245924/Bringing_Local_Food_Home_-">http://d3n8a8pro7vhm.cloudfront.net/greenbelt/pages/271/attachments/original/1381245924/Bringing_Local_Food_Home_-</a></p>				

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## Who is a 'farmer'?

		<p>4.</p> <p><b>Municipal Property Assessment Corporation</b>  <a href="https://www.mpac.ca/PropertyTypes/Farm">https://www.mpac.ca/PropertyTypes/Farm</a></p> <p><b>5. Classification</b></p> <p>By default, farm properties are classified in the residential property class in accordance with section 3(1)2 of Ontario Regulation 282/98 of the <a href="#">Assessment Act</a>.</p> <p>Farm properties that meet the eligibility requirements will have farmland and associated outbuildings placed in the farm property class and are taxed at up to 25% of the municipal residential tax rate. An application for inclusion in the Farm Property Class Tax Rate Program must be approved by the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) on or before the specific date set out in the table included in Section 8.1 of Ontario Regulation 282/98.</p> <p>A Farm Forestry Exemption (FFE) may also apply to the property. Under Section 3(19) of the <a href="#">Assessment Act</a>, one acre of every 10 acres of farmed property may be entitled to receive this exemption. FFE is warranted if the property is assessed as a farm and the property has some forested or woodland portion that is not subject to either the Managed Forest Tax Incentive Program (MFTIP) or the Conservation Land Tax Incentive Program (CLTIP).</p> <p>If a portion(s) of a farm property is used for non-farm purposes, the portion is valued and classified according to its use. This is to ensure that the appropriate value and tax class is applied to the various uses of the property.</p> <p>Where there is a farm residence occupied by the farmer, this is assessed in the residential property class along with one acre of land valued at the farmland rate. Where there is a residence on a farm property that is occupied by a non-farmer, this is assessed in the residential property class along with one acre of land valued at the residential rate.</p>	<p><a href="#">_Legal_Regulatory_and_Institutional_Barriers_to_Local_Food.pdf?1381245924</a></p>
Quebec	Règlement sur l'enregistrement des exploitations agricoles et sur le paiement des taxes foncières et des compensations	<p>Règlement sur l'enregistrement des exploitations agricoles et sur le paiement des taxes foncières et des compensations</p> <p><b>DIVISION II</b>  <b>REGISTRATION OF AGRICULTURAL OPERATIONS</b></p> <p><b>2.</b> In order for an agricultural operation to qualify for registration, the person applying for registration shall prove that the agricultural operation has generated, during the preceding</p>	

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## Who is a 'farmer'?

	O.C. 340-97, s. 2; O.C. 817-2007, s. 2.	calendar year, a gross annual revenue equal to or greater than the minimum value of agricultural production necessary to qualify as a producer under the Farm Producers (chapter P-28) ( <u>the minimum value is 5 000 \$</u> ).	
New Brunswick	<b>Farm Land Identification Program</b>	<p>“agricultural land” means</p> <ul style="list-style-type: none"> <li>(a) land being used in an agricultural operation, or</li> <li>(b) land that is not being used in an agricultural operation but that meets the criteria set by regulation as land suitable for use in an agricultural operation; (<i>terre agricole</i>)</li> </ul> <p>“agricultural operation” means an agricultural operation that is carried on for gain or reward or in the hope or expectation of gain or reward, and includes</p> <ul style="list-style-type: none"> <li>(a) the clearing, draining, irrigating or cultivation of land,</li> <li>(b) the raising of livestock, including poultry,</li> <li>(c) the raising of fur-bearing animals,</li> <li>(d) the raising of bees,</li> <li>(e) the production of agricultural field crops,</li> <li>(f) the production of fruit and vegetables and other specialty horticultural crops,</li> <li>(g) the production of eggs and milk,</li> <li>(h) the operation of agricultural machinery and equipment, including irrigation pumps,</li> <li>(i) the preparation of a farm product for distribution from the farm gate, including cleaning, grading and packaging,</li> <li>(j) the on-farm processing of farm products for the purpose of preparing farm products for wholesale or retail consumption,</li> <li>(k) the storage, use or disposal of organic wastes for farm purposes,</li> <li>(l) the operation of pick-your-own farms, roadside stands, farm produce stands and farm tourist operations as part of a farm operation,</li> <li>(m) the application of fertilizers, conditioners, insecticides, pesticides, fungicides and herbicides, including ground and aerial spraying, for agricultural purposes, or</li> <li>(n) any other agricultural activity or process prescribed by regulation that is carried on for gain or reward or in the hope or expectation of gain or reward; (<i>opération agricole</i>)</li> </ul> <p><b>Farm Land Identification Program</b> The program provides for the deferral of the applicable provincial real property tax on the assessed value of registered farmland and farm outbuildings. The portion of the local or municipal tax rate that is above the average LSD [Local Service District] rate for the province is also deferred.</p>	
Nova Scotia	<i>Farm Registration Act</i>	3 (1) (d) "farm business" means a farming business within the meaning of the Income Tax Act (Canada) <i>Farm Registration Act</i>	Nova Scotia Federation of Agriculture. “Property Assessment Resource: Understanding How your Farm’s

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## Who is a 'farmer'?

		<p>R.S. c. 3</p> <p><b>Property Tax Assessments for Farm Land and Buildings</b> [Fact sheet]  <b>Resource Kit for Nova Scotia Farmers</b>  <a href="https://novascotia.ca/thinkfarm/documents/fsheets/24-property-tax.pdf">https://novascotia.ca/thinkfarm/documents/fsheets/24-property-tax.pdf</a></p> <p>The assessment categories used in conjunction with agricultural land are residential, resource and commercial. Farm buildings, including greenhouses, farm lands, woodlots and unmanaged lands, are all assessed as resource property. Farm residences are assessed as residential. Within the resource category there are three categories: farm lands, woodlands, and unmanaged lands.</p> <p>Farm buildings and residences are taxed at the residential rate, managed woodlots pay a flat tax of \$0.25 per acre, land which is identified on the assessment rolls as agricultural land is given a tax exemption. All other land is taxed as resource. The resource rate is the same as the residential rate and tax rates are established by each municipality on an annual basis.</p> <p><b>The Tax Treatment of Farm Buildings</b>  Farm residences, including around one acre of land, are assessed at market value and taxed at residential rates. Farm buildings are assessed at market value and taxed at the resource rate, which is equivalent to the residential rate and is generally fifty percent of the commercial rate. However, farm-based processing or retail facilities will be taxed at the commercial rate.</p> <p><b>The Tax Treatment of Agricultural Land</b>  There is zero-taxation on all land that is classified as agricultural land. The exemption is not dependent on the land being owned by a registered farm business; in fact, it has been estimated that one-third of the land that is tax exempt may not be owned by registered farm businesses.</p> <p>The province pays a grant in lieu of taxes to each municipality to compensate for lands provided with the tax exemption.</p>	<p>Property Value is Determined in Nova Scotia.” <a href="https://nsfafane.ca/wp-content/uploads/2018/07/Property-Assessment-Resource-Assessment_Book_Final.pdf">https://nsfafane.ca/wp-content/uploads/2018/07/Property-Assessment-Resource-Assessment_Book_Final.pdf</a></p>
PEI	<p><i>Real Property Assessment Act</i></p> <p>Bona Fide Farmer Status ~ Property Assessment</p>	<p><b>Application for Bona Fide Farmer Status ~ Property Assessment</b></p> <p><b>General Information</b></p> <p><b>Purpose</b>  Pursuant to the <i>Real Property Assessment Act</i> R.S.P.E.I. 1998, the Bona Fide Farmer Status program provides tax relief to bona fide farmers by providing farm assessment on land used in the farm enterprise. If you are interested in this program, you may also wish to apply for a Marked Gasoline and Marked Diesel Oil Permit.</p> <p><b>Who Is Eligible</b>  You may qualify for bona fide farmer status if you are:</p> <ol style="list-style-type: none"> <li>1. an individual who owns a farm and is <ol style="list-style-type: none"> <li>(1) actively engaged in farming, and</li> <li>(2) earning <b>at least \$10,000 or 25 per cent</b> of your gross annual income from</li> </ol> </li> </ol>	

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## Who is a 'farmer'?

		<p>farming;</p> <ol style="list-style-type: none"> <li>2. a partnership or corporation that owns a farm and is             <ol style="list-style-type: none"> <li>(1) registered in the province, and</li> <li>(2) is actively engaged in farming, and</li> <li>(3) earning <b>at least \$10,000 or 25 per cent</b> of its gross annual income from farming;</li> </ol> </li> <li>3. an individual that owns a farm and is registered in the Future Farmer Program;</li> <li>4. a partnership or corporation that owns a farm where one or more of the principals are registered in the Future Farmer Program;</li> <li>5. a widow or widower of a bona fide farmer;</li> </ol> <p>an individual who in the year immediately preceding the current assessment year operated a farm enterprise, but who in the current year does not operate a farm enterprise by reason of illness or disability.</p>	
Newfoundland	<p><b>Real Property Tax Exemption Program for Agricultural Land</b></p>	<p><b>Farm Practices Protection Act</b> SNL2001 CHAPTER F-4.1</p> <p>(c) "farm operation" means an agricultural activity conducted by a farmer for gain or reward or with the expectation of gain or reward and includes</p> <ol style="list-style-type: none"> <li>(i) growing, producing, raising or keeping animals or plants or the primary products of those animals or plants,</li> <li>(ii) composting,</li> <li>(iii) clearing, draining, burning, irrigating or cultivating land,</li> <li>(iv) using farm machinery, including vehicles on public roads, equipment, devices, materials and structures,</li> <li>(v) applying fertilizers, manure, pesticides or biological control agents,</li> <li>(vi) operating farm produce stands or agricultural tourist operations, including U-Pick farms or roadside stands, and</li> <li>(vii) preparing farm products for distribution for wholesale or retail consumption including the cleaning, grading or packaging of those products;</li> </ol> <p>(e) "farmer" means a person who owns or operates a farm operation and includes a person acting on his or her behalf</p> <p><b>Real Property Tax Exemption Program for Agricultural Land</b>  <a href="https://www.faa.gov.nl.ca/agrifoods/land/land_use/propertytax.html">https://www.faa.gov.nl.ca/agrifoods/land/land_use/propertytax.html</a></p> <p><b>Property Tax Exemption</b>          The Real Property Tax Exemption Program for Agricultural Land is designed to identify productive farm land and farm buildings used in connection with farm production that may be eligible for exemption from real property tax in accordance with the Municipalities Act. It may apply to individuals who are productively using agricultural land, whether it is owned, leased or rented.</p>	

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## Who is a 'farmer'?

### • Canada – Canada Revenue Agency

Several provinces use the Canada Revenue Agency's definition of "farming business." The CRA discusses the meaning of "farming and farming business" in the Income Tax Folio S4-F11-C1, which is reproduced, in part, here. The document covers specific definitions as well as exceptions.

#### **Income Tax Folio S4-F11-C1, Meaning of Farming and Farming Business**

Series 4: Businesses

Folio 11: Farmers

<https://www.canada.ca/en/revenue-agency/services/tax/technical-information/income-tax/income-tax-folios-index/series-4-businesses/series-4-businesses-folio-11-meaning-farming/income-tax-folio-s4-f11-c1-meaning-farming-farming-business.html>

#### Chapter 1: Meaning of Farming and Farming Business

### 6.

#### **Summary**

This Chapter discusses the definition of farming for income tax purposes. Farming has to be defined before the following can be determined:

- the existence of a farming business;
- the amount of farming income;
- whether a taxpayer can elect to use the cash method of computing income;
- the existence of livestock inventory;
- the mandatory inventory adjustment;
- the existence of qualified farm or fishing property; and
- the deductibility of farm losses.

This Chapter describes activities that are considered farming, and activities that are not considered farming. The meaning of the expression farming business is explained. The distinction between incidental income and a separate business is also discussed. For general tax information as well as guides and forms for farmers, see the Farmers and Fishers page on the Canada Revenue Agency (CRA) website.

The CRA issues income tax folios to provide technical interpretations and positions regarding certain provisions contained in income tax law. Due to their technical nature, folios are used primarily by tax specialists and other individuals who have an interest in tax matters. While the comments in a particular paragraph in a folio may relate to provisions of the law in force at the time they were made, such comments are not a

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## Who is a 'farmer'?

substitute for the law. The reader should, therefore, consider such comments in light of the relevant provisions of the law in force for the particular tax year being considered.

This Chapter can be relied upon as an accurate official summary of the CRA's interpretation of the law from the date of Application.

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- Discussion and interpretation
  - What is considered farming?
    - General farming definition
    - Subsection 248(1) farming definition
    - Common or ordinary definition of farming
    - Additional guidance on farming
    - Other farming activities
    - Raising or exhibiting livestock
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## Who is a 'farmer'?

### 7. Discussion and interpretation

#### 7.1

#### 7.2 What is considered farming?

A.

#### B. General farming definition

1.1 Generally, farming is the raising and harvesting of animals or plants in a controlled environment. The courts have determined that taxpayers are farming if they make an appreciable contribution to the growth and maturity of the animals or crops. The activity of farming would generally involve the whole aspect of commercial production of any crop or plant that has economic value.

C.

#### D. Subsection 248(1) farming definition

1.2 Farming is defined in subsection 248(1) to include:

- tillage of the soil (in other words, plowing, sowing, and raising crops);
- raising or exhibiting livestock;
- maintaining horses for racing;
- raising poultry;
- fur farming;
- dairy farming;
- fruit growing; and
- bee keeping.

E.

#### F. Common or ordinary definition of farming

1.3 The definition of farming in subsection 248(1) is not exhaustive, and typically one must look to the common, ordinary and generally accepted meaning of the word as well as to the specific activities detailed in the Act. The ordinary definition of farming is somewhat fluid and the particular activities undertaken by a taxpayer would normally have to be considered on a case-by-case basis.

G.

#### H. Additional guidance on farming

1.4 In evaluating whether a particular activity is farming, guidance from Agriculture and Agri-Food Canada, or a provincial counterpart (for example, the Ontario Ministry of

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## Who is a 'farmer'?

Agriculture, Food and Rural Affairs), may help. For instance, where the particular activity qualifies for assistance under a government program, the conditions that must be met in order to qualify for assistance under that program may be considered in determining if the particular activity is farming. In other words, the granting authority may require or presume the recipient to be in the farming business.

I.

### J. Other farming activities

1.5 In addition to the activities described in the definition of farming in subsection 248(1), farming can also include:

- engaging in an aquaculture operation;
- operating a woodlot;
- planting, growing, and harvesting Christmas trees;
- operating a nursery or greenhouse;
- growing tobacco or medicinal marijuana, but not the manufacturing or processing associated with these crops;
- operating a chick hatchery;
- operating a maple sugar bush, which may include extracting and collecting maple sap; or
- cultivating crops in water and hydroponics.

Whether activities constitute farming in any particular case is a question of fact to be determined based on the specific activities undertaken by a taxpayer.

### K. Raising or exhibiting livestock

1.6 The definition of farming specifically includes raising or exhibiting livestock. The term livestock is not defined in the Act and is therefore given its ordinary meaning. Further, livestock should be interpreted consistently with the equivalent term, farm animals, or animaux de ferme, in the French version of the Act. In *Sniderman v MNR*, 89 DTC 323, [1989] 2 CTC 2027, the Tax Court of Canada stated that livestock are domestic animals such as cattle and pigs, bred or kept on a farm for use and commercial profit. Common definitions refer to cattle, horses, and similar animals, kept for domestic use but not as pets, especially on a farm or ranch; and domesticated animals raised in an agricultural setting to produce commodities such as food and fiber.

1.7 A taxpayer's farming activities could mainly involve the raising or breeding of livestock or other animals (husbandry) for use as a food source even if the food source is non-traditional or novel. Regardless of whether the food source is for animal or human consumption, the fact that a food source is produced is not enough on its own to conclude that a particular activity is farming.

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### L. Raising poultry

1.8 The definition of farming includes raising poultry. The term poultry is not defined in the Act, however, it is ordinarily considered to include:

- geese;
- turkeys;
- ducks;
- chickens;
- pheasants, partridges, quails, wild turkeys, and squabs.

### M.

### N. Aquaculture

1.9 Farming may include raising fish or shellfish in water, if they are stocked and harvested in a controlled environment. To determine whether a particular fish or shellfish activity is farming, consider the following:

- the method of holding or containing during the natural growth period;
- the extent of feeding;
- the extent of medication and fertilization;
- the method and extent of monitoring during the growing period;
- the method of harvest when the crop is fully grown; and
- the labour and expertise required during the monitoring and harvest periods.

Generally, the greater the extent of the activity, and the more sophisticated or organized the methods employed, the more likely the activity is farming rather than fishing.

1.10 To qualify as farming, the activity must involve the growth process and natural biological changes. For example, raising fish, even in highly artificial conditions, is normally farming since the end product is the result of natural growth.

### O.

### P. Operation of a woodlot

1.11 Whether the operation of a woodlot is a farming, logging, or other business, is a question of fact. If the business' main focus is planting, nurturing, and harvesting trees under a forest management or similar resource plan (in other words, managing the growth, health, quality and make-up of the woodlot), it may be a farming business. If, on the other hand, the main focus of a business is logging or the production of timber, reforestation will not change that business into a farming operation. For more information, see Interpretation Bulletin IT-373R2 (Consolidated), Woodlots.

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### Christmas trees

1.12 If a taxpayer has a woodlot which involves planting, caring for, and harvesting Christmas trees to sell, it is generally considered farming. This may also be the case for a taxpayer who buys land so planted, in order to harvest the Christmas trees for sale. For more information, see Interpretation Bulletin IT-373R2 (Consolidated).

#### 7.3

#### 7.4 What farming does not include

1.13 Farming does not include:

- raising or exhibiting wild or exotic animals (for example, operating a zoo by raising and exhibiting lions, tigers, apes, or elephants);
- producing methane gas from hog waste, or producing electricity from methane gas;
- raising or breeding of animals, fish, insects, or any other living thing, for use or sale as pets;
- trapping;
- holding an office or employment under a person engaged in the business of farming;
- providing services to a person engaged in farming activities (for example, providing landscaping or veterinary services to a farmer);
- providing agricultural monitoring or consulting services to farmers to help with any part of farm management;
- providing certain equine services such as horse riding lessons, dressage training, horse boarding, or quarantine service;
- renting out or leasing farm property, for example to another farmer in exchange for a share of the crop in lieu of rent (in this Chapter referred to as sharecropping). However, there could be other types of sharing or custom work arrangements that go beyond that of a typical landlord/tenant sharecropping arrangement, which may be farming. The facts of each situation must be considered on a case by case basis; and
- fishing.

Q.

#### R. Fishing is not farming

1.14 Although farming can include aquaculture, as noted above, farming excludes fishing. Fishing is defined in subsection 248(1) to include fishing for or catching shell fish, crustaceans, and marine animals. Harvesting wild clams or oysters from the seabed, for example, is fishing rather than farming.

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## Who is a 'farmer'?

S.

### T. Manufacturing and processing is usually not farming

1.15 Farming generally excludes manufacturing and processing. For more information, see Income Tax Folio S4-F15-C1, Manufacturing and Processing.

1.16 Further, farming usually excludes the processing of harvested agricultural product. However, processing may be considered farming in some cases. This will be the case if the processing is:

- incidental to the main farm activity of growing the product; and
- necessary to turn the harvested product into a saleable product.

This could include activities which on their own may be processing activities, such as drying or curing tobacco, winemaking by an estate winery, or transforming harvested switchgrass into pellets, if they are an integral part of the taxpayer's farming business.

7.5

### 7.6 What is a farming business?

1.17 Business income is generally computed under section 9 on an accrual basis, following ordinary commercial accounting and business practices. However, under the authority of section 28, a taxpayer can make an election to compute the income from a farming (or fishing) business under the cash method. For more information, see Interpretation Bulletin IT-433R, Farming or Fishing - Use of Cash Method.

1.18 Whether a taxpayer's farming activities constitute a farming business is a question of fact. Generally, a farming business includes the activities described above under What is considered farming? Further, the taxpayer must be actively engaged in either the management or day to day activities of earning income from the business to be considered in the business of farming.

1.19 However, even where a farmer hires another person (an employee or an independent contractor) to do almost all of the work of the farm operation, the operation may still be considered a farming business. This could be the case where the farmer, to the extent the operation allows, exercises general management and control of the overall farm operation. For example, the farmer may determine which fields to plant, the type of crops to seed, and the times to spray and harvest.

### U. Business or personal activities

1.20 In order to determine if a farming business exists, it is important to consider whether the farming activities are undertaken in pursuit of profit, or whether they are simply a personal endeavour. This is consistent with the approach taken by the Supreme Court of Canada in *Stewart v Canada*, [2002] 2 SCR 645, 2002 DTC 6969 and *Walls v Canada* [2002] 2 SCR 684, 2002 DTC 6960. Where there is a personal element to the farm activity, it must be determined if the operation is carried out in a sufficiently commercial

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manner. If it is, the income or a loss from the activities is generally considered to be from a business and will be treated as such for income tax purposes.

1.21 The following factors are relevant to determining whether farm activities are carried out in a commercial or business-like manner:

- the gross revenue and income or losses generated by the farm in the past;
- the extent and type of activity compared to farming businesses of a similar kind, size and location. If the size of the operation or property is too small to make a profit, the activity would not generally be considered to be carried out in a commercial or business-like manner. This might be the case if a taxpayer buys a rural property but uses only a small portion of the land for one or two cows;
- time spent on the farm operation compared to time spent in employment or other income-earning activity. For example, if the taxpayer spends most of the crop season working on the farm operation, then the taxpayer is likely carrying on a farming business, particularly if the taxpayer has farming experience; and
- the development of the farm operation and plans to expand based on the taxpayer's resources.

This test is based on the capital invested by the taxpayer in the operation, over years. It also depends on the purchase of buildings, machinery, equipment, and inventory, by the taxpayer.

### 7.7 Same or separate businesses

V.

#### W. Separate business operations

1.22 A taxpayer may carry on two or more business operations at the same time. Where a farmer carries on more than one business operation, it is necessary to determine whether the operations are all considered part of one farming business, or are separate farming and non-farming businesses. This is important because for income tax purposes different rules can apply to a farming business.

1.23 Where a taxpayer carries on a farm operation together with a non-farm operation, it is a mixed question of fact and law whether the operations are considered one business or separate businesses. Whether these are part of the same business depends upon the connection, interlacing, dependence, and unity, of the operations. For example, in the case of an estate winery, the winemaking activities could be so interlaced with the vineyard operation that both are considered parts of one farm operation, starting with the grape growing to the commercialization of the grapes by producing wine. For more information, see Interpretation Bulletin IT-206R - Separate businesses.

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X.

### Y. Different farm activities are usually one business operation

1.24 To determine if a taxpayer's different operations are part of the same business, the main thing to consider is the type of business. It is not essential that the same inventory, or machinery and equipment, be used in the operations. Things like a name change, or a change in the location of a business, alone, are not important to decide if business operations are the same kind. For example, different farming activities of a taxpayer are generally considered part of the same business operation, even if they are conducted in different places.

Z.

AA.

### Incidental activities

1.25 Certain non-farming incidental activities may be considered part of a farming business where:

- the activities are related to the taxpayer's other farming activities;
- the activities are on a small scale. Consider, for example, the labour and capital invested; and
- the income earned in the activities is incidental to the taxpayer's farm revenue.

1.26 Incidental in this case means a subordinate or minor relationship compared to the farm activities. If the involvement in the non-farm activities goes beyond this, the activities may be considered a separate business from the farming business. For more information, see ¶4 – 6 of Interpretation Bulletin IT-73R6, The Small Business Deduction.

8.

## 9. Application

This updated Chapter, which may be referenced as S4-F11-C1, is effective October 3, 2017.

When it was first published on November 8, 2016, it replaced and cancelled the following:

- ¶4, ¶5 and ¶6 of Interpretation Bulletin IT-322R, *Farm Losses* ;
- ¶13 and ¶14 of Interpretation Bulletin IT-373R2 (Consolidated), *Woodlots* ; and
- ¶8 and ¶9 of Interpretation Bulletin IT-433R, *Farming or Fishing - Use of Cash Method* .

The history of updates to this chapter as well as any technical updates from the interpretation bulletins can be viewed in the Chapter History page.

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Except as otherwise noted, all statutory references herein are references to the provisions of the *Income Tax Act*, R.S.C., 1985, c.1 (5th Supp.), as amended and all references to a Regulation are to the *Income Tax Regulations*, C.R.C., c. 945, as amended.

Links to jurisprudence are provided through CanLII.

Income tax folios are available in electronic format only.

10.

### 11. Reference

The definitions of farming and fishing in subsection 248(1) (and sections 9 and 28).

#### *Statistics Canada*

Farm Operator:

<https://www12.statcan.gc.ca/census-recensement/2011/ref/dict/pop032-eng.cfm>

Those persons **responsible for the management decisions in operating an agricultural operation**. This can be owners, tenants or hired managers of the agricultural operation, including those responsible for management decisions pertinent to particular aspects of the farm — planting, harvesting, raising animals, marketing and sales, and making capital purchases and other financial decisions. Not included are accountants, lawyers, veterinarians, crop advisors, herbicide consultants, etc. who make recommendations affecting the agricultural operation but are not ultimately responsible for management decisions.

Census Farm:

<http://www12.statcan.gc.ca/census-recensement/2011/ref/dict/pop012-eng.cfm>

A farm, ranch or other agricultural operation **producing agricultural products for sale**. Also includes: feedlots, greenhouses, mushroom houses and nurseries; farms producing Christmas trees, fur, game, sod, maple syrup or fruit and berries; beekeeping and poultry hatchery operations; operations with alternative livestock (bison, deer, elk, llamas, alpacas, wild boars, etc.) or alternative poultry (ostriches, emus, etc.), when the animal or derived products are intended for sale; backyard gardens if agricultural products are intended for sale; operations involved in boarding horses, riding stables and stables for housing and/or training horses even if no agriculture products are sold. Sales in the previous 12 months are not required, but **there must be the intention to sell**.

#### ADDITIONAL RESOURCES

##### **Conservation Easements for Agriculture in Canada**

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[http://www.rockies.ca/project\\_info/Miistakis\\_CEs%20for%20Ag%20in%20Cda\\_Final2.pdf](http://www.rockies.ca/project_info/Miistakis_CEs%20for%20Ag%20in%20Cda_Final2.pdf)

Excerpt (pp. 18-20)

“Review of Property Taxation and Conservation Easements for Agriculture”

The potential property tax implications of any type of conservation land raises concerns, especially amongst local governments. In Canada, local governments raise revenue primarily through property tax and transfers from the provincial government. Not surprisingly, municipalities are particularly sensitive to any effort that could negatively affect that critical revenue stream.

Land trusts and conservation land owners have engaged in long and varied discussions about whether their lands should be assessed in a different way or taxed at a different rate. These dialogues have considered both fee simple and conservation easement lands. Different jurisdictions have adopted different philosophies and different methodologies for addressing how conservation lands are taxed. However, these discussions are almost irrelevant in the consideration of conservation easements for agriculture.

Across North America, local governments have adopted a differential assessment for agricultural lands, seeking to lower the tax burden on these lands. The arguments for this approach have focused on the discrepancy between agricultural land values and the annual rate of return on investment, and on the limited services demanded by the agricultural land use. These arguments have been very successful, and both Ontario and Alberta have taken this approach.

When considering the potential implications of the emerging conservation easement for agriculture on property tax revenues, the two relevant items are property assessment and property taxation. The revenues that accrue to a municipality are based on how these two factors are multiplied: assessment is the measure of the value of the property, and taxation reflects what proportion of that value must be remitted to the local government.

### Alberta

In 1995, the Government of Alberta overhauled the property taxation system. In terms of valuing property, one of two approaches is used: the market-value based standard or the regulated procedure based standard. The market-value approach is by far the most common, used for most property in Alberta. The regulated procedure approach identifies a short list of property types that must be valued in a separate way. “Farmland” is one of those “regulated property” types.

While property subject to the market-value approach is valued based on the price it might fetch in an open market (willing buyer, willing seller), farmland is assessed based on its productive value. That is, the ability of the land to produce income from the growing of crops and/or the raising of livestock. This assessment process is outlined by the provincial government (Alberta Municipal Affairs), but the assessment is done by a local

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assessor appointed by the local government.

What constitutes farmland for the purposes of property taxation is up to the municipality. Guidelines are produced by the provincial government, but essentially, it needs only be in agricultural production to be considered farmland.

Assessors may look to other programs (like the Alberta Farm Fuel benefit, or the Canada Revenue Agency guidelines) for support in making those determinations, and must follow detailed procedures set out in the Municipal Government Act.

After a property's value has been assessed, the assessor places it into one of the four assessment classes as laid out in the Municipal Government Act (one is 'Farmland'; the others are residential, non-residential, and machinery and equipment). The class dictates the taxation rate that will be applied.

### Ontario

Ontario has the same goal of creating a differential taxation system for farmland, but goes about it in a slightly different way.

Although both provinces provide guidelines for assessment at the provincial level, Ontario's assessment system is centralized rather than based on individual municipalities. Responsibility for assessment is undertaken by the Municipal Property Assessment Corporation (MPAC), an independent body created by the Ontario Property Assessment Corporation Act in 1997. This Board is appointed by the Minister of Finance, and includes representation from municipalities, taxpayers, and the Province of Ontario.

MPAC uses a province-wide property assessment system based on current values for property. This system and its procedures are laid out in the Assessment Act. Although MPAC may assess a property as a farm, similar to Alberta it must still be classed as Farm Property for the purposes of taxation, otherwise it is taxed at the residential rate. This determination is made by the Ontario Ministry of Agriculture, Food and Rural Affairs.

Although both provinces use robust assessment protocols, a significant difference between Alberta and Ontario occurs in the assessment process. Although farm values in both jurisdictions are based on the land's productive capability, Ontario's Assessment Act dictates that that valuation process use farmer-to-farmer sales as the basis for assessment.

### Conclusion

Understanding how Ontario and Alberta approach taxation of lands used for agriculture is important to understanding how conservation easements for agriculture might be affected by the taxation system, and thus how municipalities might view the new use of this old

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tool.

Both jurisdictions provide a preferential tax system for agricultural lands. Alberta takes the approach of discounting the market value, while Ontario assesses based only on the segment of the market that includes farmer-to-farmer sales.

In both cases, valuation is not ultimately based on the land's highest and best use (usually the value if it were more intensively developed).

Because conservation easements for agriculture do not change the land use, it is unlikely that either of these assessment processes would be affected. Put another way, agricultural land subject to a conservation easement for agriculture would still be agricultural land. This sets it apart from the existing conversations about taxation of nonagricultural conservation lands. It is also, therefore, unlikely that local governments would have concerns about conservation easements for agriculture based on property taxation.

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## Who is a 'farmer'?

### British Columbia

Farm class is set by the BC Assessment Farm Class Regulation, which sets out a threshold between smaller and larger operations as the basis for a differentiated property tax.

#### DEFINITIONS

Agriculture Land Commission Act (ALC Act)

**"farm use"** means an occupation or use of land for farm purposes, including farming of land, plants and animals and any other similar activity designated as farm use by regulation, and includes a farm operation as defined in the *Farm Practices Protection (Right to Farm) Act*;

*Farm Practices Protection (Right to Farm) Act*

**"farm operation"** means any of the following activities involved in carrying on a farm business:

- (a) growing, producing, raising or keeping animals or plants, including mushrooms, or the primary products of those plants or animals;
- (b) clearing, draining, irrigating or cultivating land;
- (c) using farm machinery, equipment, devices, materials and structures;
- (d) applying fertilizers, manure, pesticides and biological control agents, including by ground and aerial spraying;
- (e) conducting any other agricultural activity on, in or over agricultural land; and includes
- (f) intensively cultivating in plantations, any
  - i. specialty wood crops, or
  - ii. specialty fibre crops prescribed by the minister;
- (g) conducting turf production
  - i. outside of an agricultural land reserve, or
  - ii. in an agricultural land reserve with the approval under the *Agricultural Land Reserve Act* of the Land Reserve Commission;
- (h) aquaculture as defined in the *Fisheries Act* if carried on by a person licensed, under Part 3 of that Act, to carry on the business of aquaculture;
- (i) raising or keeping game, within the meaning of the *Game Farm Act*, by a person licensed to do so under that Act;
- (j) raising or keeping fur bearing animals, within the meaning of the *Fur Farm Act*, by a person licensed to do so under that Act;
- (k) processing or direct marketing by a farmer of one or both of
  - i. the products of a farm owned or operated by the farmer, and
  - ii. within limits prescribed by the minister, products not of that farm,
  - iii. to the extent that the processing or marketing of those products is conducted on the farmer's farm; but does not include
- (l) an activity, other than grazing or hay cutting, if the activity constitutes a

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forest practice as defined in the *Forest Practices Code of British Columbia Act*;

(m) breeding pets or operating a kennel;

(n) growing, producing, raising or keeping exotic animals, except types of exotic animals prescribed by the minister;

**"farmer"** means the owner or operator of a farm business;

## TAXATION POLICY

### Farm Classification in British Columbia

[https://info.bcassessment.ca/services-and-products/\\_layouts/15/WopiFrame.aspx?sourcedoc=/services-and-products/Shared%20Documents/BCAL15102%20BCA\\_farm\\_brochure\\_digital.pdf&action=default&DefaultItemOpen=1](https://info.bcassessment.ca/services-and-products/_layouts/15/WopiFrame.aspx?sourcedoc=/services-and-products/Shared%20Documents/BCAL15102%20BCA_farm_brochure_digital.pdf&action=default&DefaultItemOpen=1)

- The Farm Class Regulation requires a producing farm to meet minimum gross income requirements, which vary with the size of the farm operation:
  - \$2,500 if the total area of the farm operation is between 0.8 ha (1.98 acres) and 4 ha (10 acres);
  - \$2,500 plus 5% of the actual value of the area in excess of 4 ha (10 acres) if the total area of the farm operation is greater than 4 ha (10 acres); or
  - \$10,000, if the total area of the farm operation is less than 0.8 ha (1.98 acres).
- Once land has been classified as farm, the minimum income requirements required for the farm operation must be met in one of two relevant reporting periods and a sale of a qualifying agricultural product must be made in every reporting period.
  - Land being developed as a farm but which is not yet generating income may qualify for farm class. A farm development plan is required and must be followed. The Farm Class Regulation requires that plan to be filed by October 31 to be effective for the following year.
    - The reporting periods may differ depending on whether the application is made in respect of a new or existing farm, or in the case of developing farms which are commencing production.
    - Special provisions in the Farm Class Regulation require the assessor to classify land with no present use as farm if that land is part of a farm parcel and all other requirements, including the income threshold, are first met. The requirements for unused land within the ALR differ from those for unused land outside the ALR.
    - Owners must provide information in support of farm classification at the request of the assessor. Proof of sales such as a copy of receipts, sales logs or other information supporting income claimed will be requested by the assessor to confirm that income requirements are being achieved by the farm operation.
    - Farm class is granted on an annual basis. If the land no longer meets the requirements in the Farm Class Legislation, the assessor must reclassify the property.

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- The assessed value of farm land is regulated and differs from region to region based on factors such as cultivation, irrigation, land use, and soil capability of the land being assessed.

### ADDITIONAL RESOURCE

#### **Farm Tax Class Income Threshold Investigation**

<http://www.metrovancouver.org/services/regional-planning/PlanningPublications/FarmTaxClassIncomeThresholdInvestigation.pdf>

##### 1. Executive Summary

Metro Vancouver requested the services of Upland Agricultural Consulting to investigate whether or not the qualifications for BC Assessment's Farm class status (class 9), namely income thresholds, warrant some adjustment to ensure that farmers and the public interest are benefiting from the policy and to support the long term viability of agriculture. This investigation serves as a follow-up to a report by KM Consulting that provided an analysis of several farm property tax policy options to either increase actively farmed land or discourage the non-farm uses of agricultural land.

To qualify as a "Farm" for assessment purposes, the land must produce a prescribed amount of qualifying primary agricultural products for sale. Current thresholds are \$10,000 for parcels < 0.8 ha (2 acres), \$2,500 for parcels 0.8 – 4 ha (2 – 10 acres), and \$2,500 + 5% of the agricultural value of the land for parcels > 4 ha (> 10 acres).

The underlying question considered is: What is the purpose of providing a Farm class tax status and how can it best be used to benefit both individual farmers and society more broadly? Interestingly, the answer to that question is not explicitly addressed in existing provincial policies and legislation.

Based on the literature and interviews conducted, several possible purposes for Farm class tax status were identified:

- To provide financial benefits to farmers (as a desirable use of land that deserves a reward);
- To confer social benefits to the public (by maintaining green spaces and providing local food access);
- To incentivize agricultural productivity of the farmland base (though to what degree is unclear);
- To preserve farm use and agriculture as an employment sector;
- To provide support to farming (as a struggling sector requiring subsidies or other financial assistance); and/or

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## Who is a ‘farmer’?

- To act as a defacto identifier of a hobby farm vs. a commercial farm for other benefits that result from obtaining Farm class.

Interviews and data review were used to explore annual gross farm incomes and the benefits and risks associated with increasing the Farm class income threshold for the Metro Vancouver region. Based on this analysis, with particular focus given to mid-sized farms (parcels 0.8 – 4 ha or 2 – 10 acres in size with an income threshold of \$2,500), three categories of farming emerged:

Table 1. Mid-sized farm categories based on income threshold ratios, gross farm income, and Farm class benefits.

Farming Level	Income Threshold Ratio	Annual Gross Farm Income	Benefits of Farm Class to Landowner	Benefits of Farm Class to Society
Lifestyle	0.000 to 1.499	< \$3,749	High	Low
Hobby	1.500 to 2.999	\$3,750 to \$7,499	High	Medium
Commercial	>= 3.000	>= \$7,500	High	High

It is acknowledged that some amount of societal benefits may be derived from all three categories of agricultural production. However, the benefits to landowners (in the form of reduced property taxes) may outweigh the overall benefits to society for the lifestyle farming category. In other words, the benefits for the lifestyle category are skewed to the private landowner.

As a way to realign this balance, three recommendations are presented to Metro Vancouver for consideration. It is recognized that these recommendations go beyond Metro Vancouver’s mandate and will require a commitment from the provincial government.

**1. Increase Farm Income Thresholds to a Single Threshold for all Parcel Sizes in Metro Vancouver.** Inflation was used to determine what an appropriate farm income threshold might be in 2015. Based on starting values of \$1,600 in 1974 and \$2,500 in 1993, today’s thresholds could fall between \$3,700 and \$7,500. These levels closely match the gross farm income levels used to categorize agricultural operations as lifestyle, hobby, and commercial farms.

**2. Consider a Multi-Level Taxation Tool to Further Distinguish between Hobby Farms and Commercial Operations.** Jurisdictions such as the Province of Quebec offer more benefits when farms are more productive. In Quebec, a greater tax discount is provided to operators who make more than \$10,000 per year. Once recommendation #1 (above) is adopted, a similar tiered system of benefits could be brought in for Metro Vancouver. Hobby farms could receive one level of Farm class and a commercial farm could be classified as another level of Farm class. These different Farm classes could then be assigned different mil rates or tax discounts and the level of agricultural production would be reflected in the overall tax benefit conferred to the landowner and/or leaseholder. The goal is not to discourage hobby farming, but rather assign commercial farms a more appropriate mil rate that would reflect the overall societal benefits being provided.

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## Who is a 'farmer'?

**3. Expand the Farm Income Thresholds Policy Discussion.** This larger discussion will increase awareness of how to increase farming and gain more widespread support for agriculture. This is especially important for the urbanized areas of Metro Vancouver that are becoming increasingly reliant on local farming for food security.

Metro Vancouver is a unique farming region in Canada. Over half of the BC population lives in this region, which also has one of the highest farm gate values per hectare in Canada. The current Farm class income threshold may work successfully in other regions of BC, but is not adequate in Metro Vancouver to stem the pressure of non-farm use of agricultural land. It is important that farm tax policy be adjusted to account for these differences in this region. An increase in farm income thresholds will support the fact that agriculture is a significant contributor to the regional economy and that using farmland for agriculture production is an important tool in strengthening local food security. It will also bring the threshold in line with those used in other Canadian jurisdictions.

Examples of strong legislative framework by local government:

City of Delta, BC

Official Community Plan - <https://delta.civicweb.net/filepro/documents/37999>

Zoning Bylaw - <https://delta.civicweb.net/document/177229>

PART 10 AGRICULTURE ZONES

10.10 A1: AGRICULTURE ZONE

Comment:

“In BC, for assisting in assessing whether or not a property would qualify for additional dwellings for farm help we will look to see if the property is classified as a farm for tax purposes (farm tax status) with BC Assessment. Of course, it is very easy to qualify for farm tax status as the farming income thresholds are quite low and the property owner wouldn't even have to be farming the property themselves if they were leasing to a farmer that met the farming income threshold. Farm tax status may also be granted for developing farms that have not yet met the income thresholds.

“Minimum lot size in BC is a tricky piece to determine as an appropriate minimum lot size to support farming varies quite a bit depending on commodity type and location. For instance, an apple orchard in the Okanagan or poultry farm in the Lower Mainland may be quite profitable enterprises on only 5 acres, but that would not be adequate for most livestock operations, for instance, or for other areas of the province with different soil capabilities.”

Alison Fox, P.Ag.

Land Use Agrologist

Strengthening Farming Program

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## Who is a 'farmer'?

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## Who is a 'farmer'?

### • Alberta

Alberta uses assessment rates and procedures as prescribed under regulation to calculate the assessed value of a farm property, which means that the land is assessed on its potential worth or capability to raise or produce agricultural commodities. Municipal assessors use a comprehensive set of rating schedules (set by Municipal Affairs) to determine farm land assessments. The procedures fall under the *Municipal Government Act* (MGA) and the following:

- Matters Relating To Assessment and Taxation Regulation
- Alberta Farm Land Assessment Minister's Guidelines

### DEFINITIONS

#### **Alberta Farm Fuel Benefit (AFFB), Alberta Agriculture and Forestry**

“Agricultural Producer”

<http://www1.agric.gov.ab.ca/general/progserv.nsf/all/pgmsrv9>

In Alberta, agricultural producers must: be actively and directly farming by controlling farming assets and making the day-to-day management decisions; have annual farm commodity production worth at least \$10,000 or \$5,000 - \$9,999 if the only other significant sources of income are Canada Pension Plan or Old Age Security.

#### *Municipal Government Act*

Matters Relating To Assessment and Taxation Regulation, Alberta Regulation 220/2004

[http://www.qp.alberta.ca/documents/Regs/2004\\_220.pdf](http://www.qp.alberta.ca/documents/Regs/2004_220.pdf)

1(b) “agricultural use value” means the value of a parcel of land based exclusively on its use for farming operations

(h) “farm building” means any improvement other than a residence, to the extent it is used for farming operations

(i) “farming operations” means the raising, production and sale of agricultural products and includes

- (i) horticulture, aviculture, apiculture and aquaculture
- (ii) the production of horses, cattle, bison, sheep, swine, goats, fur-bearing animals raised in captivity, domestic cervids within the meaning of the Livestock Industry Diversification Act, and domestic camelids, and
- (iii) the planting, growing and sale of sod;

4(2) In preparing an assessment for a parcel of land based on agricultural use value, the

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## Who is a 'farmer'?

assessor must follow the procedures set out in the Alberta Farm Land Assessment Minister's Guidelines.

### Part 5 Property Tax Exemption for Residences and Farm Buildings

#### Definitions

21 In this Part,

- (a) "farm unit" means any number of parcels of land or parts of parcels, or both, that are
- (i) owned by a farm unit operator,
  - (ii) held by that farm unit operator under a lease, licence or permit from the Crown or a municipality, or
  - (iii) occupied by that farm unit operator with the consent of a person holding the parcels under a lease, licence or permit from the Crown or a municipality on December 31 of the year preceding the year in which the exemption in section 22 applies;
- (b) "farm unit operator" means
- (i) the person who is registered under the Land Titles Act as the owner of the fee simple estate in a farm unit, or the spouse or adult interdependent partner of that person,
  - (ii) a person who holds a farm unit under a lease, licence or permit from the Crown or a municipality, or a person who occupies the farm unit with the consent of that holder, and
  - (iii) a person who is purchasing a farm unit from the person referred to in subclause (i).

## TAX POLICY

MGA Review Discussion Paper: Farm Property Assessment and Taxation  
<https://mgareview.alberta.ca/wp-content/uploads/media/Farm-Property-Assessment-and-Taxation-Discussion-Paper.pdf>

[excerpt, p. 3]

The *MGA* sets out two methods, or standards, for the assessment of property in Alberta: the market value based standard (a methodology based on the market value of a property) and the regulated procedure based standard (a methodology that uses assessment rates and procedures as prescribed under regulation to calculate the assessed value of a property). Farm property is one type of property assessed through the use of the regulated procedure based standard.

In the legislation, farm property has three elements for assessment purposes:

- the farm buildings;
- the farm residence(s); and

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## Who is a 'farmer'?

- the land that is used for farming operations (see definitions below).

Actual farm use is important in the application of assessment rules for farm property. A parcel of land must be used for purposes that meet the definition of 'farming operations' in the *MGA* and regulations in order to be assessed on the basis of its agricultural use value. Farming operations are defined as the raising, production and sale of agricultural products. Any portion of the parcel not meeting this definition is required to be assessed at market value. For example, if a property owner uses the major portion of a property for farming, but runs a welding shop on a small piece of the parcel, the smaller site would be assessed at market value as a commercial operation.

There are four classes of farmland, each with a base assessment rate:

- dryland arable;
- dryland pasture;
- irrigated arable; and
- woodlots.

These base assessment rates are modified based on factors relating to agricultural production, such as region, soil depth and surface quality, and are further modified based on how distant the farm is from a town that provides services.

### ***Municipal Government Act***

#### **Matters Relating To Assessment and Taxation Regulation Alberta Regulation 220/2004**

##### Part 5 Property Tax Exemption for Residences and Farm Buildings

[http://www.qp.alberta.ca/documents/Regs/2004\\_220.pdf](http://www.qp.alberta.ca/documents/Regs/2004_220.pdf)

#### Exemptions from property tax

22 The following are exempt from taxation under Division 2 of Part 10 of the Act:

- (...a) one residence in a farm unit, if the residence is
  - (i) situated in a county, municipal district, improvement district or special area, and
  - (ii) situated on a parcel of not less than one acre, to the extent of the assessment, based on agricultural use value, for the land in the farm unit, to a maximum of \$61 540;
- (b) each additional residence in the farm unit, if the residence is
  - (i) situated in a county, municipal district, improvement district or special area, and
  - (ii) used chiefly in connection with farming operations, to the extent of the assessment, based on agricultural use value, for the land in the farm unit that remains after the exemption is made under clause (a), to a maximum of \$30,770 for each additional residence;
- (c) any farm building in a city, town, village or summer village, to the extent of 50% of its assessment.

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## Who is a 'farmer'?

[includes exemptions for specific jurisdictions]

### **Alberta Farm Land Assessment Minister's Guidelines**

[http://www.municipalaffairs.alberta.ca/documents/as/2017\\_Alberta\\_Farm%20Land\\_Assessment\\_Ministers\\_Guidelines.pdf](http://www.municipalaffairs.alberta.ca/documents/as/2017_Alberta_Farm%20Land_Assessment_Ministers_Guidelines.pdf)

### ADDITIONAL RESOURCES

MGA Review Discussion Paper: Farm Property Assessment and Taxation

<https://mgareview.alberta.ca/wp-content/uploads/media/Farm-Property-Assessment-and-Taxation-Discussion-Paper.pdf>

“This paper explores the valuation process for land used for farming, the existing definition of farming operations, the assessment of intensive farming operations, and the assessment of farm residences.”

### COMMENTS

#### **Response to email by Candace Vanin, P.Ag.**

Land Use Specialist, Science and Technology Branch  
Agriculture and Agri-Food Canada / Government of Canada  
candace.vanin@agr.gc.ca / Phone: 780-495-3308 / Cell: 780-984-6812 / Fax: 780-495-3324

[original questions posed in email are in *italics*]

*I was contacted by a local farmland protection group who are in search of ways to define a “farmer” for the purpose of determining whether a farm dwelling might be built on farmland.*

Candace:

On private land, the land zoning & LU bylaws would obviously have to be reviewed for the farm dwelling, &/or if protective covenants or easements are in place, how those relate to the LU bylaws for the respective jurisdiction.

On public lands, agricultural dispositions and respective lease agreements dictate development and access.

*Any thoughts you have about what you think is optimal (works best) will be appreciated.*

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## Who is a 'farmer'?

*Some options/elements:*

- *Minimum lot size*

Candace:

Majority of local governments in Alberta DO NOT define this due to the diverse & dynamic nature of farming.

Small holding agriculture, depending on the business operation, can be very viable & labour intensive [ie local employment opportunities].

Most jurisdictions guard against being too prescriptive, as risk of restrictions may not support future evolving market opportunities and changing conditions [new technologies, new markets/products, infrastructure & other capital requirements, etc.] required over time.

Some local governments in AB require that agricultural infrastructure or facilities be established prior to any new residential construction on farmland eg. new U-pick operation would have to establish the plants/orchard prior to building a new home on site in order to demonstrate intent.

- *CRA test to determine if the owner is a farm operator*

Candace:

Refer to 'Farm Operator' is defined by Stats Canada for purposes of the Census of Agriculture

- *CRA test to determine if a minimum portion of the operator's income comes from farming*

Candace:

The real test is intent of commercial activity or 'intent to sell'.

Stats Canada defines a 'census farm' related to commercial production and 'intent to sell'.

- *Provincial farm registration*

Candace:

How to obtain 'Farm status' in Alberta  
[https://www1.agric.gov.ab.ca/\\$department/deptdocs.nsf/all/faq7142?open&document](https://www1.agric.gov.ab.ca/$department/deptdocs.nsf/all/faq7142?open&document)

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## Who is a 'farmer'?

*It seems that most options have some disadvantages, for example:*

- *CRA deals with income, not whether someone is a farm operator*

Candace:

CRA deals with 'business' income and the type of business; the business arrangement [from sole proprietorship to corporate] determines the operator/manager[s]

- *New farmers are not likely to meet minimum income thresholds*

Candace:

Not necessarily so, based on 'intent to sell'. Business viability may be a concern if \$10K/yr could not be met?

- *Established farmers could take advantage of their development rights*

Candace:

Canadian land owners **DO NOT have development rights**, because property rights are not constitutionally enshrined in Canada as they are in the United States, eg. Transfer of Development Credits is the commonly accepted generic term in Canada compared to Transfer of Development Rights [TDR] in the USA.

[refer to pg 11 of source:

[http://www.rockies.ca/project\\_info/TDCFeasibilityReviewMiistakis.pdf](http://www.rockies.ca/project_info/TDCFeasibilityReviewMiistakis.pdf) ]

- *Farm registrations may not be restrictive enough*

Candace:

Refer to publication on agricultural conservation easements by Miistakis Institute

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## Who is a 'farmer'?

### • Saskatchewan

For property tax purposes, Saskatchewan treats cultivated and non-arable land differently. Using a 'percentage of value' method, under The Municipal Regulations, cultivated agricultural land is assessed at 55% of fair value and non-arable land is assessed at 45%. In rural municipalities, buildings used for farm purposes are exempt.

#### DEFINITIONS

*The Municipalities Act 2005, c.M-36.1*

#### **Exemptions from taxation in rural municipalities**

**293(1)** In this section:

(a) **“agricultural operation”**:

(i) includes the tillage of land, the production or raising of crops, dairy farming, the raising of poultry or livestock, the production of poultry products or livestock products in an unmanufactured state and any portion of the use of an operation mentioned in subclause (ii) that is determined by the Saskatchewan Assessment Management Agency to be a non-commercial use; but

(ii) does not include the commercial operation of seed cleaning plants, farm chemical and fertilizer outlets, grain elevators, equipment sales and service enterprises and other similar commercial operations;

(a.1) **“assessment”** and **“actual assessment”** mean taxable assessment as determined in accordance with section 197;

(b) **“land”** means land:

(i) for which the predominant potential use is cultivation, determined by the assessor as the best use that could be reasonably made of the majority of the surface area;

(ii) for which the predominant potential use is as range land or pasture land, determined by the assessor as the best use that could reasonably be made of the majority of the surface area;

(iii) the majority of the surface area of which is not developed for any use, has been left in or is being returned permanently to its native state or cannot be used for agricultural purposes; or

(iv) used for any other agricultural purpose.

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## Who is a 'farmer'?

From: Information Bulletin: Fuel Tax Exemption Permits

<http://publications.gov.sk.ca/documents/15/11628->

FT.004%20Holders%20of%20Fuel%20Tax%20Exemption%20Permits%20(Updated%20March%202017).pdf

### **APPENDIX A: DEFINITIONS FOR FARM, FARMER, FARMING OPERATIONS AND PRIMARY FARM PRODUCTS**

#### **Farm:**

“Farm” means an area of land in Saskatchewan (i) of at least 30 cultivated hectares used for growing cereal crops for sale; or (ii) an area of land used for the growing or raising of primary farm products for sale that generates annual gross revenue of at least \$10,000.

#### **Farmer:**

“Farmer” means a person who: (i) controls and is responsible for the operation of a farm, (ii) owns or is the lessee of the farm, and (iii) makes an appreciable contribution to the growth and maturity of primary farm products by being actively and directly involved in farming operations.

“Farmer” does not include a person who: (i) leases out their land, or enters into an agreement that transfers their land to someone else for the purpose of farming it, (ii) buys primary farm products solely for the purpose of resale, or (iii) holds an interest in the farm solely for resale or investment purposes.

#### **Farming Operations:**

**“Farming Operations” means one or more of the following activities carried out by a farmer in connection with the production of his or her own primary farm products:**

- The cultivation or tilling of land for crops, animal forage or grazing;
- The seeding, spraying, irrigating, fertilizing or harvesting of crops and other primary farm products;
- The loading or unloading of crops for on-farm storage;
- The raising, breeding, feeding, watering, handling or segregating of farm animals, poultry, bees and fur-bearing animals;
- Corral cleaning;
- The collecting and primary processing of eggs, poultry, milk and honey;
- Mobile seed cleaning and mobile grain drying; and
- Hauling by the farmer of their own primary farm products (or production inputs used in connection with the above).

#### **“Farming Operations” does not include:**

- The use of a licensed farm vehicle by a farmer, their dependants or others for non-farm business or employment purposes (including driving to and from a place of employment);

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## Who is a 'farmer'?

- Off-farm sorting, cleaning, grading and preparing of crops for storage or market;
- Any manufacturing, processing, refining, packaging, mixing, grinding or other operation where the agricultural commodity is changed from its natural or primary state to a secondary state, thereby adding value;
- The transportation of:
  - o farm products by a person other than the farmer who produced them,
  - farm inputs by a person other than the farmer who will use them in their own farming operations, or
  - race horses or rodeo stock;
- The renting out by a lessor of farm land, buildings, livestock, motor vehicles, machinery or other assets; and any activities related to their maintenance or improvement;
- The exhibiting, racing or leasing of any primary farm product or animal;
- The raising of animals or production of feed for animals commonly kept as pets, or for display in a zoo;
- Pre-production activities such as the construction of farm buildings or farm fences;
- Secondary or indirect activities, unless carried out by a farmer on their own farm using unlicensed farm machinery, including:
  - land levelling or clearing;
  - digging dugouts;
  - trenching or installation of water lines;
  - clearing bush;
  - or burying rocks.
- The use of equipment or machinery normally categorized as construction equipment to carry out activities that are not farming operations;
- The use of unlicensed farm machinery or licensed farm vehicles for a purpose other than farming operations in Saskatchewan;
- The use of any vehicle or machinery other than a licensed farm vehicle or unlicensed farm machinery; and
- The business of providing various services or sales (or both) to a farmer, such as:
  - banking, accounting, consulting, veterinary and other animal health services, or
  - the sale and service of production inputs and farm machinery.

### **Primary Farm Products:**

**“Primary farm products” means one or more of the following:**

- Bedding plants, nursery and florist crops;
- Bees;
- Livestock, except horses raised for racing, exhibiting or as pets;
- Cereal crops;
- Ducks;
- Eggs;
- Fish;
- Forage crops, including alfalfa, hay and clover;

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## Who is a 'farmer'?

- Fruits;
- Fur from wild and game farm animals, including fox, mink and chinchilla;
- Geese;
- Honey;
- Lentils, sunflower seeds, canary seeds and other crops that are specialty crops;
- Milk;
- Poultry;
- Rabbits;
- Sod;
- Trees and shrubs;
- Vegetables; and
- Wool.

### **“Primary farm products” does not include:**

- Dogs;
- Cats; or
- Other pets.

## TAX POLICY

*The Municipal Assessment Act C.C.S.M. c. M226*

### **Classification of Property and Portioned Values Regulation**

#### **Farm Property**

**6** The class of property known as Farm Property consists of the following:

- (a) land or any portion of land that is used solely for farming purposes;
- (b) buildings or part of buildings that are used solely for farming purposes, or that are vacant or abandoned and that are designed or intended to be used for farming purposes, and located on Farm Property land;
- (c) undeveloped, unimproved, vacant or abandoned land that is not under a planning scheme or zoning by-law;
- (d) undeveloped, unimproved, vacant or abandoned land that is under a planning scheme or zoning by-law and that under it is usable primarily for farming purposes.

## **The Municipalities Regulations**

### PART V Classification of Property

#### Classes of property

**39** The following classes of property are established pursuant to clause 196(1)(a) of the Act:

- (a) Nonarable (Range) Land and Improvements, which includes only land and improvements, other than occupied dwellings:

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## Who is a 'farmer'?

- (i) for which the predominant potential use is as range land or pasture land, determined as the best use that could reasonably be made of the majority of the surface area; or
- (ii) the majority of the surface area of which is not developed for any use, has been left in or is being returned to its native state or cannot be used for agricultural purposes;<sup>20</sup>
- (b) Other Agricultural Land and Improvements, which includes only land and improvements, other than occupied dwellings:
  - (i) for which the predominant potential use is cultivation, determined as the best use that could reasonably be made of the majority of the surface area;
  - (ii) used for dairy production, raising poultry or livestock, producing poultry or livestock products, beekeeping, seed growing or growing plants in an artificial environment; or
  - (iii) used for other agricultural purposes, except for land and improvements classified as Nonarable (Range) Land and Improvements;

### Percentages of value

40 In accordance with clause 196(1)(b) of the Act, the following percentages of value are applicable to the classes of property established pursuant to section 39:

- (a) Non-arable (Range) Land and Improvements - 45%;
- (b) Other Agricultural Land and Improvements - 55%;
- (c) Residential - 80%;
- (d) Multi-unit Residential - 80%;
- (e) Seasonal Residential - 80%;
- (f) Commercial and Industrial- 100%;
- (g) Elevators - 100%;
- (h) Railway Rights of Way and Pipeline - 100%.

## The Rural Municipality Assessment and Taxation Regulations

*The Municipalities Act* Chapter M-36.1

### 293 Exemptions from taxation in rural municipalities

- (2) In addition to the exemptions provided for by section 292, the following are exempt from taxation in rural municipalities:
- (a) unoccupied buildings that are residential in nature and that are situated on land;
  - (b) buildings that are used to grow plants in an artificial environment;
  - (c) improvements, other than dwellings, that are used exclusively in connection with the agricultural operation that is owned or operated by the owner or lessee of the improvements;
  - (d) the portions of improvements, other than dwellings, that are:

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## Who is a 'farmer'?

- (i) used partly in connection with the agricultural operation that is owned or operated by the owner or lessee of the improvements and partly for other purposes; and
  - (ii) determined by the Saskatchewan Assessment Management Agency to be attributable to that agricultural operation;
- (e) a dwelling that is situated outside of an organized hamlet or an area established pursuant to clause 53(3)(i) and occupied by an owner or a lessee of land, to the extent of the amount of the assessment of the dwelling that does not exceed the total of the assessments of any land in the rural municipality or in any adjoining municipality that is owned or leased by:
- (i) the occupant, the occupant's spouse or both of them;
  - (ii) subject to subsection (3), a partnership of which the occupant is a partner; or
  - (iii) subject to subsection (3), a corporation of which the occupant is a shareholder.
- (3) For the purposes of clause (2)(e):
- (a) the assessment of land owned or leased by:
    - (i) a partnership of which any person who is an occupant is a partner is deemed to be that portion of the actual assessment of the land that bears the same relationship to that actual assessment as the number of persons who are the occupants and who are partners in the partnership bears to the highest number of partners in the partnership at any time in the taxation year; or
    - (ii) a corporation of which any person who is an occupant is a shareholder is deemed to be that portion of the actual assessment of the land that bears the same relationship to that actual assessment as the number of shares of the corporation held by persons who are the occupants bears to the highest number of issued shares of the corporation in the taxation year; and
  - (b) if more than one dwelling described in clause (2)(e) is owned or leased by any of the persons mentioned in subclauses (2)(e)(i) to (iii), clause (2)(e) applies:
    - (i) if the dwellings are in the same rural municipality, only to the residence with the greater assessment; and
    - (ii) if the dwellings are in adjoining municipalities, with respect to each dwelling, only to the amount of the assessment that does not exceed the total of the assessments of any land in the rural municipality in which the dwelling is located that is owned or leased by one or more of those persons.

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## Who is a 'farmer'?

(4) A lessee is only eligible to receive the exemption provided for by clause (2)(e):

(a) with respect to land leased from an owner who is not eligible to receive the exemption; and

(b) with respect to land leased from an owner who is entitled to the exemption, if the owner or lessee provides to the assessor, on or before March 31 in any year, a copy of the lease and a written notice signed by the owner stating that the owner has agreed that the lessee is to receive the exemption.

(5) If a written notice has been provided to the assessor pursuant to clause (4)(b), the lessee continues to receive the exemption until the owner or lessee provides to the assessor a written notice, signed by the owner, rescinding or amending the previous notice on or before March 31 in the year in which the rescission or amendment is to be effective.

(6) If the lease provided to the assessor pursuant to clause (4)(b) is amended, the lessee shall promptly provide the assessor with a copy of the lease as amended.

2005, c.M-36.1, s.293; 2013, c.19, s.47;  
2014, c.19, s.27.

### Exemptions re grain storage space

**294(1)** In this section:

(a) **“agreement”** means an agreement that meets the requirements of subsection (3);

(b) **“grain storage space”** means space within an inland grain terminal:

(i) that is owned, leased or operated by an independent grain company through a joint venture or otherwise; and

(ii) that:

(A) was subject to an agreement as at January 1, 2001; or

(B) was constructed for the express purpose of being used by a producer for the storage of grain in accordance with an agreement;

(c) **“independent grain company”** means a grain company:

(i) that is incorporated, registered or continued pursuant to *The Business Corporations Act*, *The Co-operatives Act, 1996* or *The New Generation Co-operatives Act*;

(ii) in which no one person owns, directly or indirectly, more than 10% of the voting shares; and

(iii) that is not listed on any of the following exchanges:

(A) the Toronto Stock Exchange;

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- (B) the Canadian Venture Exchange;
- (C) the New York Stock Exchange;
- (D) the NASDAQ Stock Market;
- (E) the American Stock Exchange;

(d) **"inland grain terminal"** means a grain elevator:

(i) the principal uses of which are:

- (A) the receiving of grain before or after the official inspection and official weighing of the grain; and
- (B) the cleaning, storing and treating of the grain before it is moved forward by truck or rail; and

(ii) that has a minimum grain storage capacity of 16 500 tonnes, as licensed by the Canadian Grain Commission;

(e) **"producer"** means a person engaged in the agricultural operation of land for the purpose of producing grain;

(f) **"voting share"** means any security of an independent grain company that carries the right, either alone or as part of a class or series of securities, to elect more than 50% of the board of directors of the independent grain company.

(2) For the purposes of clauses 293(2)(c) and (d), a producer who enters into an agreement with an independent grain company for the use of a grain storage space is to be considered a lessee of the grain storage space.

(3) For the purposes of this section, an agreement between an independent grain company and a producer for the use of a grain storage space must:

(a) be in writing;

(b) be for a term:

(i) that is 10 years or more; or

(ii) that expires if and when the independent grain company, or its successors or assigns, ceases to operate the inland grain terminal in which the grain storage space is provided;

(c) be for the purpose of providing the producer with grain storage space before the sale of the grain;

(d) permit the independent grain company to commingle the producer's grain with grain of the same kind, grade and quality as the producer's grain;

(e) at all times, permit the producer to remove from the inland grain terminal grain of the same kind, grade and quantity as stored by the producer, less any applicable dockage as defined in section 2 of the *Canada Grain Act*, for the

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## Who is a 'farmer'?

purpose of redelivering the grain to the producer's land before the sale of the grain; and

(f) ensure the producer access to the grain storage space at all times to the extent set out in the agreement.

(4) Every independent grain company claiming a property tax exemption pursuant to this section shall, on or before March 1 of the year in which the exemption is claimed, submit to the assessor of the municipality in which the grain storage space is located:

(a) a statement certified by the proper officer of the independent grain company that shows the names and addresses of all registered shareholders of the independent grain company as at December 31 of the preceding year; and

(b) an affidavit or declaration of the proper officer of the independent grain company stating that, to the best of that officer's information and belief, no one person owns, directly or indirectly, more than 10% of the voting shares in the independent grain company.

### *An Act respecting Agricultural Operations* CHAPTER A-12.1

2 In this Act:

(a) "agricultural operation" means an agricultural operation:

(i) that is carried out on a farm, in the expectation of gain or reward, including:

(A) cultivating land;

(B) producing agricultural crops, including hay and forage;

(C) producing horticultural crops, including vegetables, fruit, mushrooms, sod, trees, shrubs, flowers, greenhouse crops and specialty crops;

(D) raising all classes of livestock, horses, poultry, fur-bearing animals, game birds and game animals, bees and fish;

(E) carrying on an intensive livestock operation;

(F) producing eggs, milk, honey and other animal products;

(G) operating agricultural machinery and equipment, including irrigation pumps and noise-scare devices;

(H) conducting any process necessary to prepare a farm product for distribution from the farm gate;

(I) storing, handling and applying fertilizer, manure, organic wastes, soil amendments and pesticides, including both ground and aerial application;

(J) any other prescribed agricultural activity or process; or

(ii) that is prescribed as an agricultural operation for the purposes of this Act;

### *The Uniform Building and Accessibility Standards Act* (the UBAS Act)

<http://www.publications.gov.sk.ca/freelaw/documents/English/Statutes/Statutes/U1-2.pdf>

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## Who is a 'farmer'?

(i) **“farm building”** means a building associated with a farming operation and includes a residence consisting of not more than two dwelling units, but does not include buildings associated with commercial operations, multiple-occupancy residences or assembly buildings;

Criteria Finance uses for the Farm Fuel Program

### Farm Fuel Program

<http://www.saskatchewan.ca/business/taxes-licensing-and-reporting/provincial-taxes-policies-and-bulletins/fuel-tax/farm-fuel-program>

#### Overview

Fuel Tax Exemption Permit holders (e.g., farmers, commercial fishers, trappers and loggers) may purchase 80% of their marked diesel tax exempt from registered bulk fuel dealers, cardlock or keylock operations for use in their farming, commercial fishing, trapping or logging activities.

Propane is exempt from fuel tax when purchased with a valid *Fuel Tax Exemption Permit* for an allowable use, or when purchased for heating use, unless purchased through equipment used to dispense automotive propane.

#### Eligibility

Under the Farm Fuel Program, an eligible farmer is:

- a person who owns or rents land;
- controls and is responsible for the operation of a farm; and,
- meets at least one of the following criteria:
  - The person must own or rent at least 75 acres (30 hectares) of cultivated land in Saskatchewan, that is used for the growing of cereal crops; or,
  - The person received gross annual revenue of at least \$10,000 from the sale of primary farm products that he or she produced in Saskatchewan.

A person may also qualify as a farmer if he or she is a member or shareholder in and contributed substantially to the agricultural production of a farm organization, such as:

- An agricultural corporation;
- Farm partnership;
- Farm co-operative; or
- A farm colony.

Registered bulk fuel dealers, cardlock and keylock operators will receive a 12 cents per litre refund or tax credit representing the 80% exemption for eligible farm diesel sales reported through Saskatchewan Finance's automated up-front exemption.

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## Who is a 'farmer'?

### Further Information

Find out more in Information Bulletins:

- FT-1, *General Fuel Tax Information*
- FT-4, *Information for Holders of Fuel Tax Exemption Permits*

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## Who is a 'farmer'?

### • Manitoba

Property classes and the portion of assessment that is taxed is established by regulation under *The Municipal Assessment Act* and Classification of Property and Portioned Values Regulation. Farmland, farm outbuildings and farm residences are assessed on the basis of their most probable market value. The Regulation sets out prescribed classes of property and “portioned values.” The estimated market value of property is multiplied by the “portioned value”, i.e., the portion of the assessed value of a property which is subject to taxation. The portioned value for farmland is 26%.

### DEFINITIONS

#### **The Farm Lands Ownership Act C.C.S.M c. F35**

<http://web2.gov.mb.ca/laws/statutes/ccsm/f035e.php>

**"farmer"** means an eligible individual

- (a) who receives a significant portion of his income either directly or indirectly from his occupation of farming, and
- (b) who spends a significant portion of his time actively engaged in farming;  
(« agriculteur »)

**"farming"** includes tillage of the soil, livestock production, raising poultry, dairying, fur farming, tree farming, horticulture, bee keeping, fish farming or any other activity undertaken to produce agricultural products; but does not include the purchase and resale of agricultural products, or the commercial processing of agricultural products;  
(« agriculture »)

#### ***The Municipal Assessment Act* C.C.S.M. c. M226**

**"Farm Property"** means property within the class of property prescribed as Farm Property;

#### **Classification of Property and Portioned Values Regulation**

**"farming"** means commercial crop production and includes tillage of the soil, livestock production, raising poultry, dairy farming, fur farming, tree farming, bee keeping, fish farming, horticultural production, including flowers and shrubs, and any other activity undertaken to produce agricultural products on a commercial basis; and does not include the purchase and resale of agricultural products, or the commercial processing of agricultural products;

#### **Farm Property**

6 The class of property known as Farm Property consists of the following:

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## Who is a 'farmer'?

- (a) land or any portion of land that is used solely for farming purposes;
- (b) buildings or part of buildings that are used solely for farming purposes, or that are vacant or abandoned and that are designed or intended to be used for farming purposes, and located on Farm Property land;
- (c) undeveloped, unimproved, vacant or abandoned land that is not under a planning scheme or zoning by-law;
- (d) undeveloped, unimproved, vacant or abandoned land that is under a planning scheme or zoning by-law and that under it is usable primarily for farming purposes.

### **The Provincial Planning Regulation R.M. 81/2011 under The Planning Act C.C.S.M. c. P80**

<http://web2.gov.mb.ca/laws/statutes/ccsm/p080e.php>

[http://web2.gov.mb.ca/laws/regs/current/\\_reg.php?reg=81/2011](http://web2.gov.mb.ca/laws/regs/current/_reg.php?reg=81/2011)

***agricultural operation*** means an agricultural, horticultural or silvicultural operation that is conducted in order to produce agricultural products on a commercial basis, and includes

- a) the production of crops, including grains, oil seeds, hay and forages, and horticultural crops, including vegetables, fruit, mushrooms, sod, trees, shrubs and greenhouse crops;
- b) the use of land for livestock operations and grazing;
- c) the production of eggs, milk and honey;
- d) the raising of game animals, fur-bearing animals, game birds, bees and fish;
- e) the processing necessary to prepare an agricultural product for distribution from the farm gate;
- f) the operation of agricultural machinery and equipment, including the tillage of land and the application of fertilizers, manure, soil amendments and pesticides, whether by ground or aerial application;
- g) the storage, use or disposal of organic wastes for agricultural purposes. (exploitation agricole)

***agricultural producer*** means a person who produces and markets an agricultural product. (producteur agricole)

## TAX POLICY

### ***The Municipal Assessment Act* C.C.S.M. c. M226**

Farm Property: farming purposes

17(2) A registered owner of Farm Property may request an assessor to determine the Farm Property assessed value of the property on the basis of its use for farming purposes and where so requested, the assessor shall thereafter, and for so long as the property is used

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## Who is a 'farmer'?

for purposes that are prescribed as farming purposes, determine the Farm Property assessed value of the property solely on the basis of use for farming purposes as prescribed under subsection (8).

- 17(4) A Farm Property assessed value determined under subsection (2) applies in respect of taxation for the year following the year in which the request is made under the subsection and may be the subject of an application under subsection 42(1).

### Classification of Property and Portioned Values Regulation

#### PART 3 Portioned Values

#### Percentages of assessed value for the year 2002 and subsequent years

19.1 The percentages of assessed value that apply to each class of property for the purpose of determining its portioned value for the year 2002 and subsequent years are as follows:

Class	Percentage
Residential 1	45.0%
Residential 2	45.0%
Residential 3	45.0%
Farm Property	26.0%
Institutional	65.0%
Pipeline	50.0%
Railway	25.0%
Designated Recreational	10.0%
Other	65.0%

### The Provincial Planning Regulation R.M. 81/2011 under The Planning Act C.C.S.M. c. P80

<http://web2.gov.mb.ca/laws/statutes/ccsm/p080e.php>

[http://web2.gov.mb.ca/laws/regs/current/\\_reg.php?reg=81/2011](http://web2.gov.mb.ca/laws/regs/current/_reg.php?reg=81/2011)

3.1.4 To minimize fragmentation or further fragmentation of land designated for agricultural use, such land must be maintained in a minimum parcel size of at least 80 acres (32 hectares) (generally).

3.1.5 Land designated for agricultural use may be subdivided into a smaller parcel than what is permitted under policy 3.1.4 in the following circumstances:

- a) a specialized **agricultural operation** in which high value, lower volume, intensively managed agricultural products are produced, such as an apiary, a nursery or a greenhouse, requires a smaller land holding;
- b) in respect of an existing **farmstead site**,
  - i) the site is no longer required as part of an **agricultural operation** because the associated farmland has been acquired by another **agricultural operation**, or
  - ii) subdivision of the **farmstead site** is necessary to allow the **agricultural producer** to continue to reside in the existing farm residence upon retirement;

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## Who is a 'farmer'?

- c) a single lot subdivision for residential purposes is required for an individual who significantly participates in the *agricultural operation* on an ongoing basis and derives an income from it;
- d) a single lot subdivision is proposed for *rural residential* purposes, but only if the proposal is in a *planning area* that has experienced continuous population decline over the previous fifteen years;
- e) a single lot subdivision is proposed for a commercial or industrial use that is intended to
  - i) provide services, machinery, equipment or goods specifically required by *agricultural operations*, or
  - ii) store or process products grown or raised by an *agricultural operation*, but only if it is demonstrated that due to the nature or activity of the use it is essential that -it be located in an agricultural area;
- f) a single lot subdivision is proposed for a parcel of land that has been physically isolated by such things as a transportation route or a water course, but only if the parcel is of a size, shape or nature that makes farming physically impractical.

**3.1.6** Only one subdivision per 80 acre title may be permitted for the circumstances described in clauses 3.1.5(a) to (d).

**3.1.7** Non-agricultural parcels created in accordance with clauses 3.1.5(b) to (e)

- a) must not be wasteful of agricultural land;
- b) should, if possible, be directed away from *prime agricultural land* and existing livestock operations; and
- c) if applicable, must be confined to the existing shelterbelt that forms part of a *farmstead site*.

## COMMENTS

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In Manitoba, generally one dwelling is permitted per legal title; and 160 acre parcels can be divided into two 80 acre parcels, without requiring provincial or municipal approval. Subdivision of a dwelling from the larger agricultural parcel is restricted to specific circumstances as outlined in the Provincial Land Use Policies (PLUPs) under the Provincial Planning Regulation and limited to one subdivision per 80-acre title (see Policy 3.1.5 and 3.1.6, below) . When it comes to creating a lot for a family member actively involved in the farm operation, the policy requires that the individual is significantly involved in farm activities and derives an income from it; however, in my experience, the province and municipal councils do not necessarily request proof

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## Who is a 'farmer'?

of that income. The size of the farm or non-farm residential lot is dependant on the onsite waste water management system that services the dwelling, ranging from 2-10 acres minimum. For agricultural parcels, the minimum lot sizes is usually 80-acres, except in the case of specialized agricultural operations where 10-15 acres is usually the minimum and specified in municipal zoning by-laws.

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## Who is a 'farmer'?

### Ontario

#### ***Farm Registration and Farm Organizations Funding Act, 1993***

<https://www.canlii.org/en/on/laws/stat/so-1993-c-21/latest/so-1993-c-21.html>

S.O. 1993, CHAPTER 21

#### Definitions

**1** In this Act,

“farming business” means a farming business within the meaning of the *Income Tax Act* (Canada); (“entreprise agricole”)

“Minister” means the Minister of Agriculture, Food and Rural Affairs, and “Ministry” has a corresponding meaning; (“ministre”, “ministère”)

“prescribed” means prescribed by the regulations made under this Act; (“prescrit”)

“Tribunal” means Agriculture, Food and Rural Affairs Appeal Tribunal continued under the *Ministry of Agriculture, Food and Rural Affairs Act*. (“Tribunal”) 1993, c. 21, s. 1; 1999, c. 12, Sched. A, s. 12 (1).

#### Farming Business Registration Form

##### Farming business registration form

**2** (1) A person shall file with the Minister a completed farming business registration form if,

(a) the person carries on a farming business; and

(b) the annual gross income of the farming business, as determined in accordance with the regulations, is equal to or greater than the prescribed amount. 1993, c. 21, s. 2 (1).

#### ***Farm Registration and Farm Organizations Funding Act, 1993***

Ontario Regulation 723/93

**1.** (1) A person who carries on a farming business shall file with the Minister a completed farming business registration form in every year in respect of which the annual gross income of the farming business equals or exceeds \$7,000. O. Reg. 723/93, s. 1 (1).

(2) The annual gross income of a farming business shall be determined in the same manner as the gross income from farming of the farming business is determined under the *Income Tax Act* (Canada) for the most recent taxation year for which a tax return was filed in relation to the farming business during the eighteen-month period preceding the date on which the annual registration form is required. O. Reg. 723/93, s. 1 (2).

(3) For the purposes of clause 2 (1) (b) of the Act, the determination of the annual gross income of a farming business shall be made by the Ministry in accordance with subsection (2) based on financial, inventory and business information and records provided by the farming business upon request. O. Reg. 50/14, s. 1.

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## Who is a 'farmer'?

### Municipal Property Assessment Corporation

<https://www.mpac.ca/PropertyTypes/Farm>

## 12. Classification

By default, farm properties are classified in the residential property class in accordance with section 3(1)2 of Ontario Regulation 282/98 of the [Assessment Act](#).

Farm properties that meet the eligibility requirements will have farmland and associated outbuildings placed in the farm property class and are taxed at up to 25% of the municipal residential tax rate. An application for inclusion in the Farm Property Class Tax Rate Program must be approved by the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) on or before the specific date set out in the table included in Section 8.1 of Ontario Regulation 282/98.

A Farm Forestry Exemption (FFE) may also apply to the property. Under Section 3(19) of the [Assessment Act](#), one acre of every 10 acres of farmed property may be entitled to receive this exemption. FFE is warranted if the property is assessed as a farm and the property has some forested or woodland portion that is not subject to either the Managed Forest Tax Incentive Program (MFTIP) or the Conservation Land Tax Incentive Program (CLTIP).

If a portion(s) of a farm property is used for non-farm purposes, the portion is valued and classified according to its use. This is to ensure that the appropriate value and tax class is applied to the various uses of the property.

Where there is a farm residence occupied by the farmer, this is assessed in the residential property class along with one acre of land valued at the farmland rate. Where there is a residence on a farm property that is occupied by a non-farmer, this is assessed in the residential property class along with one acre of land valued at the residential rate.

## 13. Factors in Determining Farm Values

We look at these factors:

### 13.1

#### Farmland

- We collect the data on sales of farmland to farmers. Sales of farms to purchasers who intend to use them for other purposes are not included.

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## Who is a 'farmer'?

- We classify farmland according to how productive it can be, and place it into one of six quality classes. Class 1 farmland is the most productive and therefore the most valuable class of farmland.
- We also establish geographic areas according to climatic region, soil type/suitability and similar farmland markets.

### 13.2 **Residence**

- We consider how much it would cost to rebuild the farm house and take into consideration the location, size, age and quality of construction.

### 13.3 **Residence Land**

- If the farmer lives in the residence, one acre of land supporting the residence is valued as farmland and is classified as residential. If the house is rented out to a non-farmer, any land that is used by the occupant is assessed as residential land and is classified as residential.

### 13.4 **Farm Outbuildings**

- We establish the replacement cost of the outbuildings, taking into consideration the design, age, size and quality of construction.

### 13.5 **Other Buildings**

- We value other buildings, such as wineries and stores, according to the cost of replacing them, taking into consideration the building's design, age, size and quality of construction. They are valued and classified according to use (e.g., commercial, industrial, residential).

## Ministry of Agriculture, Food, and Rural Affairs

### 14. Farm Property Class Tax Rate Program

As an eligible applicant under the program:

- Your farm residence and one acre of surrounding land will be taxed at your municipality's residential tax rate
- The remainder of the farm assessment on the property will be taxed at 25% of the residential tax rate

Farm properties that do not qualify under the program will be taxed at the residential rate.

#### 14.1

#### 14.2 **Are you eligible?**

To be eligible to apply, you must be able to answer "yes" to the following questions:

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## Who is a 'farmer'?

**BB.**

**CC.**

### Do you own farmland?

Your property is assessed as farmland by the Municipal Property Assessment Corporation (MPAC).

**DD.**

### Is the property being used for a farming business that generates an annual gross income of at least \$7,000?

Your property is actively being farmed by yourself or by a tenant farmer or both and all farming income and expenses have been filed with the Canada Revenue Agency (CRA). For information on exemptions, see Annual gross farm income exemptions.

**EE.**

### **FF. Start-up Exemption**

If you or your tenant are starting a farm operation and have not yet met the requirement of an annual gross farming income of \$7,000, you may apply for an exemption. You must clearly demonstrate that the property is being farmed and how the farming business will have an annual gross income of at least \$7,000 in future years. The length of the start-up period must be realistic for the commodity produced.

**GG.**

### Not a Normal Production Year Exemption

You may apply for an exemption if your usual annual gross farm income is more than \$7,000, however the previous year was not a normal production year. You will need to demonstrate why the gross income for the farm business was less than \$7,000 and how the farm business will achieve an annual gross farm income of at least \$7,000. Please contact the ministry to receive the appropriate forms needed to support your claim.

**HH.**

### Age/Illness/Death Exemption

If you cut back on the size or scale of your farming business because of age, illness or the death of a spouse or common-law partner, you may be eligible to apply for an exemption. To be eligible for this exemption, you must meet all three of the following criteria:

1. You must own the property and carry on the farming business yourself.
2. You or your spouse must have operated the farming business for at least 10 years and have been approved under this program during this time.

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## Who is a 'farmer'?

3. The farming business must have reported an annual gross farm income greater than zero to Canada Revenue Agency (CRA) in the previous income tax year.

### II. Does the farming business have a valid Farm Business Registration number?

The farming business must have either a valid Farm Business Registration (FBR) number issued under the *Farm Registration and Farm Organizations Funding Act, 1993* (FBR number is 6-7 digits) or a religious exemption from the Agriculture, Food and Rural Affairs Appeal Tribunal (AFRAAT). This requirement does not apply if you have an annual gross farm income exemption.

### JJ. Are the farmland owners Canadian citizens, permanent residents of Canada or a corporation?

If the property is owned by an individual or a group of individuals, each person must be either a Canadian citizen or permanent resident of Canada.

If the property is owned by a corporation, more than 50 per cent of the voting shares must be legally owned by individuals who are either Canadian citizens or permanent residents of Canada. In other words, it is not sufficient if the voting shares are legally owned by another corporation and then that corporation's voting shares are owned by individuals who are Canadian citizens or permanent residents in Canada. Requirements for other ownership types can be found in the *Assessment Act* O.Reg.282/98 8.(2)3.

### *Assessment Act*

[https://du0tsrdospf80.cloudfront.net/docs/980282\\_e.doc](https://du0tsrdospf80.cloudfront.net/docs/980282_e.doc)

## Assessment Act ONTARIO REGULATION 282/98

### PART II CLASSES OF REAL PROPERTY CLASSES

#### FARM PROPERTY CLASS

8. (1) The farm property class consists of land determined in accordance with this section and section 8.1 to be farmland. O. Reg. 499/99, s. 1 (1); O. Reg. 363/03, s. 4 (1).

(2) Land used for farming, including outbuildings is farmland for a taxation year if the following requirements are satisfied:

- 1.A farming business, within the meaning of the *Farm Registration and Farm Organizations Funding Act, 1993*, is carried out on the land.

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## Who is a 'farmer'?

2. Subsection 19 (5) of the Act applies to the land for the taxation year but the land is not land to which section 44 applies.
3. The land is owned by,
  - i. an individual who is a Canadian citizen or has been lawfully admitted to Canada for permanent residence,
  - ii. a corporation that has issued and allocated shares to which are attached more than 50 per cent of the voting rights ordinarily exercisable at meetings of the shareholders and that are owned by individuals described in subparagraph i,
  - iii. a partnership of which more than 50 per cent of the income or loss of the partnership is allocated to partners who are persons described in subparagraph i or ii,
  - iv. a non-profit corporation without share capital, including a co-operative corporation under the *Co-operative Corporations Act*, more than 50 per cent of whose members are individuals described in subparagraph i,
  - v. a trust more than 50 per cent of whose beneficiaries are individuals described in subparagraph i, or
  - vi. a corporation that does not issue shares and does not have members.
4. For the 1999 and 2000 taxation years, if the person carrying on the farming business was required to file a completed farming business registration form under the *Farm Registration and Farm Organizations Funding Act, 1993* in the year before the taxation year,
  - i. the person carrying on the farming business filed the form as required and was issued a registration number, and
  - ii. if the owner of the land is not the person carrying on the farm business, the owner applied to have the land classified as farmland and the application was made before September 1 in the year before the taxation year on a form provided by the Minister of Agriculture, Food and Rural Affairs.
5. For the 1999 and 2000 taxation years, if paragraph 4 does not apply because an order was made under section 22 of the *Farm Registration and Farm Organizations Funding Act, 1993* that filing be waived, the owner of the land applied to have the land classified as farmland and the application was made before September 1 in the year before the taxation year on a form provided by the Minister of Agriculture, Food and Rural Affairs. However, the owner is not required to apply if the owner is the person carrying on the farming business.
6. REVOKED: O. Reg. 325/16, s. 2 (1).
7. For the 2001 and subsequent taxation years, other than the 2013 taxation year, the person carrying on the farming business was issued a registration number under the *Farm Registration and Farm Organizations Funding Act, 1993* in the year before the taxation year, unless an order was made under section 22 of that Act that the person is not required to file a farming business registration form.
- 7.1 For the 2013 taxation year, the person carrying on the farming business has an annual gross income from the farming business that is equal to or exceeds the amount prescribed for the purposes of section 2 of the *Farm Registration and Farm Organizations Funding Act, 1993*.

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8. REVOKED: O. Reg. 325/16, s. 2 (1).

9. If the taxation year is the 2004 or a subsequent taxation year and paragraph 7 or 7.1, as the case may be, does not apply because the annual gross income of the farming business is less than the amount prescribed for the purposes of section 2 of the *Farm Registration and Farm Organizations Funding Act, 1993* or because the farming business commenced during the taxation year, the requirements set out in subsection (3) are met. O. Reg. 282/98, s. 8 (2); O. Reg. 499/99, s. 1 (2-4); O. Reg. 363/03, s. 4 (2); O. Reg. 419/04, s. 1 (1, 2); O. Reg. 536/05, s. 3; O. Reg. 288/12, s. 1; O. Reg. 325/16, s. 2 (1).

(3) For the purposes of paragraph 9 of subsection (2), the requirements that must be met are the requirements set out in one of the following paragraphs:

1. In the opinion of the Administrator under Part V,

i. the year to which the annual gross income from farming relates was not a normal production year for the farming business, and

ii. the annual gross income of the farming business for that year would have been equal to or greater than the amount prescribed for the purposes of section 2 of the *Farm Registration and Farm Organizations Funding Act, 1993* if the year had been a normal production year for the farming business.

2. The person carrying on the farming business owns the land and,

i. the farming business provided an annual gross income that is more than zero,

ii. there is a period of at least 10 years,

A. in which each year is a year in which the owner or his or her spouse owned the land and carried on the farming business, and

B. in which either the owner or his or her spouse qualified for each year under the farm tax rebate program established under O.C. 3033/90 in respect of the land or the land was in the farmlands property class, and

iii. the age or illness of the owner or his or her spouse or the death of the owner's spouse was the reason the annual gross income of the farming business was less than the amount prescribed for the purposes of section 2 of the *Farm Registration and Farm Organizations Funding Act, 1993*.

3. If the taxation year is the 2004 or a subsequent taxation year, a farming business commenced during the taxation year and the gross income of the farming business for the year to which the annual gross income from farming relates is equal to or greater than the amount prescribed for the purposes of section 2 of the *Farm Registration and Farm Organizations Funding Act, 1993*. O. Reg. 282/98, s. 8 (3); O. Reg. 105/00, s. 1 (1); O. Reg. 419/04, s. 1 (3-5); O. Reg. 307/05, s. 1 (1); O. Reg. 325/16, s. 2 (2-4); O. Reg. 365/18, s. 1.

(4) For the 2001 and subsequent taxation years, land used for farming is farmland if,

(a) it is owned by a conservation authority and subsection 19 (5) of the Act applies to the land;

(b) it is owned by the Agricultural Rehabilitation and Development Directorate of Ontario; or

(c) it was owned by the Agricultural Rehabilitation and Development Directorate and was transferred to and is owned by the Association of Community Pastures. O. Reg. 45/02, s. 1.

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## Who is a 'farmer'?

(4.1) Despite subsection (2), land used for farming, including outbuildings, is farmland for 2003 or a subsequent taxation year if,

- (a) the land is owned by Her Majesty in right of Canada or a province, a Crown agent, a corporation owned, controlled or operated by the Crown, a municipality or a local board;
- (b) a farming business, within the meaning of the *Farm Registration and Farm Organizations Funding Act, 1993*, is carried out on the land by a tenant of the land;
- (c) subsection 19 (5) of the Act applies to the land for the taxation year; and
- (d) the provisions of paragraph 7 of subsection (2) are satisfied in respect of the land for the taxation year. O. Reg. 363/03, s. 4 (3); O. Reg. 325/16, s. 2 (5).

(5) For the 1998 taxation year, subsections (2) and (3) do not apply. For that taxation year, land, other than land owned by a conservation authority or the Agricultural Rehabilitation and Development Directorate of Ontario, is farmland if the owner or the owner's spouse qualified under the farm tax rebate program established under O.C. 3033/90 in respect of the land for the 1997 taxation year. O. Reg. 282/98, s. 8 (5); O. Reg. 105/00, s. 1 (2); O. Reg. 307/05, s. 1 (2).

(5.1) For 2004 and subsequent taxation years, land that is used to process maple sap is included in the farm property class if the following conditions are satisfied:

1. The land would be included in the farm property class if it were not used to process maple sap.
2. The maple sap is processed on the land into pure maple syrup or other pure maple products that contain no additives or preservatives.
3. At least 50 per cent of the maple sap processed on the land has been tapped from trees on land owned or leased by the farmer. O. Reg. 286/04, s. 1.

(5.2) For the purposes of subsection (5.1), the processing of maple sap includes the bottling or other packaging of pure maple syrup or pure maple products. O. Reg. 286/04, s. 1.

(5.3) REVOKED: O. Reg. 1/12, s. 2.

(5.4) For 2009 and subsequent taxation years, land that is used to process sour cherries is included in the farm property class if the following conditions are satisfied:

1. The land would be included in the farm property class if it were not used to process sour cherries.
2. The processing activities that occur on the land include cleaning, de-stemming, pitting, preserving or packing the sour cherries, but not the manufacture of products from sour cherries.
3. At least 50 per cent of sour cherries processed on the land had been harvested from trees on land owned or leased by the processor, or where the processor is a co-operative, on land owned or leased by its members. O. Reg. 370/09, s. 1.

(5.5) For 2011 and subsequent taxation years, land that is used as temporary housing for on-farm labourers is included in the farm property class if the following conditions are satisfied:

1. The housing is situated on land to which subsection 19 (5) of the Act applies and which is included in the farm property class.
2. The housing is not occupied on a year-round basis. O. Reg. 491/10, s. 1.

(6) In this section,

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“annual gross income” means the annual gross income as determined under subsection 1 (2) of Ontario Regulation 723/93 under the *Farm Registration and Farm Organizations Funding Act, 1993*; (“revenu brut annuel”)

“spouse” has the same meaning as in Part III of the *Family Law Act*. (“conjoint”) O. Reg. 282/98, s. 8 (6); O. Reg. 105/00, s. 1 (3); O. Reg. 307/05, s. 1 (3).

## ADDITIONAL RESOURCES

*Bringing Local Food Home: Legal, Regulatory and Institutional Barriers to Local Food*

Maureen Carter-Whitney, Canadian Institute for Environmental Law and Policy

(December, 2008). Friends of the Greenbelt Foundation. On-line:

[http://d3n8a8pro7vbm.cloudfront.net/greenbelt/pages/271/attachments/original/1381245924/Bringing\\_Local\\_Food\\_Home\\_-](http://d3n8a8pro7vbm.cloudfront.net/greenbelt/pages/271/attachments/original/1381245924/Bringing_Local_Food_Home_-)

[\\_Legal\\_Regulatory\\_and\\_Institutional\\_Barriers\\_to\\_Local\\_Food.pdf?1381245924](http://d3n8a8pro7vbm.cloudfront.net/greenbelt/pages/271/attachments/original/1381245924/Bringing_Local_Food_Home_-)

chapter on tax assessment

“Stakeholders identified property tax assessment as an additional barrier to local food production. Concerns were raised about the definition of a “farm” and how agricultural lands are assessed and taxed when value-added activities related to farming and producing local food, take place on those lands.” (p. 28)

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## Who is a 'farmer'?

### How farm properties are assessed



Source: Municipal Property Assessment Corporation <https://www.mpac.ca/PropertyTypes/Farm>

Video: “How MPAC Assesses Farm Properties”  
<https://www.youtube.com/watch?v=rT0cbmkjRtQ>

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It would be very unusual in Ontario to restrict the construction of a dwelling on a property already zoned for farming purposes in Ontario. Provincial land use policies found in the Provincial Policy Statement, 2014, define agricultural uses as including “associated on-farm buildings and structures, including... accommodation for full-time farm labour when the size and nature of the operation requires additional employment.”

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## Who is a 'farmer'?

<http://www.mah.gov.on.ca/AssetFactory.aspx?did=10463>

As such, virtually all Ontario municipalities permit one dwelling 'as of right' on lands zoned for agriculture, and may allow a second dwelling unit, subject to various conditions or criteria. Many places that allow a second dwelling, would include conditions which would prohibit a future severance, require a new dwelling to be in the existing farm building cluster, require the dwelling to be temporary, require the dwelling to be located in the same building, (i.e. an addition of an apartment or second unit). In some cases, they specific criteria related to the size and scale of the operation.

However, there are a couple very interesting exceptions you may wish to consider / review, which is closer to what you described in your question.

In Ontario, our guidelines related to our Minimum Distance Separation Formulae require that a new dwelling being built on a vacant lot must meet an MDS setback from a livestock facility on an adjoining property (see guideline #7 specifically). <http://www.omafra.gov.on.ca/english/landuse/mds.htm>. Municipalities can choose to opt out of this MDS provision, and about ½ allow the dwelling without meeting MDS. However, in many cases MDS would need to be met, and in some cases the size of the lot and the required setback might be such that a new dwelling might be prohibited on the vacant parcel; although in our experience this happens relatively infrequently.

The other interesting exception is in Oxford Co – which is tackling the issue you have raised directly. Oxford County has a provision in their Official Plan for 'existing undersized agricultural lots', (see policy 3.1.4.3) [http://www.oxfordcounty.ca/portals/15/Documents/CASPO/OfficialPlan/OP/Chap3\\_web.pdf](http://www.oxfordcounty.ca/portals/15/Documents/CASPO/OfficialPlan/OP/Chap3_web.pdf)

They are the only municipality in Ontario that I know of with such a policy. For their purposes, an "undersized agricultural lot" is generally defined as a lot less than 16 hectares in size. (It is important to note that to create a new agricultural lot, the threshold is higher). As well, any lot greater than 16 hectares would be permitted a dwelling, (as of right). If the existing undersized agricultural lot is vacant, (i.e. there is currently no dwelling on the property), a dwelling is not permitted by the zoning unless the applicant can demonstrate to the County that they will be an economically viable farm operation within 5 years. This requires a ZBA which is reviewed by the County, subject to criteria in the County OP. Someone from the County would be better positioned to explain how effective the policy framework is for them. I do know they have had some challenges in evaluating unique and unusual proposals in the past. However, the policy has been fairly effectively at deterring applications, (e.g. to build a dwelling on a 10 hectare lot that happens to be used for growing hay) and has meant that many of Oxford's smaller farm parcels have been retained, and not simply turned into 'large rural residential estate lots'.

Outside of land use planning approvals, we have criteria similar to other provinces that are used for property taxation purposes <http://www.omafra.gov.on.ca/english/policy/ftaxfaq.html> , and other programs.

Example:

Regional Municipality of Niagara Official Plan  
<https://www.niagararegion.ca/living/icp/policy-plan.aspx>

### Definitions

**A Bona Fide Farmer** is an individual who:

- a) owns, is employed on, and manages a farm operation;

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### Who is a 'farmer'?

- b) earns a majority of his/her income from farming (the scale of the farm operation should be capable of generating a reasonable operating profit under "normal" economic conditions);
- c) spends a majority of his/her working time on the farm and is available to work on the farm when required by the farm operation;
- d) demonstrates a continuing commitment to the farm operation, such as through farm maintenance practices, and investment in equipment, buildings, and crops; and
- e) for the purposes of this definition, a farmer is defined as the principal operator of the farm together with his/her spouse.

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## Who is a 'farmer'?

### Québec

Règlement sur l'enregistrement des exploitations agricoles et sur le paiement des taxes foncières et des compensations

O.C. 340-97, s. 2; O.C. 817-2007, s. 2.

On-line : <http://legisquebec.gouv.qc.ca/fr/pdf/cr/M-14,%20R.%201.pdf>

#### **DIVISION II**

#### **REGISTRATION OF AGRICULTURAL OPERATIONS**

**2. In order for an agricultural operation to qualify for registration, the person applying for registration shall prove that the agricultural operation has generated, during the preceding calendar year, a gross annual revenue equal to or greater than the minimum value of agricultural production necessary to qualify as a producer under the Farm Producers (chapter P-28) (the minimum value is 5 000 \$).**

For the purposes of the first paragraph, the gross revenue from the sale of wood shall be taken into account for only half of the minimum amount necessary to qualify for registration.

The gross revenue of an agricultural operation shall be considered equal to the minimum value referred to in the first paragraph

- (1) where the agricultural operation is registered for the first time or was registered for the first time during one of the 2 calendar years preceding the year during which an application for registration is made;
- (2) where development work has been done or undertaken with a view to producing the minimum gross revenue necessary for registration in the future, taking into account the special features of the production;
- (3) where a new type of production has been undertaken with a view to producing such revenue in the future, taking into account the special features of the production; or
- (4) where the production or sale of agricultural products is temporarily limited owing to exceptional natural causes or adverse market conditions.

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## Who is a 'farmer'?

### Prince Edward Island

PEI has a Bona Fide Farmer Status program, under the *Real Property Assessment Act*, which provides tax relief to bona fide farmers by providing farm assessment on land used in the farm enterprise.

#### DEFINITIONS

##### *Real Property Assessment Act* c. R-4

(c.1) “*bona fide farmer*” means

- (i) an individual who owns a farm and
  - (A) is actively engaged in farming, and
  - (B) earns
    - (I) at least \$10,000 of the individual’s gross annual income from farming,
    - or
    - (II) at least 25 per cent of the individual’s gross annual income from farming, if the individual does not earn at least \$10,000 of the individual’s gross annual income from farming,
- (ii) a corporation that owns a farm and
  - (A) is registered in this province,
  - (B) is actively engaged in farming, and
  - (C) earns
    - (I) at least \$10,000 of the corporation’s gross annual income from farming,
    - or
    - (II) at least 25 per cent of the corporation’s gross annual income from farming, if the corporation does not earn at least \$10,000 of the corporation’s gross annual income from farming,
- (iii) a partnership that owns a farm and
  - (A) is registered in this province,
  - (B) is actively engaged in farming, and
  - (C) earns
    - (I) at least \$10,000 of the partnership’s gross annual income from farming,
    - or
    - (II) at least 25 per cent of the partnership’s gross annual income from farming, if the partnership does not earn at least \$10,000 of the partnership’s gross annual income from farming, or
- (iv) an individual who is registered in the Future Farmer Program,

#### **Bona Fide Farmer Status Program**

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## Who is a 'farmer'?

**Farm Property** means arable land and complementary buildings, operated as a farm enterprise by a bona fide farmer. Farm property includes land leased from the Crown and operated as part of a farm enterprise, but **excludes** land leased or rented from owners who are not bona fide farmers, or land approved for sub-division as residential, recreational, commercial, industrial or institutional use.

A **Farm Enterprise** is:

a farm operation where a bona fide farmer has owned and operated **at least a 20-acre area** of farm property either for **more than 10 years**, or from which gross sales for the previous calendar year were **in excess of \$2,500**; or a poultry, hog, greenhouse, or market garden enterprise, owned and operated by a bona fide farmer, either for **more than 10 years**, or from which gross sales for the previous calendar year were **in excess of \$10,000**.

## TAX POLICY

### Application for Bona Fide Farmer Status ~ Property Assessment

#### Purpose

Pursuant to the *Real Property Assessment Act* R.S.P.E.I. 1998, the Bona Fide Farmer Status program provides tax relief to bona fide farmers by providing farm assessment on land used in the farm enterprise. If you are interested in this program, you may also wish to apply for a Marked Gasoline and Marked Diesel Oil Permit.

#### How the Program Works

Under the Bona Fide Farmer Status program, the assessed value of farm property is based on the class of clear or wooded land. The following shows the amount of assessment per acre for each class of farm assessment:

#### **Class Farm assessment per acre of clear land Farm assessment per acre of wooded land**

Class 2 land \$150 per acre \$75 per acre

Class 3 land \$100 per acre \$50 per acre

Class 4 land \$70 per acre \$35 per acre

Class 7 land \$30 per acre N/A

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## Who is a 'farmer'?

### Nova Scotia

Under the *Assessment Act*, Nova Scotia has a zero-taxation on all land that is classified as agricultural land. Farm buildings and residences are taxed at the residential rate.

#### ***Farm Registration Act***

R.S. c. 3

3 (1) (d) "farm business" means a farming business within the meaning of the Income Tax Act (Canada)

"Property Assessment for Taxation Purposes" Service New Brunswick. <https://www.gnb.ca/oag-bvg/2005v1/chap3e.pdf>

Farmland Real property five hectares or more in actual and bona fide use as farmland shall be assessed as farmland (other potential uses not considered)

#### **Property Tax Assessments for Farm Land and Buildings [Fact sheet]**

##### **Resource Kit for Nova Scotia Farmers**

<https://novascotia.ca/thinkfarm/documents/fsheets/24-property-tax.pdf>

The assessment categories used in conjunction with agricultural land are residential, resource and commercial. Farm buildings, including greenhouses, farm lands, woodlots and unmanaged lands, are all assessed as resource property. Farm residences are assessed as residential. Within the resource category there are three categories: farm lands, woodlands, and unmanaged lands.

Farm buildings and residences are taxed at the residential rate, managed woodlots pay a flat tax of \$0.25 per acre, land which is identified on the assessment rolls as agricultural land is given a tax exemption. All other land is taxed as resource. The resource rate is the same as the residential rate and tax rates are established by each municipality on an annual basis.

#### **The Tax Treatment of Farm Buildings**

Farm residences, including around one acre of land, are assessed at market value and taxed at residential rates. Farm buildings are assessed at market value and taxed at the resource rate, which is equivalent to the residential rate and is generally fifty percent of the commercial rate. However, farm-based processing or retail facilities will be taxed at the commercial rate.

#### **The Tax Treatment of Agricultural Land**

There is zero-taxation on all land that is classified as agricultural land. The exemption is not dependent on the land being owned by a registered farm business; in fact, it has been estimated

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## Who is a 'farmer'?

that one-third of the land that is tax exempt may not be owned by registered farm businesses.

The province pays a grant in lieu of taxes to each municipality to compensate for lands provided with the tax exemption. The program amounts to a deferral of taxes on farm land. The program stipulates that farmland which has received the exemption must make a payment if the use of the land is changed. The person changing the use from farmland to residential or commercial must pay 20% of the value of the land in its new use.

### *Assessment Act*

R.S., c. 23

<https://nslegislature.ca/sites/default/files/legc/statutes/assessment.pdf>

(g) "farm property" means the land and complementary buildings used for agricultural purposes but does not include any residential property and the land used in connection therewith

## FARM PROPERTY TAXATION

### **Farm property**

**46 (1)** All land, excluding any buildings or structures thereon, classified as farm property shall be exempt from taxation under this Act or any other public or private Act of the Legislature authorizing a tax on the assessed value of property.

**(2)** Farm property shall be assessed as resource property partly exempt from taxation pursuant to Section 40, but shall be separately identified and the number of acres to which this Section applies shall be set out on the roll.

**(3)** and **(4)** *repealed 1998, c. 18, s. 547.*

**(5)** and **(5A)** *repealed 1998, c. 13, s. 2.*

**(6)** to **(9)** *repealed 1998, c. 18, s. 547.*

**(10)** The assessor shall notify the clerk and the owner of the land of any assessment made pursuant to subsection (6).

**(11)** An assessment under subsection (6), a determination that land has ceased to be used for agricultural purposes and a determination of acreage under subsection (2) may be appealed in accordance with Sections 62 and 63.

**(12)** to **(15)** *repealed 1998, c. 18, s. 547.*

R.S., c. 23, s. 46; 1990, c. 19, s. 14; 1996, c. 5, s. 3; 1998, c. 13, s. 2; 1998, c. 18, s. 547.

## ADDITIONAL RESOURCES

Nova Scotia Federation of Agriculture. "Property Assessment Resource: Understanding How your Farm's Property Value is Determined in Nova Scotia." [https://nsfa-fane.ca/wp-content/uploads/2018/07/Property-Assessment-Resource-Assessment\\_Book\\_Final.pdf](https://nsfa-fane.ca/wp-content/uploads/2018/07/Property-Assessment-Resource-Assessment_Book_Final.pdf)

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## Who is a 'farmer'?

### New Brunswick

In addition to regulations defining agricultural land and agricultural operations, New Brunswick has a voluntary Farm Land Identification Program (FLIP), under the *Agricultural Land Protection and Development Act*, to register agricultural land. Registered agricultural land is eligible for a property tax reduction.

#### *Agricultural Land Protection and Development Act Chap. A-5.11*

“agricultural land” means

- (a) land being used in an agricultural operation, or
- (b) land that is not being used in an agricultural operation but that meets the criteria set by regulation as land suitable for use in an agricultural operation; (*terre agricole*)

“agricultural operation” means an agricultural operation that is carried on for gain or reward or in the hope or expectation of gain or reward, and includes

- (a) the clearing, draining, irrigating or cultivation of land,
- (b) the raising of livestock, including poultry,
- (c) the raising of fur-bearing animals,
- (d) the raising of bees,
- (e) the production of agricultural field crops,
- (f) the production of fruit and vegetables and other specialty horticultural crops,
- (g) the production of eggs and milk,
- (h) the operation of agricultural machinery and equipment, including irrigation pumps,
- (i) the preparation of a farm product for distribution from the farm gate, including cleaning, grading and packaging,
- (j) the on-farm processing of farm products for the purpose of preparing farm products for wholesale or retail consumption,
- (k) the storage, use or disposal of organic wastes for farm purposes,
- (l) the operation of pick-your-own farms, roadside stands, farm produce stands and farm tourist operations as part of a farm operation,
- (m) the application of fertilizers, conditioners, insecticides, pesticides, fungicides and herbicides, including ground and aerial spraying, for agricultural purposes, or
- (n) any other agricultural activity or process prescribed by regulation that is carried on for gain or reward or in the hope or expectation of gain or reward; (*opération agricole*)

#### **Farm Land Identification Program**

[https://www2.gnb.ca/content/gnb/en/services/services\\_renderer.14296.Farm\\_Land\\_Identification\\_Program\\_.html](https://www2.gnb.ca/content/gnb/en/services/services_renderer.14296.Farm_Land_Identification_Program_.html)

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## Who is a 'farmer'?

### 15. Overview

The program provides for the deferral of provincial property taxes on eligible farmland and outbuildings to encourage the preservation of real property for agricultural use.

### 16. Eligibility

Registration is open to all owners of real property. To be eligible, real property must meet certain criteria as established in the *Farm Land Identification Program Regulation*.

### 17. Description

The Farm Land Identification Program (FLIP) is a voluntary program administered by this department and other partner departments. The department evaluates applications and monitors the ongoing eligibility of registered properties. To be eligible, land must be in active use by an agricultural operation or if not in active use, it must be suitable (as defined in the Act) for use by an agricultural operation. Land will continue to be registered so long as it meets the above criteria.

The program provides for the deferral of the applicable provincial real property tax on the assessed value of registered farmland and farm outbuildings. The portion of the local or municipal tax rate that is above the average LSD [Local Service District] rate for the province is also deferred. Owners of farm properties must submit an application to be considered for registration. Registration is a long term commitment to maintain land in agricultural use. There may be substantial financial costs to exiting the program.

When a property registered in the Farm Land Identification Program is deregistered or withdrawn from the program by the assessed owner, the deferred taxes to a maximum of 15 previous years together with associated interest becomes due and payable.

The total amount of interest added to the deferred taxes payable upon deregistration or withdrawal on or after September 1, 2007 from the Farm Land Identification Program is limited to a maximum of 50% of the total taxes deferred.

[Note: The provincial real property tax rate of \$1.50 per \$100.00 of the assessed value of the farm land and/or outbuildings will be deferred so long as the property continues to qualify under the regulations.]

#### **Farm Land Identification Program Application Form**

[https://www2.gnb.ca/content/dam/gnb/Departments/10/pdf/Services/Agriculture/RegistryAgriculturalLand-FLIP\\_ApplicationForm.pdf](https://www2.gnb.ca/content/dam/gnb/Departments/10/pdf/Services/Agriculture/RegistryAgriculturalLand-FLIP_ApplicationForm.pdf)

Registry of Agricultural Land

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## Who is a 'farmer'?

Any land owner in the Province of New Brunswick may apply to have their agricultural land protected by registering it with the Minister of Agriculture, Aquaculture and Fisheries in the Registry of Agricultural Land under the Agricultural Land Protection and Development Act (ALPDA).

Eligibility criteria for the Registry of Agricultural Land:

To be eligible, land must be in active use by an agricultural operation or if the land is not in active use, it must be suitable for use by an agricultural operation. Land is deemed to be suitable for use according to the following criteria:

- i) be clear of trees, brush, or other obstructions that would restrict normal farming operations, unless the trees are producing trees such as apple, maple or are a managed Christmas tree plantation;
- ii) have a combination of soil texture, depth to compact layer, depth to bedrock, drainage, slope and climate which make it possible to sustain an agricultural operation.

Land will continue to be registered so long as it meets the above criteria. If the land ceases to be suitable for agricultural use, that is, if it is reverting to forest or if its use has been changed to non-agricultural, it may be deregistered. The land may also be voluntarily withdrawn at the request of the owner. Land in the registry will be identified using the Parcel Identification Number (PID) issued by Service New Brunswick.

### Farm Land Identification Program (FLIP)

Property owners may apply to have their land which is registered in the Registry of Agricultural Land also registered in the Farm Land Identification Program under the Real Property Tax Act. Farm outbuildings which are located on registered agricultural land and meet the eligibility criteria may also be registered in FLIP.

The Farm Land Identification Program (FLIP) has been in existence since 1979 and provides for the deferral of the provincial portion of real property taxes on eligible (cleared) agricultural land and farm outbuildings. The provincial real property tax rate of \$1.50 per \$100.00 of the assessed value of the farm land and/or outbuildings will be deferred so long as the property continues to qualify under the regulations.

Registered property may also have a reduction of the level of municipal and local taxes. Owners will pay municipal and LSD taxes only up to the average Local Service District rate in any year. The municipal taxes above that amount will be paid to the municipalities by the Minister of Agriculture, Aquaculture and Fisheries on behalf of the registered owners. It will become a loan to the Province. The LSD taxes above that amount will be added to the provincial taxes already deferred by FLIP. Both the loan and the deferred LSD taxes will be subject to the existing FLIP regulation. Where the LSD property tax rate is less than the average rate, the lower rate will apply.

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## Who is a 'farmer'?

When registered property ceases to meet the requirements of the regulation the deferred taxes may become payable with interest or it may be placed on "changing status" (see below for details).

### Eligibility Criteria for FLIP:

- i) Land must be registered in the Registry of Agricultural Land under the Agricultural Land Protection and Development Act.
- ii) Farm outbuildings must be located on land registered in the Registry of Agricultural Land under the Agricultural Land Protection and Development Act.
- iii) The property (land and farm outbuildings where applicable) must be in use by an agricultural operation, or the owner must be willing to make the property available for use by rent or lease, given a reasonable offer, and must allow such property to be advertised as being available for rent or lease, to be eligible for registration in FLIP.
- iv) The land does not have a subdivision plan registered in the Provincial Land Registry which will result in the removal of the property from agricultural use.

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## Who is a 'farmer'?

### iii. Newfoundland

Newfoundland has a Real Property Tax Exemption Program for Agricultural Land, under *The Municipalities Act*, which is designed to identify productive farm land and farm buildings used in connection with farm production that may be eligible for exemption from real property tax. The exemption may apply to people who are productively using agricultural land, whether it is owned, leased or rented.

#### DEFINITIONS

##### ***Farm Practices Protection Act* SNL2001 CHAPTER F-4.1**

(c) "farm operation" means an agricultural activity conducted by a farmer for gain or reward or with the expectation of gain or reward and includes

- (i) growing, producing, raising or keeping animals or plants or the primary products of those animals or plants,
- (ii) composting,
- (iii) clearing, draining, burning, irrigating or cultivating land,
- (iv) using farm machinery, including vehicles on public roads, equipment, devices, materials and structures,
- (v) applying fertilizers, manure, pesticides or biological control agents,
- (vi) operating farm produce stands or agricultural tourist operations, including U-Pick farms or roadside stands, and
- (vii) preparing farm products for distribution for wholesale or retail consumption including the cleaning, grading or packaging of those products;

(e) "farmer" means a person who owns or operates a farm operation and includes a person acting on his or her behalf

#### PROGRAMS and POLICIES

##### **Real Property Tax Exemption Program for Agricultural Land**

[https://www.faa.gov.nl.ca/agrifoods/land/land\\_use/propertytax.html](https://www.faa.gov.nl.ca/agrifoods/land/land_use/propertytax.html)

##### **Property Tax Exemption**

The Real Property Tax Exemption Program for Agricultural Land is designed to identify productive farm land and farm buildings used in connection with farm production that may be eligible for exemption from real property tax in accordance with the Municipalities Act. It may apply to individuals who are productively using agricultural land, whether it is owned, leased or rented.

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## Who is a 'farmer'?

### Program Objectives

- Encourage owners of idle land to put it into farm production.
- Provides some tax relief to farmers who have high assessments due to the relatively large amount of land that they require to operate effectively.

### How the program operates

The amount of land that may be eligible for exemption is based on the gross sales of agricultural products. In general, the higher the level of production, the more acres may be exempt. The exemption program is based on several assumptions. A significant portion of an individual's land may consist of rock, bog, steep slopes, etc., and would not be capable of agricultural production. Furthermore, because productivity varies greatly from one type of enterprise to another, the exemption formula is calculated using a low value, based on extensive agricultural use.

### Land eligibility under this program?

Qualification for eligibility under the Tax Exemption Program are:

- the land base must be used for the production of agricultural products;
- the land must be farmed by the individual applying for the exemption (in the case of rented land, however, the exemption will benefit the landlord);
- the applicant must produce a minimum of \$5,000.00 in annual gross sales from agricultural products in the year prior to the exemption year. The exemption does not include residences or 0.5 acres of land on which residences are located.

Applicants who qualify will be eligible for exemption on one acre per \$250.00 of gross sales beyond the \$5,000.00 level. For example, if a farm has gross sales of \$5,000.00, he would be eligible for exemption on 20 acres (ie: \$5,000.00 @ \$250 per acre= 20 acres). Similarly, a farm with gross sales of \$50,000.00 would be eligible for exemption on 200 acres.

It is also appreciated that a farmer may, from time to time, have a poor year due to adverse climate, poor markets, etc. As a result, the program incorporates an income averaging system whereby a farmer may equalize the gross sales figure from a poor year by averaging it with the two immediately preceding years.

If a landowner does not qualify under the above conditions, but rents a minimum of 5 acres to multiple patrons for agricultural purposes (eg. Garden plots, pasture), the rent received from the land may be used in place of gross agricultural sales.

Greenhouse operations are eligible for exemption provided the applicant submits an affidavit declaring that his income is filed with Revenue Canada Taxation as a farmer.

### New entrants and farmers expanding their land base

New entrants in agriculture and established farmers who have recently expanded their land base may also qualify for special consideration. Upon approval, farmers who are establishing or

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## Who is a 'farmer'?

expanding may qualify for exemption on their total land base regardless of their gross sales. This would be in effect for a maximum of five years from the time the land was acquired.

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## Best Case Timeline for MPS and LUB Adoption

Release and Adoption of Revised Draft Planning Documents

Municipality of the County of Kings

Revision Date: September 13, 2018

### Key Dates

**MPS Review - Deferred Motions**

**LUB Review**

**Edits to Documents (4 months)**

**Legal Review**

**Redline Release to PAC**

**Public Release**

**Final Public Participation Meeting**

**PAC Recommendation**

**Council First Reading**

**Public Hearing and Final Consideration**

**Municipal affairs review**

**1-2 meetings, Late September**

**2 meetings, October**

**November 2018 - February 2019**

**March-April 2019**

**May 2019**

**June 2019**

**July 2019**

**July 2019**

**August 2019**

**September 2019**

**90 days**

### September - October

2018

November 2018 - February 2019

March-April 2019

May 2019

June 2019

**MPS-LUB  
Complete review with  
PAC**

**Edits to documents**  
Production of redline documents

**Legal Review**  
Includes time  
to incorporate  
edits

**Release of staff edits  
to PAC**  
For review by PAC  
prior to public release

**Release of PAC  
redline docs to public**  
Following a motion  
at PAC

July 2019

July 2019

August 2019

September 2019

October-December  
2019

**Final Public Meeting**  
Formal meeting of  
PAC

**PAC  
Recommendation**

**Council First  
Reading**  
Could occur  
sooner if special  
Council called  
Dual approval  
starts

**Public Hearing  
and Adoption**

**Municipal Affairs  
Review**