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# COMMUNITY TENURES REGULATION 352/2004

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## PART 1 – Community Forest Agreements

### Eligible applicants

- 2.** For the purposes of section 43.2 (3) (c) of the Act, a community forest agreement may be entered into only with an applicant that is
- (SUB) Nov 28/16 (a) a society as defined in the *Societies Act*, if the society can demonstrate that it is not prohibited under section 2 (2) of that Act from holding a community forest agreement;
  - (SUB) Jun 09/11 (b) an association as defined in the *Cooperative Association Act*, if the association can demonstrate that holding a community forest agreement is consistent with the purposes of the association;
  - (SUB) Jun 09/11 (c) a company or an extraprovincial company;
  - (SUB) Jun 09/11 (d) a partnership, if the partnership is comprised of
    - (i) first nations,
    - (ii) municipalities or regional districts,
    - (iii) societies that comply with paragraph (a),
    - (iv) associations that comply with paragraph (b),
    - (v) companies or extraprovincial companies, or
    - (vi) a combination of any of the entities referred to in subparagraphs (i) to (v).  
[am. B.C. Reg. 104/2011, Sch. 3; 211/2015.]

### Applications

- 3.** (1) An application for a community forest agreement under section 43.2 (1) of the Act must
- (AM) May 25/18 (a) be made to the minister,
  - (AM) Jun 09/11 (b) be in the form and manner required by the minister, and
  - (AM) Sep 03/09 (c) include the following:
    - (i) a description of the Crown land proposed for inclusion in the community forest agreement area, if the Crown land was not described in the advertisement;
    - (ii) a description of any private land or reserve land proposed for inclusion in the community forest agreement area;
    - (iii) the name and type of organization, as described in section 2, or the name of the first nation, municipality or regional district that will hold the community forest agreement;
      - (iii.1) if the organization is a partnership, the name and type of organization, as described in section 2 (d), of each partner;
      - (iii.2) the governance model for the community forest agreement, including the structure and mandate of the management board or persons who will direct operations under or in respect of the agreement;
    - (iv) a plan for the management of forest resources in the proposed community forest agreement area that includes the following:

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- (A) a description of benefits to the community as a result of the proposed management;
  - (B) a description of benefits to forest resources as a result of the proposed management;
  - (C) a proposed allowable annual cut for the community forest agreement area;
  - (D) proposed management objectives for forest resources in the community forest agreement area;
  - (E) guiding principles for managing forest resources in the community forest agreement area;
  - (v) documentation of community awareness and support for the proposed community forest agreement, including a summary of the submissions received during, and the results of, a public review of the application conducted by the applicant;
  - (vi) other information required by the minister to the extent the information is relevant to the application.
- (AM)  
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(ADD)  
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- (2) Under section 43.52 of the Act, the minister
- (a) may change a boundary of a community forest agreement on application of the holder of the agreement or on the minister's own initiative, and
  - (b) may increase the area of a community forest agreement on application of the holder of the agreement.
- (ADD)  
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- (3) The holder of a community forest agreement may apply under subsection (2)
- (a) for a change of boundary of the community forest agreement only if the change will not result in the holder's change limit being exceeded, and
  - (b) for an increase in the area of a community forest agreement if
    - (i) a change of boundary is desired but the boundary change would result in the holder's change limit being exceeded, or
    - (ii) an increase in the area of the community forest agreement is desired.
- (ADD)  
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- (4) An application under subsection (2) for a change of boundary of a community forest agreement must
- (a) comply with subsection (5) (a), (f) and (g),
  - (b) describe the Crown land, private land or reserve land affected by the change of boundary,
  - (c) describe the reasons for the change of boundary, and
  - (d) indicate the following:
    - (i) how the change of boundary is in the best interests of the community and the public;
    - (ii) how the change of boundary will improve the management of forest resources;
    - (iii) the implications to the interests of the community and the public and the management of forest resources if the change of boundary is not made.
- (ADD)  
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- (5) An application under subsection (2) for an increase in the area of a community forest agreement must
- (a) be in the form and manner required by the minister,
  - (b) describe the Crown land, private land or reserve land by which the area of the community forest agreement is to be increased,
  - (c) describe the reasons for the increase of area,

- (d) include a plan for the management of forest resources that includes the following:
  - (i) for the area to be added to the community forest agreement area,
    - (A) a description of benefits to the community as a result of the proposed management in that area, and
    - (B) a description of benefits to forest resources as a result of the proposed management in that area;
  - (ii) for the community forest agreement area as increased under the application,
    - (A) a proposed allowable annual cut,
    - (B) proposed management objectives for forest resources, and
    - (C) guiding principles for managing forest resources,
- (e) if requested by the minister, include a plan for the management of forest resources that includes the matters described in paragraph (d) (i) for the community forest agreement area as increased under the application,
- (f) include documentation of community awareness and support for increasing the community forest agreement area, including a summary of the submissions received during, and the results of, a public review of the application conducted by the applicant, and
- (g) other information required by the minister to the extent the information is relevant to the application.

(ADD)  
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- (6) The minister may change a boundary of a community forest agreement on the minister's own initiative only if the change of boundary will not result in the minister's change limit in relation to the community forest agreement being exceeded.

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- (7) Section 7 does not apply to the minister making a change of boundary under subsection (6) of this section.

[am. B.C. Regs. 210/2009; 104/2011, Sch. 3; 101/2018, Sch. 2.]

#### Evaluation of applications

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- 4.** (1) If the minister is satisfied that an application under section 3 (1) meets the requirements of that section, the minister must evaluate the application by considering the following:

- (a) whether the proposed community forest agreement area is considered suitable for a community forest agreement;

(REP)  
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- (b) *Repealed.* [B.C. Reg. /2018, Sch. 2]

- (c) whether the application documents community awareness and support for the proposed community forest agreement;

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- (d) whether the plan for the management of forest resources in the proposed community forest agreement area

- (i) is suitable for managing the resources known to be present on the community forest agreement area, and
- (ii) is appropriate to achieve the goals established by the government for the community forest program.

- (e) whether the proposed governance model for the community forest agreement will ensure that operations under the community forest agreement are conducted in a manner that provides for meaningful input from the community and stakeholders;

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- (e.1) whether the proposed governance model supports the achievement of the goals established by the government for the community forest program;

- (f) the results of a public review of the application, including any actions taken or proposed to be taken by the applicant in response to concerns raised during the

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- public review;
- (g) whether entering into a community forest agreement would be in the best interest of the community and the public;
  - (h) any other information provided by the applicant as required by the minister.
- (2) If the minister is satisfied that an application for the purpose of section 3 (5) meets the applicable requirements under that section, the minister must evaluate the application by considering the following:
- (a) whether the land to be added to the community forest agreement area is suitable for a community forest agreement;
  - (b) whether the proposed plan under section 3 (5) (d) or (e), as applicable, for the management of forest resources in the area to be added to community forest agreement or in the area of the community forest agreement as increased under the application,
    - (i) is suitable for managing the resources known to be present in the applicable area,
    - (ii) will achieve the goals established by the government for the community forest program, and
    - (iii) will ensure that operations under the community forest agreement are conducted in a manner that provides for meaningful input from the community and stakeholders;
  - (c) the results of a public review of the application, including any actions taken or proposed to be taken by the applicant in response to concerns raised during the public review;
  - (d) whether the documentation of the public review demonstrates community awareness and support for the proposed increase in area;
  - (e) whether increasing the area of the community forest agreement would be in the best interests of the community and the public;
  - (f) other information provided by the applicant as required by the minister.
- (3) If the minister is satisfied that an application for the purpose of section 3 (4) meets the applicable requirements under that section, the minister must evaluate the application by considering the following:
- (a) whether changing the boundary of the community forest agreement area would be in the best interests of the community and the public;
  - (b) whether management of the forest resources in the community forest agreement area will be improved by changing the boundary;
  - (c) the results of a public review of the application, including any actions taken or proposed to be taken by the applicant in response to concerns raised during the public review;
  - (d) whether the documentation of the public review demonstrates community awareness and support for the proposed boundary change;
  - (e) other information provided by the applicant as required by the minister.
- [am. B.C. Reg. 210/2009; 101/2018, Sch. 2.]

(REP) **Repealed**  
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5. *Repealed.* [B.C. Reg. 210/2009]

**Direct award of community forest agreements**

6. (1)

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For the purposes of section 43.51 (1) (b) of the Act, the minister may enter into a community forest agreement with a person referred to in section 43.2 (3) of the Act or with a first nation if

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- (a) the person or first nation is invited by the minister to apply for the agreement and the minister is satisfied with the application,
- (b) any of the circumstances or requirements set out in subsection (3) apply, and
- (c) the minister evaluates the application in accordance with section 4 (1).

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(SUB)  
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(2) Section 3 (1) (c) applies to an application under subsection (1) of this section.

(3) For the purposes of subsection (1) the circumstances or requirements are any of the following:

(a) the person

(i) holds

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(A) *Repealed.* [B.C. Reg. /2018, Sch. 2]

(B) a forest licence that is not a non-replaceable licence as defined in section 80.1 of the Act, or

(C) a tree farm licence,

in respect of which

(D) rights under the licence are not under suspension, and

(E) all money

(I) required to be paid to the government under the circumstances set out in section 130 (1.1) of the Act, and

(II) due and payable to the government

in respect of the licence

(III) has been paid, or

(IV) is the subject of an arrangement for payment approved by the minister responsible for collecting the money, and

(ii) surrenders the licence on entering into the community forest agreement;

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(b) in the opinion of the minister, on the balance of probabilities it is unlikely that any other person would submit an application;

(c) in the opinion of the minister, entering into the agreement is in the public interest.

[am. B.C. Regs. 255/2007; 210/2009; 104/2011, Sch. 3; 101/2018, Sch. 2.]

**(SUB) Increase in area or change of boundary**

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7. (1) Subject to this section, under section 43.52 of the Act the minister may change the boundary or increase the area of a community forest agreement on application under section 3 of this regulation if the minister is satisfied that
- (a) rights under the agreement are not under suspension, and
  - (b) all money
    - (i) required to be paid to the government under the circumstances set out in section 130 (1.1) of the Act, and

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- (ii) due and payable to the government
- in respect
- of the
- agreement
- (iii) has been paid, or
  - (iv) is the subject of an arrangement for payment approved by the minister responsible for collecting the money.
- (2) On receiving an application under section 3 (2) for an increase in area under section 43.52 of the Act, and after complying with section 4 (2) of this regulation in respect of the application, the minister may increase the area of a community forest agreement if satisfied that
  - (a) the increase in area will
    - (i) improve forest resource management, or
    - (ii) achieve a development objective of the government or the holder,
  - (b) the increase in area will achieve the goals established by government for the community forest program, and
  - (c) the reasons for the increase in area are not contrary to the best interest of the community or the public.
- (3) On receiving an application under section 3 (2) for a change of boundary under section 43.52 of the Act, and after complying with section 4 (3) of this regulation in respect of the application, the minister may change the boundary of a community forest agreement if the minister is satisfied that the reasons for the change are not contrary to the best interest of the community or the public.

[en. B.C. Reg. 101/2018, Sch. 2.]