

Assessment of Local Legislative Framework for Protecting Farmland Village of Pemberton, British Columbia July, 2017

SUMMARY

Overall, the strength of the local legislative framework to protect farmland for the Village of Pemberton, British Columbia, is **somewhat strong**. The Village recognises protecting farmland and enhancing local agriculture. A commitment to Smart Growth principles combined with an Urban Growth Boundary that protects farmland increases the level of stability. However, there are weaknesses found in the Village's ability to minimise uncertainty with weak language in some policies, and a low level of integration across jurisdictions. The summary assessment table shows an overall rating of strength for the Village of Pemberton. A profile of the legislative framework is provided at the end of this report.

Strength of Local Legislative Framework: Summary Assessment

	Maximise Stability	Integrate Across Jurisdictions	Minimise Uncertainty	Accommodate Flexibility
Village of Pemberton, BC	****	***	***	****

*=Very weak; *****=Very strong

ABOUT THE SITE

The Village of Pemberton is located just north of Whistler in the Squamish-Lillooet Regional District (SLRD) (Figure 1). The Sea-to-Sky Highway (#99) passes through Pemberton, connecting it to Whistler to the southwest and then to Vancouver and to Lillooet and Highways 12 and 97 to the northeast.

The Village experienced very rapid population growth between 2001 and 2006 (Table 1). Much of this growth was accommodated by twice expanding the village boundaries. Although the growth rate has slowed over the past ten years, the demand for development remains moderate. The area is attractive for cultural events such as music festivals, outdoor recreation, and tourism.

Table 1. Population growth and land area, Pemberton, BC

	2001	2006	2011	2016
Population	1,642	2,192	2,434	2,574
5-year change (%)		33.5%	11.0%	5.8%
% change 2006-2016		17.4%		
% change 2001-2016			56.8%	
Land area (sq km)		4.45	10.89	61.42
5-year change			6.44	50.53
Total change				56.97

Rapid Assessment: Village of Pemberton, British Columbia

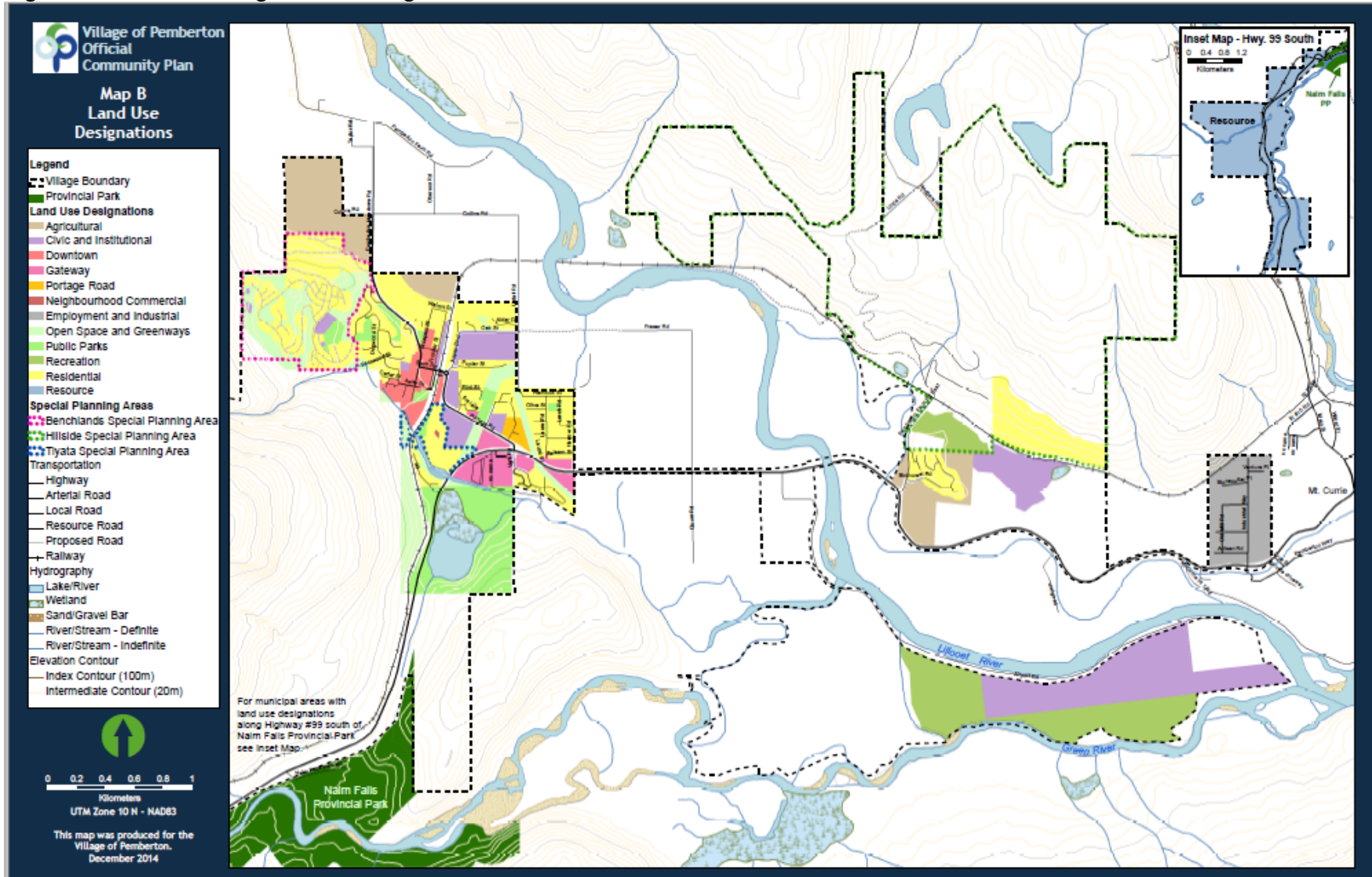
The Village is situated in a narrow fertile valley with steep mountains on either side that restricts urban growth and agricultural production to a small area. Land designated as Agricultural Land Reserve (ALR) accounts for approximately 7% of the total land area within the municipal boundaries of Pemberton (Figure 2). The Village is known for being the “seed potato capital of the world” and has a strict potato growing regime to ensure that the potato seeds produced in the area remain untouched by virus and other ailments through the process of being a designated Seed Potato Control Area.

Figure 1. Squamish-Lillooet Regional District Electoral Areas



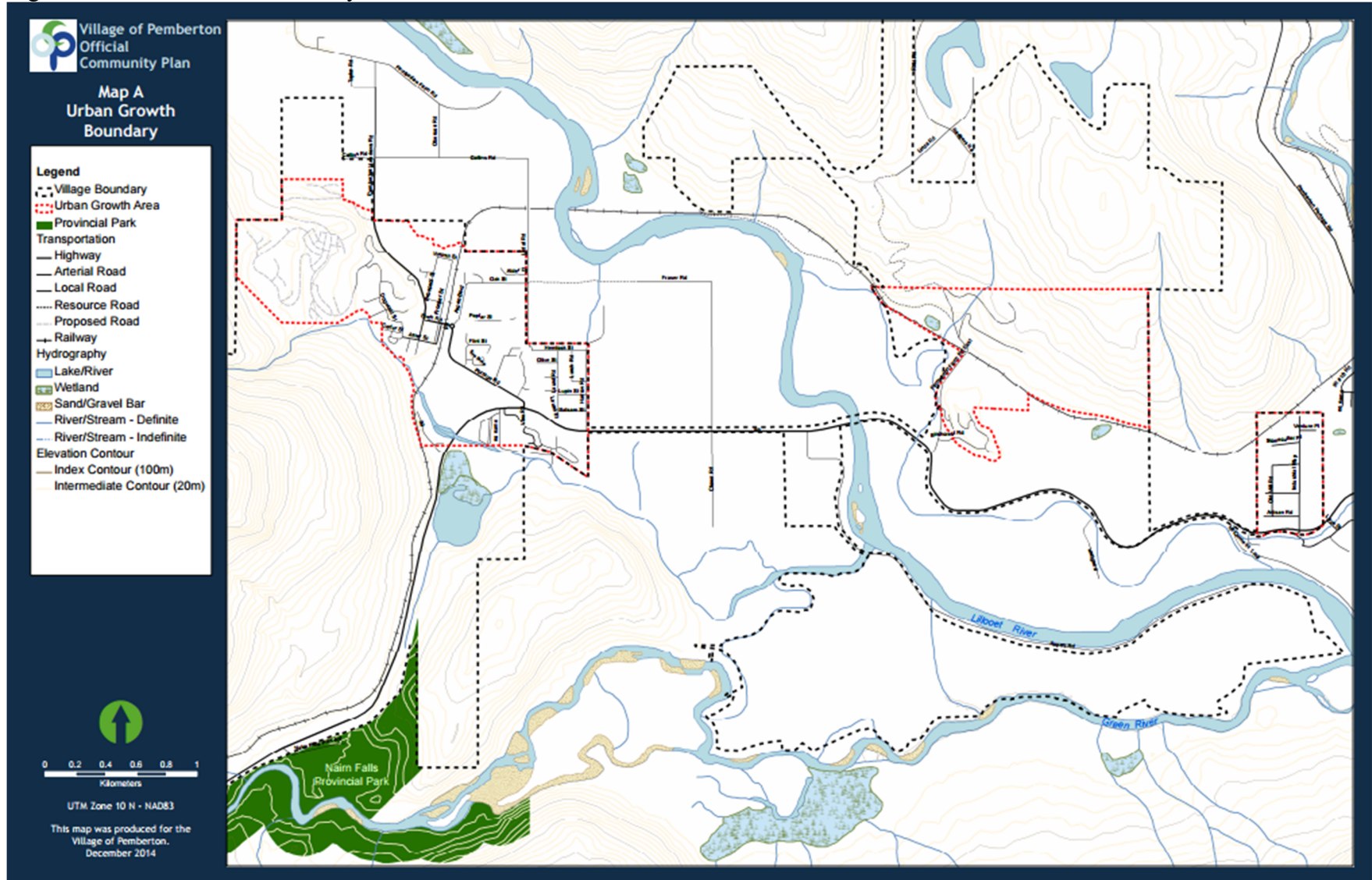
Source: Squamish-Lillooet Regional District Electoral Mapping

Figure 2. Land Use Designations, Village of Pemberton



Source: Village of Pemberton, 2014

Figure 3. Urban Growth Boundary



Source: Village of Pemberton, 2014

RESULTS

Maximise stability

A stable legislative framework for protecting farmland is one that is not easily changed at the whim of shifting political interests; it is well-entrenched in acts of legislation, policy, and governance structures that are based on clear, concise language, and can hold up to court challenge. A key element of stability is a clear statement of purpose regarding farmland protection among the primary goals and objectives within each enforceable document. Thus, stability is a critical measure of the strength of an agricultural land use planning framework.

The Village of Pemberton's legislative framework is strong for maximising stability. The Village has made an effort to preserve and enhance agricultural lands, and recognises the importance of agriculture to the social and economic integrity of the community. Most of the stability comes from the language in the Official Community Plan (OCP) regarding agricultural land. One of the first statements from the OCP is to "Preserve and facilitate the enhancement of productive farmland" (s.5.8.1). The adoption of Smart Growth development principles, which include the protection and enhancement of agricultural land, also contributes to a stable framework.

The commitment to agricultural land protection is enhanced by an Urban Growth Boundary (UGB) (Figure 3). Pemberton's UGB has been implemented with farmland protection in mind by excluding land within the ALR. The Village's use of an UGB reinforces the objective to "Ensure the continuation of long term agricultural use within the community and Enhance compatibility between agricultural and non-agricultural uses, whereby agricultural operations are not compromised due to urban development" (s.7.3.1). Coupled with Smart Growth principles, the UGB helps to solidify Pemberton's dedication to agricultural land protection.

While there are many positive aspects to Pemberton's legislative framework for farmland protection, the OCP and other documents provide minimal historical context and background on agriculture in the area. Furthermore, there were only four policies under the 'Agriculture and related businesses' section and they did not discuss agricultural land protection in depth.

Integrate public priorities across jurisdictions

Integrating policies and priorities across jurisdictions is a foundation for building cohesion across provincial, regional, and local governments. One can also think of integration as a formal "linkage" that provides consistency among them. In order to successfully integrate policies across jurisdictions there must be sufficient details about the legislative context that guides and constrains local government plans and strategies.

The Village of Pemberton refers to the Agricultural Land Commission (ALC) numerous times throughout the OCP. Many land-use decisions that may have an impact on agriculture are subject to the ALC and its rules and regulations, which is recognised in s. 5.8.2 of Pemberton's OCP. The ALC Act and regulations generally prohibit or restrict non-farm use and subdivision of ALR lands, unless otherwise permitted or exempted. The Village's plans and regulations also fall under the Agricultural Land Reserve Use, Subdivision and Procedure Regulation. The OCP also "recognizes that an agricultural plan for the Pemberton Valley will provide for new agricultural investment and the protection of the ALR." However, the agricultural plan has not been adopted by the Village of Pemberton.

The Village of Pemberton's OCP discusses the Regional Growth Strategy (RGS), which was developed in collaboration with the SLRD, and incorporates 'Regional Context' statements in its OCP. The Village OCP and the RGS focus on Smart Growth planning principles.

The Village of Pemberton's OCP does not mention the *Farm Practices and Protection Act*, which reduces the level of integration.

Minimise uncertainty

The presence of uncertainty, typically introduced via ambiguous language, exceptions or gaps, is a critical measure of the weakness of an agricultural land use planning framework. Thus, in addition to maximizing the stability of a legislative framework through enforceable policies, people want to know they can rely on these rules and regulations to be applied consistently under different circumstances.

The rating of the Village of Pemberton's legislative framework for minimising uncertainty is considered moderate. The Urban Growth Boundary (s.5.8.2-1) fortifies their commitment to preserving agricultural land by clearly indicating where development will take place. The UGB will allow agricultural land to be protected and take precedence over new development that encroaches on or near agricultural lands. As well, policies in the section on agriculture (s.5.8) are consistent with the Village's values regarding support for the agricultural sector.

The Village uses covenants on agricultural lands to ensure that significant buffers are provided between non-agricultural and agricultural lands. These buffers are within non-agricultural areas and will be guided by the ALC recommendations. A restrictive covenant is required to maintain and ensure the continuance of the buffer requirement over time. Any development shall also include a covenant that recognises that the agricultural use shall be protected, even if the buffer results in nuisances to the new development.

Some weak language in agricultural policies reduced the rating of this principle. For example, regarding buffers, s. 7.3.2-g states, "Densities and the intensity of new development proposals should be gradually reduced as they approach agriculturally designated land." While this statement is strong in principle, more reinforcing wording such as "shall", "must" and/or "required" would increase the strength of the development guidelines.

Accommodate flexibility

Creating an effective legislative framework is an act of balance, without being too stable so that it cannot be changed when needed or too strict so that it cannot be applied in a range of circumstances. Thus, flexibility is necessary in order to moderate the restrictive effects of maximizing stability and minimizing uncertainty. The means to accommodate flexibility is typically done through governance mechanisms.

The Village of Pemberton has ranked as strong regarding the accommodation of flexibility. In conjunction with the UGB, the Development Permit Area No 3: Enhancement of Agriculture (s. 7.3.2) plays a central role. The objectives of the policy are to "ensure the continuation of long term agricultural uses" and "enhance compatibility between agricultural and non-agricultural uses, whereby agricultural operations are not compromised due to new urban development. While the development guidelines are strong, one that stands out as weaker and could undermine the integrity of agricultural land is a guideline (s.7.3.2-i) that states, "Discourage, whenever possible, linear developments through the agriculturally designated lands. When unavoidable, ensure that their impacts on the agricultural lands are mitigated." Many of the guidelines have setbacks of buildings that would be developed adjacent or along agricultural lands.

On May 4, 2017, Village Council adopted a bylaw to create the Agricultural Enhancement Advisory Commission, whose purpose is to review and provide recommendations to council on agricultural related matters.

Rapid Assessment: Village of Pemberton, British Columbia

Table 2. Village of Pemberton, British Columbia, Legislative Framework

	POLICY	LEGISLATION	GOVERNANCE
PROVINCIAL	<p>ALC] <u>Annual Service Plans</u></p> <p>[MAL] <u>Strengthening Farming</u></p> <p>[ALC] ALR and Community Planning Guidelines</p> <p>[Smith] “Planning for Agriculture”</p>	<p><i>Agricultural Land Commission Act</i></p> <p><i>Local Government Act</i></p> <p><i>Farm Practices Protection (Right to Farm) Act</i></p> <p><i>Forest and Range Practices Act</i></p> <p><i>Range Act</i></p> <p><i>Land Title Act</i></p> <p><i>Water Act</i></p> <p>Agricultural Land Reserve Use, Subdivision, and Procedure Regulation</p>	<p>Agricultural Land Commission [ALC Act]</p> <p><i>Administrative Tribunals Act</i></p> <p>Governance Policy for the Agricultural Land Commission</p>
REQUIRED INTEGRATION	<p>LGA Part 25 849 Purpose of regional growth strategy</p> <p>(e) maintaining the integrity of a secure and productive resource base, including the agricultural land reserve</p>		
REGIONAL	<p>Pemberton and Area C Agricultural Area Plan (2012)</p> <p>Squamish-Lillooet Integrated Sustainability Plan (2013)</p> <p>Pemberton & Area Sub-regional Land Use Planning Study</p>	<p><i>Squamish-Lillooet Regional Growth Strategy</i> (Bylaw No. 1356, 2014) (<i>Amended version</i>)</p> <p><i>Electoral Area C Official Community Plan</i> (Bylaw No. 689, 1999) (<i>Consolidated Version</i>)</p> <p><i>Electoral Area C Zoning</i> (Bylaw No. 765, 2002)</p>	<p>Pemberton and Area C Agricultural Advisory Committee</p>
REQUIRED INTEGRATION	<p>ALC Act Section 46 Conflict with bylaws</p> <p>(2) A local government in respect of its bylaws and a first nation government in respect of its laws must ensure consistency with this Act, the regulations and the orders of the commission</p> <p>(4) A local government bylaw or a first nation government law that is inconsistent with this Act, the regulations or an order of the commission has, to the extent of the inconsistency, no force or effect</p> <p>ALC Act 13 Dispute resolution on community issues</p> <p>LGA Part 25 882 (3) (OCP) Adoption procedures 882</p> <p>The local government must refer the plan to the ALC for comment.</p> <p>LGA Part 25 946 (3) Subdivision to provide residence for a relative</p>		
LOCAL	<p>Pemberton Valley Agricultural Area Plan (2009)</p> <p>Pemberton Valley Land Use Inventory Report (2009)</p>	<p><i>Village of Pemberton Official Community Plan</i> (Bylaw No. 654, 2011)</p> <p><i>Village of Pemberton Zoning</i> (Bylaw No. 746, 2013)</p> <p><i>Agricultural Enhancement Advisory Commission Establishment</i> (Bylaw No. 815, 2017)</p>	<p>Pemberton Agricultural Enhancement Advisory Commission</p> <p>Pemberton Advisory Planning Commission</p> <p>Pemberton Advisory Land Use Commission</p>

Acts (provincial laws), bylaws (local government laws, e.g., official municipal plan) [italicised]

Enforceable policy, regulations pursuant to acts [bold]

Aspirational policy at all levels [plain text]