

**CHAPTER # 323 [RS 1996]****LOCAL GOVERNMENT ACT**

-- Sections 903 - 908 of Part 26, Division 7 --

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**Zoning bylaws**

- 903. (1)** A local government may, by bylaw, do one or more of the following:
- (a) divide the whole or part of the municipality or regional district into zones, name each zone and establish the boundaries of the zones;
  - (b) limit the vertical extent of a zone and provide other zones above or below it;
  - (c) regulate within a zone
    - (i) the use of land, buildings and other structures,
    - (ii) the density of the use of land, buildings and other structures,
    - (iii) the siting, size and dimensions of
      - (A) buildings and other structures, and
      - (B) uses that are permitted on the land, and
    - (iv) the location of uses on the land and within buildings and other structures;
  - (d) regulate the shape, dimensions and area, including the establishment of minimum and maximum sizes, of all parcels of land that may be created by subdivision, in which case
    - (i) the regulations may be different for different areas, and
    - (ii) the boundaries of those areas need not be the same as the boundaries of zones created under paragraph (a).
- (2) The authority under subsection (1) may be exercised by incorporating in the bylaw maps, plans, tables or other graphic material.
- (3) The regulations under subsection (1) may be different for one or more of the following, as specified in the bylaw:
- (a) different zones;
  - (b) different uses within a zone;
  - (c) different locations within a zone;
  - (d) different standards of works and services provided;
  - (e) different siting circumstances;
  - (f) different protected heritage properties.
- (4) The power to regulate under subsection (1) includes the power to prohibit any use or uses in a zone.
- (5) Despite subsections (1) to (4) but subject to subsection (6), a local government must not exercise the powers under this section to prohibit or restrict the use of land for a farm business in a farming area unless the local government receives the approval of the minister responsible for the administration of the *Farm Practices Protection (Right to Farm) Act*.
- (6) The minister responsible for the *Farm Practices Protection (Right to Farm) Act* may make regulations
- (a) defining areas for which and describing circumstances in which approval under subsection (5) is not required, and
  - (b) providing that an exception under paragraph (a) is subject to the terms and conditions specified by that minister.
- (7) Regulations under subsection (6) may be different for different regional districts, different municipalities, different areas and different circumstances.
- RS1979-290-963; 1993-58-4; 1994-43-70; 1995-23-19; 2000-7-151; 2003-52-385.

**Zoning for amenities and affordable housing**

- 904. (1)** A zoning bylaw may
- (a) establish different density regulations for a zone, one generally applicable for the zone and the other or others to apply if the applicable conditions under paragraph (b) are met, and
  - (b) establish conditions in accordance with subsection (2) that will entitle an owner to a higher density under paragraph (a).
- (2) The following are conditions that may be included under subsection (1) (b):

- (a) conditions relating to the conservation or provision of amenities, including the number, kind and extent of amenities;
  - (b) conditions relating to the provision of affordable and special needs housing, as such housing is defined in the bylaw, including the number, kind and extent of the housing;
  - (c) a condition that the owner enter into a housing agreement under section 905 before a building permit is issued in relation to property to which the condition applies.
- (3) A zoning bylaw may designate an area within a zone for affordable or special needs housing, as such housing is defined in the bylaw, if the owners of the property covered by the designation consent to the designation.
- RS1979-290-963.1; 1993-58-4; 1994-43-71.

#### **Housing agreements for affordable and special needs housing**

- 905.** (1) A local government may, by bylaw, enter into a housing agreement under this section.
- (2) A housing agreement may include terms and conditions agreed to by the local government and the owner regarding the occupancy of the housing units identified in the agreement, including but not limited to terms and conditions respecting one or more of the following:
- (a) the form of tenure of the housing units;
  - (b) the availability of the housing units to classes of persons identified in the agreement or the bylaw under subsection (1) for the agreement;
  - (c) the administration and management of the housing units, including the manner in which the housing units will be made available to persons within a class referred to in paragraph (b);
  - (d) rents and lease, sale or share prices that may be charged, and the rates at which these may be increased over time, as specified in the agreement or as determined in accordance with a formula specified in the agreement.
- (3) A housing agreement may not vary the use or density from that permitted in the applicable zoning bylaw.
- (4) A housing agreement may only be amended by bylaw adopted with the consent of the owner.
- (5) If a housing agreement is entered into or amended, the local government must file in the land title office a notice that the land described in the notice is subject to the housing agreement.
- (6) Once a notice is filed under subsection (5), the housing agreement and, if applicable, the amendment to it is binding on all persons who acquire an interest in the land affected by the agreement, as amended if applicable.
- (7) On filing under subsection (5), the registrar must make a note of the filing against the title to the land affected but, in the event of any omission, mistake or misfeasance by the registrar or the staff of the registrar in relation to the making of a note of the filing,
- (a) neither the registrar, nor the Provincial government nor the Land Title and Survey Authority of British Columbia is liable vicariously,
  - (a.1) neither the assurance fund nor the Land Title and Survey Authority of British Columbia, as a nominal defendant, is liable under Part 19.1 of the *Land Title Act*, and
  - (b) neither the assurance fund nor the minister charged with the administration of the *Land Title Act*, as a nominal defendant, is liable under Part 20 of the *Land Title Act*.
- (8) The Lieutenant Governor in Council may prescribe fees for the filing of notices under subsection (5), and section 386 of the *Land Title Act* applies in respect of those fees.

RS1979-290-963.2; 1993-58-4; 1998-34-197; 2004-66-153.

#### **Jun 21/07 Phased development agreements**

- 905.1**(1) In this section and in sections 905.2 to 905.5:
- "**developer**" means an owner of land who enters into, or who by assignment becomes a party to, a phased development agreement;
- "**development**" means a development on land owned by a developer and

described in a phased development agreement;

**"phased development agreement"** means a phased development agreement under this section;

**"specified zoning bylaw provision"** means a provision of a zoning bylaw that is specified under subsection (3) of this section for a phased development agreement.

- (2) A local government may, by bylaw, enter into a phased development agreement with a developer.
- (3) A phased development agreement must identify the land that is being developed and specify the provisions of a zoning bylaw to which subsection (5) applies while the agreement is in effect.
- (4) A phased development agreement may include additional terms and conditions agreed to by the local government and the developer, including but not limited to terms and conditions respecting one or more of the following:
  - (a) the inclusion of specific features in the development;
  - (b) the provision of amenities;
  - (c) the phasing and timing of the development and of other matters covered by the agreement;
  - (d) the registration of covenants under section 219 of the *Land Title Act*;
  - (e) subject to section 905.4 (3), minor amendments to the agreement, including a definition of "minor amendment" for the purpose of the agreement;
  - (f) dispute resolution between the parties;
  - (g) early termination of the agreement, either automatically in the event that terms and conditions are not met or by mutual agreement.
- (5) Subject to subsection (6), if the specified zoning bylaw provisions are amended or repealed while the agreement is in effect, those changes do not apply to the development unless the developer agrees in writing that the changes apply.
- (6) The following changes to the specified zoning bylaw provisions apply to the development without the written agreement of the developer:
  - (a) changes to enable the local government to comply with an enactment of British Columbia or of Canada;
  - (b) changes to comply with the order of a court or arbitrator or another direction in respect of which the local government has a legal requirement to obey;
  - (c) changes that, in the opinion of the local government, are necessary to address a hazardous condition of which the local government was unaware at the time it entered into the phased development agreement.
- (7) Subject to subsection (8), if a specified zoning bylaw provision is a provision under section 903 (1) (c) (iii) [*zoning bylaws*], a development permit under section 920 [*development permits*] that
  - (a) varies the siting, size or dimensions of buildings and other structures, or
  - (b) varies the siting, size or dimensions of uses that are permitted on the land

does not apply to the development unless the developer agrees in writing that the development permit will apply.

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- (8) Subsection (7) does not apply to a development permit for land designated under section 919.1 (1) (a) to (c) and (h) to (j) [*designation of development permit areas*], if the development permit is approved by the inspector.
- (9) For certainty, if a matter included in a phased development agreement is specifically authorized under another section of this Part or Part 27 [*Heritage Conservation*], the requirements that would apply in relation to that matter under those sections continue to apply.

2007-6-23 (B.C. Reg. 190/2007); 2008-23-21.

#### Jun 21/07 **Term and assignment of phased development agreement**

- 905.2(1)** Subject to subsection (2), the maximum term for a phased development agreement is 10 years.
- (2) With the approval of the inspector, a local government may enter into a phased development agreement for a term not exceeding 20 years.
- (3) Subject to subsection (2), a phased development agreement may be renewed or extended, as long as the renewal or extension will not make the agreement

effective for a period that could exceed 20 years.

- (4) A phased development agreement may not require the local government to renew or extend a phased development agreement or enter into a subsequent phased development agreement for the same development.
- (5) The developer may assign a phased development agreement to a subsequent owner of the land identified in the agreement only if
  - (a) the subsequent owner is identified in the agreement,
  - (b) the subsequent owner is a member of a class of persons identified in the agreement, or
  - (c) the local government agrees to the assignment.

2007-6-23 (B.C. Reg. 190/2007).

#### Jun 21/07 **Process for phased development agreement bylaw**

- 905.3**(1) Subject to subsections (2) to (4), the local government must hold a public hearing in accordance with Division 4 [*Public Hearings on Bylaws*] before adopting a bylaw under section 905.1 [*phased development agreements*].
- (2) In addition to the notice requirements of section 892 (2) [*notice of public hearing*], the notice of the public hearing must include the following:
    - (a) the name of the developer;
    - (b) a general description of the specified zoning bylaw provisions for the phased development agreement;
    - (c) the term of the phased development agreement;
    - (d) a general description of the nature of the development that will be the subject of the phased development agreement;
    - (e) if the phased development agreement provides for the assignment of the agreement to a subsequent owner of the land that is identified in the agreement, the conditions under which the assignment may occur;
    - (f) any other information required by regulation.
  - (3) Section 890 (4) [*waiver of public hearings*] does not apply to a public hearing under subsection (1) of this section.
  - (4) Despite section 135 (3) [*at least one day between third reading and adoption*] of the *Community Charter*, a local government may adopt a phased development agreement bylaw at the same meeting at which the bylaw passed third reading.

2007-6-23 (B.C. Reg. 190/2007).

#### Jun 21/07 **Amendments to phased development agreement**

- 905.4**(1) Subject to subsections (2) to (4), if the local government and the developer agree, a phased development agreement may be amended in accordance with this section.
- (2) If the phased development agreement provides for minor amendments, the local government may agree to a minor amendment by resolution.
  - (3) The following matters may not be dealt with as minor amendments to the phased development agreement:
    - (a) the specified zoning bylaw provisions;
    - (b) provisions regarding the assignment of the agreement to a subsequent owner;
    - (c) the term of the agreement, unless the amendment will reduce the length of the term;
    - (d) renewal or extension of the agreement;
    - (e) the land that is the subject of the agreement;
    - (f) the definition of "minor amendment" for the purpose of the agreement.
  - (4) An amendment to a phased development agreement, other than a minor amendment, must be adopted by bylaw, and sections 905.1 to 905.3 apply to the bylaw.

2007-6-23 (B.C. Reg. 190/2007).

#### Jun 21/07 **Information that must be available for public inspection**

- 905.5** The following must be made available for public inspection at the local government offices during regular office hours:
- (a) the phased development agreement;
  - (b) any amendments to the phased development agreement;

- (c) any agreements, permits, plans or other documents that are incorporated into the phased development agreement, whether directly or by reference.

2007-6-23 (B.C. Reg. 190/2007).

May 29/08 **Off-street parking and loading space requirements**

- 906.** (1) A local government may, by bylaw,
- (a) require owners or occupiers of any land or building or other structure to provide off-street parking and loading spaces for the building or other structure, or the use of the land, building or other structure, including spaces for use by disabled persons,
  - (b) establish design standards for spaces required under paragraph (a), including standards respecting the size, surfacing, lighting and numbering of the spaces,
  - (c) permit off-street parking spaces required under paragraph (a) to be provided, other than on the site of the building or other structure or use, under conditions that are specified in the bylaw, and
  - (d) as an alternative to complying with a requirement to provide off-street parking spaces under paragraph (a), permit, at the option of the owner or occupier of the land or building or other structure, the payment to the municipality or regional district of an amount of money specified in the bylaw.
- (2) Money referred to in subsection (1) (d) is payable
- (a) at the time the building permit is issued for the applicable building or other structure, or
  - (b) if no building permit is required, at the time the use that requires the parking space specified in the bylaw begins.
- (3) A bylaw under this section may make different provisions for one or more of the following:
- (a) different classes of uses, or of buildings or other structures as established by the bylaw;
  - (b) subject to subsection (4), different activities and circumstances relevant to transportation needs that are related to
    - (i) a use,
    - (ii) a building or other structure, or
    - (iii) a class of use or of buildings or other structures as established by the bylaw;
  - (c) different areas;
  - (d) different zones;
  - (e) different uses within a zone.
- (4) A provision under section (3) (b) must not increase the number of off-street parking spaces required under subsection (1) (a).
- (5) A provision under subsection (3) that establishes requirements with respect to the amount of space for different classes does not apply with respect to
- (a) land, or
  - (b) a building or other structure existing at the time the bylaw came into force,
- so long as the land, or building or other structure, continues to be put to a use that does not require more off-street parking or loading spaces than were required for the use existing at the time the bylaw came into force.
- (6) A bylaw under this section may exempt one or more of the following from any provisions of such a bylaw:
- (a) a class of use, or of buildings or other structures, as established by the bylaw;
  - (b) an activity or circumstance relevant to transportation needs that is related to
    - (i) a use,
    - (ii) a building or other structure, or
    - (iii) a class of use or of buildings or other structures as established by the bylaw;
  - (c) a use, or building or other structure, existing at the time of the adoption of a bylaw under this section.
- (7) If money is received by a municipality or regional district under subsection (2), the municipality or regional district must



- (a) establish a reserve fund for the purpose of providing
    - (i) new and existing off-street parking spaces, or
    - (ii) transportation infrastructure that supports walking, bicycling, public transit or other alternative forms of transportation, and
  - (b) place the money to the credit of the reserve fund.
- (8) If reserve funds are established for both the purpose of subsection (7) (a) (i) and the purpose of subsection (7) (a) (ii), the reserve funds must be separate.
- (9) Before June 30 in each year, a local government must prepare and consider a report respecting the previous year in relation to the reserve funds required under this section, including the following information separately for each of the purposes established under subsection (7):
  - (a) the amounts received under subsection (2) in the applicable year;
  - (b) the expenditures from the reserve funds in the applicable year;
  - (c) the balance in the reserve funds at the start and at the end of the applicable year;
  - (d) the projected timeline for future projects to be funded from the reserve funds.
- (10) The local government must make a report under subsection (9) available to the public from the time it considers the report until June 30 in the following year.

2008-23-22.

**Runoff control requirement**

Oct 20/97

- 907.** (1) A local government may, by bylaw, require that an owner of land who carries out construction of a paved area or roof area, manage and provide for the ongoing disposal of surface runoff and storm water in accordance with the requirements of the bylaw.
- (2) A local government may, by bylaw, establish the maximum percentage of the area of land that can be covered by impermeable material.
- (3) A bylaw under subsection (1) or (2) may be different for
- (a) different zones,
  - (b) different uses in zones,
  - (c) different areas in zones,
  - (d) different sizes of paved or roof areas, and
  - (e) different terrain and surface water or groundwater conditions.

1997-24-10 (B.C.Reg. 354/97).

**Regulation of signs**

Dec 31/04

- 908.** (1) Subject to the *Transportation Act* and section 135 of the *Motor Vehicle Act*, a local government may, by bylaw, regulate the number, size, type, form, appearance and location of any signs.
- (2) A bylaw under subsection (1) may contain different provisions for one or more of the following:
- (a) different zones;
  - (b) different uses within a zone;
  - (c) different classes of highways.
- (3) The power in subsection (1) to regulate includes the power to prohibit, except that a sign that is located on a parcel and relates to or identifies a use on that parcel must not be prohibited.

RS1979-290-967; 1985-79-8; 1987-14-31; 2004-44-126.