

# A Guide to Local Government Actions Requiring Approval by the Province

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Governance and Structure Branch



Ministry of Municipal Affairs and Housing

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## **Introduction**

### **Scope, organization and limitations**

This guide lists instances where a local government (municipal or regional district) bylaw, plan, or action requires the approval of the Lieutenant Governor in Council (the Government), a provincial minister or official, or the Inspector of Municipalities (Inspector).

**Part I** lists approvals required from the Ministry of Municipal Affairs and Housing.

**Part II** lists approvals required from other ministries.

Within each part, approvals are organized according to theme.

This guide includes basic approvals that are applicable throughout the province, but typically will not include consistency requirements with provincial regulations or policies, filing requirements, or provincial permit or license requirements. Also, the list does not include approval requirements that are specific to individual local governments.

The guide is designed as a quick reference to the applicable enactments. It simply summarizes approval requirements; please check legislation through [www.bclaws.ca](http://www.bclaws.ca). Please do not rely on this guide for accuracy.

### **Regulatory exemptions from approval requirements**

Some approval requirements expressly provide for regulations to be made for exemptions from the approval requirement [e.g., [Community Charter](#) (CC), s. 9(4), [Local Government Act](#) (LGA) s. 552(4)]. Even without express provisions, exemptions from the approvals may be made under the general exemption powers in CC, s. 280 and LGA, s. 249. So it is important to check not only the legislation, but also the regulations. This guide notes a number of such regulations.

### **Timing and sequence of bylaw approvals**

If a municipal or regional district bylaw requires the approval of the Government, a minister or the Inspector, approval must be obtained after the bylaw has been given third reading and before it is adopted [CC, s. 135(4) and LGA s. 227].

If a municipal or regional district bylaw requires two different approvals, namely the Government, a minister, or the Inspector and that of the electors, then the former must be obtained first [CC, s. 135(5) and LGA, s. 227].

## **PART I: Approvals by the Minister of Municipal Affairs and Housing**

The following actions require approval by the Minister of Municipal Affairs and Housing, the Inspector, or the Government.

### **Elections and Electors Approval**

#### Elections

After the 29<sup>th</sup> day before an election, a candidate may only withdraw by delivering a signed request to withdraw to the chief election officer and receiving the approval of the minister [LGA, s. 101].

If approved by the Government, a municipal council may adopt a bylaw that establishes neighbourhood constituencies and provides for a transition to a neighbourhood constituency system [LGA, s. 53(4)].

A municipal or regional district bylaw for the use of automated voting machines that includes provisions other than those outlined in section 112(2) of the LGA requires ministerial approval [LGA, s. 112(4)].

#### Electors Approval

The minister can approve waiving the electors approval requirement for the amendment or repeal of bylaws or agreements that were adopted with electors approval, on terms and conditions the minister considers appropriate [CC, s. 137(2) and LGA s. 227] [CC, s. 88(2) and LGA, s. 270].

The minister's authority to waive electors approval requirements in these circumstances does not apply to regional district bylaws establishing services [LGA, s. 349(6)], because s. 349 sets up specific rules.

Only with approval of the minister can a municipal or regional district bylaw that did not receive required electors assent be resubmitted to the electors within 6 months of the last attempt [LGA, s. 171(2) and CC, s. 85(2)].

### **Local Government Services**

#### Regional district services establishing bylaws

Establishing bylaws to operate a regional district service must be approved by the Inspector [LGA, s. 342(1)(a)].

A regional district bylaw amending or repealing an establishing bylaw must be approved by the Inspector [LGA, s. 349(3)].

The [Regional Districts Establishing Bylaw Approval Exemption Regulation](#), B.C. Reg. 113/2007, provides two approval exceptions in specified circumstances; adding or removing parcels from the boundaries of service areas; and a limited increase to the requisition limit (less than or equal to 25% of baseline value).

#### Services outside the regional district

To establish a service outside of its regional district, a regional district must obtain the consent of the affected local government and the approval of the Government [LGA, s. 333(1)].

### Agreements with other public authorities

An agreement regarding the provision and operation of works and services between a regional district board and a public authority in another province requires Minister's approval [LGA, s. 264(1)].

An agreement regarding the provision and operation of works and services between a municipal council or a regional district board and a public authority in another country requires the approval of the Government [CC, s. 23(2) and LGA, s. 264(2)].

## **Financial Management**

### Municipal liability limits

Only with the approval of the Inspector can a municipality exceed the established limit established by the Government regulation on the aggregate liabilities and debt servicing costs that municipalities may incur [CC, s. 174(4)].

### Short term capital borrowing

A municipal council or regional district board may, by bylaw adopted with the approval of the Inspector, contract a short term debt (5 years or less) for a purpose of a capital nature [CC, s. 178(1) and LGA s. 405(1)].

### Loan authorization bylaws

A municipal council or regional district board may by bylaw adopted with approval by the Inspector, incur long term liabilities for a number of specified purposes [CC, s. 179(1) and LGA s. 403(1)].

Electors approval requirement for a municipal loan authorization bylaw amendment or repeal can be waived with the approval of the minister [CC, s. 137(2)] or, alternatively, with the approval of the Inspector [CC, s. 180(3)].

Any amendment or repeal of a regional district loan authorization bylaw requires Inspector approval [LGA, ss. 406(3) and 349(3)].

### Use of money in reserve funds

If a municipal council or a regional district board receives money from development cost charges or the sale of parkland, the money must be placed in a reserve fund. Approval by the minister is required to transfer money out of such funds [CC, s. 189(5) and LGA s. 377(1)].

A regional district board requires the approval of the Inspector to adopt a bylaw to use money in a reserve fund where current revenue is not sufficient to pay compensation for property that is expropriated or damaged or to carry out works to mitigate damage [LGA, s. 377(2)(c)].

### Variable tax rates

A regional district board may, by bylaw adopted with the approval of the Inspector, establish an annual variable tax rate system for a specified taxation year [LGA, s. 390(5)].

### Powers of local authority in declared state of local emergency

A local authority (municipality or a regional district for an electoral area) may, during or within 60 days after declaring a state of local emergency, by bylaw ratified by the minister responsible for the administration of the *Community Charter* but without obtaining the approval of the electors or the assent of the electors, borrow any money necessary to pay expenses caused by the emergency [[Emergency Program Act](#), s. 13(6)].

## Land Use Planning and Regulation

### Phased development agreements

The maximum term for a phased development agreement is 10 years, but a local government may enter into a phased development agreement for a term of up to 20 years with inspector approval [LGA, s. 517(2)].

Once a local government has entered into a phased development agreement within a development permit area, it cannot issue a development permit varying the siting, size or dimensions set in a zoning bylaw specified under the agreement unless the developer agrees to the changes in writing [LGA, s. 516(7)]. This limitation of the use of development permits does not apply in relation to land in specified development permit areas such as preserving the natural environment and water conservation, if the development permit is approved by the Inspector [LGA, s. 516(7) and (8)].

### Development cost charges

A municipal council or regional district board may, by bylaw, impose development cost charges for specified purposes on every person who obtains approval of a subdivision or a building permit [LGA, s. 559(1)]. A bylaw imposing development cost charges requires inspector approval [LGA, s. 560(1)]. Currently an exemption Regulation applies under certain circumstances [[Development Cost Charge Amendment Bylaw Approval Exemption Regulation](#), B.C. Reg. 130/2010 and CC s. 280(2) and (3)].

Development cost charges may be imposed for the purpose of providing funds to assist the local government with the “capital costs” of specified works and infrastructure. “Capital costs” include directly related interest costs if approved by the Inspector [LGA, s. 558(b)].

### Growth strategies applicable to portions of regional districts or several regional districts

A regional growth strategy that applies to only part of a regional district or that is developed jointly by two or more regional districts must be authorized by the minister, who may establish terms and conditions and provide directions regarding the regional district service in relation to a regional growth strategy [LGA, s. 430(2)-(4)]. This type of strategy must be authorized before its preparation is initiated [LGA, s. 433(2)].

### Minister approval of certain land use bylaws if regulation in place

Regional districts may be required to obtain minister approval for: an official community plan, a zoning bylaw, a subdivision servicing bylaw, a temporary use permit bylaw, or a land use contract amendment bylaw if a regulation is in place [LGA s. 585(1)]. There is a regulation currently in place for the North Coast Regional District’s official community plan [[Minister's Requirement for Approval of Bylaws Regulation](#), B.C. Reg 27/2017].

There are still specified exceptions to any approval requirement (e.g. zoning bylaws consistent with an official community plan; land use contract amendments in an area subject to an official settlement plan) [LGA, s. 585(2)].

## Building Standards

The [Building Act](#) received Royal Assent on March 25, 2015. Section 5 of the *Building Act* came into force by regulation on December 15, 2015 [B.C. Reg. 233/2015]. Section 5 of the *Building Act* repeals *Community Charter* section 9(1)(d), removing standards in relation to ‘buildings and other structures’ from the spheres of concurrent jurisdiction (bringing the total down to four (4) areas of concurrent authority). The jurisdiction for building activity regulation now lies solely with the Province unless the matter has been prescribed by regulation to be “unrestricted” or a variation has been authorized.

“Local authorities” (including both regional districts and municipalities except Vancouver) have a two-year transition period, ending December 15, 2017, before section 5 restrictions on local authority jurisdiction are applicable [*Building Act*, s. 43].

#### Local Authority Variations

Local authorities may apply for a variation under section 7 of the *Building Act*. A variation is a building requirement or set of requirements that differs from requirements in provincial building regulations (primarily the BC Building Code). If approved, the request is enacted through a provincial building regulation that applies in the local authority’s jurisdiction.

To learn more about local authority variations, visit [here](#).

## **Other Assorted Local Government Powers**

#### Designation of a mountain resort advisory committee

Under the letters patent incorporating a mountain resort municipality, it may be required, with the approval of the Inspector, to establish a resort advisory committee or designate an entity as a resort advisory committee to provide advice and make recommendations to municipal council [LGA, s. 25(1)(f)].

#### Improvement district bylaws

Improvement district bylaws must be registered with the Inspector unless the minister has provided an exception by regulation (i.e. under the [Improvement District Bylaw Registration Exemption Regulation](#), B.C. Reg. 367/2008) [LGA, s. 699(2) and (4)].

#### Ownership of corporations

A municipality or regional district may only incorporate or acquire shares in a corporation with Inspector’s approval or as authorized by regulation. There is no such regulation currently in place. Additionally, inspector approval is not required for the incorporation of a society [CC, s. 185(1) and LGA, s. 265(1)].

#### Heritage conservation

Before entering into or amending a heritage revitalization agreement with an owner of heritage property, a local government must seek the minister’s approval in any circumstances prescribed by regulation as requiring it [LGA, s. 610(6) and (7)]. Currently there are no such regulations.

## **PART II: Approvals by Other Ministers**

### **Introduction**

This part of the guide lists actions of local government that require approval by ministers other than the Minister of Municipal Affairs and Housing under the “concurrent authority” provisions in section 9 of the *Community Charter* and other legislative provisions.

Ministerial approval under other ministries’ Acts typically means approval by the Minister responsible for that Act.

The minister responsible for the sphere of concurrent authority under section 9 of the *Community Charter* (described below) is defined in the [Responsible Minister Regulation](#), B.C. Reg. 330/2003). As ministries may change, check the [Act/Ministry Responsibilities](#) to confirm current responsibility.

Section 9(1) of the *Community Charter* enumerates four (4) areas of concurrent authority where a municipality has the authority to regulate but some provincial involvement is also required. Municipal bylaws within each sphere require the approval of the minister responsible for that sphere before they can be adopted, unless there is a regulation or agreement in place that identifies matters that do not require ministerial approval [CC, s. 9(3)]. More information on the concurrent authority may be found at:

[http://www.cscd.gov.bc.ca/lqd/gov\\_structure/community\\_charter/services\\_regulatory/concurrent\\_regulation.htm](http://www.cscd.gov.bc.ca/lqd/gov_structure/community_charter/services_regulatory/concurrent_regulation.htm)

## Public Health and Emergency

### Concurrent Authority

Municipal and regional district bylaws regulating, prohibiting or imposing requirements in relation to public health are subject to CC s. 9 concurrent authority approval requirements [CC, s. 9(1)(a) and LGA, s. 304].

The [Public Health Bylaws Regulation](#), B.C. Reg. 42/2004, establishes four (4) categories of public bylaws that are subject to varying provincial requirements by the Minister of Health.

There is also a [Consultation Agreement](#) among the Ministry of Health, the Union of British Columbia Municipalities (UBCM), and the Ministry of Municipal Affairs and Housing that sets out the process for local government bylaws requiring approval (CC, s. 277).

### Public Health Plans

The minister responsible for the [Public Health Act](#) (Minister of Health) can require a local government to make a public health plan [*Public Health Act*, s. 3(1)]. A local government required to do so must submit the plan to the minister, revise it if directed to do so, and may publish it only once the minister is satisfied with it [*Public Health Act*, s. 4(1)].

A local government's required public health plan may be forwarded to the Government for further approval and the Government may impose specific restrictions or requirements [*Public Health Act*, s. 4(2), 5 and 6]. There are currently no such regulations in place.

Reviews and revisions of required public health plans by local governments are also subject to the satisfaction of the minister and in some cases approval by the Government [*Public Health Act*, s. 8].

### State of local emergency declaration

A local authority (includes municipalities and regional districts) may extend beyond its normal seven (7) days the duration of a declaration of a state of local emergency with the approval of the minister responsible for the [Emergency Program Act](#) (Minister of Public Safety and Solicitor General) or the Government, so long as the extension is not for periods of more than 7 days each [*Emergency Program Act*, s. 12(6)].

### Water

If a local government is required by minister's order to participate in or lead the development of a drinking water protection plan [[Drinking Water Protection Act](#), s. 32], the proposed plan must then be submitted to the minister responsible for the *Drinking Water Protection Act* (Minister of Health) for comments and to the Government for approval [*Drinking Water Protection Act*, s. 34].

## Protection of the Natural Environment & Wildlife

### Concurrent Authority

Municipal bylaws relating to the protection of the natural environment [CC s. 9(1)(b)] or wildlife [CC, s. 9(1)(c)] are subject to CC s. 9 concurrent authority approval requirements; however, approval by the Minister responsible for the [Environmental Management Act](#) (Minister of Environment and Climate Change Strategy) is not required for municipal bylaws passed in accordance with the [Spheres of Concurrent Jurisdiction —Environment and Wildlife Regulation](#), B.C. Reg. 144/2004.

There is also a [Consultation Agreement](#) among the Ministry of the Environment and Climate Change Strategy, UBCM, and the Ministry of Municipal Affairs and Housing. It specifies areas of provincial interest for which Ministry of Environment and Climate Change Strategy approval would always be needed such as waste management, air quality management, and wildlife and fish recreation.

Note that the definition of “wildlife” in the [Wildlife Act](#) applies to determine whether a given class of animals falls under the section 9 bylaw approval requirements [[Definition of “Wildlife” Regulation](#), B.C. Reg. 427/2003].

### Waste management plans

Regional districts, on the written request of the minister responsible for the *Environmental Management Act* (Minister of Environment and Climate Change Strategy), must submit or approval a waste management plan that is for the benefit of the whole area of the regional district, complies with the regulations, and is in respect of biomedical waste. The minister may specify when such a plan must be submitted and also specify dates requiring municipalities to provide proof of progress and compliance with the plan. The minister must be satisfied that there has been adequate public consultation regarding the plan before approval. [*Environmental Management Act*, ss. 24(2) and 27(2)]

“Waste management plan” is defined as a plan that contains provisions or requirements for the management of recyclable material or other waste or a class of waste within all or a part of one or more municipalities [*Environmental Management Act*, s. 1(1)].

“Waste management” includes the collection, transportation, handling, processing, storage, treatment, and utilization of both municipal liquid waste and municipal solid waste [*Environmental Management Act*, ss. 23, 24(1)].

Municipalities, alone or with other municipalities, are permitted though not required to submit a municipal liquid waste management plan to the Minister of Environment and Climate Change Strategy [*Environmental Management Act*, s.24(1)]. This provision is subject to the minister’s overriding discretion to direct a municipality to prepare a waste management plan and submit it for approval [*Environmental Management Act*, ss. 24(3) and 24(5)].

### Regional district bylaws relating to municipal solid waste

A bylaw made by a regional district to regulate the management of municipal solid waste or recyclable materials, set municipal solid waste disposal fees, or to regulate the disposal of municipal solid waste in other regional districts requires prior written approval of the minister responsible for the *Environmental Management Act* (Minister of Environment and Climate Change Strategy) [*Environmental Management Act*, s. 34].

### Dike Maintenance

A regional district or municipality must obtain prior written approval of the Inspector of Dikes [Ministry of Forests, Lands, Natural Resource Operations and Rural Development] before lowering or decreasing the cross-section of a dike, installing culverts or other structures through a dike, constructing works over a dike right of way, altering the foreshore or stream channel adjacent to a

dike, or constructing a new dike, unless these activities are in accordance with regulations made by the Inspector of Dikes [[Dike Maintenance Act](#), s. 2(4)]. There are no such regulations.

### Water

If a local government is required by minister's order to develop a water sustainability plan [[Water Sustainability Act](#), Division 4], the proposed plan must then be submitted to the Minister of Forests, Lands, Natural Resource Operations and Rural Development and if it contains a recommendation that a regulation or order be made in relation to the plan, it must be submitted for approval by the Government [[Water Sustainability Act](#), s. 75(2) and (3)].

Note: A water management plan approved under section 64 (3) [approval of water management plan] of the *Water Act*, as it read immediately before the coming into force of section 142 of the *Water Sustainability Act* (Feb 29, 2016), is deemed to be a water sustainability plan for the purposes of that Act.

With the consent of the Government, petitioned through the Minister of Forests, Lands, Natural Resource Operations and Rural Development, the holder of a license that authorizes the construction or use of a dam can expropriate flooded lands [[Water Sustainability Act](#), s. 32(3); [Water Sustainability Regulation](#), s. 23].

## **Soil Deposit and Removal**

### Concurrent Authority

Municipal and regional district bylaws relating to the removal of soil or the deposit of soil or other materials are subject to CC s. 9 concurrent authority approval requirements if those bylaws prohibit soil removal or prohibit the deposit of soil or other material making reference to their quality, material, or contamination [CC s. 9(1)(e) and LGA s. 327(4)].

There are no CC s. 9(3)(a) regulations or CC s. 9(3)(b) agreements in place displacing these ministerial approval requirements.

As of Oct 2017, the Minister of Energy, Mines and Petroleum Resources approves bylaws regulating soil removal, and the Minister of Environment and Climate Change Strategy approves bylaws regulating the deposit of soils by reference to soil quality or contamination [[Responsible Minister Regulation](#)].

## **Land Use Planning – Subdivision Approval**

### Residence for a relative

If a parcel is created by subdivision for the purpose of providing residence for a relative and the parcel is between 2500 square metres and 1 hectare in size, it must be approved by the provincially-appointed medical health officer [LGA, s. 514(6)].

### Regional district subdivision approving officer

Prior to appointing such an “approving officer” for a regional district’s rural area under the [Land Title Act](#), a regional district board must obtain an order authorizing the appointment from the Government, on the recommendation of the minister responsible for the [Transportation Act](#) [[Land Title Act](#), s. 77.1(1) and (2)].

If a regional district has appointed an approving officer, the officer must, on receipt of a subdivision plan affecting land in the rural area for which they have been designated, refer all subdivision plans to

a designated highway official and must not approve the plan unless the highways official consents [*Land Title Act*, s. 83.1(1)]. This approval requirement can be set aside by an order of the Government [*Land Title Act*, s. 77.1(1)(c)].

A local government bylaw that establishes specified subdivision servicing standards in relation to highways in an area outside a municipality may require approval by the minister responsible for the *Transportation Act* (Minister of Transportation and Infrastructure) if a regulation is in place [LGA, s. 506(4)]. There is currently no such regulation.

## Land Use Planning – Highways

### Arterial Highways

A municipal bylaw regulating or prohibiting traffic does not apply to Provincial “arterial highways” as defined in the [Transportation Act](#) unless its application is approved by the minister responsible for the administration of that Act (Minister of Transportation and Infrastructure) [CC, s. 36(2)(b) and [Motor Vehicle Act](#), s. 124(13)].

A bylaw regulating or prohibiting extraordinary traffic on an arterial highway requires the approval of the minister responsible for the *Transportation Act* [CC, s. 36(2)(c)].

A municipal council may, by bylaw, close or reopen all or part of a municipal highway [CC, s. 40(1)]. If, however, a part of that highway is within 800 metres of an arterial highway, the bylaw may only be adopted if it is approved by the minister responsible for the *Transportation Act* [CC, s. 41(3)].

### Regulation of highways and their use

Municipalities have specified powers to make bylaws or resolutions with respect to highways (other than arterial highways) and their use by vehicles, persons, organizations or cycles [*Motor Vehicle Act* s. 124.2(1)]. Such a bylaw or resolution requires the approval of the minister responsible for the *Transportation Act* (Minister of Transportation and Infrastructure) if it is to apply to parts of the highway or lane within 800 metres of an arterial highway or Provincial public highway or if the bylaw would reduce the capacity of such highways [*Motor Vehicle Act*, s. 124.2(2)-(4)].

### Development near controlled access highways

Local government zoning bylaws do not apply to a “controlled area” (an area within an 800 metre radius of a provincially designated “controlled access highways” intersection) unless approved by the responsible minister (Minister of Transportation and Infrastructure) or their designate [*Transportation Act* s. 52(3)].

If the minister and the local government have made an agreement over the controlled area and the zoning bylaw complies with the agreement, this approval is not needed [*Transportation Act* s. 52(2)-(4)].

Within controlled areas under section 52(3) of the *Transportation Act*, a local government may not issue construction permits for commercial or industrial buildings larger than 4500 square meters without the approval of the minister responsible for the *Transportation Act* [LGA, 505(2) and (3)]. These provisions are subject to any exception made by regulation [LGA, 505(4)]. Currently there are no such regulations.

If a parcel of land is affected by a land use contract amendment is a controlled area subject to s. 52(3) of the *Transportation Act*, an amendment bylaw, development variance permit or development permit for that parcel is subject to the approval of the minister responsible for the *Transportation Act*. These provisions are subject to any exception made by regulation [LGA, s. 546(4)]. Currently there are no regulations.

Heritage revitalization agreements between local governments and property owners that cover land within a controlled area require approval by the Minister responsible for the *Transportation Act* [LGA, s. 610(6)].

Plans of subdivision affecting land adjacent to a controlled access highway must not be approved by a local government approving officer (appointed under [Land Title Act](#) section 77 or 77.1) until first approved by the minister responsible for the *Transportation Act* or a designated highways official [*Land Title Act*, s. 80].

## **Land Use Planning– Agricultural Land**

### Consultation during Official Community Plan development

If the development of an official community plan, or the repeal or amendment of an official community plan, might affect agricultural land, the proposing local government must consult with the Agricultural Land Commission [LGA, s. 475(4)].

### Regulation of Farm Businesses in Farming Areas

A local government zoning bylaw restricting or prohibiting the use of land for a farm business in a farming area must be approved by the minister responsible for the [Farm Practices Protection \(Right to Farm\) Act](#) (Minister of Agriculture) [LGA, s. 481(2)] if a regulation has been made by Government to make that section apply to an area [LGA s. 481(1) and 553]. The minister responsible for the *Farm Practices Protection (Right to Farm) Act* may make regulations excepting bylaws from the approval requirements [LGA, s. 481(3)].

Despite a zoning bylaw to the contrary, if land is located in an agricultural land reserve under the [Agricultural Land Commission Act](#) and that land is not subject to section 23(1) of that Act, intensive agriculture is permitted as a use [LGA s. 555(2)]. This automatic permitted use does not apply if a zoning bylaw for the area is approved by the Minister responsible for the *Farm Practices Protection (Right to Farm) Act* or such approval is not required by regulation of the minister responsible [LGA s. 555(3) and 481(2)].

Farm bylaws enable regulation of a much broader range of structures, activities and conduct of farm operations than do zoning bylaws [LGA s. 552(2)]. If the section is declared to apply by Government regulation under LGA s. 553, then bylaws in relation to farming areas may be made by local governments with approval of the Minister responsible for the *Farm Practices Protection (Right to Farm) Act*. Approval is not required if the minister responsible has made regulations to that effect [LGA s. 552(5)].

As of 2017, there are four regulated local governments under the [Right to Farm Regulation](#), B.C. Reg. 261/97.